



CITY OF VANCOUVER
BUSINESS LICENSE HEARING MINUTES
FEBRUARY 27, 2007

A Business License Hearing of the Council of the City of Vancouver was held on Tuesday, February 27, 2007, at 9:30 a.m., in the Council Chamber, Third Floor, City Hall, to hear an appeal from the suspension by the Deputy Chief License Inspector of the 2007 business license (the "License") issued to Sing Wah Chung aka Sing Wah Peter Chung (the "Licensee"), doing business as AH 1 Beauty Salon, for business premises located at 626 Main Street, Vancouver, British Columbia (the "Premises").

PRESENT: Councillor Peter Ladner, Chair
Councillor David Cadman
Councillor Raymond Louie

CITY CLERK'S OFFICE: Laura Kazakoff, Meeting Coordinator

**1. Sing Wah Peter Chung dba AH 1 Beauty Salon
626 Main Street (File 08-2000-40)**

The Business License Hearing Panel had before it for consideration an Evidence Brief, prepared by the City of Vancouver's Legal Department, which contained the following material (*on file in the City Clerk's Office*) and the evidence of witnesses:

1 License Department

Business License Application Form dated September 22, 2004
2004 Business License #04-543414 dated October 15, 2004 (A1 Beauty Salon)
2004 Business License #04-545745 dated November 12, 2004 (AH1 Beauty Salon)
2005 Business License #05-169101 dated December 22, 2004
2006 Business License #06-119682 dated January 3, 2006
2007 Business License #07-110222 dated November 28, 2006
Letter to Sing Chung from Barb Windsor dated December 19, 2006
Property Use Inspection Report #UI 31233 dated December 20, 2006
Handwritten Notes dated January 4, 2007
Letter to Sing Chung from Paul Teichroeb dated February 2, 2007
Suspension Notice
Property Use Inspection Report #UI 31552 dated February 5, 2007
Letter to Paul Teichroeb from Sing Chung dated February 14, 2007

2 Police Department

Report #2006-135943 dated June 16, 2006
Memo to Barb Windsor from Jodyne Keller dated July 3, 2006

Iain Dixon, Counsel, was present on behalf of the City of Vancouver. Gary Vlug, Counsel, was present on behalf of Sing Wah Peter Chung, who was also present and was aided by a Cantonese interpreter, Peter Tung.

Mr. Dixon noted this matter had been referred to City Council pursuant to Section 275 of the Vancouver Charter which states that Council has broad powers to revoke, suspend or uphold a business license, and pursuant to Section 277 which states any person whose license has been suspended may appeal to the Council who then has discretion in upholding or setting aside the suspension. Section 277.1 of the Charter allows Council to delegate the holding of a hearing to one or more Council members.

Mr. Dixon referred the Panel to the Notice of Hearing contained within the afore-mentioned evidence brief, which set out the allegation that the Licensee had failed to properly manage the Premises by carrying on business to the detriment of public order and safety in the neighbourhood.

In support of the allegation set out in the reports and evidence contained within the afore-mentioned evidence brief, Mr. Dixon called the following witnesses:

Paul Teichroeb, Chief License Inspector
PC 1187 Colin Downton

Mr. Vlug also directed questions to the witnesses. During his questioning, Mr. Vlug noted the evidence brief contained no information regarding the informant referred to by PC Downton in his testimony.

Mr. Vlug addressed the Panel and noted that, but for the actions of the police constable on the day in question, the four DVDs would never have been purchased by the Licensee, Mr. Chung. He further advised that the information and assumptions made concerning the DVDs come from a certain perspective, that being that it is impossible for this type of transaction to be anything other than the purchase of stolen goods. This, however, was not what was in the mind of the Licensee, who did not have the *mens rea* requirement for engaging in activity that should cause concern for the City with regard to public safety.

Mr. Vlug called Mr. Chung as a witness, who, with the aid of the interpreter, testified this incident only occurred because the undercover officer came into the Premises and offered goods as a salesperson. Mr. Chung, in his testimony, noted he was busy with three customers and he initially did not want to purchase the DVDs but the officer was persistent and so he offered a low price for four DVDs so he could attend to his customers. Mr. Chung noted many people come into his salon offering articles for sale at a low price and he considers them to be a nuisance, but at the same time his business is a public place, and he does not like to offend people who come into his salon. He noted that while he bought the items in question, he did not offer them for resale in his business. Mr. Chung further testified he went to Blockbuster the previous evening and purchased four DVDs for approximately \$13, including tax.

Mr. Dixon also directed questions to the witness.

Mr. Dixon asked to view the four DVDs which were recently purchased by the Licensee at Blockbuster, and noted that they were all in generic white packaging, unwrapped, without price tags, and appeared to be previously viewed DVDs, unlike the DVDs purchased by the Licensee in the Premises, which were new and in their original packaging.

Mr. Dixon submitted that the evidence presented at this hearing accords with the allegation set out in the evidence briefs, and noted that given the testimony by the Licensee of similar incidents in the past, the three-day suspension of the Business License by the Deputy Chief License Inspector could be considered light under the circumstances.

Mr. Vlug submitted that the principles of natural justice have not been applied in this case, noting evidence has been presented today which the Licensee has not seen before. He noted the testimony of the Licensee has been believable and reasonable, and there is no evidence to support the fact that the Licensee willingly purchased stolen goods. He further submitted the suspension of a License is a serious matter and the alleegeer has a burden of providing proof, which has not been met by this process. He requested the Panel to grant the appeal, or in the alternative, that there be no increase in the length of the suspension.

PANEL MEMBERS DISCUSSION

Prior to a decision on this matter, Panel members noted the evidence presented indicates the Licensee did in fact purchase goods and transact business outside the parameters of his business license. It was also noted that it is likely a person would be aware that goods offered for sale in this manner were stolen, and a 6-day suspension of the Business License is appropriate and would send a message that this type of activity should not occur.

MOVED by Councillor Cadman

THAT the suspension by the Deputy Chief License Inspector of the 2007 business license (the "License") issued to Sing Wah Chung aka Sing Wah Peter Chung (the "Licensee"), doing business as AH 1 Beauty Salon, for business premises located at 626 Main Street, Vancouver, British Columbia (the "Premises"), be upheld and increased to a six-day suspension because the Licensee has failed to properly manage the Premises by carrying on business to the detriment of public order and safety in the neighbourhood and thereby causing a drain on City resources in terms of policing and enforcement.

CARRIED UNANIMOUSLY

The Business License Hearing Panel adjourned at 11:02 a.m.

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