



OFFICE OF THE CITY ATTORNEY
Long Beach, California

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ROBERT E. SHANNON
City Attorney

HEATHER A. MAHOOD
Chief Assistant City Attorney

MICHAEL J. MAIS
Assistant City Attorney

August 22, 2006

HONORABLE MAYOR AND CITY COUNCILMEMBERS
City of Long Beach
California

RECOMMENDATION:

Recommendation that the City Council reject the hearing officer's recommendation to deny Business License Application number BU20520890 for Rancho Meat Market #3, located at 225 W. Anaheim Street, Long Beach, 90813. (District 1)

DISCUSSION

This matter was placed on the City Council Agenda for August 22, 2006 to determine whether Mr. Chang Kol Yim, business owner of Rancho Meat Market #3 located at 225 W. Anaheim Street, Long Beach, California 90813, corrected all outstanding code violations following a hearing to deny business license application number BU20520890. Attached please find a copy of Hearing Officer David Glasser's Report, Findings, and Recommendations.

The 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.

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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 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 complied with City requirements, and corrected all outstanding code violations. On June 14, 2006, the Long Beach Planning and Building Department issued the business a Certificate of Occupancy.

SUGGESTED ACTION:

The City Attorney and City Staff recommend the City Council reject the hearing officer's recommendation to deny business license application number BU20520890, and instruct City Staff to issue business license number BU20520890.

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