



CITY OF VANCOUVER
BUSINESS LICENSE HEARING MINUTES
JUNE 13, 2007

A Business License Hearing of the Council of the City of Vancouver was held on Wednesday, June 13, 2007, at 9:30 a.m., in the Council Chamber, Third Floor, City Hall, to determine whether or not the City of Vancouver business license for the year 2007 granted to Menasbo Kiros (the "License Applicant") doing business as Afro Canadian Restaurant, for business premises located at 324 Cambie Street, Vancouver, British Columbia (the "Premises"), should be suspended or revoked.

PRESENT: Councillor Kim Capri, Chair
Councillor Suzanne Anton
Councillor George Chow

CITY CLERK'S OFFICE: Nicole Ludwig, Meeting Coordinator

1. Menasbo Kiros dba Afro Canadian Restaurant
324 Cambie Street (VanRIMS No.: 08-2000-41)

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:

Notice of Hearing

Tab

1 License & Inspections Department

1999 Business License #99-318616 dated January 28, 1999 - Restaurant
1999 Business License #99-318615 dated January 28, 1999 - Dining Lounge
2000 Business License #00-140891 dated January 21, 2000 - Restaurant
2000 Business License #00-140890 dated January 21, 2000 - Dining Lounge
2001 Business License #01-160445 dated January 26, 2001 - Restaurant
2001 Business License #01-160444 dated January 26, 2001 - Dining Lounge
2002 Business License #02-136929 dated January 8, 2002 - Restaurant
2002 Business License #02-136928 dated January 8, 2002 - Dining Lounge
Co-ordinated Enforcement Liquor Inspection #1056 dated February 22, 2002
2003 Business License #03-393896 dated January 24, 2003 - Restaurant
2003 Business License #03-393895 dated January 24, 2003 - Dining Lounge
2004 Business License #04-006359 dated January 20, 2004 - Restaurant
2004 Business License #04-006358 dated January 20, 2004 - Dining Lounge
2005 Business License #05-140067 dated January 14, 2005 - Restaurant

2005 Business License #05-140066 dated January 14, 2005 - Dining Lounge
2006 Business License #06-141342 dated January 25, 2006 - Restaurant
2006 Business License #06-141341 dated January 25, 2006 - Dining Lounge
2007 Business License #07-147803 dated January 9, 2007 - Restaurant
2007 Business License #07-147802 dated January 9, 2007 - Dining Lounge
Report from Ken Suzuki dated February 21, 2007
Handwritten Notes from Ken Suzuki dated February 21, 2007
Photographs from Ken Suzuki dated February 21, 2007
Memo to Les Sziklai from Ken Suzuki dated February 21, 2007
Co-ordinated Inspection Report (Building) #CB 10413 dated March 17, 2007
Co-ordinated Inspection Report (Property Use) #CU 10453 dated March 17, 2007
Co-ordinated Enforcement Liquor Inspection #CU 10453 dated March 17, 2007
Memo to Les Sziklai from Ken Suzuki dated March 20, 2007
Letter to Menasbo Kiros from Barb Windsor dated March 20, 2007
Property Use Inspection Report #UI 31983 dated March 21, 2007
Handwritten Notes from Barb Windsor dated March 26, 2007
Order to Menasbo Kiros from W.M. Johnston dated March 26, 2007
Property Report dated March 26, 2007
Letter to Menasbo Kiros from Paul Teichroeb dated April 4, 2007

2 Police Department

Memo to Barb Windsor from Jodyne Keller (Feb 6, 2006 to Feb 20, 2007)
Report #26735-2006 dated February 6, 2006
Report #26738-2006 dated February 6, 2006
Report #41468-2006 dated February 24, 2006
Report #124017-2006 dated June 14, 2006
Report #191176-2006 dated September 4, 2006
Report #2006-233436 dated October 30, 2006
Report #2007-33386 dated February 18, 2007
Report #2007-33683 dated February 18, 2007
Report #2007-34865 dated February 18, 2007
Report #2007-34750 dated February 20, 2007

3 History, License & Inspections Department

Inspection Report #274553 dated February 11, 1994
Letter to Swartz, et al from J. Curran dated February 22, 1994
Liquor License #159790 dated March 1, 1994
Inspection Report #282406 dated June 28, 1994
Letter to Menasbo Kiros from Paul Teichroeb dated June 28, 1994
Letter to Swartz, et al from J.A. Perri dated July 4, 1994
Inspection Report #282428 dated July 26, 1994
Handwritten Letter to Paul Teichroeb from Menasbo Kiros dated July 29, 1994
1997 Business License #97-001583 dated January 28, 1997 - Restaurant
1997 Business License #97-001638 dated January 28, 1997 - Dining Lounge
1998 Business License #98-183048 dated March 27, 1998 - Dining Lounge

1998 Business License #98-208160 dated May 20, 1998 - Restaurant
Inspection Report #LC 0008 dated October 9, 1998
Handwritten Notes from Guy Gusdal dated October 9, 1998
Appearance Notice dated October 13, 1998
Memo to Guy Gusdal from Ken Suzuki dated October 14, 1998
Letter to Menasbo Kiros from Guy Gusdal dated October 14, 1998
Fax Cover Sheet to Guy Gusdal from Robert McArthur dated October 22, 1998 including
Handwritten Notes and 3 licensed premises checks
Memo to Mel Tait from Robert McArthur dated October 23, 1998
Letter to Menasbo Kiros from Paul Teichroeb dated October 28, 1998
Letter to Menasbo Kiros from T.M. Tait dated November 5, 1998
Inspection Report #358346 dated November 6, 1998
Handwritten Note dated November 20, 1998

4 History, Police Department

Report #98-63949 dated March 22, 1998
Report #98-144196 dated June 25, 1998
Report #98-249867 dated October 9, 1998

Iain Dixon, Counsel, was present on behalf of the City of Vancouver. Derek C. Creighton, Access Law Group, was present on behalf of the License Applicant.

Mr. Dixon advised that this matter had been referred to City Council by the Chief License Inspector pursuant to Section 4(2a) of the License By-law and Section 278 of the Vancouver Charter which states that Council has broad powers to revoke, suspend or uphold a business license. He also advised that it is at Council's discretion as to whether to issue a license to a particular business, which is the case at this hearing. Mr. Dixon also noted that the Chief License Inspector had issued a 2007 business license to the Applicant, and subsequently referred the license to Council to decide what can be done in the future.

Mr. Dixon referred the Panel to evidence before it as set out in documents which were considered by the Chief License Inspector in referring the business license application to Council, a letter from the Deputy Chief License Inspector and the evidence of witnesses, which set out allegations that the License Applicant has not properly managed the Premises by:

- a) carrying on business to the detriment of public order and safety in the neighbourhood;
- b) carrying on business to the detriment of other licensed businesses in the City of Vancouver;
- c) repeatedly violating the laws of the City of Vancouver.

In support of the allegations set out in the above-noted reports and evidence, Mr. Dixon called the following witnesses:

1. Barb Windsor
2. Ken Suzuki
3. Detective Constable Darren Hudniuk
4. Constable Courtney Frail

Throughout the hearing of witnesses, Mr. Dixon also referred the Panel to additional colour photographs submitted as evidence at this hearing (*on file in the City Clerks Office*).

Mr. Creighton also directed questions to witnesses, and during the hearing of witnesses produced a summons detailing charges of fire code and By-law violations being faced by Mr. Kiros.

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The Panel recessed at 11:00 a.m. and reconvened at 11:10 a.m. with the same members present.

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Upon the questioning of Detective Constable Darren Hudniuk, Mr. Creighton requested Constable Courtney Frail leave the room, as Detective Hudniuk's testimony was regarding the same incident. Constable Frail left the room and did not return until it was time for her testimony.

The Panel also asked questions of witnesses, to clarify the evidence.

In support of the Licensee, Mr. Creighton called the following witnesses:

1. Philip Swartz, Owner of the Premises
2. Isaiah Kiflemarian
3. Menasbo Kiros

A summary of witnesses' comments follows:

- Licensee is a good tenant and is of good character;
- review of previous license suspension and evidence presented by the City;
- size and use of basement;
- basement access and egress; and
- clarification of summons charges.

The following documentation was submitted on behalf of the Licensee (*on file in the City Clerk's Office*):

- article from "The Metro" (weekend edition), dated January 5 to 7, 2007;
- job invoice from Commercial Vent Cleaning dated May 7, 2007, for servicing the kitchen grease exhaust system.

Mr. Dixon and the Panel also asked questions of the Licensee's witnesses.

In closing, Mr. Dixon submitted the Licensee has been using the basement contrary to zoning and as a result, there are numerous fire violations, and the space is designed as a storage area and is not suitable for parties. Mr. Dixon also submitted that the setup of the basement indicates it is being used as a permanent liquor outlet and it is believable that parties occur frequently. Mr. Dixon noted there is a lengthy history of putting people in danger, allowing minors to consume alcohol and people congregating in the area; as a result, the Licensee has demonstrated neither willingness nor an ability to comply with By-laws and regulations.

In closing, Mr. Creighton noted the Panel has a duty to exercise an appropriate punishment, that attention was drawn to an ancillary matter that the Licensee was not aware of until the following day and that the Licensee is of good character and serves the Downtown Eastside Community well. Mr. Creighton also noted that revoking the business license would remove what life there is in the Downtown Eastside and bankrupt the Licensee. In lieu of revoking the license, Mr. Creighton recommended a three-week suspension with a strong warning that any prohibited use of the basement will result in a permanent suspension.

PANEL MEMBERS DISCUSSION

Prior to making a decision, the Panel requested Mr. Dixon clarify the range of penalties, reviewed the evidence, and asked Mr. Dixon's, Mr. Creighton's and Ms. Windsor's opinions of the range of penalties.

MOVED by Councillor Anton

- A. THAT the 2007 Business License for the City of Vancouver issued to Menasbo Kiros (the "License Applicant") dba Afro Canadian Restaurant, for business premises located at 324 Cambie Street, Vancouver, British Columbia (the "Premises") be revoked because the License Applicant has failed to properly manage the Premises by:
 - (a) carrying on business to the detriment of the safety of his customers and others in the neighbourhood; and
 - (b) repeatedly violating the by-laws of the City of Vancouver.
- B. THAT the Licensee, Menasbo Kiros, be permitted to reapply for a 2007 business license for the premises at 324 Cambie Street, Vancouver, British Columbia, provided renovations, satisfactory to the City of Vancouver, which restrict access to the basement, are made to the Premises.

CARRIED UNANIMOUSLY

The Business License Hearing Panel adjourned at 1:37pm.

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