



CITY OF VANCOUVER

BUSINESS LICENSE HEARING MINUTES

NOVEMBER 21, 2007

A Business License Hearing of the Council of the City of Vancouver was held on Wednesday, November 21, 2007, at 9:55 a.m., in the Council Chamber, Third Floor, City Hall, to determine to whether or not a City of Vancouver business license for the year 2007 will be granted to Mei Sze Yau doing business as Nana Pasta Bar & Grill for business premises located at 1235 Nanaimo Street, Vancouver, British Columbia (the Premises).

PRESENT: Councillor David Cadman, Chair
 *Councillor George Chow
 Councillor Heather Deal

CITY CLERK'S OFFICE: Lori Isfeld, Meeting Coordinator

**Due to the absence of Councillor Chow, the Panel agreed to recess until 10:30 a.m. The Panel reconvened at 10:15 a.m., with all Panel members present.*

1. Mei Sze Yau dba Nana Pasta Bar & Grill
 1235 Nanaimo Street (VanRIMS No.: 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:

Notice of Hearing

Tab

1 License & Inspections Department

Business License Application Form dated January 29, 2004 - De Lam
 Complaint Form dated September 2, 2004
 Complaint Form dated October 14, 2004
 Inspection Report #IR 366685 dated October 15, 2004
 Property Use Inspection Report #UI 28693 dated February 4, 2006
 E-mail to Lynn Urekar from Susan Smith dated February 16, 2006
 Letter to De Lam from Barb Windsor dated February 16, 2006
 Property Use Inspection Report #UI 28674 dated February 17, 2006
 Handwritten Notes dated February 23, 2006
 Letter to De Lam from Barb Windsor dated March 21, 2006
 Suspension Notice
 Letter to De Lam from Mark Tatchell dated April 5, 2006
 Notice of Suspension

Notice of Reinstatement

E-mail to Carlene Robbins from Syd Kelland dated July 7, 2006
E-mail to Susan Smith from Syd Kelland dated August 2, 2006
Inspection Report #IR 365173 dated August 2, 2006
Letter to Whom It May Concern from De Lam dated December 15, 2006
E-mail to Peter Ryan from Barb Windsor dated February 14, 2007
Application for Transfer - Restaurant dated May 28, 2007
Application for Transfer - Dining Lounge dated May 28, 2007
Police Background Check Form dated May 28, 2007
Copy of Drivers License of Mei Sze Yau
Letter to Mei Sze Yau from Karen Ayers dated October 15, 2007
Handwritten Notes dated October 25, 2007
Letter to Mei Sze Yau from Paul Teichroeb dated November 1, 2007

2 Health Department

Inspection #18, dated February 24, 2005
Inspection #19, dated March 2, 2005
Report dated May 11, 2005
Inspection #20, dated May 25, 2005
Inspection #21, dated June 2, 2005
Fax Cover Sheet dated March 27, 2006
Inspection #22, dated December 14, 2006
Inspection #23, dated December 19, 2006
Proposed Reopening dated January 3, 2007
Inspection #24, dated January 11, 2007
Proposed Reopening dated January 25, 2007
Permit to Operate dated June 12, 2007
Inspection #25, dated June 13, 2007
Inspection #26, dated October 31, 2007

3 Police Department

Report #283497-2004 dated October 30, 2004
Report #334186-2004 dated December 27, 2004
Report #2004-335002 dated December 28, 2004
Report #6253-2005 dated January 8, 2005
Report #96131-2005 dated April 24, 2005
Report #277518-2005 dated November 17, 2005
Report #2005-282571 dated November 23, 2005
Report #2005-282583 dated November 24, 2005
Report #2007-42937 dated March 5, 2007
Report #2007-72382 dated April 17, 2007

Iain Dixon, Counsel, was present on behalf of the City of Vancouver. The License Applicant, Mei Sze Yau, was present and represented herself. Janey Lang was also present to assist 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 275 of the Vancouver Charter which states that Council has broad powers to revoke, suspend or uphold a business license. He noted that the License Applicant is seeking to transfer the existing business license from the previous owner, De Lam dba Nana Pasta Bar at 1235 Nanaimo Street. Mr. Dixon 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. He noted the issue to consider is one of management and whether the License Applicant is capable of running the business properly. When considering the issue of management, he advised that Council is entitled to consider matters such as the impact of the business on the neighbourhood, the potential drain on police or City resources and whether or not the business is likely to comply with applicable municipal, provincial and federal legislation.

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) failing to comply with federal, provincial and municipal enactments relating to the operation of the business; and
- c) carrying on business to the detriment of other licensed businesses in 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, Deputy Chief License Inspector
2. Lynn Urekar, Property Use Inspector
3. Police Constable Wayne Windrim
4. Police Constable Michael Kajander

Ms. Yau and Ms. Lang also directed questions to witnesses.

In response to questions, Ms. Yau submitted that she intends to re-open the restaurant and run the business properly and confirmed she has a business plan and will hire managers to help run the business. Ms. Yau contended that she was unaware that smoking in restaurants is illegal and denied that gambling was taking place. She also noted her intention to sell the business.

In closing, Mr. Dixon submitted that the evidence presented at this hearing accords with the allegations set out in the evidence briefs which show that the business is run as an after hours club, that the applicant has failed to manage the business properly, and that the application to transfer the business license from the previous owner is a sham.

In closing, Ms. Yau reiterated her intention to run the business properly and to sell the business in the future. She urged the Panel to allow the license transfer so she can re-open the restaurant and have a chance to make her money back.

PANEL MEMBERS DISCUSSION

Prior to making a decision, the Panel noted the License Applicant has failed to run the business properly to the detriment of the neighbourhood, has failed to comply with federal, provincial and municipal enactments, has no experience in running a restaurant, and that the application to transfer the business license is not bonified. It was further noted the neighbourhood needs a thriving restaurant but there is no evidence to indicate the applicant is capable of this.

MOVED by Councillor Deal

THAT the Applications for the 2007 City of Vancouver Business Licenses by Mei Sze Yau doing business as Nana Pasta Bar & Grill, for the business premises located at 1235 Nanaimo Street, Vancouver, British Columbia, be refused because the License Applicant has failed to properly manage the Premises by:

- a) carrying on business to the detriment of public order and safety in the neighbourhood;
- b) failing to comply with federal, provincial and municipal enactments relating to the operation of the business; and
- c) carrying on business to the detriment of other licensed businesses in the City of Vancouver.

FURTHER THAT any future business license applications submitted to the City of Vancouver for 1235 Nanaimo Street be referred to Vancouver City Council by the Deputy Chief License Inspector.

CARRIED UNANIMOUSLY

The Business License Hearing Panel adjourned at 11:55 a.m.

* * * * *