



## BUSINESS LICENCE HEARING MINUTES

APRIL 29, 2014

A Business Licence Hearing was held on Tuesday, April 29, 2014, at 6:00 pm, in the Council Chamber, Third Floor, City Hall, to determine whether or not the refusal by the Chief Licence Inspector of the business licence transfer application made by Hope Café (the "Licence Applicant") for business premises located at 392 East Hastings Street, Vancouver, BC, should be upheld or overturned.

PRESENT: Councillor Kerry Jang, Chair  
Councillor Adriane Carr  
Councillor Geoff Meggs

CITY CLERK'S OFFICE: Leslie Tuerlings, Meeting Coordinator

1. **Alpha Oumar Bah**  
Hope Café  
392 East Hastings Street

The Business Licence 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

- 2<sup>nd</sup> Notice: Dated March 25, 2014
- 1<sup>st</sup> Notice: Dated February 4, 2014

### Tab

#### 1 Licenses & Inspections Department

- Copy of 2013 Business Licence Application for Transfer (#13-357155) for ALPHA OUMAR BAH (DBA: Hope Café)
- Copy of 2013 Business Licence (#13-177583) of previous business owner, MUOI MUOI TRAN (DBA: Truong Giang Vietnamese Sandwich)
- Copy of BC Identity Card for ALPHA OUMAR BAH

#### 2 Police Department - 2013

- VPD Police Record Check & Disclosure Form, dated June 13, 2013
- .1 Report (VPD) GO#VA 2011-208433, dated December 26, 2011
- .2 Report (VPD) GO#VA 2010-11428, dated January 20, 2010

### 3 Correspondence - 2013

- Letter of Receipt of Appeal sent to Alpha Oumar Bah, dated September 25, 2013
- Letter of Appeal from Alpha Oumar Bah, sent to Tom Hammel, City of Vancouver, dated September 24, 2013
- Letter of "wish to appeal" business application refusal, sent to Tom Hammel, City of Vancouver, dated August 28, 2013, from unidentified author
- Letter of Business Licence Application Refusal for 392 East Hastings, DBA: Hope Café, addressed to Alpha Oumar Bah, dated August 27, 2013
- Meeting notes (handwritten) by Tom Hammel, from meeting held with Alpha Oumar Bah, on August 19, 2013, dated August 19, 2013
- Meeting notes (handwritten) by Tom Hammel, from discussion with (VPD) Det/Cst. Kirk Miles, held on August 14, 2013, dated August 14, 2013

Documents contained in the evidence brief explained the reason for the Chief Licence Inspector's refusal to transfer the business licence. Specifically, it was noted that the Chief Licence Inspector is obligated to refuse a business licence application if an applicant has been convicted within the preceding five years of any offence under any Canadian or Provincial statutes or any City By-law, and if he believes the nature of the offence relates to the business for which the application has been made. A police information check contained in the evidence brief provided information that Alpha Oumar Bah (the Applicant) had been convicted of trafficking in scheduled substances.

Iain Dixon, Assistant Director, Enforcement and Prosecution, Law Department, represented the City of Vancouver. Robin D. Bajer represented the Applicant.

Mr. Dixon advised this appeal had been brought before Council pursuant to Section 277 of the *Vancouver Charter*, and in accordance with Section 17 of the *City of Vancouver Procedure By-law*. He noted Council's discretion to uphold, remove, or vary the suspension.

Mr. Dixon referred the Panel to the reasons for the Chief Licence Inspector's refusal to transfer the Business Licenses, as set out in the Notice of Hearing dated March 25, 2014. Specifically, the Chief Licence Inspector refused the application transfer based on the fact that:

1. the Licence Applicant has been convicted of an offence under the *Controlled Drugs and Substance Act* in the five years preceding the Application, and
2. the Chief Licence Inspector is of the belief that the nature of the offence relates to the business for which the Application was made.

Mr. Dixon also discussed the principles of natural justice, in particular the requirements of notice and the opportunity to be heard.

In support of the allegations set out in the above-noted reports and evidence, Mr. Dixon called Harley Machielse, Deputy Chief Licence Inspector, as witness.

Mr. Dixon, the Panel and Mr. Bajer directed questions to the City's witness.

Mr. Bajer submitted his opening remarks and a brief (*on file*) containing the following documents:

- Notice of Decision, August 27, 2013
- CRA Statement of Business Activities 2013
- Hope Cafe Photographs

Mr. Bajer called Alpha Oumar Bah, Licence Applicant, as witness.

Mr. Bajer, the Panel and Mr. Dixon directed questions to the Licence Applicant's witness.

In closing, Mr. Dixon submitted that the evidence presented at the Hearing confirmed the opinion of the Chief License Inspector that the business licence transfer application should be refused.

In closing, Mr. Bajer submitted that there is no direct relation to the nature of Mr. Bah's offense and that of his business. It was also noted that Mr. Bah has shown that he can be a successful business operator, is working towards expanding his business and has been cooperative with Police.

#### PANEL MEMBERS DISCUSSION

MOVED by Councillor Jang  
SECONDED by Councillor Meggs

THAT refusal by the Chief Licence Inspector of the 2013 business licence transfer application made by Hope Café for business premises located at 392 East Hastings Street, Vancouver, BC be upheld because:

1. the Licence Applicant has been convicted of an offence under the *Controlled Drugs and Substance Act* in the five years preceding the Application, and
2. the Chief Licence Inspector is of the belief that the nature of the offence relates to the business for which the Application was made.

CARRIED UNANIMOUSLY

**ADJOURNMENT**

MOVED by Councillor Meggs  
SECONDED by Councillor Carr

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The Business Licence Hearing Panel adjourned at 7:02 pm.

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