

H-1

1 Kathleen M. Hateley, (Bar No. 131484)
 2 Hearing Officer
 3 31 Conch Reef
 4 Aliso Viejo, California 92656

CITY OF LONG BEACH, CALIFORNIA

6
 7 In Re Appeal of
 8 Hoa Thuy Hang, dba Jackie Nails & Spa
 9 1982 Atlantic Avenue
 10 Long Beach, California 90806
 11 From The Denial Of Her Business License
 12 Application

Hearing Date: 2/8/06

Report of Findings, Conclusions and
Recommendations.

Appearances:

13 Counsel for the City of Long Beach: Cristyl Meyers, Deputy City Attorney

14 For the Appellant: Hoa Thuy Hang, in pro per

Witnesses:

17 a. **For the City of Long Beach:**

18 Wendy Goetz

19 Jeannine Montoya

20 James Goodin

22 b. **For the Appellant:**

23 Hoa Thuy Hang

24 Long Nguyen

26 **Issue Presented:**

27 Was the final denial of the business license application of the Appellant appropriate and
28 in conformance with the law?

1 **Summary of Findings:**

2 After careful review of the evidence submitted, including the matters of which judicial
3 notice was taken, this Hearing Officer concludes that the denial of the business license
4 application was warranted. Appellant has not complied with the building and municipal
5 codes which apply to the modifications she is making to the shop to convert it into a nail
6 salon, and Appellant has not obtained the "establishment" license required by the
7 Business and Professions Code for nail salon operators. This Hearing Officer
8 recommends that the decision of the Department of Financial Management be confirmed
9 with notice provided to the Appellant indicating that although the current application has
10 been denied for the reasons stated, and that denial has been confirmed by the City
11 Council, the Appellant may re-apply for a license upon completion of the required
12 modifications to the premises; after obtaining final approval and inspection of the same;
13 and after securing an "establishment license" from the California State Board of
14 Cosmetology and Barbering.

15

16 **Procedural History:**

17 On or about 12/14/04, Hoa Thuy Hang, dba Jackie Nails & Spa applied for a business
18 license for a nail salon to be located at 1982 Atlantic Avenue, Long Beach, California
19 90806. A previous application with the incorrect shop address had been submitted a
20 month previously. In response to the application, a conditional business license was
21 issued. This conditional license was set to expire May 5, 2005. After receiving a request
22 that the conditional license period be extended, the City of Long Beach approved the
23 extension of the conditional business license through September 10, 2005.

24

25 During the time period when the conditional business license was in effect, Appellant
26 submitted plans to the City for the improvements needed to change the use of the shop
27 from a tobacco shop to a nail salon. The plans submitted were incomplete. Although they
28 contained the information needed for fire and zoning department approvals, they did not

1 contain electrical, plumbing or mechanical information.

2

3 In response to the filing of the business license application by Appellant, the City sent
4 inspectors to the property for review of the construction being performed. As of the date
5 the conditional business license expired, the property was not in compliance with building
6 and municipal codes concerning plumbing, electrical or mechanical requirements for the
7 premises. As of the data of the hearing, the Appellant had not yet submitted plans for the
8 electrical work needed at the shop, and therefore, permits for electrical work had not been
9 issued. Though plumbing plans were submitted between September 2005 and the
10 hearing, and work had been performed on the plumbing upgrades, neither a final
11 inspection nor a final approval of the plumbing work performed at the premises have
12 been obtained by the Appellant.

13

14 On September 9, 2005, the Planning and Building Department for the City of Long Beach
15 submitted its recommendation to the Director of Financial Management that the
16 application of Appellant for a business license be denied. The grounds for the
17 recommendation was the Appellant's failure to comply with the applicable laws and
18 regulations concerning the business, including the failure to obtain the required permits,
19 inspections and approvals for the modifications being made to the premises.

20

21 On September 28, 2005, Department of Financial Management gave notice to Appellant
22 of the City's denial of Appellant's business license application. The reason stated for the
23 denial was the Appellant's non-compliance with the applicable laws and regulations
24 concerning the business, and the recommendation of the Planning and Building
25 Department. A timely notice of appeal was filed by the Appellant.

26

27 **2. THE HEARING**

28 The testimony of the witnesses noted above was heard. Each party was given the

1 opportunity to cross-examine witnesses called by the opposing party. All witnesses were
2 found to be credible, honest people. All information provided was accepted as true.
3 Judicial notice was taken of the laws and regulations applicable to the issues presented,
4 as were the records of the Bureau of Cosmetology and Barbering.

5
6 The City presented documentary and oral evidence indicating the basis for the denial of
7 the business license application was as follows:

- 8
- 9 A. The salon owner/Appellant has not obtained an "establishment license" as
10 required by Business and Professions Code § 7346 et seq.;
 - 11
 - 12 B. Appellant has failed to obtain all permits required for the modifications
13 needed to transform the premises from a tobacco shop into a nail salon;
 - 14
 - 15 C. Appellant has failed to obtain all required inspections and approvals of the
16 modifications being made to the premises;
 - 17
 - 18 D. Appellant has failed to correct the problems noted by City inspectors.
- 19

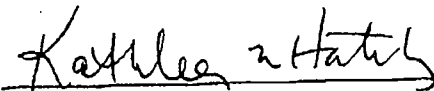
20 Upon inquiry by the Hearing Officer, the Appellant admitted she has not (1) obtained an
21 "establishment" license for her nail salon, (2) obtained all required permits for the interior
22 modifications she has made, and intends to make to the premises, (3) submitted plans for
23 the electrical modifications to be made to the premises, or (4) obtained final inspection
24 and approval of the plumbing and mechanical work. Appellant indicated her prior
25 contractor did not perform as promised, which delayed the submission of plans for the
26 modifications, performance of the construction work, and obtaining the final inspections.
27 She indicated she has obtained a new contractor and is attempting to complete the
28 modifications as quickly as possible.

1 **Conclusion:**

2 California Business and Professions Code §7347 requires a party who intends to operate
3 a nail salon to obtain an "establishment license" from the Bureau of Cosmetology and
4 Barbering. The City submitted documentation establishing Appellant has not obtained an
5 establishment license for her nail salon.

6
7 Long Beach Municipal Code §3.80.421.5 provides that when a department of the City of
8 Long Beach rejects a business application for the reason that the applicant business, or
9 the location at which the applicant proposes to conduct business, will not or is not in
10 compliance with applicable laws and ordinances, the Director of Financial Management
11 shall not issue a business license to the applicant. Testimony and documentation was
12 provided indicating Appellant has not obtained the necessary permits for the construction
13 work to be performed on the premises, has not passed the required inspections for the
14 work performed on the premises, and has not completed the modifications to the premises
15 required by the City. As a result, the Planning and Building Department recommended the
16 denial of the business license application. Based on the evidence submitted, the
17 recommendation was warranted. Therefore, it is this Hearing Officer's recommendation
18 that the decision of the Planning and Building Department, and of the Department of
19 Financial Management, denying the business license application of the Appellant be
20 upheld and confirmed. The Appellant was given a conditional license in December 2004.
21 Extensions were granted upon request of the applicant. However, over 13 months have
22 passed since the conditional license was issued, and the Appellant is not in compliance
23 with the laws applicable to her business. Therefore, the denial of the business license
24 application appears to have been warranted.

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26 Dated February 9, 2006


Kathleen M. Hateley, Hearing Officer

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Proof Of Service By Mail

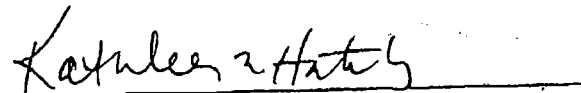
On February 9, 2006 I deposited a copy of this Report of Findings, Conclusions and Recommendations in the United States Mail, in a sealed envelope with postage fully prepaid. The envelope was address as follows:

The City of Long Beach
Department of the City Clerk
333 West Ocean Blvd.
Long Beach, California 90802

Jackie Nails & Spa
Attention: Hoa Thuy Hang
1982 Atlantic Avenue
Long Beach, California 90806

Date of Mailing: February 9, 2006
Place of Mailing: Aliso Viejo, California

I am a resident of Orange County, the county where this notice was mailed. My business address is 31 Conch Reef, Aliso Viejo, California 92656. I declare under penalty of perjury that the foregoing is true and correct. This declaration is executed this 9th day of February 2006.



Kathleen M. Hateley, Declarant