



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

C-2

333 West Ocean Blvd • Long Beach, California 90802

July 10, 2012

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Refer to Hearing Officer the business license and pool table permit revocation appeal by Dorothy Shubin, DBA 24 Hour Café, located at 1715 W. Anaheim Street, Long Beach, CA 90813. (District 1)

DISCUSSION

On June 6, 2012, the Department of Financial Management revoked the business license issued to Dorothy Shubin, DBA 24 Hour Café, located at 1715 W. Anaheim Street (Attachment A), due to failure to comply with applicable laws and regulations, pursuant to Long Beach Municipal Code (LBMC) Sections 9.24.010, 3.80.420, 5.72.110(A) and 3.80.210; in addition to violations of the California Penal Code Sections 330B(1) and 330.1.

On May 30, 2012, a business license revocation hearing was conducted, in compliance with LBMC Section 3.80.429.1. On June 6, 2012, the hearing officer recommended the Director of Financial Management to revoke business license numbers BU00083820 and BU20208110 (Attachment B).

Pursuant to LBMC Section 3.80.429.5, a licensee can appeal the revocation of a business license to the City Council. The licensee lodged its written request for appeal on June 14, 2012 (Attachment C). Whenever it is provided that a hearing shall be heard by the City Council, the City Council may, in its discretion, conduct the hearing itself or refer it to a hearing officer, in accordance with LBMC 2.93.050(A).

This matter was reviewed by Deputy City Attorney Kendra Carney on June 22, 2012.

TIMING CONSIDERATIONS

If referred, upon selection of a hearing officer, the matter will be heard not less than thirty (30) days thereafter.

HONORABLE MAYOR AND CITY COUNCIL
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FISCAL IMPACT

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

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,


JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

JG:ES:SMC
K:\EXEC\COUNCIL LETTERS\BUSINESS RELATIONS\HEARING LETTERS\07-10-12 CCL - 24 HOUR CAFE REFER TO HO.DOC

ATTACHMENTS

APPROVED:



PATRICK H. WEST
CITY MANAGER

CITY OF LONG BEACH
BUSINESS LICENSE

ACCOUNT: BU00083820

OWNERSHIP NON-TRANSFERABLE
LICENSE EXPIRES ON 05/13/13

DATE: 05/02/12

THE LICENSEE NAMED BELOW IS AUTHORIZED TO OPERATE THE FOLLOWING TYPE OF
BUSINESS: RESTAURANT WITH ALCOHOL DBA: 24 HOUR CAFE
LOCATED AT: 1715 W ANAHEIM ST

SHUBIN, DOROTHY
1715 W ANAHEIM ST
LONG BEACH CA 90813-1101

AUTHORIZED BY JOHN GROSS
DIRECTOR OF FIN MGMT

.....

=====> LICENSE HOLDER -- PLEASE NOTE <=====

THE TOP PORTION OF THIS FORM IS YOUR LICENSE. YOU MUST DISPLAY THE
LICENSE IN A CONSPICUOUS PLACE ON THE BUSINESS PREMISES.

THE DATE YOUR LICENSE EXPIRES IS INDICATED ON THE FACE OF THE LICENSE.
IF YOU DO NOT RECEIVE A RENEWAL NOTICE BY THE EXPIRATION DATE, CONTACT
THE BUSINESS LICENSE SECTION AT (562) 570-6211.

NOTE: YOU ARE RESPONSIBLE FOR RENEWING THE LICENSE ON OR BEFORE THE
LICENSE EXPIRATION DATE. (PLEASE NOTIFY THE BUSINESS LICENSE
SECTION IF YOU ARE NO LONGER IN BUSINESS.)

PLEASE REPORT IMMEDIATELY ANY CHANGE IN OWNERSHIP, BUSINESS LOCATION,
MAILING ADDRESS, OR BUSINESS ACTIVITY TO THE BUSINESS LICENSE SECTION.

X368 BC15USMC BC0102 ACCOUNT SUMMARY INQUIRY 06/27/12 08:42
TC: AS FUNCTION: I SYSTEM: BU ACCOUNT: 00083820
SEARCH: KEY: PR:
STATUS: ACTIVE STATUS DATE: 05/01/12 TYPE: NORMAL CURRENT DUE: 06/15/12
CUST NAME: SHUBIN, DOROTHY ACCT BAL: [REDACTED]
DBA NAME: 24 HOUR CAFE DEP DUE: [REDACTED]
MAIL: 1715 W ANAHEIM ST DEP BAL: [REDACTED]
LONG BEACH CA CENS: 575500 CNCL DIST: 01
ZIP: 90813 1101
PHONE: [REDACTED]
SOC SEC: [REDACTED] DR LIC:
EMPLOYER: EMP PH:
ADDR: CITY: EXT:
HSE# FRA D STREET NAME TYPE S UNIT ZIP CODE
SITE: 01715 W ANAHEIM ST 90813 1101 VALIDATE:
SERVICE DATE: 04 01 00 ID#1: I BUS 100502 ID#2: DIST: 10
NEXT INTERVAL DUE: 05 13 13 INTERVAL: 012 M CANCELLATION DATE:
DESCRIPTION OF SERVICE PROVIDED:



X368 BC15USMC BC0117 BUS LICENSE SUMMARY - INQUIRY 06/27/12 08:42
 TC: BL FUNCTION: I SYSTEM: BU ACCOUNT: 00083820
 SEARCH: KEY: SHUBIN, DOROTHY PR:
 STATUS: ACTIVE EXEMPT: START: 04 01 98 NEW CODE: SRCE CODE: I/C:
 CONAME: INCL:
 DBA: 24 HOUR CAFE NTC#: PREV LIC:
 CRT: 100502 RESTAURANT WITH ALCOHOL PRODUCT: RESTAURANT/BAR H/O: N ORG:
 SIC: 005812 EATING & DRINKING PLACES
 EATING PLACES
 HSE# FRA D STREET NAME TYPE S UNIT NAICS:
 BUS ADDR: 01715 W ANAHEIM ST VALIDATE: X
 CITY: LONG BEACH ST: CA ZIP: 90813 1101 BUS PH: 562 437 2908
 RES ADDR: [REDACTED] CA 90807 -----> OWNED BY <-----
 ALC: Y SQFT => BLDG: PUB: HAZ/QTY: EPA:
 PRINCIPAL OFFICER NAMES: ADDRESSES:
 [REDACTED]

FED TAX ID: [REDACTED] STATE SALES TAX#: [REDACTED] SOC SEC: [REDACTED]
 CONTRACTOR => LIC: RENEW DATE: CLASS:
 REFERRALS => BUILDING: N FIRE: N HEALTH: N HAZ: N POLICE: N OTHER: N
 NBR OF => EMPS: [REDACTED] VNDNG MCHNS: SQ FT: UNITS: VEHS:



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 W. Ocean Boulevard, 4th Floor •

Long Beach, CA 90802 •

(562) 570-6212

FAX (562) 570-6180

BUSINESS RELATIONS BUREAU
BUSINESS LICENSE SECTION

June 6, 2012

Dorothy Shubin
dba: 24 Hour Café
1715 W. Anaheim Street
Long Beach, CA 90813

RE: Notice of Business License Revocation
Business License Number: BU00083820 and BU20208110

Dear Sir or Madam:

Please be advised that **business license number BU00083820 and the pool table permit BU20208110**, issued to Dorothy Shubin, dba: 24 Hour Cafe, located at 1715 W. Anaheim Street **is revoked**, pursuant to Long Beach Municipal Code section 3.80.429.1(b), **effective June 6, 2012**. Pursuant to LBMC section 3.80.429.1, you have 10 calendar days from the date of this letter to request an appeal, otherwise the revocation will be final.

Failure to cease operations at this location after June 16, 2012 shall constitute a criminal offense pursuant to Long Beach Municipal Code sections 3.80.429.1(a) and 3.80.210.

Pursuant to Long Beach Municipal Code section 3.80.429.5 a request to appeal must be in writing, must set forth the specific grounds on which the request is based, and must be accompanied by a non-refundable cashier's check or money order, made payable to the City of Long Beach, in the amount of \$1,205. The request for appeal must be submitted to the Office of the Long Beach City Clerk, located at 333 W. Ocean Boulevard, Long Beach, California, not later than 4:00 p.m. June 16, 2012. Should you have any questions, please contact me at (562) 570-6663.

Sincerely,

Erik Sund
Manager, Business Relations Bureau

I have received notification of the above:

Attachments

ES:smc

Name/Title

cc: Kendra Carney, Deputy City Attorney
Council District 1

3.80.429.1 - Suspension or revocation.

- A. Whenever any person fails to comply with any provision of this chapter pertaining to business license taxes or any rule or regulation adopted pursuant thereto or with any other provision or requirement of law, including, but not limited to, this municipal code and any grounds that would warrant the denial of initial issuance of a license hereunder, the director of financial management, upon hearing, after giving such person ten (10) days' notice in writing specifying the time and place of hearing and requiring him or her to show cause why his or her license should not be revoked, may revoke or suspend any one or more licenses held by such person. The notice shall be served in the same manner as notices of assessment are served under Section 3.80.444. The director shall not issue a new license after the revocation of a license unless he or she is satisfied that the registrant will thereafter comply with the business license tax provisions of this chapter and the rules and regulations adopted thereunder, and until the director collects a fee, the amount of which shall be determined by director in an amount to recover the actual costs of processing, in addition to any other taxes that may be required under the provisions of this chapter.
- B. Any person who engages in any business after the business license issued therefor has been suspended or revoked, and before such suspended license has been reinstated or a new license issued, shall be guilty of a misdemeanor.

(Ord. C-6259 § 1 (part), 1986).

3.80.429.5 - Appeal of license revocation.

Any licensee whose license is revoked under this chapter shall have the right, within ten (10) days after the date of mailing of the written notice of revocation, to file a written appeal to the city council. Such appeal shall set forth the specific ground or grounds on which it is based. The city council shall hold a hearing on the appeal within thirty (30) days after its receipt by the city, or at a time thereafter agreed upon, and shall cause the appellant to be given at least ten (10) days' written notice of such hearing. At the hearing, the appellant or its authorized representative shall have the right to present evidence and a written or oral argument, or both, in support of its appeal. The determination of the city council on the appeal shall be final.

(Ord. C-6259 § 1 (part), 1986).

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OF COUNSEL
CHERYL LACKMAN FEINBERG

*A PROFESSIONAL CORPORATION
*ADMITTED IN WASHINGTON

June 15, 2012

Long Beach City Council
Long Beach City Clerk
333 W. Ocean Boulevard
Long Beach, California

RECEIVED
CITY CLERK
LONG BEACH, CA
12 JUN 15 PM 2:32

RE: Appeal of Revocation of Business License Numbers BU00083820 and BU20208110.

Esteemed members of the Long Beach City Council:

Dorothy Shubin dba 24 Hour Café (hereinafter "DOROTHY") respectfully appeals the decision of the City of Long Beach (hereinafter "CITY") to revoke the above listed business license.

DOROTHY is and has been the owner of the real property located at 1715 W. Anaheim Street, Long Beach, California for over 50 years. Up until the last ten or twelve years, DOROTHY operated and managed the 24 Hour Café.

DOROTHY, while still mentally acute, is infirmed, does not travel unassisted, and for several years has been physically unable to manage 24 Hour Café by herself. In that time, she has employed her son Paul Shubin (hereinafter "PAUL") to manage the 24 Hour Café.

Based on the CITY'S Notice of Revocation dated June 6, 2012, DOROTHY is informed and believes that the CITY has revoked the above listed business licenses based on PAUL'S conduct and on Long Beach Municipal Code (hereinafter "LBMC") §3.80.429(1)(b) which states as follows:

Long Beach City Council**Re: Appeal of Revocation of Business License Number BU00083820 and BU2028110****June 15, 2012****Page 2**

Any person who engages in any business after the business license issued therefore has been suspended or revoked and before such suspended license has been reinstated or a new license issued, shall be guilty of a misdemeanor.

This section of LBMC §3.80.429.1 does not and cannot authorize revocation because for this section to apply, revocation or a lack of a business license must already exist. Furthermore, this subsection does not authorize revocation, but instead makes continuing to operate a business on a revoked license, a misdemeanor. In essence, the CITY is alleging that the revocation supports itself. This is an ultravirus attempt to write into the Code Res Ipsa Loquitor liability, which does not and cannot exist.

DOROTHY also points out that LBMC §3.80.429.1(a) states as follows:

Whenever any person fails to comply with any provision of this chapter pertaining to business license taxes or any rule or regulation adopted pursuant thereto or with any other provision or requirement of law, including, but not limited to, this municipal code and any grounds that would warrant the denial of initial issuance of a license hereunder, the director of financial management, upon hearing, after giving such person ten (10) days' notice in writing specifying the time and place of hearing and requiring him or her to show cause why his or her license should not be revoked, may revoke or suspend any one or more licenses held by such person.

LBMC §3.80.429.1(a) makes clear that to revoke a business license, the City must allege and prove that the Licensee must have acted or failed to act. This revocation is based purely on the actions of PAUL and not on any conduct alleged against DOROTHY. DOROTHY had no knowledge of PAUL'S activities alleged or otherwise. Thus, the City has acted outside the scope of the LBMC.

LBMC §3.80.110 further prohibits the revocation of the above mentioned business licenses. LBMC §3.80.110 states in part "This chapter is enacted solely for the purpose of raising revenue for general municipal purposes and for the usual current expenses of the city. It is not intended to be regulatory..." DOROTHY points out that the revocation does not stem from the failure to pay tax or license fees, but stems from the conduct of DOROTHY'S employee and son PAUL. It is also important to note that the request for revocation did not come from the Finance Department, but instead came from the Police Department. There is no allegation that DOROTHY has engaged or even had

Long Beach City Council

Re: Appeal of Revocation of Business License Number BU00083820 and BU2028110

June 15, 2012

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knowledge of any of PAUL'S actions. The City is clearly acting in a regulatory capacity under the guise of regulating a business license.

DOROTHY objects to and seeks an appeal of the Revocation of the above stated business licenses on the grounds stated above, on the evidence of record, on evidence documentary and testamentary that will be presented at the hearing, and on the basis that the City's actions fail to comport to the LBMC and California Law. DOROTHY reserves the right to supplement her basis for appeal.

In addition, DOROTHY has engaged construction professionals to address code violations at the premises and has produced to the City and will provide at the hearing receipts from construction professionals and permits from the City.

DOROTHY is in the process of terminating PAUL and replacing his management with Mr. Jerry Pak. At the time of the hearing, DOROTHY is confident that the management transition will be fully in place and that PAUL will no longer have any authority to conduct any activity at the premises other than that of a patron. Any illegal and unpermitted activities have been terminated at the 24 Hour Café and will remain that way.

DOROTHY respectfully requests that the City reconsider its revocation and give her one last chance to take back control and management of her business and real property that have been a fixture on Anaheim street for over 50 years. Further DOROTHY would like to remain in business and to save her livelihood and the jobs of her employees whom depend on the 24 Hour Café to earn a living.

Thank you for your kind attention to this matter.

Very truly yours,


RICHARD J. COWLES
RJC:ay