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ATTORNEY AT LAW
6701 CENTER DRIVE WEST, SUITE 550
LOS ANGELES, CALIFORNIA 90045
310-568-0938/310-568-4716(FAX)

Hearing Officer

CITY OF LONG BEACH

STATE OF CALIFORNIA

ADMINISTRATIVE APPEAL) REPORT OF FINDINGS OF FACT,
FROM THE DEPARTMENT OF) CONCLUSIONS OF LAW & DECISION
FINANCIAL MANAGEMENT)
DENIAL OF BUSINESS LICENSE)
APPLICATION # 20520890)
BY CHANG KOL YIM)
DBA RANCHO MEAT MARKET #3)

1 INTRODUCTION

2 This is an appeal from the Department of Financial Management of the denial
3 of business license application number 20520890 by CHANG KOL YIM DBA RANCHO
4 MEAT MARKET #3 (hereinafter referred to as RANCHO) for failure to comply with
5 applicable laws and regulations as set forth in LBMC Section 3.80.42.1(B) by not
6 completing the permit and inspection process.
7

8 In April, 2005, RANCHO applied for a business license for property located at
9 225 West Anaheim Street, Long Beach, CA 90813. Before a business license can be
10 issued, there must be compliance with all applicable laws.

11 A team inspection by the City found, among other things, a number of
12 improvements had been made without permits or inspection, i.e. removal of wall
13 between suites and installation of a walk-in cooler. RANCHO was provided notices to
14 comply, but to date, has not obtained any permits to correct the violations.
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16 After listening to the sworn testimony and review of exhibits and evidence, it is herein
17 recommended that business license application number 20520890 be denied.
18

19 EXHIBITS

20 The following exhibits were submitted by the City and admitted into evidence:

21 Exhibit 1: Notice of Inspection dated April 28, 2005;

22 Exhibit 2: Memorandum from the Planning and Building Department to the
23 Director of Financial Management dated August 5, 2005;

24 Exhibit 3: Page 1-6.5 of the 2001 California Building Code, specifically referring
25 to Section 106.1 (page 1) and Municipal Code Chapter 18, specifically referring to
26 Section 18.36.170 (page 2);
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28 Exhibit 4: Business License Application submitted by RANCHO on April 21, 2005;

1 Exhibit 5: "Operating a Business in Long Beach", published by the City of Long
2 Beach;

3 Exhibit 6: Letter from James A. Goodin, Business Services Officer in the
4 Department of Financial Management addressed to RANCHO (two pages);
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6 Exhibit 7: Letter from RANCHO to Mr. Goodin dated October 5, 2005;

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8 the City Council dated November 1, 2005; and

9 Exhibit 9: Notice of Inspection dated January 6, 2005.

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11 Exhibit A: Drawings on letterhead of Sang Y. Lee & Associates, Structural & civil
12 engineers, dated September 12, 2005 (four pages); and

13 Exhibit B: Drawing of walk-in cooler.
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15 REVIEW OF RELEVANT TESTIMONY

16 Wendy Goetz. At all times pertinent was combination building inspector and part
17 of team inspections for business licenses and building compliance.

18 Prior to an inspection, she obtains information on business such as type from
19 internal database. She also reviews building history pertaining to issuance of permits.
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21 On April 28, 2005, she was part of a team inspection of the RANCHO property.
22 Among other things, she observed that an interior wall had been removed between
23 suites two and three; and there was a walk-in cooler in suite three.

24 In her review of the property history, it showed a different business in suite three.
25 There was a permit for a market for suites one and two; but not for three. There was no
26 permit that indicated suites one and two had been combined with suite three.
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28 No plans had been submitted and no permits issued pertaining to the removal of

1 the wall or installation of the walk-in cooler.

2 Ms. Goetz prepared and gave to Mr. Yim a Notice of Inspection (Exhibit 1) that
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7 what needed to be done in order to comply with the law. She explained that he needed
8 to hire either an architect or engineer and submit plans. She also gave Mr. Yim a
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16 License. A Conditional Business License allows a business to remain open while
17 corrections are being made. It is good for one hundred and eighty days from date of
18 application. Extensions can be granted if the business owner is working on the project.
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22 day provision in the Notice of Inspection.

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4 of the business license application. Before sending the memo, it was reviewed by Mark
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8 of the California Building Code. The failure to obtain a permit regarding the walk-in
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12 use of extension cords as permanent wiring.

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20 investigate business license applicant's property to determine compliance with
21 applicable laws.
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25 Her department cannot issue a business license with outstanding violations.

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4 Code process has been followed. If it has been, his office has no choice but to reject an
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7 The "process" he is referring to is found in Chapter 3.80 of the Municipal Code.²
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18 RANCHO (Exhibit 6) denying the business license application. The letter further stated
19 that a notice of appeal could be filed. The letter was sent by registered mail and signed
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3 After the team inspection he contacted the prior owner to obtain drawings of
4 location and also tried to find the manufacturer of the walk-in cooler. He could not find
5 who made the cooler. He even asked the maintenance company, but still could not find
6 out.
7

8 The removal of the wall and installation of the walk-in cooler happened before he
9 took possession and the city had done nothing.

10 He did not understand the process.

11 At the time of the team inspection, Ms. Goetz discussed the walk-in cooler and
12 wall with Mr. Yim.
13

14 After receiving the notice of rejection of the business license application, he
15 submitted plans to the zoning department (Exhibit A) and then to the building
16 department. The building department rejected the plans. He was told the plans needed
17 to be more detailed.

18 He had prepared a drawing of the walk-in cooler (Exhibit B).

19 To date, he has not submitted plans.
20

21 BY Sonn. Is a licensed architect. Mr. Yim contacted him after the rejection of the
22 business license application. Mr. Sonn prepared the appeal letter (Exhibit 7).

23 Mr. Sonn misunderstood the appeal process. He thought the matter before the
24 hearing officer would be informal and the hearing officer would set down what exactly
25 needed to be done.
26

27 Wendy Goetz (rebuttal). In response to Mr. Yim's statement that the City had
28

hearing officer explained Judicial Notice to the applicant and granted the request.

1 done nothing to him taking over the business, she testified that on January 6, 2005, she
2 issued a Notice of Inspection to the prior business owner (Exhibit 9) that required
3 submission of plans regarding the combining of suites one and two to suite three and
4 installation of the walk-in cooler.

6 FINDINGS OF FACT

7 1. On April 21, 2005, Chang Kol Yim applied for a business license with the City
8 of Long Beach for the property located at 225 West Anaheim Street, Long Beach, CA.
9 90813.

10 2. In the Acknowledgement portion of the application, it states, "I have received
11 a copy of 'OPERATING A BUSINESS IN LONG BEACH'. I understand that before I can
12 operate my business in Long Beach, my establishment must comply completely or I will
13 be in violation of the L.B.M.C., Section 3.80.421.5...".

14 3. On April 28, 2005, a team inspection was conducted by the City. Several
15 violations were found, including, removal of a wall and installation of a walk-in cooler
16 without obtaining a permit or being inspected by the City.

17 4. Mr. Yim was informed orally and in writing he needed to obtain permits and
18 subsequent City inspection for the removal of the wall and installation of the walk-in
19 cooler.
20

21 5. On the day of the team inspection, the City issued a conditional business
22 license.
23

24 6. The conditional business license was valid for one hundred and eighty
25 days. During that time, Mr. Yim was to obtain permits for the removal of the wall and
26 installation of the walk-in cooler. In addition, during the same time period, the City had to
27 inspect and approve the corrections.
28

1 7. If a business operator was working toward correcting the violations, and
2 keeping the City informed, the City could extend the one hundred eighty day time period.

3 8. Mr. Yim has not obtained permits for correcting the violations.

4 9. No corrections have been made regarding the removal of the wall or
5 installation of the walk-in closet.
6

7 10. On August 5, 2005, the Planning and Building Department recommended
8 denial of the business license application on the grounds of failure to complete the
9 permit and inspection process pertaining to removal of the wall and installation of the
10 walk-in cooler.

11 11. On September 28, 2005, the City notified Mr. Yim that the business
12 license application was being denied on the grounds of failure to complete the permit
13 and inspection process pertaining to removal of the wall and installation of the walk-in
14 cooler.
15

16 12. On October 5, 2005, Mr. Yim filed a timely appeal to the denial of the
17 application for a business license.
18

19 CONCLUSIONS OF LAW

20 1. Section 3.80.420.1 of the Long Beach Municipal Code requires a person
21 to file an application for a business license.

22 2. Section 3.80.421.1(A) of the Long Beach Municipal Code requires the
23 Director of Financial Services to refer applications to appropriate departments in the City
24 to determine whether the business complies with applicable law.

25 3. Section 3.80.421.5 of the Long Beach Municipal Code requires that if a
26 particular department in the City rejects an application for a business license on the
27 grounds of failure to comply with applicable laws and ordinances, the City shall not issue
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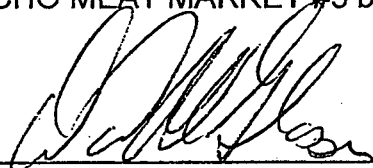
a license.

4. Misunderstanding of the law or process is not a valid defense.

5. The City has met its burden of proof by a preponderance of the evidence that the business license application number 20520890 by CHANG KOL YIM DBA RANCHO MEAT MARKET #3 be denied on the grounds of failure to comply with applicable laws and ordinances.

IT IS THEREFORE recommended that the business license application number 20520890 by CHANG KOL YIM DBA RANCHO MEAT MARKET #3 be denied.

DATED: February 28, 2006

BY: 
DAVID M. GLASSER

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PROOF OF SERVICE BY MAIL

The undersigned hereby certifies under the penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and am not a party to the within action.

2. My business address is 6701 Center Drive West, Suite 550, Los Angeles, California 90045.

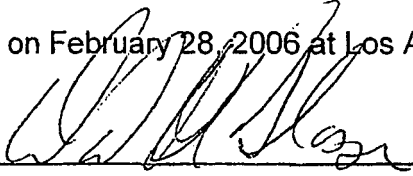
3. On February 28, 2006 the attached **REPORT OF FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION** was served on the parties in this action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Los Angeles, California, addressed as follows:

Cristyl Meyers, Esq.
Deputy City Attorney
333 West Ocean Boulevard, Eleventh Floor
Long Beach, California 90802-4664

Chang Kol Yim dba
Rancho Meat Market #3
225 West Anaheim Street
Long Beach, CA 90813

4. There is delivery service by U.S. Mail at the place so addressed or regular communication by U.S. Mail in the place so addressed.

5. This certificate was executed on February 28, 2006 at Los Angeles, California.



David M. Glasser



OFFICE OF THE CITY ATTORNEY
Long Beach, California

~~H-1~~
~~CH-1~~

ROBERT E. SHANNON
City Attorney

HEATHER A. MAHOOD
Chief Assistant City Attorney

MICHAEL J. MAIS
Assistant City Attorney

May 2, 2006

PRINCIPAL DEPUTIES

Barbara D. de Jong
Dominic Holzhaus
Belinda R. Mayes

DEPUTIES

Gary J. Anderson
Richard F. Anthony
Christina L. Checcl
Alysha Park Choi
Randall C. Fudge
Charles M. Gale
Everett L. Glenn
Donna F. Gwin
Monte H. Machil
Anne C. Lattime
Lisa Peskay Malmsten
Barry M. Meyers
Cristyl Meyers
J. Charles Parkin
Howard D. Russell
Tiffani L. Shin

HONORABLE MAYOR AND CITY COUNCILMEMBERS
City of Long Beach
California

RECOMMENDATION:

Recommendation that the City Council continue for thirty (30) days the hearing regarding the administrative appeal of the denial of Business License Application number BU20520890 for Rancho Meat Market #3, located at 225 W. Anaheim Street, Long Beach, 90813. (District 1)

DISCUSSION

Attached please find a copy of the Report, Findings, and Recommendations of Hearing Officer David Glasser regarding Chang Kol Yim's Business License Application for Rancho Meat Market #3 located at 225 W. Anaheim Street, Long Beach, California 90813. This matter was placed on the City Council Agenda for May 2, 2006, to review the attached Hearing Officer Report regarding Denial of Business License Application Number BU20520890.

An administrative appeal hearing occurred on February 16, 2006. During the administrative proceedings, evidence was presented that in early April of 2005 Chang Kol Yim purchased 225 W. Anaheim Street as a food retail establishment. The building was purchased with pre-existing un-permitted tenant improvements, including removal of an interior wall partition that combined two suites, and installation of a walk-in food cooler, all of which violated local and State laws.

That same month, Mr. Yim applied for Long Beach Business license number BU20520890. Based on this application, the City conducted an inspection and issued Mr. Yim a conditional business license as well as a notice of correction requiring him to submit plans, obtain permits, make all necessary corrections and obtain final approval of the tenant improvements within thirty (30) days. Although the conditional license allowed Mr. Yim to conduct business during the pendency of corrections, it also advised that failure to timely comply with and make all necessary corrections would result in denial of the business license application, and would also require him to cease business operations.

Three months later, a status check revealed that Mr. Yim failed to initiate any corrective measures. As a result, on August 5, 2005, the Department of Planning and Building recommended application number BU20520890 be

HONORABLE MAYOR AND CITY COUNCILMEMBERS

Page 2

May 2, 2006

denied, and on September 28, 2005, the Department of Financial Management denied the application. Mr. Yim timely filed his appeal, and on November 1, 2005, the City Council referred the matter to a hearing officer. Approximately one (1) week prior to this hearing, an inspection showed that the business was still operating without having made any corrections, and that new violations existed based on the use of extension cords in lieu of permanent wiring.

In Mr. Yim's defense, he testified that he did not understand the compliance process, and further that if he were given clarification of outstanding requirements, corrections would be made.

Based on the evidence presented, coupled with the conclusion that misunderstanding of the law or process is not a valid defense, Hearing Officer Glasser found that the City met its burden of proof and recommended that business license application number BU20520890, submitted by Chang Kol Yim doing business as the Rancho Meat Market #3 located at 225 W. Anaheim, Long Beach, 90813, be denied.

However, in the interim since this recommendation was rendered, Mr. Yim has made significant progress on complying with all outstanding code violations. To date, Mr. Yim submitted all necessary tenant improvement plans which were approved by the departments of Planning & Building and Fire. In March, building, electrical, mechanical, and fire permits were obtained by Mr. Yim's licensed contractor, and in April the walk-in cooler and wall partition were inspected and approved. It is anticipated that all outstanding electrical and fire violations will be completed and inspected within two (2) weeks, allowing for final project inspection and approval to occur no later than May 31, 2006.

Therefore, the City Attorney and City Staff recommend the City Council continue for thirty (30) days the hearing regarding the administrative appeal of the denial of Business License Application number BU20520890 in order to allow this business to make the remaining outstanding corrections, and thereby attain full and complete compliance.

SUGGESTED ACTION:

Continue the hearing for thirty (30) days.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By



CRISTYL A. MEYERS
Deputy City Attorney

Attachments: February 28, 2006 Hearing Officer Report Re: Denial of Business License Application BU20520890 for Rancho Meat Market #3

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3 After the team inspection he contacted the prior owner to obtain drawings of
4 location and also tried to find the manufacturer of the walk-in cooler. He could not find
5 who made the cooler. He even asked the maintenance company, but still could not find
6 out.
7

8 The removal of the wall and installation of the walk-in cooler happened before he
9 took possession and the city had done nothing.

10 He did not understand the process.

11 At the time of the team inspection, Ms. Goetz discussed the walk-in cooler and
12 wall with Mr. Yim.

13 After receiving the notice of rejection of the business license application, he
14 submitted plans to the zoning department (Exhibit A) and then to the building
15 department. The building department rejected the plans. He was told the plans needed
16 to be more detailed.
17

18 He had prepared a drawing of the walk-in cooler (Exhibit B).

19 To date, he has not submitted plans.

20 BY Sonn. Is a licensed architect. Mr. Yim contacted him after the rejection of the
21 business license application. Mr. Sonn prepared the appeal letter (Exhibit 7).
22

23 Mr. Sonn misunderstood the appeal process. He thought the matter before the
24 hearing officer would be informal and the hearing officer would set down what exactly
25 needed to be done.
26

27 Wendy Goetz (rebuttal). In response to Mr. Yim's statement that the City had
28

hearing officer explained Judicial Notice to the applicant and granted the request.

1 done nothing to him taking over the business, she testified that on January 6, 2005, she
2 issued a Notice of Inspection to the prior business owner (Exhibit 9) that required
3 submission of plans regarding the combining of suites one and two to suite three and
4 installation of the walk-in cooler.

5 6 FINDINGS OF FACT

7 1. On April 21, 2005, Chang Kol Yim applied for a business license with the City
8 of Long Beach for the property located at 225 West Anaheim Street, Long Beach, CA.
9 90813.

10 2. In the Acknowledgement portion of the application, it states, "I have received
11 a copy of 'OPERATING A BUSINESS IN LONG BEACH'. I understand that before I can
12 operate my business in Long Beach, my establishment must comply completely or I will
13 be in violation of the L.B.M.C., Section 3.80.421.5...".

14 3. On April 28, 2005, a team inspection was conducted by the City. Several
15 violations were found, including, removal of a wall and installation of a walk-in cooler
16 without obtaining a permit or being inspected by the City.

17 4. Mr. Yim was informed orally and in writing he needed to obtain permits and
18 subsequent City inspection for the removal of the wall and installation of the walk-in
19 cooler.
20 cooler.

21 5. On the day of the team inspection, the City issued a conditional business
22 license.
23 license.

24 6. The conditional business license was valid for one hundred and eighty
25 days. During that time, Mr. Yim was to obtain permits for the removal of the wall and
26 installation of the walk-in cooler. In addition, during the same time period, the City had to
27 inspect and approve the corrections.
28 inspect and approve the corrections.

1 7. If a business operator was working toward correcting the violations, and
2 keeping the City informed, the City could extend the one hundred eighty day time period.

3 8. Mr. Yim has not obtained permits for correcting the violations.

4 9. No corrections have been made regarding the removal of the wall or
5 installation of the walk-in closet.
6

7 10. On August 5, 2005, the Planning and Building Department recommended
8 denial of the business license application on the grounds of failure to complete the
9 permit and inspection process pertaining to removal of the wall and installation of the
10 walk-in cooler.

11 11. On September 28, 2005, the City notified Mr. Yim that the business
12 license application was being denied on the grounds of failure to complete the permit
13 and inspection process pertaining to removal of the wall and installation of the walk-in
14 cooler.
15

16 12. On October 5, 2005, Mr. Yim filed a timely appeal to the denial of the
17 application for a business license.
18

19 CONCLUSIONS OF LAW

20 1. Section 3.80.420.1 of the Long Beach Municipal Code requires a person
21 to file an application for a business license.

22 2. Section 3.80.421.1(A) of the Long Beach Municipal Code requires the
23 Director of Financial Services to refer applications to appropriate departments in the City
24 to determine whether the business complies with applicable law.

25 3. Section 3.80.421.5 of the Long Beach Municipal Code requires that if a
26 particular department in the City rejects an application for a business license on the
27 grounds of failure to comply with applicable laws and ordinances, the City shall not issue
28

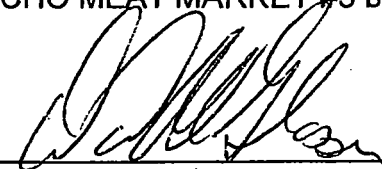
1 a license.

2 4. Misunderstanding of the law or process is not a valid defense.

3 5. The City has met its burden of proof by a preponderance of the evidence
4 that the business license application number 20520890 by CHANG KOL YIM DBA
5 RANCHO MEAT MARKET #3 be denied on the grounds of failure to comply with
6 applicable laws and ordinances.
7

8 IT IS THEREFORE recommended that the business license application number
9 20520890 by CHANG KOL YIM DBA RANCHO MEAT MARKET #3 be denied.

10
11 DATED: February 28, 2006

12 BY: 
13 DAVID M. GLASSER

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