



CITY OF VANCOUVER

## CITY OF VANCOUVER

### BUSINESS LICENSE HEARING MINUTES

APRIL 23, 2008

A Business License Hearing of the Council of the City of Vancouver was held on Wednesday, April 23, 2008, at 9:35 a.m., in the Council Chamber, Third Floor, City Hall, to determine whether or not a City of Vancouver Business License for the year 2008 will be granted to Linh Quach (the "License Applicant") for business premises located at 1235 Nanaimo Street, Vancouver, British Columbia (the "Premises").

**PRESENT:** Councillor George Chow, Chair  
Councillor Suzanne Anton  
Councillor Raymond Louie

**CITY CLERK'S OFFICE:** Nicole Ludwig, Meeting Coordinator

1. **Linh Quach - 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

#### Minutes of Hearing dated November 21, 2007

#### TABS 1 - 3 - Information is from Hearing of Mei Sze Yau - November 21, 2007

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  
Letter to Barb Windsor from Mei Sze Yau dated November 6, 2007  
Letter to Mei Sze Yau from Barb Windsor dated November 22, 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

**4**     **License & Inspections Department**

Business License Application of Linh Quach dated February 4, 2008  
Police Background Check Form dated February 20, 2008  
Photocopy of Drivers License of Linh Quach  
E-mail to Susan Smith from Jodyne Keller dated February 28, 2008

Handwritten Notes dated March 19, 2008  
Handwritten Letter to Susan Smith from Linh Quach dated March 28, 2008  
Letter to Linh Quach from Paul Teichroeb dated March 31, 2008

Iain Dixon, Law Department, was present on behalf of the City of Vancouver. Linh Quach represented himself.

Mr. Dixon advised that this matter had been referred to City Council by the Chief License Inspector, pursuant a City of Vancouver Business License Panel resolution dated November 21, 2007, that was contained in the evidence package.

Mr. Dixon 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. He noted that the issue to consider is one of management, whether the License Applicant is capable of running the business properly, whether he has been involved in other businesses in the past which have been run properly and whether he is likely to maintain the operation of the business based on the issues in this location in the past. 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. In support of the materials set out in the above noted reports and evidence, Mr. Dixon called Barb Windsor, Deputy Chief License Inspector and Assistant Director of Licenses and Inspections, as witness.

The Panel members also asked questions of Ms. Windsor.

The Applicant noted he would be running a seafood restaurant, that the location is ideal because there is not a lot of competition, and that he had little contact with the previous owners. He also noted he would not allow gambling as he is employed at the Edgewater Casino and his employment is dependent on maintaining a clean record. Mr. Quach also explained who would be hired, improvements he would make to the building and the types of food he would be serving.

The Panel members and Mr. Dixon also asked questions of the Applicant.

In closing, Mr. Dixon clarified why the application was before the Panel, and explained that the Panel's role is to decide whether the Applicant is likely to operate business in compliance with all appropriate regulations. Mr. Dixon also noted the location has never operated as a legitimate business, and cautioned the Panel that lack of business plan is only relevant insofar as the Applicant is likely to be driven into illegal activity to keep the business open.

In closing, the applicant noted he would not follow the same steps as the previous owner and as he works at a casino he will not allow any illegal activities on the premises.

## PANEL MEMBERS DISCUSSION

Prior to making a decision, the Panel noted concerns with the lack of business plan and noted that the applicant's employment at the Edgewater Casino would be an incentive to run the business within existing regulations. The Panel also asked the Deputy Chief License Inspector for advice on conditions that might be attached to the business license, if it is issued.

MOVED by Councillor Anton

THAT a 2008 City of Vancouver Business License be granted to Linh Quach for the business premises located at 1235 Nanaimo Street, Vancouver, British Columbia, subject to the following conditions:

- a. Receipt and approval by the Deputy Chief License Inspector of a completed business plan for the proposed business;
- b. Police background check for the restaurant manager; and
- c. Mei Sze Yau, Sam Tai Lang and De Lam are not to be involved in the operation of the restaurant.

FURTHER THAT the Chief License Inspector refer this license to Council if there are legal violations or any violation of the foregoing conditions.

CARRIED UNANIMOUSLY

The Business License Hearing Panel adjourned at 11:14 a.m.

\* \* \* \* \*