



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

H-2

333 West Ocean Blvd • Long Beach, California 90802

October 16, 2012

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record, conclude the hearing and adopt the hearing officer's recommendation to revoke business licenses numbers BU00083820 and BU20208110 issued to Dorothy Shubin, dba 24 Hour Cafe, located at 1715 West Anaheim Street. (District 1)

DISCUSSION

The Long Beach Municipal Code (LBMC) requires a hearing be held before the City Council whenever a revocation of a business license is appealed.

On July 10, 2012, the City Council referred the appeal of the business license revocation for Dorothy Shubin to a hearing officer and the revocation hearing was held on August 9, 2012. When the City Council appoints a hearing officer to conduct the appeal proceedings, the LBMC also requires the City Council to review and consider the hearing officer's written report. The City Council may adopt, reject or modify the recommended decision. In its discretion, the City Council may take additional evidence at the hearing or refer the case back to the hearing officer with instructions to consider additional evidence.

Attached for your review is Hearing Officer Alexander M. Dai's August 24, 2012 written report (Attachment A). Hearing Officer Dai recommends that the business licenses issued to Dorothy Shubin, operating at 1715 W Anaheim Street (BU00083820 for restaurant with alcohol and BU20208110 for one pool table) be revoked. The hearing officer found as follows:

- On February 21, 2002, while investigating a complaint, Long Beach Police Department (LBPd) Vice Detectives recovered seven illegal slot machines from inside the business. The City Prosecutor's Office filed one misdemeanor count for gambling, a violation of California Penal Code 330B(1) and LBMC Section 9.24.010, case #2LM0127001, against Paul Shubin, Manager.
- On June 24, 2009, while investigating a complaint, LBPd Vice Detectives recovered ten illegal slot machines from inside the business. The City Prosecutor's Office filed one misdemeanor count for gambling, a violation of California Penal Code 330B(1) and LBMC Section 9.24.010, case #9LG0840401, against Paul Shubin, Manager.

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- On July 19, 2010, while investigating a complaint, LBPD Vice Detectives recovered ten illegal slot machines from inside the business. The City Prosecutor's Office filed one misdemeanor count for gambling, a violation of California Penal Code 330B(1) and LBMC Section 9.24.010, case #0LG0226201, against Paul Shubin, Manager.
- On December 30, 2011, while investigating a complaint, LBPD Vice Detectives determined that Paul Shubin was providing adult entertainment without an adult entertainment permit. The City Prosecutor's Office filed a misdemeanor count for providing adult entertainment without a valid permit, a violation of LBMC Section 5.72.110(A), case #2LG00318, against Paul Shubin, Manager.
- On January 27, 2012, LBPD Vice Detectives, along with other City representatives from the Health Department and Financial Management Department, Business License Section, conducted an inspection of the business. Investigators determined that Paul Shubin was providing and charging for additional services without a valid business license, including hot showers and overnight truck parking. The City Prosecutor's Office filed one misdemeanor count for a violation of LBMC Section 3.80.210, case #2LG00431, against Paul Shubin, Manager.
- On February 28, 2012, LBPD Vice Detectives assisted El Monte Police Department Special Investigations Detectives with a search warrant at 1715 West Anaheim Street. Detectives recovered an illegal slot machine, illegal firearms and cash from inside the business. Paul Shubin was arrested and booked for gambling and possession of illegal weapons by El Monte Police Department, report #12CR2101.
- On March 14, 2012, LBPD recommended that the Financial Management Department revoke the business licenses issued to Dorothy Shubin, dba 24 Hour Café.
- On August 9, 2012 the revocation hearing was held.

This matter was reviewed by Deputy City Attorney Kendra Carney on September 5, 2012.

TIMING CONSIDERATIONS

City Council action on this matter is not time critical.

FISCAL IMPACT

There is no fiscal or local job impact associated with this item.

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SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



for

JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

ES:smc
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ATTACHMENT

APPROVED:



PATRICK H. WEST
CITY MANAGER

ATTACHMENT A

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8 ADMINISTRATIVE HEARING FOR THE CITY OF LONG BEACH
9

10 ADMINISTRATIVE HEARING TO SHOW) HEARING OFFICER'S RECOMMENDATION AND
CAUSE WHY BUSINESS LICENSE NOS.) FINDINGS
11 BU00083820 AND BU20208110 ISSUED TO)
DOROTHY SHUBIN DBA 24 HOUR CAFÉ)
12 LOCATED AT 1715 W.ANAHEIM ST.,) Hearing Date: August 9, 2012
LONG BEACH, CA., SHOULD NOT BE REVOKED)
13 PURSUANT TO LBMC 3.80.429.1)
14)
15)

16
17 I. INTRODUCTION

18 This appeal came on regularly for hearing before the Administrative Hearing Officer Alexander M. Dai on
19 August 9, 2012 at 10:00 am at Long Beach City Hall located at 333 W.Ocean Boulevard, Long Beach, CA 90802.

20 Licensee DOROTHY SHUBIN (Shubin), DBA 24 HOUR CAFÉ appeared and was represented by Richard J.
21 Cowles, Esq., Bergkvist, Bergkvist & Carter. The City of Long Beach (CITY) was represented by Deputy City
22 Attorney Kendra L. Carney, Esq.

23 Present were: Detective Forrest Anderson, Long Beach Police Department.
24 City of Long Beach, Department of Financial Management – Eric Sund, Business Relations Manager and Eugene
25 Rodriguez, License Inspector. City of Long Beach, Department of Planning and Building – Ramon Varejas,
26

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1 Building Inspector. Also present was Westside Project Area Council - Tony Rivera, Chair and Jerry Jongdol Pak
2 (Pak), current Manager, 24 Hour Café.

3 Paul Shubin, former Manager, 24 Hour Café, was not present.

4 II. LEGAL AUTHORITY

5 The authority to conduct this hearing is found in LBMC §§380.429.1, 3.80.429.5

6 • The belief that the licensee has failed to comply with applicable ordinances or statutes empowers
7 the Director to notice a hearing at which the licensee may show cause why the license should not be
8 revoked.

9 • Following such a hearing and receipt of the hearing officer's report, the Director may revoke or
10 suspend the license.

11 • In the event the license is revoked by the Director, the licensee has the right to file a written appeal
12 to the Long Beach City Council.

13 • The determination of the City Council on the appeal shall be final.
14

15 III. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY THE CITY

16 On March 14, 2012, Jim McDonnell, Chief of Police for the City of Long Beach, filed with Erik Sund, City
17 Business Relations Manager, a REQUEST FOR REVOCATION OF BUSINESS LICENSE BU00083820 DBA 24
18 HOUR CAFÉ – 1715 WEST ANAHEIM STREET (REQUEST) (City Exhibit 9). This request was made following
19 a series of incidents which had occurred over the last ten years. Chief McDonnell's REQUEST is in evidence and
20 was not objected to by Shubin's attorney. I will paraphrase from the REQUEST since it provides a chronology of
21 the facts leading up to the subject license revocation. All incidents, convictions and Police Reports referred to in the
22 REQUEST are also in evidence before me and were not objected to by Shubin's attorney.

23 The 24 Hour Café is owned by Dorothy Shubin, now 81 years old, for 58 years. **The** business had been
24 managed and operated by my son, Paul Shubin, according to Shubin's testimony. Shubin testified that she is "in the
25 process" of dismissing her son since the subject license revocation proceedings arose and had hired Jerry Jongdol
26 Pak to manage and operate the business and to replace her son Paul Shubin. Shubin received City of Long Beach

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1 Notice of Business License Revocation that her business licenses BU00083820 to operate 24 Hour Café and POOL
2 TABLE PERMIT BU20208110 were revoked effective June 6, 2012(City Exhibit 17).

3 During the last ten years, the Long Beach Police Department had received complaints of illegal gambling at
4 the 24 Hour Café. The manager, Paul Shubin, has been convicted three separate times for illegal gambling at 1715
5 West Anaheim Street. As of the date of the REQUEST March 14, 2012, Paul Shubin continued to violate State law
6 by operating illegal slot machines at 24 Hour Café. Paul Shubin has demonstrated an unwillingness to comply with
7 City laws, by providing and charging for hot showers and overnight truck parking, without obtaining proper
8 business licenses and permits from the City of Long Beach.

9 On February 21, 2002, while investigating a complaint, Vice Detectives recovered seven illegal slot
10 machines from inside the business. The manager, Paul Shubin, was issued a misdemeanor citation for gambling.
11 The City Prosecutor's Office filed one misdemeanor count for gambling, a violation of California Penal Code §
12 330B(1), case #2LM0127001, against Paul Shubin. He was convicted and sentenced to two years probation, and
13 received a \$1000 fine. See DR02-14216 (City Exhibit 10).

14 On June 24, 2009, while investigating a complaint, Vice Detectives recovered ten illegal slot machines
15 from inside the business. The manager, Paul Shubin, was issued a misdemeanor citation for gambling. The City
16 Prosecutor's Office filed one misdemeanor count for gambling, a violation of LBMC § 9.24.010,
17 case#9LG0840401, against Paul Shubin. He was convicted and sentenced to one year of probation, and received a
18 \$150 fine. See DR#09-46514 (City Exhibit 12)

19 On July 19, 2010, while investigating a complaint, Vice Detectives recovered ten illegal slot machines from
20 inside the business. The manager, Paul Shubin, was arrested for gambling. The City Prosecutor's Office filed one
21 misdemeanor count for gambling, a violation of California Penal Code § 330.1, case#0LG0226201, against Paul
22 Shubin. He was convicted and sentenced to two years probation, and received a \$510 fine. See DR#10-48638 (City
23 Exhibit 13).

24 On December 30, 2011, while investigating a complaint, Vice Detectives determined that Paul Shubin was
25 providing adult entertainment without a valid entertainment permit. The City Prosecutor's Office filed on
26

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1 misdemeanor count for providing Entertainment Without a Valid Permit, a violation of LBMC § 5.72.110(A), case
2 #2LG00318, against Paul Shubin.

3 On January 27, 2012, Vice Detectives, along with other City representatives from the Health Department
4 and Business Licensing, conducted an inspection of the business. Investigators determined that Paul Shubin was
5 providing and charging for additional services without a valid business license, hot showers and overnight truck
6 parking, in violation of LBMC § 380.210, case#2LG00431, against Paul Shubin .

7 On February 28, 2012, Vice Detectives assisted El Monte Police Department Special Investigations
8 Detective Ray Larriva with a search warrant at 1715 West Anaheim. Detectives recovered an illegal slot machine,
9 illegal firearms, and cash from inside the business. Paul Shubin was arrested and booked for gambling and
10 possession of illegal weapons. See El Monte Police Department Report #12CR2101.

11 Based upon the Vice Investigations Section investigation, on-going criminal activity, and unauthorized
12 business practices, Chief McDonnell submitted that the licensee (Dorothy Shubin) has demonstrated an
13 unwillingness to comply with City and State laws. It is the Police Department's responsibility to maintain law and
14 order within the City of Long Beach, and to ensure the public peace, safety, and welfare is maintained. Chief
15 McDonnell requested that the City of Long Beach, Department of Financial Management, Department of Financial
16 Management, Business Relations Bureau.

17 No live testimony was presented by the City. However, Detective Forrest Anderson, Long Beach Police
18 Department, City of Long Beach, Department of Financial Management – Eric Sund, Business Relations Manager
19 and Eugene Rodriguez, License Inspector, City of Long Beach, Department of Planning and Building – Ramon
20 Varejas, Building Inspector. were present, presumably to present percipient testimony to the various business license
21 violations, citations, arrests and convictions described, in the event appellant Shubin chose to challenge any business
22 license violation, citation or conviction. In fact, Shubin through her attorney virtually conceded to all violations and
23 convictions without objection.

24 Mr. Richard Cowles only objection was to City Exhibit 11, on relevancy grounds. Cowles would not
25 stipulate to the some 27 Health & Safety code violations found at 24 Hour Cafe, but did not contest any particular
26

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1 such violation either. Cowles conceded that there “were many irrefutable violations” that were found by the City
2 inspectors.

3 I overrule counsel’s objection and admit Exhibit 11. Exhibit 11 a Police Evidence Report of items found in
4 Paul Shubin’s vehicle during a him being cited for possession of marijuana contains a mention of possible sex
5 deviant crimes which could comprise impeachment, although, appellant Shubin did not challenge any of the
6 violations and convictions of her son, and business operator and manager of 24 Hour Café, Paul Shubin, I will
7 evaluate Exhibit 11 as to its evidential weight, rather than exclude its admissibility. The repeated criminal activities
8 related to Paul Shubin do touch upon his character for honesty, veracity, and moral turpitude and on such grounds I
9 find Exhibit 11 relevant in an administrative hearing. I overrule all objections to portions of any Police Report or
10 City license of code inspector report being inadmissible hearsay, as I find these official reports to have an inherent
11 reliability and credibility in an administrative hearing.

12 IV. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY APPELLANT SHUBIN

13 Shubin’s attorney. Introduced Exhibits 1 thru 7, which were admitted.

14 Exhibit 1 – Shubin’s current business license for 24 Hour Café was testified to by Shubin. Shubin testified
15 that she had “always paid her taxes and business licenses on time and was never delinquent.”

16 Exhibit 2 was of contractor bids and City permits taken out to bring 24 Hour Café up to code. Jerry
17 Jongdol Pak (Pak), current Manager, 24 Hour Café testified to Exhibit 2 and testified that he was prepared to bring
18 the site fully up to Building Code compliance, in the event Shubin regained her revoked business license in these
19 proceedings. Pak said that he would no longer permit illegal slot machines or the like and that he would be
20 “certainly able to know if such illegal gambling machines were present at the 24 Hour Café premises he now
21 managed.” Exhibits 3 thru 5 were photos of the exterior of 24 Hour Café showing new signage that no longer
22 advertise prohibited unlicensed high-pressure showers, bikini bar and overnight truck parking. Exhibit 6 new
23 signage showed that prohibited unlicensed fax services were no longer offered. Exhibit 7 showed a website that
24 only offered restaurant and permissible activities, not the prohibited unlicensed activities – fax. High pressure
25 showers, truck parking, game room, etc.

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1 On direct examination, Shubin testified that she had turned over operation and management of 24 Hour
2 Café “about seven years ago to Paul Shubin and was not involved with the daily business since.” Shubin denies ever
3 being charged or cited with illegal gambling. Shubin denied that she knew that Paul Shubin had permitted illegal
4 gambling at 24 Hour Café, or that the prohibited adult entertainment, overnight truck parking, and high pressure
5 showers were offered.” Inexplicably, almost at the close of evidence, Dorothy Shubin changed this very crucial
6 answer. Shubin testified that “it was about two years ago, when I was 79 years old (or 2010), that I ceased daily
7 operation and management activities of 24 Hour Café and turned over those responsibilities to my son, Paul Shubin.
8

9 V. STATEMENT OF ISSUES BEFORE THE HEARING OFFICER

10 The issues in this matter are, as follows:

- 11 1. Is the licensee Dorothy Shubin operating 24 Hour Café outside the scope of permitted activities
12 identified in her business license?
13 2. Is Dorothy Shubin responsible for the actions of Paul Shubin, as operator and manager of 24 Hour
14 Café for the past ten years since February 21, 2002?

15 VI. DISCUSSION OF PROFFERED EVIDENCE

16 I admitted all evidence, subject to the weight I would assess such evidence, submitted by both appellant
17 Dorothy Shubin and respondent City of Long Beach. The Book of 19 Exhibits submitted by the City and the Book
18 of 7 Exhibits submitted by Dorothy Shubin comprise all such written evidence submitted and are a part of this record.
19 True and correct copies of the respective Book of Exhibits are on file with the City Clerk, and both parties should
20 have their own copies.

21 All such written evidence submitted is referred to by this reference, and incorporated herein as if set forth
22 in *haec verba*.

23 Only appellant Dorothy Shubin and her current manager Jerry Jongdol Pak testified. The important
24 testimony, which I confirmed by listening to the 50-minute hearing tape, are Dorothy Shubin’s inconsistent
25 statements as to when she transferred operation and management activities to her son, Jerry Shubin. Initially, Ms.
26 Shubin on direct examination in her case in chief specified it was “seven years ago”; near close of evidence, in an

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1 attempt to rehabilitate her, Ms. Shubin specified that it was "two years ago, when I was 79 years-old". This would
2 be 2010. It is crucial testimony as it casts substantial doubt in my mind, as the trier of fact, as to Ms. Shubin's
3 capacity to tell the truth in this proceeding. This concern is reflected accordingly, as follows.

4
5 VII FINDINGS OF FACT

6 A. Licensee Dorothy Shubin owns 24 Hour Café. (City Exhibit 7).

7 B. The Licensee Shubin holds a business license by which she is authorized to operate a restaurant
8 with alcohol [BU00083820] with a pool table [BU20208110]. (City Exhibits 2 thru 6).

9 C. The licensee Shubin holds a CA Alcoholic Beverage Control permit to sell beer since 1994. (City
10 Exhibit 7)

11 D. On February 21, 2002, Vice Detectives recovered seven illegal slot machines from inside the
12 business. The manager, Paul Shubin, was issued a misdemeanor citation for gambling. The City Prosecutor's
13 Office filed one misdemeanor count for gambling, a violation of California Penal Code § 330B(1), case
14 #2LM0127001, against Paul Shubin. He was convicted and sentenced to two years probation, and received a \$1000
15 fine. See DR02-14216 (City Exhibit 10). I find this event to be a business license violation by Dorothy Shubin dba
16 24 Hour Café.

17 E. On June 24, 2009, Vice Detectives recovered ten illegal slot machines from inside the business.
18 The manager, Paul Shubin, was issued a misdemeanor citation for gambling. The City Prosecutor's Office filed one
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22 F. On July 19, 2010, Vice Detectives recovered ten illegal slot machines from inside the business.
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4 Paul Shubin. I find this event to be a business license violation by Dorothy Shubin dba 24 Hour Café.

5 I. On January 27, 2012, Vice Detectives, along with other City representatives from the Health
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11 H. On February 28, 2012, Vice Detectives assisted El Monte Police Department Special
12 Investigations Detective Ray Larriva with a search warrant at 1715 West Anaheim. Detectives recovered an illegal
13 slot machine, illegal firearms, and cash from inside the business. Paul Shubin was arrested and booked for gambling
14 and possession of illegal weapons. See El Monte Police Department Report #12CR2101. I find this event to be a
15 business license violation by Dorothy Shubin dba 24 Hour Café. regardless of the apparent absence any conviction
16 of Paul Shubin being submitted for my consideration.

17 I. This hearing was conducted pursuant to written notice served upon the licensee Dorothy Shubin.
18 (City Exhibit 17).

19 J. At all times herein, Dorothy had actual knowledge and constructive knowledge of Paul Shubin's
20 management of 24 Hour Café and of the illegal gambling and unauthorized activities which took place.

21 VII. RECOMMENDATION

22 The business license(s) issued to licensee Dorothy Shubin permitted her to operate a restaurant with alcohol
23 and pool table. By permitting illegal gambling for a ten year period, other illegal activities such as possession of
24 illegal weapons, unlicensed - showers, adult entertainment, truck parking, and other business activities such as fax
25 services, the licensee Dorothy Shubin is operating outside the scope of authorized business activities identified in
26 her business license(s).

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