

JUNE 10, 2009

A Business License Hearing of the Council of the City of Vancouver was held on Wednesday, June 10, 2009, at 9:30 a.m., in the Council Chamber, Third Floor, City Hall, to determine whether or not the 2009 City of Vancouver business license granted to Wendy Mei Wah Wong and Ching Ming Wu, doing business as The Only Fish and Oyster Café for business premises located at 20 East Hastings Street, Vancouver, British Columbia, should be suspended or revoked.

PRESENT: Councillor George Chow, Chair
Councillor Heather Deal
Councillor Ellen Woodsworth

CITY CLERK'S OFFICE: Pat Boomhower, Meeting Coordinator

1. **The Only Fish and Oyster Café**
20 East Hastings Street, Vancouver, British Columbia

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**

1998 Business License #98-238136 dated November 16, 1998
1999 Business License #99-256841 dated July 28, 1999
2000 Business License #00-140577 dated July 5, 2000
2001 Business License #01-160334 dated April 5, 2001
2002 Business License #02-136845 dated June 7, 2002
2003 Business License #03-394452 dated July 3, 2003
2004 Business License #04-006888 dated February 23, 2004
2005 Business License #05-140546 dated January 11, 2005
2006 Business License #06-141764 dated April 24, 2006
2007 Business License #07-148145 dated February 9, 2007
2008 Business License #08-135010 dated February 29, 2008
2009 Business License #09-148413 dated March 5, 2009
Letter to Wendy Wong from Barb Windsor dated April 23, 2009
Handwritten Notes dated April 27, 2009
Letter to Wendy Wong from Barb Windsor dated May 8, 2009
Letter to Barb Windsor from Wendy Wong dated May 20, 2009

2 Health Department

Report #4 dated October 12, 2001
Report #5 dated October 17, 2001
Report #8 dated October 31, 2002
Report #9 dated November 21, 2002
Report #10 dated February 27, 2003
Report #11 dated April 29, 2004
Report #12 dated October 22, 2004
Report #14 dated November 25, 2004
Report #15 dated January 24, 2007
Report #17 dated January 6, 2009
Report #19 dated January 14, 2009
Report #21 dated January 30, 2009
Report #22 dated March 25, 2009
Report #23 dated March 25, 2009
Closure Order dated March 25, 2009
Report #25 dated March 31, 2009

3 Police Department

Report #2005-25059
Observations dated August 22, 2008
Report #2008-4664 dated October 3, 2008
Handwritten Notes
Report #2009-12484 dated January 22, 2009
Handwritten Notes
Report #2009-44636 dated March 17, 2009
Handwritten Notes
Report to A Justice dated April 16, 2009
Court Information

Tom Zworski, Litigator, Legal Services, was present on behalf of the City of Vancouver. Wendy Mei Wah Wong and Ching Ming Wu (the "Licensees") were present and represented themselves with the aid of Nicole Lee, a registered Cantonese interpreter.

Mr. Zworski advised that this matter had been referred to City Council by the Chief License Inspector pursuant to Section 278 of the *Vancouver Charter* with a recommendation that the Restaurant Class I license be revoked. He noted Council has broad discretion to refuse, revoke, or suspend a license, as set out in Section 275 of the *Vancouver Charter* and further that Section 277 delegates Council's powers to the Panel. Mr. Zworski also advised that the issue for the Panel to consider is the management of the business, the impact on the community and whether the business is likely to be managed properly in the future.

Mr. Zworski referred the Panel to evidence before it as set out in documents which were considered by the Chief License Inspector in referring the license to Council, which set out the allegations that the licensees have failed to properly manage the premises by:

- (a) failing to maintain control of the Premises;
- (b) causing a drain on police and City resources;
- (c) failing to comply with the provisions of provincial and municipal legislation which apply to the Premises, including the Food Premises Regulation to the *Health Act*, RSBC 1996 c. 179;
- (d) permitting or facilitating trafficking of illicit drugs on the Premises;
- (e) carrying on business to the detriment of public order and safety in the neighbourhood.

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

- 1. Pamela Rydings, Vancouver Coast Health
- 2. Cst. Courtney Cordrey (#2568)
- 3. Cst. Janice Bencze (#1970)
- 4. Cst. Brandon Davies (#2593)
- 5. Barb Windsor, Chief License Inspector

The Licensees, with the assistance of a Cantonese interpreter, were given an opportunity to cross examine witnesses and also provided comments following the witnesses' testimony.

Following the testimony and questions to witnesses, a recess was called at 11:02 a.m. The Hearing reconvened at 11:08 a.m. will all Panel members and representatives present.

There were no witnesses called by the Licensees.

The Panel members and Mr. Zworski also asked questions of the Licensees.

Ms. Wong and Mr. Wu submitted they had been in business for over ten years and never had a problem with the Health Department. Mr. Wu also submitted that the police made a mistake, and if there is any complaint about sanitation, the Licensees could address it satisfactorily. Ms. Wong and Mr. Wu further advised they had no knowledge of drugs and that the drugs, jacket, and money from a waist pouch found on the premises belonged to someone else. They also noted the scale had always been in the restaurant. Mr. Wu expressed concern that if they lose their business, it would be place them in a difficult position trying to find jobs at their age.

In closing, Mr. Zworski submitted the evidence is clear regarding the significant illegal drug activity and state of uncleanliness at the restaurant. He further noted these are related and the potential for food contamination exists in the small premises. He also submitted the Licensees did not take appropriate care.

The Licensees' comment was they wanted the license.

PANEL MEMBERS DISCUSSION

Prior to making a decision on this matter, the Panel noted the current owners are not running the business in an appropriate way, and allowed the premises to be used for illegal drug activity, including drugs being cut up on site. The Panel questioned credibility of the idea that items found by police were left by restaurant patrons. The Panel further noted the neighbourhood needs safe restaurants and the importance of protecting the public.

MOVED by Councillor Woodsworth

THAT the 2009 City of Vancouver Business License issued to Wendy Mei Wah Wong and Ching Ming Wu doing business as The Only Fish and Oyster Café (the "Licensees"), for business premises located at 20 East Hastings Street, Vancouver, British Columbia (the "Premises"), be revoked because the Licensees have failed to properly manage the Premises by:

- (a) failing to maintain control of the Premises;
- (b) causing a drain on police and City resources;
- (c) failing to comply with the provisions of provincial and municipal legislation which apply to the Premises, including the Food Premises Regulation to the *Health Act*, RSBC 1996 c. 179;
- (d) permitting or facilitating trafficking of illicit drugs on the Premises;
- (e) carrying on business to the detriment of public order and safety in the neighbourhood.

CARRIED UNANIMOUSLY

The Business License Hearing Panel adjourned at 11:47 a.m.

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