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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.
15

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);
27

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);
5

6 Exhibit 7: Letter from RANCHO to Mr. Goodin dated October 5, 2005;

7 Exhibit 8: Recommendation from the Department of Financial Management to
8 the City Council dated November 1, 2005; and

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

10 The following exhibits were submitted by RANCHO and admitted into evidence:

11 Exhibit A: Drawings on letterhead of Sang Y. Lee & Associates, Structural & civil
12 engineers, dated September 12, 2005 (four pages); and
13

14 Exhibit B: Drawing of walk-in cooler.

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.
20

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.
27

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
3 provided in part that "...clearances and final sign-offs" had to be obtained for the wall
4 removal and walk-in cooler.

5
6 At the time of the team inspection, Ms. Goetz spoke with Mr. Yim and told him
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
9 pamphlet that explained the process and included contact numbers if a person had
10 questions.

11 The Notice of Inspection required compliance in thirty days. If she is kept
12 informed of progress on the improvements, the deadline can be extended. Mr. Yim did
13 not make any contact with her during those thirty days.

14
15 At the same time as the team inspection, she issued a Conditional Business
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.

19
20 Ms. Goetz explained to Mr. Yim about a Conditional Business License, including
21 the one hundred and eighty day requirement. She also informed him about the thirty-
22 day provision in the Notice of Inspection.

23 At the time the Conditional Business License was issued, Mr. Yim signed the
24 form, and Ms. Goetz posted it on RANCHO'S window. At the time of the issuance,
25 copies of the Conditional Business License were not kept by the City.

26
27 On August 5, 2005, Ms. Goetz reviewed the Conditional Business License list to
28 determine who was due to expire. She reviewed the file on RANCHO and the City

1 computer to find out the status of the case. She found that RANCHO had not submitted
2 plans or obtained permits.

3 She prepared a memo to the Financial Management Office recommending denial
4 of the business license application. Before sending the memo, it was reviewed by Mark
5 Sutton, Inspection Officer, Planning and Building Department (Exhibit 2).
6

7 The failure to obtain a permit regarding the wall was in violation of Section 106.1
8 of the California Building Code. The failure to obtain a permit regarding the walk-in
9 cooler was in violation of LBMC Section 18.36.170.

10 She visited the location the week before the hearing and the business was still
11 operating without making any corrections. There were also new violations relating to the
12 use of extension cords as permanent wiring.

13
14 Jeannine Montoya. At all times pertinent hereto served as Business License Supervisor
15 for the City of Long Beach. Part of her job is to receive and review business license
16 applications.

17 Exhibit 4 is RANCHO's business license application.¹

18 Information from the application is input into a database for use by other
19 departments. The Business Services Department relies on other departments to
20 investigate business license applicant's property to determine compliance with
21 applicable laws.
22

23 At the time a business license application is submitted, an applicant is given,
24 "Operating a Business in Long Beach" (Exhibit 5).

25 Her department cannot issue a business license with outstanding violations.

26
27 James A. Goodwin. At all times pertinent hereto was the Business Services
28

¹ During Ms. Montoya's testimony, Mr. Yim confirmed it was his application.

1 Officer in the Department of Financial Management.

2 He received the August 5, 2005 memo (Exhibit 2), recommending rejection of the
3 business license application. His job includes looking to determine that the Municipal
4 Code process has been followed. If it has been, his office has no choice but to reject an
5 application for non-compliance.
6

7 The "process" he is referring to is found in Chapter 3.80 of the Municipal Code.²
8 Section 3.80.421.1 begins the application process. This section requires his department
9 to refer the application to interested departments.

10 Section 3.80.421.1(B) allows for issuance of a conditional license.

11 Section 3.80.421.5 requires that the city "...shall not issue..." a license if there is
12 non-compliance with applicable laws.
13

14 Mr. Goodwin is the Director of Financial Management's designee pursuant to
15 Section 3.80.148. This means that when reference is made to the director, the
16 designee can act in his place.

17 On September 28, 2005, Mr. Goodwin signed a letter addressed to Mr. Yim at
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
20 for by Mr. Yim (page 2 of Exhibit 6).
21

22 Mr. Goodwin received a letter of appeal dated October 5, 2005 (Exhibit 7).

23 The appeal goes before the City Council. It is first agendized and a staff report
24 prepared (Exhibit 8). The staff report requested referral to a hearing officer. The city
25 council voted in favor of the referral.
26

27 Chang Kol Yim is the applicant and owner of RANCHO. On April 1 or 2, 2005, he

28 ² The City requested the hearing officer take Judicial Notice of Chapter 3.80. The

1 purchased RANCHO. He applied for a business license and a team inspection took
2 place on April 28, 2005. He did not understand what a team inspection meant.

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.
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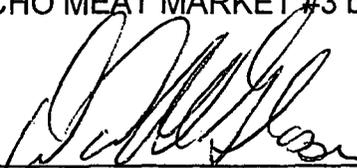
a license.

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