



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

H-2

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-6200 • Fax (562) 499-1097

October 18, 2016

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record, conclude the hearing and approve the hearing officer's recommendation to deny the business license application submitted by Alsace Lorraine Fine Pastries Inc., dba Alsace Lorraine Fine Pastries, located at 4334 Atlantic Avenue. (District 8)

DISCUSSION

The Long Beach Municipal Code (LBMC) requires a hearing be held before the City Council whenever a denial of a business license application is appealed.

On August 9, 2016, the City Council referred the appeal of the business license application denial for Alsace Lorraine Fine Pastries (Alsace Lorraine), to a hearing officer and the appeal hearing was held on September 7, 2016. When the City Council appoints a hearing officer to conduct the appeal proceedings, the LBMC also requires the City Council to review and consider the hearing officer's written report. The City Council may adopt, reject or modify the recommended decision. In its discretion, the City Council may take additional evidence at the hearing or refer the case back to the hearing officer with instructions to consider additional evidence.

Attached for your review is Hearing Officer Thomas A. Ramsey's written report (Exhibit A). Hearing Officer Ramsey recommends to uphold the denial of the business license application submitted by Alsace Lorraine, located at 4334 Atlantic Avenue.

Relevant background for this matter includes a series of events related to the commercial/industrial business license for the property, all of which occurred prior to Alsace Lorraine's application for a business license. On April 11, 2012, a hearing was conducted to revoke the commercial/industrial business license of the property owner, Khien C. Ngo, located at 4332-4336 Atlantic Avenue, due to the property owner knowingly allowing an illegal marijuana dispensary to operate at the stated location. On April 17, 2012, the hearing officer recommended that the Director of Financial Management revoke business license number BU07045412 (Exhibit A9). On April 19, 2012, the Department of Financial Management revoked the property owner's commercial/industrial business license (Exhibit A10). A commercial/industrial business license allows a property owner to lease a commercial/industrial space for a specific property. According to LBMC Section 3.80.210, it is unlawful for any person to carry on

any business without having procured a business license. Due to the prior revocation of the property owner's business license, there is no longer a valid commercial/industrial business license to lease the commercial/industrial space to Alsace Lorraine.

The events leading up to the hearing officer's decision are as follows, in chronological order:

- On June 19, 2014, Alsace Lorraine applied for a food processing license to operate as a bakery at 4334 Atlantic Avenue (Exhibit A2).
- On September 2, 2014, the Department of Financial Management denied the business license application (BU21426600) submitted by Alsace Lorraine due to lack of valid commercial/industrial license on the part of the property owner, as referenced above (Exhibit A3).
- On September 9, 2014, Alsace Lorraine lodged its written request for appeal (Exhibit A4). Pursuant to LBMC Section 3.80.421.6, a licensee can appeal the denial of a business license to the City Council.
- On October 6, 2014, the Department of Financial Management denied the request for appeal due to the grounds for the appeal being insufficient per LBMC Section 3.80.421.6 and being in direct conflict with the LBMC as it relates to commercial/industrial business licenses (Exhibit A5).
- On September 24, 2015, Alsace Lorraine filed a complaint for a petition for writ of mandate, declaratory relief for violations of the U.S. and California Constitutions and due process, and violation of the LBMC with the Los Angeles County Superior Court (Exhibit A6).
- On July 6, 2016, Alsace Lorraine lodged a second written request for appeal (Exhibit A7), and, on August 9, 2016, the City Council referred the matter to a hearing officer in accordance with LBMC Section 2.93.050(A).
- On September 7, 2016, the appeal hearing for the denial of the business license application BU21426600 was held. The presiding hearing officer, assigned by the City Clerk's Office, was Thomas A. Ramsey.
- On September 9, 2016, the hearing officer recommended that the denial of the business license application submitted by Alsace Lorraine, located at 4334 Atlantic Avenue, should be upheld due to failure of the property owner to hold a business license to lease the space (Exhibit A).

LBMC Section 2.93.050 requires that the City Council set a time for a hearing to review and consider the hearing officer's report and recommendation. After review of the hearing officer's report, the City Council may adopt, reject or modify the recommended decision.

This matter was reviewed by Deputy City Attorney Monica J. Kilaita on October 3, 2016.

TIMING CONSIDERATIONS

The hearing date of October 18, 2016, has been posted on the business location, and the property owner has been notified by mail.

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

BY:EA
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ATTACHMENTS

APPROVED:


PATRICK H. WEST
CITY MANAGER

ADMINISTRATIVE HEARING TO SHOW CAUSE WHY
BUSINESS LICENSE APPLICATION NUMBER BU21426600
SHOULD NOT BE DENIED PURSUANT TO LBMC §5.06.030

ALSACE LORRAINE FINE PASTRIES, INC.,
dba Alsace Lorraine Fine Pastries
4334 Atlantic Avenue, Long Beach

REPORT AND RECOMMENDATION
OF
HEARING OFFICER

THOMAS A. RAMSEY,
a Professional Corporation
Nineteenth Floor
400 OceanGate, Eighth Floor
Long Beach, CA 90802 USA
562-436-7713

September 9, 2016

Maria de la Luz Garcia,
City Clerk
City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802

Attn: Carolyn Hill

Re: Report and Recommendation of Hearing Officer

Matter of City of Long Beach Business License Application Number BU21426600
Submitted by Alsace Lorraine Fine Pastries, Inc., doing business as Alsace Lorraine Fine Pastries

Dear Ms. de la Luz Garcia:

On September 8, 2016, I conducted an administrative hearing to show cause why the captioned business license application should not be denied pursuant to Long Beach Municipal Code §54.06.030.

The hearing was recorded. The recording is in your possession.

The hearing has been completed.

This letter constitutes my report and recommendation.

1. INTRODUCTION

In this report:

- The City of Long Beach is referred to as "the City."
- Alsace Lorraine Fine Pastries, Inc., doing business as Alsace Lorraine Fine Pastries, is referred to as "the Applicant."
- 4334 Atlantic Avenue, Long Beach, California, is referred to as "the Premises."

THOMAS A. RAMSEY - A PROFESSIONAL CORPORATION - LAWYER

EIGHTH FLOOR 400 OCEANGATE LONG BEACH, CALIFORNIA 90802
VOICE 562-436-7713 E-MAIL tr@bizlawwiz.com

Report and Recommendation of Hearing Officer

Matter of City of Long Beach Business License Application numbered BU21426600

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- City of Long Beach Business License Application Number BU21426600, submitted to the City by the Applicant, is referred to as "the Application." By the Application, the Applicant seeks a business license to operate a bakery on the Premises.
- Khien Chi Ngo is the owner of the Premises and is referred to as "the Land Owner."
- All references to titles, chapters or sections, without an accompanying reference to a specific code, are to the Long Beach Municipal Code.

Accompanying this report is a booklet containing the exhibits introduced by the City and the Applicant at the hearing. They are designated as follows:

- The City's exhibits are numbered A1-15, B, C and D.
- The Applicant's exhibit is numbered E.

The basis for the hearing process is found in the following sections:

- §5.06.030 generally establishes the hearing process.
- §§2.93.010 - 2.93.050 set forth the manner in which this hearing is to be conducted and the actions by the Applicant and the City following the filing of the Hearing Officer's recommendations with the City Clerk.

2. HEARING LOCATION AND DATE

Pursuant to written notice (Exhibit A1), the matter was heard at the Long Beach City Hall, 333 West Ocean Boulevard, Seventh Floor Large Conference Room, on September 7, 2016, commencing at 2:00 p.m.

3. PARTIES AND COUNSEL

The City was represented by the Long Beach City Attorney, through Monica Kilaite, Deputy City Attorney.

The Applicant was represented by Arthur J. Travieso, of Rallo Law Firm, P.C.

4. STATEMENT OF THE ISSUE BEFORE THE HEARING OFFICER

The issue in this matter is as follows: Should the Application be granted or denied?

5. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY THE CITY

Jason MacDonald, the City's Purchasing and Business Services Manager, testified on the City's behalf.

Exhibits A1-15, B, C and D, introduced by the City, were placed into evidence.

The evidence, based on the testimony of the City's witness and the content of the City's exhibits, is as follows:

- On April 25, 2011, the Land Owner held Business License Number BU07045412, issued by the City, by which he was permitted to rent commercial/industrial space at 4332, 4334 and 4336 Atlantic Avenue, Long Beach (the Land Owner's Business License). See Exhibit D.
- As a result of an investigation by the City, it was determined that an unlicensed medical marijuana dispensary was being operated at 4332 Atlantic Avenue, one of the addresses listed in the Land Owner's Business License.
- During April 2012, an administrative hearing was conducted to determine whether the Land Owner's Business License should be revoked due to the tenant's operations.
- On April 17, 2012, the hearing officer recommended, in his written report (Exhibit A-9), that the Land Owner's Business License be revoked because he was conducting a business outside the scope of the authorized business activities identified in the license.

- Effective April 19, 2012, the Land Owner's Business License was revoked. The Land Owner was given written notice of the revocation (Exhibit A-10). The notice identifies by license number the Land Owner's Business License. It also identifies the problem premises, namely 4332 Atlantic Avenue.
- On October 23, 2014, the Land Owner applied for a business license to rent the 4332 Atlantic Avenue premises (Exhibit A-8).
- The application was denied, apparently due to the failure of the Land Owner to comply with applicable laws and regulations.
- No subsequent business license has been issued to the Land Owner for his leasing activities.
- The Land Owner has no present license to lease any portion of the premises known as 4332, 4334 or 4336 Atlantic Avenue.
- On June 17, 2014, the Applicant applied for a business license to operate its bakery (Exhibit A-2).
- The Application was denied because the Land Owner had no license to rent the Premises to the Applicant. That being so, the Land Owner cannot lawfully rent the Premises to the Applicant. For the Application to be granted, there can be no violations of applicable laws or regulations.
- On September 2, 2014, the City informed the Applicant that the Application was denied (Exhibit A-3).

6. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY THE APPLICANT

Counsel for the Applicant testified on its behalf. Exhibit E, introduced by the Applicant, was placed into evidence.

The evidence, based on the testimony of the Applicant's witness and the content of the Applicant's exhibit, is as follows:

- During 2014, the Applicant purchased a bakery business and either assumed the existing lease with the Land Owner or entered into a new lease.
- During July 2014, the Applicant submitted the Application to the City for a business license to operate its bakery (Exhibit A-2).

- On September 2, 2014, the Application was denied because the Land Owner has failed "to comply with applicable laws and regulations" (Exhibit A-3).
- In response, counsel for the Applicant sent a letter to the City complaining that the denial was due to the actions of the Property Owner, not the Applicant. The author of the letter states that the Applicant will be filing an appeal and asks that, in the meantime, the City issue a conditional license allowing the Applicant to operate its bakery until the matter is resolved (Exhibit A-4). No conditional license was issued by the City.
- On September 9, 2014, an appeal was filed.
- On October 6, 2014, the City informed the Applicant that the appeal was denied.
- On September 24, 2015, the Applicant initiated a lawsuit against the City and some of its employees for a Writ of Mandate, among other remedies, asking the court to order the City to issue a business license to it.
- Subsequently, by stipulation between the parties, the lawsuit is on hold pending the outcome of this hearing.
- In the meantime, the Applicant's bakery is operating without a business license, although it has health permit issued by the City (Exhibit E).
- Also in the meantime, the Land Owner continues, as always, to collect rent notwithstanding the fact that since April 19, 2012, he has not had a license to lease the Premises to anyone.

7. FINDINGS OF FACT

The findings of fact are as follows:

- A. Prior to April 2012, Khien Chi Ngo, the owner of premises commonly known as 4332, 4334 and 4336 Atlantic Avenue, held Business License Number BU07045412 issued by the City of Long Beach by which he was allowed to lease the improvements at those addresses.
- B. Also prior to April 2012, Khien Chi Ngo leased a bakery facility at 4334 Atlantic Avenue to the Applicant's assignor.

Report and Recommendation of Hearing Officer

Matter of City of Long Beach Business License Application numbered BU21426600

September 9, 2016

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- C. During April 2012, Khien Chi Ngo's Business License Number BU07045412 was revoked by the City of Long Beach due to illegal activities being conducted at 4332 Atlantic Avenue.
- D. On April 19, 2012, the City of Long Beach advised Khien Chi Ngo, in writing, that Business License Number BU07045412 had been revoked (Exhibit A-10).
- E. Since April 2012, and through the present time, Khien Chi Ngo has not held any license permitting him to lease any portion of the premises commonly known as 4332, 4334 and 4336 Atlantic Avenue.
- F. During 2014, the Applicant purchased the existing bakery business located at 4334 Atlantic Avenue.
- G. Without the benefit of a valid business license since April 2012, during 2014 Khien Chi Ngo leased the bakery facility located at 4334 Atlantic Avenue to the Applicant.
- H. During 2014, the Applicant applied for a business license to operate its bakery.
- I. The application was denied by the City of Long Beach.
- J. The appellate process by the Applicant culminated in a lawsuit initiated by the Applicant against the City of Long Beach and some of its employees in the Los Angeles County Superior Court.
- K. Since 2014, the Applicant has continued to operate a bakery known as Alsace Lorraine from the leased premises without a valid business license.
- L. Also since 2014, Khien Chi Ngo has continued to rent the Premises to and collect rent from the Applicant.
- M. The Superior Court lawsuit is on hold until the recommendation of this hearing officer is promulgated.

8. RECOMMENDATION

Based on the evidence presented, the source of the City's denial of Applicant's application for a business license is based on the conduct of Khien Chi Ngo, the owner of premises commonly known as 4332, 4334 and 4336 Atlantic Avenue. His license to lease *any portion* of the Atlantic Avenue addresses was revoked, due to a problem at just one portion of it. Without the benefit of a license for a significant period of time, he entered into a lease with the Applicant and has collected rent from at least the Applicant, perhaps others. He has failed to sufficiently clean up his act and obtain a business license for *any* leasing activities at the Atlantic Avenue addresses. The fact that he applied for a new license certainly leads one to conclude that he knows a license is required to carry on his leasing activities.

In this setting, the Applicant purchased an established business and became a lessee of Khien Chi Ngo. It applied to the City for a business license. In all likelihood, the Applicant first learned of the license status of Khien Chi Ngo for the first time when the City responded to the Application. No evidence was presented by either the Applicant or the City that the Applicant was aware of the license status of Khien Chi Ngo prior to the City's denial of the Applicant's license application.

This factual setting places the Applicant in an unfortunate position. From the evidence presented at the hearing, the Applicant purchased an established business in good faith and continued the landlord/tenant relationship with Khien Chi Ngo. When it applied for a permit to conduct its business it first learned that it could not obtain a business license due to the conduct of Khien Chi Ngo. Although it holds an Annual Health Permit, it does not have a business license. However, it nevertheless is conducting its business and paying rent to Khien Chi Ngo. And, of course, Khien Chi Ngo is collecting rent from the Applicant and, perhaps, others.

A review of the documentation and communications concerning Business License Number BU07045412 should lead to the conclusion that one business license issued to Khien Chi Ngo, and later revoked, covers his leasing activities for the entire 4332, 4334 and 4336 Atlantic Avenue premises. Although a careful reading can support this conclusion, it might take a lawyer to get to that point.

Unfortunately as it seems, it is recommended that City of Long Beach Business License Application Number BU21426600 be denied.

Respectfully submitted,



THOMAS A. RAMSEY

TR:dc
Attachments as noted



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 SERVICES BUREAU
BUSINESS LICENSE SECTION

August 18, 2016

Alsace Lorraine Fine Pastries Inc.
4334 Atlantic Avenue
Long Beach, CA 90807

RE: Business License Application Number: BU21426600
Business Address: 4334 Atlantic Avenue, Long Beach, CA 90807

Dear Sir or Madam:

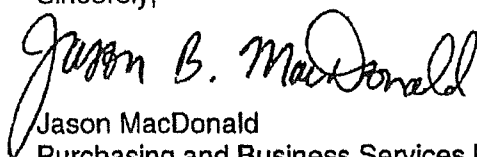
This letter is to inform you that pursuant to Long Beach Municipal Code (LBMC) section 5.06.030, a **Business License Application Denial Appeal Hearing has been scheduled for September 7, 2016**. At the hearing, the City will provide evidence that your application to operate a food processing business located at 4334 Atlantic Avenue Long Beach, CA 90807 was denied due to the property owner not having a valid commercial/industrial business license to lease the commercial space. **The hearing will begin at 2:00 p.m., please arrive 30 minutes prior to the hearing time at the following location:**

Long Beach City Hall
333 West Ocean Boulevard
Seventh Floor Large Conference Room
Long Beach, CA 90802

The purpose of this hearing is for Alsace Lorraine Fine Pastries, Inc. to show cause why the referenced business license application should not be denied. At the hearing, you have the right to call and examine witnesses, introduce exhibits, and to cross-examine opposing witnesses on any matter relevant to the issues. Pertinent sections of the Long Beach Municipal Code (LBMC) are attached.

Should you have any questions or **need an interpreter** at the hearing, please contact Jason MacDonald, Purchasing and Business Services Manager at (562) 570-6663.

Sincerely,


Jason MacDonald

Purchasing and Business Services Manager

I have received notification of the
above hearing.

Attachments

cc: Monica Kilaita, Deputy City Attorney
Tin Kim Westen, Rallow Law Firm, P.C.
Council District 8

Name/Title

5.06.020 - Suspension/Revocation/Denial.

- A. Any permit to do business in the City issued pursuant to this Title 5 may be suspended, revoked or denied in the manner provided in this Section upon the following grounds:
1. The permittee or any other person authorized by the permittee has been convicted of violation of any provision of this Code, State or Federal law arising out of or in connection with the practice and/or operation of the business for which the permit has been granted. A plea or verdict of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this Section. The City Council may order a permit suspended or revoked, following such conviction, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the California Penal Code allowing such a person to withdraw his/her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment;
 2. For any grounds that would warrant the denial of the issuance of such permit if application therefore was being made;
 3. The permittee or any other person under his/her control or supervision has maintained a nuisance as defined in Section 21.15.1870 of the Long Beach Municipal Code which was caused by acts committed on the permitted premises or the area under the control of the permittee;
 4. The permittee, his/her employee, agent or any person connected or associated with permittee as partner, director, officer, stockholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for the permit required under the provisions of this Code;
 5. The permittee has failed to comply with any condition which may have been imposed as a condition of operation or for the issuance of the permit required under the provisions of this Code;
 6. The permittee has failed to pay any permit fees that are provided for under the provisions of this Code within sixty (60) days of when the fees are due.
- B. Upon receipt of satisfactory evidence that any of the above grounds for suspension or revocation of said permit exist, the permittee shall be notified in writing that a hearing on suspension or revocation shall be held before the City Council, the grounds of suspension or revocation, the place where the hearing will be held, and the date and time thereof which shall not be sooner than ten (10) days after service of such notice of hearing.
- C. All notices provided for in this Section shall be personally served upon the permittee or left at the place of business or residence of such permittee with some person over the age of eighteen (18) years having some suitable relationship to the permittee. In the event service cannot be made in the foregoing manner, then a copy of such notice shall be mailed, postage fully prepaid, addressed to the last known address of such permittee at his/her place of business or residence at least ten (10) days prior to the date of such hearing.
- D. Whenever a business permit has been revoked/or denied under the provisions of this Section, no other application by such permittee for a business permit to conduct a business or operate in the City shall be considered for a period of one (1) year from the date of such revocation or denial.

(Ord. C-7423 § 14, 1996; Ord. C-6325 § 13 (part), 1986; Ord. C-6260 § 1 (part), 1986)

5.06.030 - Appeals from permit denial.

An applicant for a business permit whose application for such permit has been denied shall be notified of the denial in writing. Within ten (10) days after such denial, the applicant may appeal therefrom to the Council by filing with the Director of Financial Management a notice of such appeal setting forth the decision and the grounds upon which he/she deems himself/herself aggrieved thereby. Said applicant shall pay to the Director of Financial Management at the time of filing said notice of appeal a filing fee in an amount to be set by resolution of the City Council. The Director of Financial Management shall thereupon make a written report to the Council reflecting such determination denying the permit. The Council shall, within thirty (30) days following the filing of said appeal, set said appeal for hearing to be held not less than ten (10) days nor more than thirty (30) days thereafter and such hearing may for good cause be continued by the order of the Council. Upon the hearing of the appeal the Council may overrule or modify the decision appealed from and enter any such order or orders as are in harmony with this Title 5, and such disposition of the appeal shall be final.

(Ord. C-7423 § 14, 1996; Ord. C-6325 § 13 (part), 1986; Ord. C-6260 § 1 (part), 1986)

NOTE: THIS IS NOT A BUSINESS LICENSE; DO NOT OPERATE UNTIL A VALID LICENSE HAS BEEN ISSUED

ATTENTION LICENSE APPLICANT

Business License Required (L.B.M.C. 3.80.210)

Under the Long Beach Municipal Code (Section 3.80.210), any person operating a business in the City of Long Beach is required to obtain a business license and pay an annual business license tax, prior to the operation of that business.

Term of License (L.B.M.C. 3.80.520)

A business license is valid for one (1) year from the date of issuance (unless otherwise noted) and must be renewed each year. A renewal notice is sent to the licensee ten (10) days prior to the due date, and the licensee has thirty (30) days to pay without penalty. If a notice is not received by the licensee, he/she is still responsible for payment by the due date. If the licensee changes his/her mailing address during the year, he/she should contact the Business License Section to report the change.

Penalties (L.B.M.C. 3.80.422)

A penalty equivalent to twenty-five percent (25%) of the payment due applies to all delinquent licenses unpaid after thirty (30) days from the due date. An additional ten percent (10%) penalty is added on the first day of the calendar month following the imposition of the twenty-five percent (25%) penalty if the tax remains unpaid, up to a maximum of one hundred percent (100%) of the tax due. The postmark will govern the determination of whether or not a tax payment is delinquent. A delinquent tax will be deemed a debt to the City, and the licensee shall be liable for legal action if it remains unpaid.

Multiple Businesses at one Location (L.B.M.C. 3.80.420.6)

When more than one business activity is engaged in at the same location, and the activity falls into a classification other than that of the original license, the licensee is required to obtain an additional license for each different business activity. If the licensee has more than one business license at the same location, he/she may choose to pay for all employees on one license. If so, the licensee will pay for the employees on the license with the higher employee rate.

Definition of an Employee (L.B.M.C. 3.80.150)

For the purpose of Business License taxation in the City of Long Beach, an employee is defined as: Every person engaged in the operation or conduct of any business in Long Beach, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and every person employed or working in such business, whether full-time, part-time, permanent or temporary, for a wage, salary, commission or room and board. The owner of a sole proprietorship shall not be deemed to be an "employee" of the business.

Change of Location (L.B.M.C. 3.80.424)

Every person possessing a City of Long Beach Business License who changes the location of his place of business shall, prior to engaging in such a business at the new location, have the City endorse the new location on the license.

Display of License (L.B.M.C. 3.80.425.5)

Every person having a license shall prominently display the license at the place of business. If the business is operated from a vehicle, an identifying decal issued by the City shall be affixed to the vehicle, and the business license shall be carried by the licensee.

Refunds Prior to Start of Business (L.B.M.C. 3.80.427.5.F)

Any application for refund must be made by the person entitled to the money within one year after payment of the money to the City. No refund shall be made of any moneys paid for the issuance or renewal of any license unless it is determined that such licensee has not engaged in, nor held himself out as being engaged in, such business or occupation at any time after the effective date of the license. The amount of the refund shall be the full amount of the license tax paid, less an amount determined by the Director of Financial Management, which shall cover the cost of investigation and issuance of the license.

Sales or Use Tax

Sales or Use Tax may apply to your business activity. You may seek advice regarding the application of the tax to your business by writing or calling the State Board of Equalization at:

16715 Von Karman Ave Suite #200
Irvine, CA 92606
(949) 440-3473

-or-

12440 E. Imperial Hwy. Suite 200
Norwalk, CA 90651
(562) 466-1694

Inspections (The business license application must be available on site at time of inspection).

When a business license inspection is scheduled, the business must be fully prepared to operate, and the business owner or operator must be on site for the entire scheduled time of inspection. If the business owner or operator is unprepared for or misses a scheduled business license inspection without giving a minimum of 24 hours notice to the appropriate City agency, a re-inspection fee will be assessed.

I have read and understand the **Inspection** requirements.

Signature

Date

6/19/14



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT
BUSINESS RELATIONS BUREAU

Exhibit A3

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-6211

September 2, 2014

Alsace Lorraine Fine Pastries Inc.
Dbas: Alsace Lorraine Fine Pastries
4334 Atlantic Avenue
Long Beach, CA 90807

RE: Business License Application: BU21426600

Business Address: 4334 Atlantic Avenue, Long Beach, CA 90807

Dear Sir or Madam:

Thank you for your interest in establishing a business in the City of Long Beach. Unfortunately, your application to operate a food processing business cannot be approved at this time due to failure of the property owner to comply with applicable laws and regulations, pursuant to Long Beach Municipal Code (LMBC) section 3.80.421.1 (A), section 3.80.421.5, and section 3.80.429.1 (attached).

Should you wish to appeal the denial of your business license application to the Long Beach City Council you may do so by filing a notice of appeal with the Director of Financial Management within ten days from the date of mailing this letter. The notice of appeal shall state the reason for the denial and the grounds of such appeal. It should be sent to the undersigned along with a nonrefundable filing fee of \$1,245.00.

Please direct any questions on this matter to me at (562) 570-6200.

Sincerely,

Jason MacDonald
Business Services Manager

Attachments

3.80.421.1 - Application—Investigation.

- A. The director shall refer such application to the appropriate departments of the city in order that it may be ascertained whether the business proposed to be conducted or the premises in which it is proposed to locate such business will comply with applicable fire, building safety, zoning, health and other laws and regulations.
- B. The director may issue a conditional license under this chapter for the applicant to conduct business during the investigation period if: all necessary applications have been completed by the applicant, the business tax and application fees have been paid, no department has declared the building or structure "unsafe" as defined in Section 102 of the current edition of the California Uniform Building Code, and the business has not had an application denied pursuant to the provisions of this chapter within the past year. A conditional license shall not be valid for a period longer than one hundred eighty (180) days from the date of application. During such period, based upon review by the appropriate departments of the city, the applicant may be rejected for failure to comply with applicable laws and regulations at any time. Within one hundred eighty (180) days, if no departments have rejected the applicant or requested an extension of the time to review same, the director shall issue the license.
- C. The director, at his sole discretion, may issue a notice of nonoperation during the investigation period when a department determines the building or structure unsafe and corrections are required prior to the safe operation and continuation of the business. Following completion and city approval of any city mandated corrections, a conditional license or a business license may be issued.

(Ord. C-7849 § 1, 2003; Ord. C-6259 § 1 (part), 1986).

3.80.421.5 - Application—Rejection.

In the event that a particular department of the city rejects an application for the reason that such business or the location at which it is proposed to conduct the same will not so comply with applicable laws and ordinances, the director of financial management shall not issue such license.

(Ord. C-6259 § 1 (part), 1986).

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).

R A L L O

LAW FIRM, P.C.

THOMAS C. RALLO-
ARTHUR J. TRAVIESO
SHARMAN L. BROOKS*
TIN K. WESTEN
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SUPPORT STAFF
GINA LOYA
SARA BRUCE
THIEN NGUYEN
KRISTIN MOKHTARI
STEPHANIE ORTEGA

September 9, 2014

Jason MacDonald
Business Services Manager, City of Long Beach
333 West Ocean Boulevard, 7th Floor
Long Beach, California 90802

Re: Business License Application: BU21426600

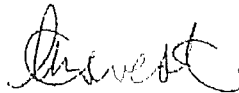
Dear Mr. MacDonald:

Pursuant to our telephone conversation today, this will serve as notice that we will be filing an appeal of the denial of the business license on behalf of our client, Alsace Lorraine Fine Pastries, Inc. Pursuant to your letter dated September 2, 2014, the denial is based on the property owner's alleged violation of Long Beach Municipal Code section 3.80.421.1(A), section 3.80.421.5, and section 3.80.429.1. However, our client asserts that the business license should not be denied based on a contingency of the conduct of a third party, here, the conduct of the property owner and the allegations that the property owner has not complied with the Long Beach Municipal Code.

Enclosed with this letter is a filing fee in the amount of \$1,245. Also, please provide our office with information on obtaining a conditional license while the appeal is pending. Thank you in advance for your prompt attention to this matter. Please do not hesitate to contact me with any questions.

Very truly yours,

RALLO LAW FIRM, P.C.



TIN KIM WESTEN
Attorney at Law

Tin called 4:57 10/13/14

Enclosure



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT
BUSINESS RELATIONS BUREAU

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-6211

October 6, 2014

Alsace Lorraine Fine Pastries, Inc.
Dba: Alsace Lorraine Fine Pasteries
4334 Atlantic Avenue
Long Beach, CA 90807

RE: Business License Application: BU21426600

Business Address: 4334 Atlantic Avenue, Long Beach, CA 90807

Dear Sir or Madam:


This letter is to inform you that per our denial letter dated September 2, 2014, you may file an appeal with the Director of Financial Management within ten days from the date of mailing the letter. The notice of appeal shall state the reason for the denial and the grounds of such appeal. It should be sent to the undersigned along with a nonrefundable filing fee of \$1,245.00.

Your appeal dated September 9, 2014 has been received by our office. Unfortunately, your request to appeal the denial of your business license application to operate a food processing business in the City of Long Beach, CA is denied because your appeal is not within the guidelines of Long Beach Municipal Code (LBMC) 3.80.421.6.

Enclosed we are returning your check number 16-24/1220 4553 in the amount of \$1,245.00.

Please direct any questions on this matter to me at (562) 570-6200.

Sincerely,


Jason MacDonald
Business Services Manager

I have received notification of the
above hearing.

JM/smc

Attachment

Name/Title

cc: Kendra Carney, Deputy City Attorney
Tin Kim Westen, Attorney at Law, Rallo Law Firm, P.C.

3.80.421.1 - Application—Investigation.

A. The director shall refer such application to the appropriate departments of the city in order that it may be ascertained whether the business proposed to be conducted on the premises in which it is proposed to locate such business will comply with applicable fire, building safety, zoning, health and other laws and regulations.

B. The director may issue a conditional license under this chapter for the applicant to conduct business during the investigation period if: all necessary applications have been completed by the applicant, the business tax and application fees have been paid, no department has declared the building or structure "unsafe" as defined in Section 102 of the current edition of the California Uniform Building Code, and the business has not had an application denied pursuant to the provisions of this chapter within the past year. A conditional license shall not be valid for a period longer than one hundred eighty (180) days from the date of application. During such period, based upon review by the appropriate departments of the city, the applicant may be rejected for failure to comply with applicable laws and regulations at any time. Within one hundred eighty (180) days, if no departments have rejected the applicant or requested an extension of the time to review same, the director shall issue the license.

C. The director, at his sole discretion, may issue a notice of nonoperation during the investigation period when a department determines the building or structure unsafe and corrections are required prior to the safe operation and continuation of the business. Following completion and city approval of any city mandated corrections, a conditional license or a business license may be issued.

(Ord. C-7849 § 1, 2003; Ord. C-6259 § 1 (part), 1986).

3.80.421.5 - Application—Rejection.

In the event that a particular department of the city rejects an application for the reason that such business or the location at which it is proposed to conduct the same will not so comply with applicable laws and ordinances, the director of financial management shall not issue such license.

(Ord. C-6259 § 1 (part), 1986).

3.80.421.6 - Appeals.

Any applicant for a business license whose application for such license has been denied by the director of financial management may, within ten (10) days after such denial, appeal therefrom to the city council by filing with the director a notice of such appeal setting forth the decision and the grounds upon which he deems himself aggrieved thereby. The applicant shall pay to the director at the time of filing the notice of appeal the fee set by resolution of the city council for appeals hereunder. The director shall thereupon make a written report to the city council reflecting such determination denying the business license. The city council at its next regular meeting following the filing of said appeal, or within ten (10) days following the filing thereof, shall set said appeal for hearing to be held not less than ten (10) days nor more than thirty (30) days thereafter and such hearing may for good cause be continued by the order of the city council. Upon the hearing of the appeal the city council may overrule or modify the decision of the director appealed from and enter any such order or orders as are in harmony with this title and such disposition of the appeal shall be final.

(Ord. C-6325 § 8, 1986; Ord. C-6259 § 1 (part), 1986).



PAY to the order of

City of Long Beach. \$1245.⁰⁰
one thousand and two hundred forty five. ⁰⁰/₁₀₀ - Dollars

Date 9/10/14.

Wells Fargo Bank, N.A.
California
wellsfargo.com



Wm

For



100

1 Thomas C. Rallo, Esq., State Bar #206120
2 Arthur J. Travieso, Esq., State Bar #161400
3 Tin K. Westen, Esq., State Bar #272569
4 Cynthia Pham, Esq., State Bar #272330
5 RALLO LAW FIRM, P.C.
6 3070 Bristol Street, Suite 560
Costa Mesa, CA 92626
Telephone (714) 850-0690
Facsimile (714) 659-6491

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
Los Angeles

SEP 24 2015

Sharrn A. Carter, Executive Officer/Clerk
By Shaunya Bolden, Deputy

7 Attorneys for Plaintiff, ALSACE LORRAINE FINE PASTRIES, INC.
8

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF LOS ANGELES, CENTRAL DISTRICT
11

12 ALSACE LORRAINE FINE PASTRIES,
13 INC.,

Case No.:

BC 5 95 7 3 4

14 Plaintiff,

COMPLAINT FOR:

15 vs.
16

1. Petition for Writ of Mandate; Code of
Civil Procedure § 1085;

17 CITY OF LONG BEACH, a municipal
18 corporation; JOHN GROSS, in his capacity as
19 Director of Financial Management for the City
20 of Long Beach; JASON MacDONALD, in his
21 capacity as Business Services Manager for the
22 City of Long Beach; and DOES 1 to 100,
23 inclusive,

2. Declaratory Relief for Violations of the
Fifth and Fourteenth Amendments of the
United States Constitution and Article I
Section 7(a) of the California Constitution,
Violation of Due Process; and

24 Defendants.
25

3. Violation of Long Beach Municipal Code
3.80.421.6 - Appeals

BY FAX

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1 PARTIES

2 1. At all times relevant herein, Plaintiff ALSACE LORRAINE FINE PASTRIES,
3 INC. (hereinafter "ALSACE LORRAINE") is a corporate entity, organized under the laws of
4 the State of California. ALSACE LORRAINE is located at 4334 Atlantic Avenue, Long Beach,
5 CA 90807, and is in the business of baking and selling fine pastries and cakes. ALSACE
6 LORRAINE has been operating in the City of Long Beach for over 45 years.

7 2. At all times relevant herein, Defendant CITY OF LONG BEACH (hereinafter
8 "LONG BEACH") is a municipality and governmental entity established and operating under
9 provisions of Article 11 of the California Constitution.

10 3. At all times relevant herein, Defendant JOHN GROSS is an individual and is the
11 duly appointed Director of Financial Management of Defendant LONG BEACH.

12 4. At all times relevant herein, Defendant JASON MACDONALD is an individual
13 and is the duly appointed Business Services Manager of Defendant LONG BEACH.

14 5. ALSACE LORRAINE is presently unaware of the true names, capacities, or
15 basis for liability of Defendants DOES 1 through 100, inclusive, and therefore sues said
16 Defendants by their fictitious names. ALSACE LORRAINE will amend this complaint to
17 allege their true names, capacities or basis for liability when the same has been ascertained.
18 ALSACE LORRAINE is informed and believes and thereon alleges that Defendants, DOES 1
19 through 100 inclusive, and each of them, are in some manner responsible for the conduct
20 alleged herein.

21 6. At all times relevant to this action, each Defendant, including those fictitiously
22 named is and was the agent, servant, employee, partner, joint venture, or surety of the other
23 Defendants and is or was acting within the scope of said agency, employment, partnership,
24 venture, or suretyship, with the knowledge and consent or ratification of each of the other
25 Defendants in doing the things alleged herein.

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JURISDICTION

7. This court has jurisdiction pursuant to California Constitution, Article VI, §10; Civil Code sections 51.7 and 52.1; and Ca. Code of Civ. Proc. § 1085.

8. Venue is proper in this Court because one or more of the Defendants either reside in or maintain executive offices in this county and a substantial portion of the transactions and wrongs complained of herein took place in this county.

ALLEGATIONS

9. ALSACE LORRAINE was established in 1947 by a German immigrant and his wife. After expanding and running the business for years, they retired and sold it to another family, who also ran the store for years and then sold it to a third family. ALSACE LORRAINE prides itself in keeping with the long tradition of delivering outstanding and delightful pastries and cakes to the community of Long Beach.

10. On or about July 1, 2014, ALSACE LORRAINE applied for a business license with Defendant LONG BEACH to operate a food processing business at the location 4334 Atlantic Ave., Long Beach, California, 90807. ALSACE LORRAINE's nature of business remains the same as it has been since 1947, namely, baking and selling fine pastries and cakes. ALSACE LORRAINE's business application was assigned application number BU21426600.

11. On or about September 2, 2014, Defendant LONG BEACH, by and through Defendants JOHN GROSS and JASON MACDONALD, its Business Services Manager, rejected ALSACE LORRAINE's business license application. In a letter dated September 2, 2014, Defendant JASON MACDONALD stated that ALSACE LORRAINE's application cannot be approved due to failure of the property owner to comply with applicable laws and regulations, pursuant to Long Beach Municipal Code (hereinafter "LBMC") section 3.80.421.1(A), section 3.80.421.5, and section 3.80.429.1. A true and correct copy of the letter is attached hereto as "Exhibit 1" and incorporated herein.

12. Defendant JOHN GROSS is the Director of Financial Management for Defendant LONG BEACH. ALSACE LORRAINE's business license application was denied

1 by Defendant JOHN GROSS in his capacity as the Director of Financial Management, who has
2 the authority to deny, and did wrongfully and in bad faith, deny ALSACE LORRAINE's
3 application.

4 13. The letter dated September 2, 2014 also stated that should ALSACE LORRAINE
5 wish to appeal the denial of its business license application to the Long Beach City Council, it
6 may do so by filing a notice of appeal with the Director of Financial Management within ten
7 days from the date of the letter's mailing. The notice of the appeal shall state the reason for the
8 denial and the grounds of such appeal. It should be sent to Defendant JASON MACDONALD
9 along with a nonrefundable filing fee of \$1,245.00.

10 14. On September 9, 2015, pursuant to a telephone conversation between Tin
11 Westen, Esq. of the Rallo Law Firm, P.C., attorney for ALSACE LORRAINE, and Defendant
12 JASON MACDONALD, Defendant JASON MACDONALD stated that the procedure for
13 appealing the denial of the business license is to submit a letter along with the filing fee for the
14 appeal.

15 15. Thereafter, on September 9, 2015, ALSACE LORRAINE submitted a letter as
16 notice that it is appealing the denial of its business license application. The letter stated that the
17 business license should not be denied based on a contingency of the conduct of a third party,
18 here, the conduct of the property owner and the allegations that the property owner has not
19 complied with the LBMC. Finally, the letter included \$1,245 as the nonrefundable filing fee for
20 the notice of appeal. A true and correct copy of the letter is attached hereto as "Exhibit 2" and
21 incorporated herein.

22 16. Defendant JASON MACDONALD, contrary to his telephone conversation with
23 ALSACE LORRAINE's attorney on September 9, 2014, stated in a letter dated October 6, 2014
24 that ALSACE LORRAINE's request to appeal the denial of its business license application is
25 denied because the appeal is not within the guidelines of LBMC 3.80.421.6. Defendant JASON
26 MACDONALD summarily returned Plaintiff's \$1,245.00 "nonrefundable" filing fee for the
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1 notice of appeal. A true and correct copy of the letter is attached hereto as "Exhibit 3" and
2 incorporated herein.

3 17. On or about October 13, 2014, pursuant to a telephone conversation between Tin
4 Westen, Esq. of the Rallo Law Firm, P.C., attorney for ALSACE LORRAINE, and Defendant
5 JASON MACDONALD, ALSACE LORRAINE was informed that its appeal was denied due to
6 failure to state a basis for appeal. However, the basis for the appeal was clearly stated in the
7 September 9, 2014 letter (See Exhibit 2) as "the business license should not be denied based on
8 a contingency of the conduct of a third party, here, the conduct of the property owner and the
9 allegations that the property owner has not complied with the Long Beach Municipal Code."

10 18. On or about October 17, 2014, in a voicemail message to the Rallo Law Firm,
11 P.C., Defendant JASON MACDONALD arbitrarily and capriciously stated that ALSACE
12 LORRAINE did not file an appeal, and as such, the denial of the appeal is final. This allegation
13 is false and contrary to ALSACE LORRAINE's September 9, 2014 letter providing notice that
14 such letter is an appeal of the denial of ALSACE LORRAINE's business license application. A
15 true and correct copy of a letter reflecting Defendant JASON MACDONALD's voicemail
16 message and communications with the Rallo Law Firm, P.C. is attached hereto as "Exhibit 4"
17 and incorporated herein.

18 19. Defendant JASON MACDONALD communicated the appeal procedure and
19 such was followed by ALSACE LORRAINE. Notwithstanding that fact, at no time did
20 Defendant LONG BEACH inform ALSACE LORRAINE that its appeal was not proper or that
21 ALSACE LORRAINE has not complied with the appeal procedure in order for it to fix any
22 issues with the appeal. Defendant LONG BEACH simply outright denied ALSACE
23 LORRAINE's appeal, and it was only after the denial, which was final, that Defendant LONG
24 BEACH stated that the appeal was improper.

25 20. On or about January 28, 2015, pursuant to Government Code section 910,
26 ALSACE LORRAINE filed a claim for damages against City of Long Beach. A true and
27 correct copy of the claim for damages is attached hereto as "Exhibit 5" and incorporated herein.
28

1 21. On or about March 25, 2015, Defendant LONG BEACH's Office of the City
2 Attorney rejected ALSACE LORRAINE's claim for damages. Defendant LONG BEACH
3 summarily states in the rejection letter that they have determined that the business license for
4 ALSACE LORRAINE was rightfully denied. No reasoning or basis was given. A true and
5 correct copy of the letter is attached hereto as "Exhibit 6" and incorporated herein.

6 SUMMARY OF THE ACTION

7 22. ALSACE LORRAINE seeks relief on the grounds that Defendants JASON
8 MACDONALD and JOHN GROSS abused their discretion in the decision to revoke the
9 business license application of ALSACE LORRAINE without justification and in bad faith.

10 23. ALSACE LORRAINE seeks relief on grounds that Defendant LONG BEACH,
11 through Defendants JASON MACDONALD and JOHN GROSS, violated ALSACE
12 LORRAINE's rights to procedural and substantive due process by arbitrarily and capriciously
13 denying ALSACE LORRAINE's appeal.

14 24. ALSACE LORRAINE also seeks relief on the grounds that Defendant LONG
15 BEACH's denial of ALSACE LORRAINE's business license application, based on the alleged
16 failure of the property owner to comply with applicable laws and regulations, is pretextual and
17 done in bad faith for retaliatory and discriminatory reasons in violation of ALSACE
18 LORRAINE's Due Process under the Fifth and Fourteenth Amendments of the United States
19 Constitution and Article I Section 7(a) of the California Constitution.

20 FIRST CAUSE OF ACTION

21 (Petition for Writ of Mandate: Code of Civil Procedure § 1085 Against All
22 Defendants)

23 25. ALSACE LORRAINE re-alleges and incorporates by reference all of the above
24 paragraphs as though fully set forth herein.

25 26. California Code of Civil Procedure § 1085(a) states that a writ of mandate may
26 be issued by any court to any inferior tribunal, corporation, board, or person, to compel the
27 performance of an act which the law specifically enjoins, as a duty resulting from an office,
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1 trust, or station, or to compel the admission of a party to the use and enjoyment of a right or
2 office to which the party is entitled, and from which the party is lawfully precluded by that
3 inferior tribunal, corporation, board, or person.

4 27. On or about July 1, 2014, ALSACE LORRAINE, pursuant to LBMC 3.80.420.1,
5 submitted an application to Defendant LONG BEACH for a business license to operate a
6 bakery.

7 28. On or about September 2, 2014, Defendant LONG BEACH, by and through its
8 employees, Defendants JOHN GROSS and JASON MACDONALD, wrongfully and in bad
9 faith, denied ALSACE LORRAINE's application for a business license. According to
10 Defendants, ALSACE LORRAINE's application cannot be approved at the time due to failure
11 of the property owner to comply with applicable laws and regulations, pursuant to LBMC
12 section 3.80.421.1(A), section 3.80.421.5 and section 3.80.429.1. Defendants did not specify
13 which laws and regulations were not complied with by ALSACE LORRAINE.

14 29. LBMC section 3.80.421.1(A) states that the Director [of Financial Management]
15 shall refer such application to the appropriate departments of the City in order that it may be
16 ascertained whether the business proposed to be conducted or the premises in which it is
17 proposed to locate such business will comply with applicable fire, building safety, zoning,
18 health and other laws and regulations.

19 30. There are no allegations by Defendants that the business proposed to be
20 conducted, i.e. the baking and selling of pastries and cakes, violates applicable fire, building
21 safety, zoning, health and other laws and regulations. Similarly, there are no allegations by
22 Defendants that the premises in which ALSACE LORRAINE is proposed to be located would
23 result in a violation with applicable fire, building safety, zoning, health and other laws and
24 regulation. Rather, Defendants' allegations are that the *property owner's* failure to comply with
25 some applicable laws and regulations is what led to ALSACE LORRAINE being denied its
26 application for a business license to operate its food processing business.

1 31. Defendants did not cite any LBMC which states that a property owner's failure
2 to comply with applicable laws and regulations is a basis to reject another party's business
3 license application.

4 32. ALSACE LORRAINE is a *distinct and separate entity* from the property owner
5 of its proposed business location at 4334 Atlantic Avenue, Long Beach, California, 90807. Any
6 basis for denial of a business license application by ALSACE LORRAINE that is connected to
7 the alleged non-compliance with LBMC by its landlord is unsupported by the laws and by
8 LBMC.

9 33. Defendants also cite LBMC section 3.80.421.5 in their rejection letter to
10 ALSACE LORRAINE. This section states that in the event that a particular department of the
11 City rejects an application for the reason that such business or the location at which it is
12 proposed to conduct the same will not so comply with applicable laws and ordinances, the
13 Director of Financial Management shall not issue such license.

14 34. As stated, section 3.80.421.5 of the LBMC does not provide a legal basis for
15 Defendants to reject ALSACE LORRAINE'S business license application.

16 35. Lastly, Defendants also cited LBMC section 3.80.429.1 in their rejection letter to
17 ALSACE LORRAINE. This section states that whenever any person fails to comply with any
18 provision of this Chapter pertaining to business license taxes or any rule or regulation adopted
19 pursuant thereto or with any other provision or requirement of law, including, but not limited to,
20 this Municipal Code and any grounds that would warrant the denial of initial issuance of a
21 license hereunder, the Director of Financial Management, upon hearing, after giving such
22 person ten (10) days' notice in writing specifying the time and place of hearing and requiring
23 him or her to show cause why his or her license should not be revoked, may revoke or suspend
24 any one (1) or more licenses held by such person. The notice shall be served in the same
25 manner as notices of assessment are served under Section 3.80.444. The Director shall not issue
26 a new license after the revocation of a license unless he or she is satisfied that the registrant will
27 thereafter comply with the business license tax provision of this Chapter and the rules and
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1 regulations adopted thereunder, and until the Director collects a fee, the amount of which shall
2 be determined by Director in an amount to recover the actual costs of processing, in addition to
3 any other taxes that may be required under the provisions of this Chapter.

4 36. As stated, section 3.80.429.1 of the LBMC also does not provide a legal basis for
5 Defendants to reject ALSACE LORRAINE's business license application. This section is
6 applicable to the hearing process and the Director of Financial Management's ability to *revoke*
7 *or suspend a license* held by a person after it has been determined there are grounds that would
8 warrant the denial or suspension of a license. There is nothing under this code section to allege
9 what law, rules or regulations ALSACE LORRAINE violated to warrant their business license
10 application being denied. This section is also inapplicable to ALSACE LORRAINE because
11 the issue is not its business license being suspended after a proper hearing and Plaintiff being
12 given an opportunity to show cause why his or her license should not be revoked, the issue is
13 that ALSACE LORRAINE business license application was improperly rejected based on the
14 conduct of a third party.

15 37. ALSACE LORRAINE was never given notice and a hearing for an opportunity
16 to show cause as to why its business license application should not be denied.

17 38. On or about September 9, 2014, ALSACE LORRAINE appealed Defendants'
18 denial of its business license application.

19 39. On or about January 28, 2015, ALSACE LORRAINE filed a Claim for Damages
20 against Defendant City of Long Beach for the denial of Plaintiffs' business application.
21 Defendant City of Long Beach rejected ALSACE LORRAINE's Claim for Damages and
22 summarily declared that the business license application was rightfully denied. Defendants
23 stated to ALSACE LORRAINE that no further action will be taken on this matter. ALSACE
24 LORRAINE therefore has exhausted its administrative remedies.

25 40. ALSACE LORRAINE has no adequate remedy at law for the injuries described
26 above because monetary damages will not adequately compensate it for its inability to exercise
27 its right provided under LBMC. In addition, it is virtually impossible to quantify in monetary
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1 terms the damages that ALSACE LORRAINE will suffer if Defendants are not mandated to
2 approve its business license application.

3 41. ALSACE LORRAINE's only remedy is for this court, pursuant to its power
4 under Code of Civil Procedure § 1085, to issue a writ of mandate to Defendants requiring that
5 ALSACE LORRAINE's business license application be properly and fairly reviewed and
6 approved.

7 42. As a direct, foreseeable, and proximate result ALSACE LORRAINE has
8 incurred attorney's fees and costs in an amount to be proven at the time of trial.

9 SECOND CAUSE OF ACTION

10 (For Declaratory Relief for the Violation of Article I, Section 7(a) of the California
11 Constitution Prohibiting Deprivation of Plaintiffs' Property without Due Process of Law
12 Against All Defendants)

13 43. ALSACE LORRAINE re-alleges and incorporates by reference all of the above
14 paragraphs as though fully set forth herein.

15 44. ALSACE LORRAINE brings this cause of action pursuant to the Due Process
16 Clause of Article I, Section 7(a) of the California Constitution.

17 45. Article I, Section 7(a) of the California Constitution states a person may not be
18 deprived of life, liberty, or property without due process of law or denied equal protection of the
19 laws.

20 46. Defendants deprived ALSACE LORRAINE of property without due process of
21 law by denying its business license application broadly, vaguely, and generally without given
22 ALSACE LORRAINE a meaningful opportunity to be heard and present evidence to defend
23 itself against Defendants' allegations and judgment.

24 47. After Defendants denied ALSACE LORRAINE's business license application,
25 Defendant JASON MACDONALD instructed Plaintiff to file an appeal by writing a letter
26 indicating it is filing an appeal, state a basis for the appeal, and submit the letter with the appeal
27 fee. Plaintiff followed these instructions and filed an appeal on September 9, 2014.

1 48. On or about October 6, 2014, Defendants denied ALSACE LORRAINE's appeal
2 stating that the request to appeal was not within the guidelines of LBMC, even though
3 instructions for the appeal was given by Defendant JASON MACDONALD and accurately
4 followed by ALSACE LORRAINE. Defendants did not provide ALSACE LORRAINE an
5 opportunity to be heard or present evidence as required by Article I, section 7(a) of the
6 California Constitution.

7 49. On or about January 28, 2015, ALSACE LORRAINE filed a claim for damages
8 against City of Long Beach, as required by the City of Long Beach. On or about March 25,
9 2015, City of Long Beach, by and through the Office of the City Attorney, Claims Adjuster
10 Cathleen Flores, summarily rejected ALSACE LORRAINE's claim. The only basis for the
11 finding against ALSACE LORRAINE was Defendants' determination that the business license
12 for ALSACE LORRAINE was rightfully denied. Defendants further stated that no further
13 action will be taken on this matter. Again, ALSACE LORRAINE was not given an opportunity
14 to be heard or present evidence as required by due process.

15 50. As a direct, foreseeable, and proximate result ALSACE LORRAINE has
16 incurred attorney's fees and costs in an amount to be proven at the time of trial.

17 THIRD CAUSE OF ACTION

18 (Violation of LONG BEACH's Municipal Code 3.80.421.6 Against All Defendants)

19 51. ALSACE LORRAINE re-alleges and incorporates by reference all of the above
20 paragraphs as though fully set forth herein.

21 52. LBMC section 3.80.421.6 states that any applicant for a business license whose
22 application for such license has been denied by the Director of Financial Management may,
23 within ten (10) days after such denial, appeal therefrom to the City Council by filing with the
24 Director a notice of such appeal setting forth the decision and the grounds upon which he deems
25 himself aggrieved thereby. The applicant shall pay to the Director at the time of filing the
26 notice of appeal the fee set by resolution of the City Council for appeals hereunder. The
27 Director shall thereupon make a written report to the City Council reflecting such determination
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1 denying the business license. The City Council at its next regular meeting following the filing
2 of said appeal, or within ten (10) days following the filing thereof, shall set said appeal for
3 hearing to be held not less than ten (10) days nor more than thirty (30) days thereafter and such
4 hearing may for good cause be continued by the order of the City Council. Upon the hearing of
5 the appeal, the City Council may overrule or modify the decision of the Director appealed from
6 and enter any such order or orders as are in harmony with this Title and such disposition of the
7 appeal shall be final.

8 53. On September 2, 2014, Defendants denied ALSACE LORRAINE's business
9 license application.

10 54. On September 9, 2014, ALSACE LORRAINE filed a notice of appeal via a letter
11 addressed to Defendant JASON MACDONALD. In the notice of appeal letter, ALSACE
12 LORRAINE set forth the decision by stating that the denial of its business license is based on
13 the property owner's alleged violation of LBMC section 3.80.421.1(A), section 3.80.421.5, and
14 section 3.80.429.1. In this letter, ALSACE LORRAINE also set forth the grounds upon which
15 it deems itself aggrieved by stating that the business license should not be denied based on a
16 contingency of the conduct of a third party, here, the conduct of the property owner and the
17 allegations that the property owner has not complied with the LBMC. Furthermore, ALSACE
18 LORRAINE attached to the letter a payment of \$1,245.00 as an appeal filing fee.

19 55. ALSACE LORRAINE's notice of appeal, by and through the September 9, 2014
20 letter, meets all requirements set forth by LBMC 3.80.421.6. Furthermore, this notice of appeal
21 is in compliance with verbal instructions given to ALSACE LORRAINE's attorney, Rallo Law
22 Firm, P.C., by Defendant JASON MACDONALD.

23 56. On or about October 6, 2014, Defendants violated LBMC 3.80.421.6 by failing
24 to make a written report to the City Council and set the appeal for a hearing by the Council.
25 Instead, Defendant JASON MACDONALD, by and through a telephone conversation on or
26 about October 6, 2014, stated that ALSACE LORRAINE's appeal was denied due to failure to
27 state a basis for appeal.
28

1 57. Defendant JASON MACDONALD's unfounded, unsupported, and unilateral
2 determination that ALSACE LORRAINE's notice of appeal did not meet the requirements of
3 LBMC 3.80.421.6 is unsupported by LBMC and contrary to the evidence.

4 58. On or about October 17, 2014, Defendant JASON MACDONALD, by and
5 through telephone messages to ALSACE LORRAINE's attorney, Rallo Law Firm, P.C., once
6 again stated that ALSACE LORRAINE's appeal was denied, however, the allegation this time
7 is due to ALSACE LORRAINE not filing an appeal at all. Defendant JASON
8 MACDONALD's unfounded, unsupported, and unilateral determination did not meet the
9 requirements of LBMC 3.80.421.6 and is contrary to the evidence.

10 59. Defendants' violation of LBMC 3.80.421.6 is a direct, foreseeable, and
11 proximate result of ALSACE LORRAINE's injuries and damages, including but not limited to
12 loss of property and other economic losses, the amount of which is to be determined at the time
13 of trial.

14 WHEREFORE, Plaintiff prays for the following relief:

- 15 1. An Order of this court mandating that the Defendant City of Long Beach
16 approve ALSACE LORRAINE's business license application;
17 2. Award of costs, including attorney fees pursuant to Code of Civil Procedure
18 section 1021.5;
19 3. Compensatory damages and all consequential damages in the amount of two
20 million dollars (\$2,000,000.00), together with interest; and
21 4. Any alternative and additional relief as the court deems proper.

22 DATED: September 24, 2015

RALLO LAW FIRM, P.C.

23
24 By: 

25 Thomas C. Rallo, Esq.
26 Arthur J. Travieso, Esq.
27 Tin Kim Westen, Esq.
28 Cynthia Pham, Esq.
Attorneys for Plaintiff.
ALSACE LORRAINE FINE PASTRIES, INC.

"EXHIBIT 1"



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT
BUSINESS RELATIONS BUREAU

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-6211

COPY

September 2, 2014

Alsace Lorraine Fine Pastries Inc.
Db/a: Alsace Lorraine Fine Pastries
4334 Atlantic Avenue
Long Beach, CA 90807

RE: Business License Application: BU21426600

Business Address: 4334 Atlantic Avenue, Long Beach, CA 90807

Dear Sir or Madam:

Thank you for your interest in establishing a business in the City of Long Beach. Unfortunately, your application to operate a food processing business cannot be approved at this time due to failure of the property owner to comply with applicable laws and regulations, pursuant to Long Beach Municipal Code (LMBC) section 3.80.421.1 (A), section 3.80.421.5, and section 3.80.429.1 (attached).

Should you wish to appeal the denial of your business license application to the Long Beach City Council you may do so by filing a notice of appeal with the Director of Financial Management within ten days from the date of mailing this letter. The notice of appeal shall state the reason for the denial and the grounds of such appeal. It should be sent to the undersigned along with a nonrefundable filing fee of \$1,245.00.

Please direct any questions on this matter to me at (562) 570-6200.

Sincerely,

Jason MacDonald
Jason MacDonald
Business Services Manager

Attachments

3.80.421.1 - Application—Investigation.

- A. The director shall refer such application to the appropriate departments of the city in order that it may be ascertained whether the business proposed to be conducted on the premises in which it is proposed to locate such business will comply with applicable fire, building safety, zoning, health and other laws and regulations.
 - B. The director may issue a conditional license under this chapter for the applicant to conduct business during the investigation period if all necessary applications have been completed by the applicant, the business tax and application fees have been paid, no department has declared the building or structure "unsafe" as defined in Section 102 of the current edition of the California Uniform Building Code, and the business has not had an application denied pursuant to the provisions of this chapter within the past year. A conditional license shall not be valid for a period longer than one hundred eighty (180) days from the date of application. During such period, based upon review by the appropriate departments of the city, the applicant may be rejected for failure to comply with applicable laws and regulations at any time. Within one hundred eighty (180) days, if no departments have rejected the applicant or requested an extension of the time to review same, the director shall issue the license.
 - C. The director, at his sole discretion, may issue a notice of nonoperation during the investigation period when a department determines the building or structure unsafe and corrections are required prior to the safe operation and continuation of the business. Following completion and city approval of any city mandated corrections, a conditional license or a business license may be issued.
- (Ord. C-7849 § 1, 2003; Ord. C-6259 § 1 (part), 1985).

3.80.421.5 - Application—Rejection.

In the event that a particular department of the city rejects an application for the reason that such business or the location at which it is proposed to conduct the same will not so comply with applicable laws and ordinances, the director of financial management shall not issue such license.

(Ord. C-6259 § 1 (part), 1985).

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-5239 § 1 (part), 1985).

Sep 04 14 11:08p

alsace Lorraine

15624241451

p.3



CITY OF LONG BEACH, CALIFORNIA
ANNUAL HEALTH PERMIT
BILLING STATEMENT

ACCOUNT: HF00015251
PREPARED: 07/01/14
PAYMENT DUE: 07/31/14

CUSTOMER NAME: NGO, KHIEH CHI
SITE LOCATION: 4334 ATLANTIC AVE
MAIL ADDRESS: ALSACE LORRAINE FINE PASTRIES
4334 ATLANTIC AVE
LONG BEACH CA 90807-2804

HAZARDOUS MATERIALS EDUCATION FEE: \$8.90
1-1599 SQ. FT. RETAIL FOOD PROCESSOR: \$1,235.00

TOTAL AMOUNT DUE: \$1,243.90

A PENALTY OF \$308.75 WILL BE APPLIED TO THE UNPAID
BALANCE IF PAYMENT HAS NOT BEEN RECEIVED BY 08/31/14.

DESCRIPTION OF SERVICE PROVIDED: BAKERY-RETAIL FOOD PROCESSOR

CITY OF LONG BEACH
333 W OCEAN BLVD
LONG BEACH CA 90802-4604

PHONE: 562-570-4132

> PLEASE MAKE CHECKS OR MONEY ORDERS PAYABLE TO THE CITY OF LONG BEACH, <
> OR YOU MAY USE YOUR VISA, MASTERCARD OR VISA/MASTER DEBIT CARD. <

CITY OF LONG BEACH, CALIFORNIA
ANNUAL HEALTH PERMIT
BILLING STATEMENT

3 2727

ACCOUNT HF00015251
E-ACCT: 14160 01525 1032

DUE DATE: 07/31/14

TOTAL AMOUNT DUE: \$1,243.80

PLEASE RETURN THIS PORTION WITH PAYMENT

141000000152516 00001243803

NGO, KHIEH CHI
ALSACE LORRAINE FINE PASTRIES
4334 ATLANTIC AVE
LONG BEACH CA 90807-2804

00A ALSACE LORRAINE FINE PASTRIES

“EXHIBIT 2”

R A L L O

LAW FIRM, P.C.

THOMAS C. RALLO
ARTHUR J. TRAVIESO
SHARMAN L. BROOKS*
TIN K. WESTEN
JENNIFER R. JOSLIN

* CERTIFIED FAMILY LAW SPECIALIST
* PARTNER

3070 Bristol Street, Suite 550
Costa Mesa, California 92626
Telephone: (714) 850-0690
Facsimile: (714) 659-6491
www.rallolawfirmpc.com

SUPPORT STAFF:
GINA LOYA
SARA BRUCE
THIEN NGUYEN
KRISTIN MOKHTARI
STEPHANIE ORTEGA

September 9, 2014

Jason MacDonald
Business Services Manager, City of Long Beach
333 West Ocean Boulevard, 7th Floor
Long Beach, California 90802

Re: Business License Application: BU21426600

Dear Mr. MacDonald:

Pursuant to our telephone conversation today, this will serve as notice that we will be filing an appeal of the denial of the business license on behalf of our client, Alsace Lorraine Fine Pastries, Inc. Pursuant to your letter dated September 2, 2014, the denial is based on the property owner's alleged violation of Long Beach Municipal Code section 3.80.421.1(A), section 3.80.421.5, and section 3.80.429.1. However, our client asserts that the business license should not be denied based on a contingency of the conduct of a third party, here, the conduct of the property owner and the allegations that the property owner has not complied with the Long Beach Municipal Code.

Enclosed with this letter is a filing fee in the amount of \$1,245. Also, please provide our office with information on obtaining a conditional license while the appeal is pending. Thank you in advance for your prompt attention to this matter. Please do not hesitate to contact me with any questions.

Very truly yours,

RALLO LAW FIRM, P.C.



TIN KIM WESTEN
Attorney at Law

Enclosure

“EXHIBIT 3”



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT
BUSINESS RELATIONS BUREAU

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-8211

October 6, 2014

Alsace Lorraine Fine Pastries, Inc.
Dbas: Alsace Lorraine Fine Pastries
4334 Atlantic Avenue
Long Beach, CA 90807

RE: Business License Application: BU21426600

Business Address: 4334 Atlantic Avenue, Long Beach, CA 90807

Dear Sir or Madam:

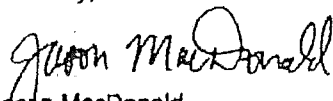
This letter is to inform you that per our denial letter dated September 2, 2014, you may file an appeal with the Director of Financial Management within ten days from the date of mailing the letter. The notice of appeal shall state the reason for the denial and the grounds of such appeal. It should be sent to the undersigned along with a nonrefundable filing fee of \$1,245.00.

Your appeal dated September 9, 2014 has been received by our office. Unfortunately, your request to appeal the denial of your business license application to operate a food processing business in the City of Long Beach, CA is denied because your appeal is not within the guidelines of Long Beach Municipal Code (LBMC) 3.80.421.6.

Enclosed we are returning your check number 16-24/1220 4553 in the amount of \$1,245.00.

Please direct any questions on this matter to me at (562) 570-6200.

Sincerely,


Jason MacDonald
Business Services Manager

I have received notification of the
above hearing.

JM/smc

Name/Title

Attachment

cc: Kendra Carney, Deputy City Attorney
Tim Kim Weston, Attorney at Law, Rallo Law Firm, P.C.

3.80.421.1 - Application—Investigation.

A. The director shall refer such application to the appropriate departments of the city in order that it may be ascertained whether the business proposed to be conducted on the premises in which it is proposed to locate such business will comply with applicable fire, building safety, zoning, health and other laws and regulations.

B. The director may issue a conditional license under this chapter for the applicant to conduct business during the investigation period if: all necessary applications have been completed by the applicant, the business tax and application fees have been paid, no department has declared the building or structure "unsafe" as defined in Section 102 of the current edition of the California Uniform Building Code, and the business has not had an application denied pursuant to the provisions of this chapter within the past year. A conditional license shall not be valid for a period longer than one hundred eighty (180) days from the date of application. During such period, based upon review by the appropriate departments of the city, the applicant may be rejected for failure to comply with applicable laws and regulations at any time. Within one hundred eighty (180) days, if no departments have rejected the applicant or requested an extension of the time to review same, the director shall issue the license.

C. The director, at his sole discretion, may issue a notice of nonoperation during the investigation period when a department determines the building or structure unsafe and corrections are required prior to the safe operation and continuation of the business. Following completion and city approval of any city mandated corrections, a conditional license or a business license may be issued.

(Ord. C-7849 § 1, 2003; Ord. C-6259 § 1 (part), 1986).

3.80.421.5 - Application—Rejection.

In the event that a particular department of the city rejects an application for the reason that such business or the location at which it is proposed to conduct the same will not so comply with applicable laws and ordinances, the director of financial management shall not issue such license.

(Ord. C-6259 § 1 (part), 1986).

3.80.421.6 - Appeals.

Any applicant for a business license whose application for such license has been denied by the director of financial management may, within ten (10) days after such denial, appeal therefrom to the city council by filing with the director a notice of such appeal setting forth the decision and the grounds upon which he deems himself aggrieved thereby. The applicant shall pay to the director at the time of filing the notice of appeal the fee set by resolution of the city council for appeals hereunder. The director shall thereupon make a written report to the city council reflecting such determination denying the business license. The city council at its next regular meeting following the filing of said appeal, or within ten (10) days following the filing thereof, shall set said appeal for hearing to be held not less than ten (10) days nor more than thirty (30) days thereafter and such hearing may for good cause be continued by the order of the city council. Upon the hearing of the appeal the city council may overrule or modify the decision of the director appealed from and enter any such order or orders as are in harmony with this title and such disposition of the appeal shall be final.

(Ord. C-6325 § 8, 1986; Ord. C-6259 § 1 (part), 1986).

██████████

Pay to the Order of *City of Long Beach* *9/10/14* *\$1245.00*

one thousand and two hundred and five *00/100* *Hollars*

Pay to the Order of *Alvin*

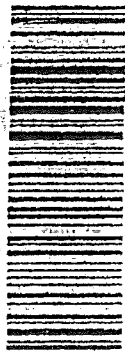
For *██████████*

City of Long Beach, CA
City Treasurer's Office

CITY OF LONG BEACH
BUSINESS SERVICES BUREAU
PURCHASING DIVISION
333 W. OCEAN BLVD.- 7TH FLOOR
LONG BEACH, CA 90802
FM710000



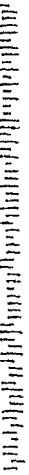
CERTIFIED MAIL



7011 0470 0003 4087 7799

\$ 005 48

Rallo Law Firm, Inc.
Attn: Tin Kim Westen
3070 Bristol Street, Suite 560
Costa Mesa, CA 92626



9262633065 0053

“EXHIBIT 4”

THOMAS C. RALLO
ARTHUR J. TRAVIESO
SHARMAN L. BROOKS*
TINK WESTEN
JENNIFER R. JOSLIN
ARMAN KHOSHNOOD
*CERTIFIED FAMILY LAW SPECIALIST
**PARTNER

R A L L O

LAW FIRM, P.C.

3070 Bristol Street, Suite 560
Costa Mesa, California 92626
Telephone: (714) 850-0690
Facsimile: (714) 659-6491
www.rallolawfirm.com

SUPPORT STAFF
GINA LOYA
SARA BRUCE
THIEN NGUYEN
KRISTIN MOKHTARI

October 17, 2014

Jason MacDonald
Business Services Manager, City of Long Beach
333 West Ocean Boulevard, 7th Floor
Long Beach, California 90802

Via Facsimile and U.S. Mail
562-570-5099

Re: Business License Application: BU21426600

Dear Mr. MacDonald:

Our office has received two voice messages from you indicating that our client, Alsace Lorraine Fine Pastries, Inc.'s appeal for denial of a business license has been rejected due to not listing a basis for the appeal in our letter to you dated September 9, 2014. However, said letter *did* contain a basis for the appeal. Thereafter, in another voice message, you indicated that our client did not file an appeal and as such, the denial of the appeal is final.

In Ms. Westen's telephone conversation with you on September 9, 2014, you indicated that in order to file an appeal, our client needed to write a letter indicating we are filing an appeal, and submit the letter with the fee for appeal. Since then, our client, nor our office, has received notice or any communication from the City of Long Beach advising that the letter is not an adequate appeal.

The denial of our client's business license, and subsequent appeal, is in bad faith, retaliatory, and discriminatory. If this situation is not resolved by October 24, 2014, we will be filing a complaint against the City of Long Beach and will name as defendants any individuals, including yourself, involved in the denial of our client's business license and appeal.

Thank you in advance for your prompt attention to this matter. Please do not hesitate to contact me with any questions.

Very truly yours,

RALLO LAW FIRM, P.C.


ARTHUR TRAVIESO
Attorney at Law

cc: Kendra Carney (via email only)

“EXHIBIT 5”

Return to: CITY CLERK
333 West Ocean Blvd.
Long Beach, CA 90802

CLAIM FOR DAMAGES
AGAINST CITY OF LONG BEACH

RESERVE FOR FILING STAMP
FILE NO.

1. Claims for death, injury to person or to personal property must be filed not later than 6 months after date of occurrence. (Gov. Code Sec. 911.2)
2. Claims for damages to real property must be filed not later than 1 year after the occurrence. (Gov. Code Sec. 911.2)
3. Read entire claim for before filing.
4. Fill in each line completely.
5. Attach separate sheets, if necessary, to give full details.

Alsace Lorraine Fine Pastries, Inc.
Name of Claimant (type or print) Date of Birth Driver License #
Home Address of Claimant City, State, Zip Code Telephone #
4334 Atlantic Ave Long Beach CA 90807 562-427-5743
Business Address of Claimant City, State, Zip Code Telephone #
Rallo Law Firm, P.C., 3070 Bristol St. #560 Costa Mesa, CA
Give name and address to which notices or communications are to be sent regarding this claim: 92626

Date of incident: <u>October 6, 2014</u> (Month) (Day) (Year)	Time of occurrence: A M	Exact location of occurrence:
---	----------------------------	-------------------------------

License number and make of vehicle(s) involved (if applicable):

What happened? The City of Long Beach has denied the business license for the above business in bad faith and for retaliatory reasons. On 9/2/14, a letter from the City indicated the license application was denied. On 9/9/14, a letter was sent to the City indicating an appeal of the denial. On 10/4/14, a letter from the City indicated the appeal is denied.
Were Police at scene? ☐ Yes ☒ No

Why is City of Long Beach responsible? Give name of public employee involved, if known.

On 9/9/15, I called Jason MacDonald to discuss the process of the appeal. I was told to submit a letter to him indicating the reason for appeal and to include a check for \$1,245. I was never advised the appeal was improper until the letter dated 10/10/14, which denied the appeal. All procedures were followed and yet, the license was still denied arbitrarily and in bad faith due to the history of the above business and the City.

Give total amount of claim. (Include estimated amount of any prospective injury or damage):

Amount to be determined for damages.
How was amount of claim computed? (Be specific. List doctor bill, wage rate, repair estimates, etc.):
PLEASE ATTACH ESTIMATES.

Claimant is requesting for the granting of a business license.

List names and addresses of witnesses; doctors and hospitals; insurance companies:

Witnesses include Business Services Manager, Jason MacDonald and City Attorney, Kendra Carney who were aware of the denial of the business license

Return ORIGINAL to City Clerk.

Keep a Copy for your File.

CLAIMS MUST BE FILED with CITY CLERK

(Cal. Gov. Code Sec. 915a)

(Claim may be mailed to Clerk)

NOTE: Presentation of a false claim is a felony

(Cal. Pen. Code Sec. 72)

I certify under penalty of perjury that the foregoing is true and correct.

(Signed) [Signature] Attorney for Claimant

Signature of Claimant or person filing on his behalf giving relationship to Claimant.

Imine
CITY

1/28/15
DATE

"EXHIBIT 6"



OFFICE OF THE CITY ATTORNEY
Long Beach, California

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

MONTY H. MACHIT
Assistant City Attorney

March 25, 2015

Dominic Holzhauer
Anne C. Lathum

C. Gregory Allred
Gary J. Anderson
Richard F. Anderson
William R. Barry
Kendra L. Carney
LeTasha M. Carry
Charles M. Cole
Hilch M. Jermine
Michelle L. Lorraine
Barbara J. McTigue
Howard D. Kassar
Arnon D. Sanchez
Tiffany L. Shon
Linda T. Vu
Amy R. Webber
Theodore B. Zinger

Rallo Law Firm
3070 Bristol St. Ste 560
Costa Mesa, CA 92626

RE: Claim of: Alsace Lorraine Fine Pastries
Claim No.: C15-0053
Claim Date: 2/2/2015

Dear Rallo Law Firm:

This letter is to inform you that your claim, which you filed with the City of Long Beach, is rejected as of March 25, 2015. Based on our investigation of your claim, we have determined that the business license for Alsace Lorraine Fine Pastries was rightfully denied. Given the information provided, your claim was rejected and no further action will be taken on this matter.

STATE LAW REQUIRES THAT YOU BE
GIVEN THE FOLLOWING WARNING

Subject to certain exceptions, you have only six (6) months from the date that this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code § 945.6.

This time limitation applies only to causes of action for which Government Code §§ 900 - 915.4 required you to present a claim. Other Causes of action, including those arising under federal law, may have different time limitations.

Please feel free to contact me should you have any questions. I may be reached at (562) 570-2252.

Sincerely,

CHARLES PARKIN, City Attorney

By:


CATHLEEN FLORES
Claims Adjuster

R A L L O

LAW FIRM, P.C.

THOMAS C. RALLO,
ARTHUR J. TRAVIESO,
TIN K. WESTEN
JENNIFER R. JOSLIN
LACEY NAVARRETTE

1 PARTNER

3070 Bristol Street, Suite 560
Costa Mesa, California 92626
Telephone: (714) 850-0690
Facsimile: (714) 659-6491
www.rallolawfirm.com

SUPPORT STAFF
GINA LOYA
SARA MOORE
THIEN NGUYEN
KATY ABBATIELLO

July 6, 2016

Theodore B. Zinger
Deputy City Attorney
Office of the Long Beach City Attorney
333 W. Ocean Boulevard, 11th Floor
Long Beach, California 90802

Re: Alsace Lorraine Fine Pastries, Inc. v. City of Long Beach
LASC Case No.: BC595734

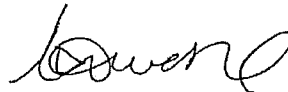
Dear Mr. Zinger:

As we discussed, enclosed please find a check in the amount of \$1,245.00, which is the fee for Alsace Lorraine's appeal of Long Beach's denial of its business license application.

Please do not hesitate to contact the undersigned with any questions.

Very truly yours,

RALLO LAW FIRM, P.C.



TIN WESTEN
Attorney at Law

Enclosure

Exhibit A8

CITY OF LONG BEACH BUSINESS LICENSE APPLICATION						www.longbeach.gov LBBIZ@LongBeach.gov (562) 570-6211	
Fourth Floor, City Hall 333 W. Ocean Boulevard, Long Beach, CA 90802							
PERSONAL INFORMATION							
OWNER/ENTITY NAME <u>Khien Ngo</u>		DRIVER'S LICENSE NO. [REDACTED]		STATE <u>CA</u>	SOCIAL SECURITY NO. [REDACTED]	HOME OCCUPATION <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	
BUSINESS NAME (D.B.A.)		TYPE OF BUSINESS (BE SPECIFIC) <u>Commercial Property Rental</u>		EMAIL:			
BUSINESS ADDRESS <u>4332</u>	STREET <u>Atlantic Ave.</u>	CITY <u>Long Beach</u>	STATE <u>CA</u>	ZIP <u>90807</u>	AREA CODE/TELEPHONE <u>562-472-9299</u>		
BILLING ADDRESS (if same write SAME)	STREET	CITY	STATE	ZIP	AREA CODE/TELEPHONE		
RESIDENCE ADDRESS (if same write SAME)	STREET	CITY	STATE	ZIP	AREA CODE/TELEPHONE		
LIST OF PRINCIPAL OFFICERS, MEMBERS, PARTNERS AND RESIDENTIAL ADDRESSES (IF MORE, PLEASE ATTACH A LIST) <u>Khien Ngo</u>				TITLE <u>owner</u>		% OWNERSHIP <u>100</u>	
				TITLE		% OWNERSHIP	
<input type="checkbox"/> New Business <input type="checkbox"/> Address Change <input type="checkbox"/> Ownership Change <input type="checkbox"/> Secondary License <input checked="" type="checkbox"/> Sole Owner <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> LLP <input type="checkbox"/> LLC							
FINANCIAL INFORMATION							
START DATE	NO. OF EMPLOYEES <u>0</u>	NO. OF VEHICLES	FEDERAL TAX ID. NUMBER [REDACTED]		SALES & USE TAX (SELLER'S PERMIT) NO.		
DOES YOUR BUSINESS HAVE A CALIFORNIA STATE LICENSE?	STATE LICENSE NO.		CLASSIFICATION(S)		RENEWAL DATE		
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N							
HAVE YOU EVER HAD A BUSINESS LICENSE/PERMIT REVOKED OR SUSPENDED?	LICENSE/PERMIT NO. [REDACTED]		ISSUING AGENCY <u>Long Beach</u>		CLASSIFICATION & DATE OF SUSPENSION/REVOCATION <u>4-19-2012</u>		
<input checked="" type="checkbox"/> Y <input type="checkbox"/> N							
ADDITIONAL INFORMATION							
Do you plan to sell or serve food? (Includes pre-packaged) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If serving food, how many seats? _____ Do you plan to sell or serve alcoholic beverages? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N ABC License number: _____ Type: _____ Conditions Included: (If yes, please attach to application)				Will you offer massage, tanning, herbal therapy, escort or any other services that improve the health or well being of another? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Will you engage in fund raising? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Will you deal in coins, firearms, jewels or second-hand property? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Will you perform Parking Management? If so, please attach a detailed list of all activities? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N			
Does your business have amusement machines, video games, vending machines, jukebox and/or pool tables? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N How many: _____ Type: _____ Owner: _____ Do you plan to sell tobacco products/paraphernalia? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Do you plan to operate a Smoking Lounge? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N				BUILDING AND FACILITY INFORMATION Property Owner's Name: <u>Khien Ngo</u> Business sq. ft.: <u>1500</u> Warehouse on site? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Do you: <input checked="" type="checkbox"/> Own or <input type="checkbox"/> Rent/Lease your business property?			
HAZARDOUS MATERIALS/MEDICAL WASTE							
Will you deal with, use, store or transport Medical Marijuana? <input type="checkbox"/> Y <input type="checkbox"/> N				Will you manage or produce bio-hazardous materials or waste? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N			
Will you have <input type="checkbox"/> Music <input type="checkbox"/> Dancing <input type="checkbox"/> Performers <input type="checkbox"/> Adult Entertainment? Will you use, store, or transport chemicals (new or waste state)? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N							
ACKNOWLEDGMENT TO BE COMPLETED BY SOLE OWNER, PRINCIPAL OFFICERS, MEMBERS OR PARTNERS							
I understand that before I can operate my business in Long Beach, my establishment must comply with applicable City departmental laws and regulations completely and I must obtain a business license and all necessary Federal State and local permits or I will be in violation of L. B. M. C. Chapter 3.80. I declare that I am authorized to complete this application and that the information and statements provided are true and correct. SIGN and return this statement with your remittance. Make checks payable to City of Long Beach.							
Signature <u>[Signature]</u>		Date <u>10/23/14</u>		PRINT NAME/TITLE <u>Khien Ngo / owner</u>			
Signature _____		Date _____		PRINT NAME/TITLE _____			
DO NOT WRITE BELOW THIS LINE							
Inspection(s): <input type="checkbox"/> Bldg <input type="checkbox"/> Fire <input type="checkbox"/> Health <input type="checkbox"/> HazMat <input type="checkbox"/> PD <input type="checkbox"/> Other		Prev Use: _____		Exp. Date: _____			
Basic Tax # _____ @ \$ _____ = _____		Prev Lic: _____					
Employees # _____ @ \$ _____ = _____		Exp Date: _____					
Vehicles # _____ @ \$ _____ = _____		District: _____					
Other # _____ @ \$ _____ = _____		CRT: _____					
PIA # _____ @ \$ _____ = _____		SIC: _____					
PIA Employees # _____ @ \$ _____ = _____		NAICS: _____					
Regulatory _____		Entered by: _____					
Investigation _____		Date: _____					
Misc. Fees _____							
Sub Total _____							
Zoning _____							
Building Review _____							
Total \$ _____		BU					

Zoning Review
☐ Y ☐ N ☐ N/A
 By: _____
 Date: _____
☐ New construction ☐ Reuse
 Zone: _____
 Comments: _____

ATTENTION LICENSE APPLICANT

Business License Required (L.B.M.C. 3.80.210)

Under the Long Beach Municipal Code (Section 3.80.210), any person operating a business in the City of Long Beach is required to obtain a business license and pay an annual business license tax, prior to the operation of that business.

Term of License (L.B.M.C. 3.80.520)

A business license is valid for one (1) year from the date of issuance (unless otherwise noted) and must be renewed each year. A renewal notice is sent to the licensee ten (10) days prior to the due date, and the licensee has thirty (30) days to pay without penalty. If a notice is not received by the licensee, he/she is still responsible for payment by the due date. If the licensee changes his/her mailing address during the year, he/she should contact the Business License Section to report the change.

Penalties (L.B.M.C. 3.80.422)

A penalty equivalent to twenty-five percent (25%) of the payment due applies to all delinquent licenses unpaid after thirty (30) days from the due date. An additional ten percent (10%) penalty is added on the first day of the calendar month following the imposition of the twenty-five percent (25%) penalty if the tax remains unpaid, up to a maximum of one hundred percent (100%) of the tax due. The postmark will govern the determination of whether or not a tax payment is delinquent. A delinquent tax will be deemed a debt to the City, and the licensee shall be liable for legal action if it remains unpaid.

Multiple Businesses at one Location (L.B.M.C. 3.80.420.6)

When more than one business activity is engaged in at the same location, and the activity falls into a classification other than that of the original license, the licensee is required to obtain an additional license for each different business activity. If the licensee has more than one business license at the same location, he/she may choose to pay for all employees on one license. If so, the licensee will pay for the employees on the license with the higher employee rate.

Definition of an Employee (L.B.M.C. 3.80.150)

For the purpose of Business License taxation in the City of Long Beach, an employee is defined as: Every person engaged in the operation or conduct of any business in Long Beach, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and every person employed or working in such business, whether full-time, part-time, permanent or temporary, for a wage, salary, commission or room and board. The owner of a sole proprietorship shall not be deemed to be an "employee" of the business.

Change of Location (L.B.M.C. 3.80.424)

Every person possessing a City of Long Beach Business License who changes the location of his place of business shall, prior to engaging in such a business at the new location, have the City endorse the new location on the license.

Display of License (L.B.M.C. 3.80.425.5)

Every person having a license shall prominently display the license at the place of business. If the business is operated from a vehicle, an identifying decal issued by the City shall be affixed to the vehicle, and the business license shall be carried by the licensee.

Refunds Prior to Start of Business (L.B.M.C. 3.80.427.5.F)

Any application for refund must be made by the person entitled to the money within one year after payment of the money to the City. No refund shall be made of any moneys paid for the issuance or renewal of any license unless it is determined that such licensee has not engaged in, nor held himself out as being engaged in, such business or occupation at any time after the effective date of the license. The amount of the refund shall be the full amount of the license tax paid, less an amount determined by the Director of Financial Management, which shall cover the cost of investigation and issuance of the license.

Sales or Use Tax

Sales or Use Tax may apply to your business activity. You may seek advice regarding the application of the tax to your business by writing or calling the State Board of Equalization at:

16715 Von Karman Ave Suite #200
Irvine, CA 92606
(949) 440-3473

-OR-

12440 E. Imperial Hwy. Suite 200
Norwalk, CA 90651
(562) 466-1694

Inspections (The business license application must be available on site at time of inspection).

When a business license inspection is scheduled, the business must be fully prepared to operate, and the business owner or operator must be on site for the entire scheduled time of inspection. If the business owner or operator is unprepared for or misses a scheduled business license inspection without giving a minimum of 24 hours notice to the appropriate City agency, a re-inspection fee will be assessed.

I have read and understand the **Inspection** requirements.


Signature

10/23/14
Date

April 17, 2012

Larry G. Herrera,
City Clerk
City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802

Attn: Irma Heinrichs

Re: Report and Recommendation of Hearing Officer
Matter of City of Long Beach Business License Number BU07045412 issued to Khien Chi Ngo

Dear Mr. Herrera:

On April 11, 2012, I conducted an administrative hearing to show cause why the captioned business license should not be revoked pursuant to Long Beach Municipal Code §3.80.429.1.

The hearing has been completed.

This letter constitutes my report and recommendation.

1. INTRODUCTION

In this report:

- The City of Long Beach is referred to as "the City."
- The Director of Financial Management is referred to as "the Director."
- Khien Chi Ngo is referred to as "the Licensee."
- The improved real property commonly known as 4332 Atlantic Avenue, Long Beach, is referred to as "the Premises."
- City of Long Beach Business License Number BU07045412 is referred to as "the License."
- All references to titles, chapters or sections, without an accompanying reference to a specific code, ordinance or regulation, are to the Long Beach Municipal Code.

THOMAS A. RAMSEY - A PROFESSIONAL CORPORATION - LAWYER

NINETEENTH FLOOR 111 WEST OCEAN BOULEVARD LONG BEACH, CALIFORNIA 90802-4632
VOICE 562-436-7713 FACSIMILE 562-436-7313 E-MAIL bizlawwiz@aol.com

Report and Recommendation of Hearing Officer

Matter of City of Long Beach Business License Number BU07045412 issued to Khien Chi Ngo

April 17, 2012

Page Two

Accompanying this report is a copy of the exhibits introduced by the City at the hearing. They are numbered 1-11 and lettered A-G

The authority to conduct this hearing is found in §§3.80.429.1 and 3.80.429.5 which provide basically as follows:

- The belief that a licensee has failed to comply with applicable ordinances or statutes empowers the Director to notice a hearing at which the licensee may show cause why the license should not be revoked.
- Following such a hearing and receipt of the hearing officer's report, the Director may revoke or suspend the license.
- In the event the license is revoked by the Director, the licensee has the right to file a written appeal to the Long Beach City Council.

2. IDENTIFICATION OF PARTIES AND COUNSEL

The City was represented by the Long Beach City Attorney, through Kendra L. Carney, Deputy City Attorney.

The Licensee did not appear, either in person or through counsel.

3. HEARING LOCATION AND DATE

Pursuant to written notice (Exhibit 1), the matter was heard at Long Beach City Hall, 333 West Ocean Boulevard, Seventh Floor Large Conference Room, on April 11, 2012, commencing at 9:00 a.m.

Inasmuch as the Licensee failed to appear at the hearing, the matter was deemed closed following the City's introduction of evidence, at approximately 9:40 a.m.

4. STATEMENT OF THE ISSUE BEFORE THE HEARING OFFICER

The issue in this matter is as follows: Is the Licensee operating his commercial rental business at the Premises outside the scope of the authorized business activities identified in his business license?

5. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY THE CITY

Ray Gehring, a license inspector employed by the City, testified on the City's behalf.

The City also introduced Exhibits 1-11 and A-C.

The evidence, based on the testimony of Mr. Gehring and the content of the exhibits, is as follows:

- A. The Licensee is the owner of the Premises, according to the records of the Los Angeles County Assessor (Exhibit 3).
- B. The License holds a business license by which he is authorized to operate a commercial/industrial space rental business at the Premises (Exhibit 2).
- C. March 1, 2011: A narcotics investigation was conducted at the Premises during which it was determined that a medical marijuana dispensary known as NatureCann was being operated there in violation of the Long Beach Municipal Code (Exhibit 6).
- D. July 21, 2011: A narcotics investigation was conducted at the Premises during which it was determined that a medical marijuana dispensary known as NatureCann was being operated there in violation of the Long Beach Municipal Code (Exhibit 7).
- E. March 8, 2012: The City, through the City Attorney, served on the Licensee, by certified mail, return receipt requested and by first class mail, an Administrative Citation Warning Notice that a medical marijuana collective was being operated on the Premises in violation of the Long Beach Municipal Code (Exhibit 5). The letter advises the Licensee that if the medical marijuana collective does not cease its operations at the Premises, an administrative citation will be issued against the Licensee.
- F. March 21, 2012: A business license compliance inspection was conducted at the Premises. The inspection revealed that an armed security guard company was being operated at the Premises. The company has no license issued by the City. A citation was issued to the employee of the company at the Premises (Exhibit 8).
- G. March 22, 2012: A business license compliance inspection was conducted at the Premises during which it was determined that a medical marijuana dispensary known as NatureCann was being operated there in violation of the Long Beach Municipal Code (Exhibit 4).

6. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY THE LICENSEE

The Licensee failed to appear at the hearing in person or through counsel or other representative and did not introduce any evidence.

However, on the date of the hearing, at 8:55 a.m., 8:56 a.m. and 9:09 a.m., three emails were received from Matthew Pappas, perhaps counsel for the Licensee, complaining as follows: Erik Sund, the City's Business Relations Manager, was not appearing for a deposition; this hearing "is illegal"; Mr. Pappas would not come into the City because he is in danger when inside the city limits.

These communications accompany this report as Exhibits A-C.

7. FINDINGS OF FACT

The findings of fact are as follows:

- A. The Licensee is the owner of the Premises.
- B. The License holds a business license by which he is authorized to operate a commercial/industrial space rental business at the Premises.
- C. On March 1, 2011, a medical marijuana dispensary known as NatureCann was being operated on the Premises in violation of the Long Beach Municipal Code.
- D. On July 21, 2011, a medical marijuana dispensary known as NatureCann was being operated there in violation of the Long Beach Municipal Code.
- E. On March 8, 2012, the City served on the Licensee an Administrative Citation Warning Notice that a medical marijuana collective was being operated on the Premises in violation of the Long Beach Municipal Code.
- F. On March 22, 2012, an armed security guard company was being operated at the Premises. The company has no license issued by the City.
- G. This hearing was conducted pursuant to the written notice served on the Licensee.
- H. Although the Licensee was provided an opportunity to appear at the hearing and the right to receive copies of the City's exhibits, call and examine witnesses, introduce additional exhibits and cross-examine opposing witnesses on any matter relevant to the issues, he failed to do so.

Report and Recommendation of Hearing Officer
Matter of City of Long Beach Business License Number BU07045412 issued to Khien Chi Ngo
April 17, 2012
Page Five

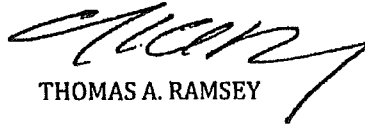
8. RECOMMENDED DECISION

The business license issued to the Licensee allows the Licensee to operate a commercial/industrial space rental business at the Premises. By leasing/renting/licensing/permitting an unlicensed medical marijuana dispensary and an unlicensed armed guard service on the Premises, the Licensee is operating outside the scope of the authorized business activities identified in his business license.

Although not a specific requirement for the recommended decision, the Licensee certainly had knowledge of the presence of these unlicensed businesses, certainly by his relationship with them, by observing their presence on the Premises and by receipt of a variety of notices from the City.

In this factual setting, the recommended decision is that the License be revoked.

Respectfully submitted,



THOMAS A. RAMSEY

TR:dc
Attachments as noted



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

April 19, 2012

Khien Chi Ngo
4332 Atlantic Avenue
Long Beach, CA 90807

RE: Notice of Business License Revocation
Business License Number: BU07045412
Business Address: 4332 Atlantic Avenue, Long Beach, CA 90807

Dear Sir or Madam:

Please be advised that **business license number BU07045412**, issued to Khien Chi Ngo, located at 4332 Atlantic Avenue, Long Beach, CA 90807 **has been revoked**, pursuant to Long Beach Municipal Code Section 3.80.429.1, Subsection (b), **effective April 19, 2012**. Pursuant to LBMC Section 3.80.429.1, you have 10 calendar days to request an appeal, otherwise the revocation will be final.

Failure to cease operations at this location after April 29, 2012 shall constitute a criminal offense pursuant to Long Beach Municipal Code Sections 3.80.429.1, Subsection (a) and 3.80.210.

Pursuant to Long Beach Municipal Code Section 3.80.429.5, you may appeal the revocation to the Long Beach City Council within 10 calendar days from the date of this notice. The request must be in writing, must set forth the specific ground or grounds on which it 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. April 29, 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

CC: Kendra Carney, Deputy City Attorney
Council District 1
Matthew S. Pappas, Attorney

Name/Title

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).

3.80.421.1 - Application—Investigation.

- A. The Director shall refer such application to the appropriate departments of the City in order that it may be ascertained whether the business proposed to be conducted or the premises in which it is proposed to locate such business will comply with applicable fire, building safety, zoning, health and other laws and regulations.
- B. The Director may issue a conditional license under this Chapter for the applicant to conduct business during the investigation period if: all necessary applications have been completed by the applicant, the business tax and application fees have been paid, no department has declared the building or structure "unsafe" as defined in Section 102 of the current edition of the California Uniform Building Code, and the business has not had an application denied pursuant to the provisions of this Chapter within the past year. A conditional license shall not be valid for a period longer than one hundred eighty (180) days from the date of application. During such period, based upon review by the appropriate departments of the City, the applicant may be rejected for failure to comply with applicable laws and regulations at any time. Within one hundred eighty (180) days, if no departments have rejected the applicant or requested an extension of the time to review same, the Director shall issue the license.
- C. The Director, at his sole discretion, may issue a notice of nonoperation during the investigation period when a department determines the building or structure unsafe and corrections are required prior to the safe operation and continuation of the business. Following completion and City approval of any City mandated corrections, a conditional license or a business license may be issued.

(Ord. C-7849 § 1, 2003; Ord. C-6259 § 1 (part), 1986)

3.80.421.5 - Application—Rejection.

In the event that a particular department of the City rejects an application for the reason that such business or the location at which it is proposed to conduct the same will not so comply with applicable laws and ordinances, the Director Of Financial Management shall not issue such license.

(Ord. C-6259 § 1 (part), 1986)

3.80.421.6 - Appeals.

Any applicant for a business license whose application for such license has been denied by the Director of Financial Management may, within ten (10) days after such denial, appeal therefrom to the City Council by filing with the Director a notice of such appeal setting forth the decision and the grounds upon which he deems himself aggrieved thereby. The applicant shall pay to the Director at the time of filing the notice of appeal the fee set by resolution of the City Council for appeals hereunder. The Director shall thereupon make a written report to the City Council reflecting such determination denying the business license. The City Council at its next regular meeting following the filing of said appeal, or within ten (10) days following the filing thereof, shall set said appeal for hearing to be held not less than ten (10) days nor more than thirty (30) days thereafter and such hearing may for good cause be continued by the order of the City Council. Upon the hearing of the appeal the City Council may overrule or modify the decision of the Director appealed from and enter any such order or orders as are in harmony with this Title and such disposition of the appeal shall be final.

(Ord. C-6325 § 8, 1986; Ord. C-6259 § 1 (part), 1986)

3.80.421.7 - Due dates of licenses.

- A. Every new license tax shall be due and payable on or prior to the date of commencement of the transacting or carrying on of the business, trade, profession, calling or occupation for which a tax is imposed under the provisions of this Chapter.
- B. Each license tax for an existing business involving the rental of residential property shall be due and payable on July 1 of each year, and shall be deemed delinquent thirty (30) days after the due date if not paid.
- C. Each license tax for an existing business involving vehicles requiring decals shall be due and payable on January 1 of each year, and shall be deemed delinquent thirty (30) days after the due date if not paid.
- D. Each license tax for an existing business involving vending machine operations is due and payable on July 1 of each year, and shall be deemed delinquent thirty (30) days after the due date if not so paid.
- E. Each license tax for an existing business involving all other business activities shall be due and payable on the anniversary date of issuance of each year, and shall be deemed delinquent thirty (30) days after the due date if not so paid.

(Ord. C-7783 § 15, 2002; Ord. C-6259 § 1 (part), 1986)

Exhibit A12

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 (1) 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)

5.06.020 - Suspension/Revocation/Denial.

- A. Any permit to do business in the City issued pursuant to this Title 5 may be suspended, revoked or denied in the manner provided in this Section upon the following grounds:
1. The permittee or any other person authorized by the permittee has been convicted of violation of any provision of this Code, State or Federal law arising out of or in connection with the practice and/or operation of the business for which the permit has been granted. A plea or verdict of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this Section. The City Council may order a permit suspended or revoked, following such conviction, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the California Penal Code allowing such a person to withdraw his/her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment;
 2. For any grounds that would warrant the denial of the issuance of such permit if application therefore was being made;
 3. The permittee or any other person under his/her control or supervision has maintained a nuisance as defined in Section 21.15.1870 of the Long Beach Municipal Code which was caused by acts committed on the permitted premises or the area under the control of the permittee;
 4. The permittee, his/her employee, agent or any person connected or associated with permittee as partner, director, officer, stockholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for the permit required under the provisions of this Code;
 5. The permittee has failed to comply with any condition which may have been imposed as a condition of operation or for the issuance of the permit required under the provisions of this Code;
 6. The permittee has failed to pay any permit fees that are provided for under the provisions of this Code within sixty (60) days of when the fees are due.
- B. Upon receipt of satisfactory evidence that any of the above grounds for suspension or revocation of said permit exist, the permittee shall be notified in writing that a hearing on suspension or revocation shall be held before the City Council, the grounds of suspension or revocation, the place where the hearing will be held, and the date and time thereof which shall not be sooner than ten (10) days after service of such notice of hearing.
- C. All notices provided for in this Section shall be personally served upon the permittee or left at the place of business or residence of such permittee with some person over the age of eighteen (18) years having some suitable relationship to the permittee. In the event service cannot be made in the foregoing manner, then a copy of such notice shall be mailed, postage fully prepaid, addressed to the last known address of such permittee at his/her place of business or residence at least ten (10) days prior to the date of such hearing.
- D. Whenever a business permit has been revoked/or denied under the provisions of this Section, no other application by such permittee for a business permit to conduct a business or operate in the City shall be considered for a period of one (1) year from the date of such revocation or denial.

(Ord. C-7423 § 14, 1996; Ord. C-6325 § 13 (part), 1986; Ord. C-6260 § 1 (part), 1986)

Exhibit A14

5.06.030 - Appeals from permit denial.

An applicant for a business permit whose application for such permit has been denied shall be notified of the denial in writing. Within ten (10) days after such denial, the applicant may appeal therefrom to the Council by filing with the Director of Financial Management a notice of such appeal setting forth the decision and the grounds upon which he/she deems himself/herself aggrieved thereby. Said applicant shall pay to the Director of Financial Management at the time of filing said notice of appeal a filing fee in an amount to be set by resolution of the City Council. The Director of Financial Management shall thereupon make a written report to the Council reflecting such determination denying the permit. The Council shall, within thirty (30) days following the filing of said appeal, set said appeal for hearing to be held not less than ten (10) days nor more than thirty (30) days thereafter and such hearing may for good cause be continued by the order of the Council. Upon the hearing of the appeal the Council may overrule or modify the decision appealed from and enter any such order or orders as are in harmony with this Title 5, and such disposition of the appeal shall be final.

(Ord. C-7423 § 14, 1996: Ord. C-6325 § 13 (part), 1986: Ord. C-6260 § 1 (part), 1986)

Exhibit A15

CHAPTER 2.93 - CONDUCT OF HEARINGS

2.93.010 - Applicability.

This Chapter applies to the conduct of all hearings, appeals or investigations held by the City Council, the Planning Commission or the Board of Examiners, Appeals and Condemnation pursuant to this Code or any other applicable law where oral evidence or testimony is received and where personal or property rights are involved. This Chapter does not apply to and is not intended to infringe upon the right of a citizen to petition his government for redress. This Chapter applies to all City personnel who testify or present evidence in a hearing.

(Ord. C-5232 § 1 (part), 1976: prior code § 2780)

2.93.020 - Oath or affirmation.

- A. All oral evidence or testimony shall be taken only on oath or affirmation. The presiding officer, the City Clerk or the Secretary of the respective Board or Commission may administer the oath. In a given case where many witnesses are expected to testify, the presiding officer has the discretion to have all prospective witnesses rise and be sworn at the same time at the outset of the proceedings.
- B. The oath or affirmation may be administered as follows, the person who swears or affirms expressing his assent when addressed in the following form:

You do solemnly swear (or affirm, as the case may be), that the evidence you shall give in this issue (or matter), pending before this body, shall be the truth, the whole truth, and nothing but the truth, so help you God.

(Ord. C-5232 § 1 (part), 1976: prior code § 2780.1)

2.93.030 - Rules of evidence.

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(Ord. C-5232 § 1 (part), 1976: prior code § 2780.2)

2.93.040 - Examination of witnesses.

In a contested proceeding each side shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues; to impeach any witness and to rebut the evidence against him. The presiding officer has the discretionary authority to: limit the number of witnesses to testify for each side where their testimony would be cumulative or repetitive in nature; require each side to appoint one (1) spokesman for purposes of cross-examination; limit or curtail any abusive, argumentative, repetitive, or otherwise irrelevant cross-examination; and in conformance with

other rules in this Code place reasonable time limits on the right to cross-examine and the presenting of evidence.

(Ord. C-5232 § 1 (part), 1976: prior code § 2780.3)

2.93.050 - Hearing procedure—City Council.

- A. Whenever it is provided that a hearing governed by this Chapter shall be heard by the City Council, the Council may, in its discretion, either conduct the hearing itself or appoint a Hearing Officer to conduct the hearing.
- B. If a Hearing Officer conducts a hearing the following procedures shall apply:
 - 1. Upon selection of a Hearing Officer, the City Clerk shall set the time and place for the hearing. Notice of hearing shall be sent to interested parties at least twenty (20) days before the hearing.
 - 2. Any party may be represented by counsel; the hearings shall be public and shall be conducted pursuant to the provisions of this Chapter; and the City Clerk shall provide necessary tape recordings as may be reasonably required by the Hearing Officer.
 - 3. The Hearing Officer shall determine the order of proceedings and shall afford all parties a reasonable opportunity to present any relevant evidence. If a party is absent, the Hearing Officer may proceed with the hearing in that party's absence if due notice was given and no explanation for the absence was given.
 - 4. Other than at the hearing, there shall be no direct communication between the parties and the Hearing Officer on any matter related to the hearing. All oral or written communication from the parties shall be directed to the City Clerk for transmittal to the Hearing Officer.
 - 5. The Hearing Officer shall render his decision not later than fifteen (15) days after the hearing is closed and shall immediately file a report with the City Council. At the request of the Hearing Officer, the City Council may extend this reporting period.
 - 6. The report shall be in writing and shall include findings of fact, a summary of the relevant evidence, a statement of the issues, a resolution of the credibility of witnesses where there is conflicting testimony and a recommended decision. A copy of the report shall be served on all parties.
 - 7. Upon receipt, the City Council shall set a time for a hearing to review and consider the report. Notice of hearing shall be sent to all interested parties at least ten (10) days before the hearing.
 - 8. After review of the Hearing Officer's report, the City Council may adopt, reject or modify the recommended decision. In its discretion, the City Council may take additional evidence at the hearing or refer the case to the Hearing Officer with instructions to consider additional evidence.
 - 9. Notice of the City Council's decision shall be served on all interested parties by the City Clerk and the decision takes effect upon such service. If notice is mailed, service is complete when mailed. Unless otherwise provided, this notice provision shall apply to all hearings including those not conducted by a Hearing Officer.

(Ord. C-6003 § 1, 1983)

2.93.060 - Hearing procedure on contractor's or vendor's nonresponsibility.

- A. The City finds that, in order to promote integrity in its contracting processes and to protect the public interest, it shall be the City's policy to conduct business only with responsible contractors and vendors. Notwithstanding anything to the contrary in this Code, the provisions of this Section shall apply to a determination of the nonresponsibility of a contractor or vendor.

- B. Prior to awarding a contract, the City may determine that a contractor or vendor submitting a bid is nonresponsible for purposes of that bid. Before a determination of nonresponsibility is made there shall be a hearing by the Hearing Officer in accordance with the procedures stated in this Section.
- C. The City Manager or designee shall act as Hearing Officer and shall conduct the hearing. Where the Board of Water Commissioners is the awarding authority, the Hearing Officer shall be the General Manager of the Water Department or designee.

At least fourteen (14) days prior to the hearing before the Hearing Officer, the Hearing Officer shall give written notice to the contractor or vendor which notice shall contain the evidence to be presented by the City relating to the issue of nonresponsibility and the date, time and location of the hearing.

- D. At the hearing, the contractor and/or the contractor's attorney or the vendor and/or the vendor's attorney may submit documentary evidence and present witnesses. The City will submit into the record the evidence previously provided to the contractor or vendor and may present witnesses and offer rebuttal evidence. A recording of the hearing may be made at the option of the City or the contractor or vendor. The Hearing Officer will decide the order of proceeding and any time limits on the presentation of evidence and witnesses. If the contractor or vendor or their attorney does not appear at the hearing, the Hearing Officer may proceed if proper notice to the contractor or vendor was given. Other than at the hearing, there shall not be any direct communication between the contractor or vendor or anyone acting on the contractor's or vendor's behalf and the Hearing Officer. All other communications to the Hearing Officer shall be in writing and shall be submitted to the City Clerk at least one (1) day prior to the date of the hearing, for delivery to the Hearing Officer.
- E. After the hearing, the Hearing Officer will promptly prepare a decision on the issue of nonresponsibility and deliver it to the contractor or vendor and to the City Attorney. The decision will state the basis for the determination of nonresponsibility or responsibility. The determination shall be based on the fitness and capacity of the contractor or vendor to satisfactorily perform the obligations of the contract, whether or not the contractor or vendor is qualified to perform those obligations, whether or not the contractor or vendor is trustworthy, and such other bases as may be relevant. The Hearing Officer may consider, among other things:
 - (1) Any act or omission or pattern or practice of acts or omissions that negatively reflect on the contractor's or vendor's quality, fitness or capacity to perform;
 - (2) Any act or omission that indicates a lack of integrity or honesty;
 - (3) The making of a false claim against the City or any other public entity or engaging in collusion;
 - (4) The contractor's or vendor's financial capability to perform;
 - (5) The contractor's or vendor's experience with its sureties and insurance companies;
 - (6) The contractor's or vendor's ability to perform on time and on budget, either in the present or as performed in the past;
 - (7) Whether or not contractor or vendor has performed satisfactorily in the past on its contracts with the City or any other public entity, including, but not limited to, whether or not contractor or vendor has been in default under a contract with the City or any other public entity;
 - (8) The contractor's or vendor's safety record;
 - (9) The contractor's or vendor's history of claims, litigation, and termination or disqualification on public projects; and
 - (10) Contractor's or vendor's contract management skills, including, but not limited to, the use of scheduling tools, submission of schedules, compliance with prevailing wage rates, and certification of accurate payroll documents.
- F. The City Clerk shall mail a copy of the decision to the contractor or vendor. The contractor or vendor shall have five (5) days to file a notice of appeal with the City Clerk. On receipt of such notice, the City Clerk shall set a time for a hearing on the appeal before the City Council and shall send written notice of the time of the appeal hearing to the contractor or vendor at least five (5) days prior to the hearing.

The City Clerk shall set the time for the appeal hearing within fourteen (14) days after the City receives the notice of appeal but no sooner than five (5) days after the date shown on the notice to the contractor or vendor of the time of the appeal hearing. The City Clerk shall simultaneously send a copy of the decision of the Hearing Officer to the City Council.

If the Board of Water Commissioners is the awarding authority, the City Clerk shall immediately forward the notice of appeal to the General Manager of the Water Department who shall set the time for a hearing of the appeal before the Board of Water Commissioners and shall send written notice of the time of the appeal hearing to the contractor or vendor at least five (5) days prior to the hearing. The General Manager shall set the time for the appeal hearing on the date of the first meeting of the Board of Water Commissioners held after the General Manager receives the notice of appeal but which time is, nevertheless, at least five (5) days after the date shown on the notice to the contractor or vendor of the time of the appeal hearing. The General Manager shall simultaneously send a copy of the decision of the Hearing Officer to the Board of Water Commissioners.

- G. No new evidence or testimony may be presented by either the City or the contractor or vendor at the appeal hearing. The City Council or the Board of Water Commissioners, in its discretion, may limit the time allotted for an oral presentation by both the City and the contractor or vendor. At the conclusion of the appeal hearing, the City Council or the Board of Water Commissioners shall receive the decision of the Hearing Officer and either adopt the decision of the Hearing Officer or make its own finding on the issue of nonresponsibility for the purposes of the particular contract, and the City Clerk shall send a certified copy of the minute entry to the contractor or vendor with respect to decision of the City Council or the Secretary to the General Manager of the Water Department shall send a certified copy of the order of the Board to the contractor or vendor. Service of the minute entry or order shall be deemed made when it is deposited in the mail.
- H. The decision by the City Council or the Board of Water Commissioners on appeal to find a contractor or vendor nonresponsible for a particular contract is solely within the discretion of the body acting on behalf of the City.

(Ord. C-7805 § 1, 2002)

2.93.070 - Hearing procedure on contractor's or vendor's debarment.

- A. Notwithstanding anything to the contrary in this Code, the provisions of this Section shall apply to the debarment of a contractor or vendor.
- B. The City may debar a contractor or vendor from submitting bids on future contracts even if that contractor or vendor has an existing contract with the City at the time a decision is made to debar the contractor or vendor from future bids. "Debarment" means that a contractor or vendor is prohibited from submitting a bid, from receiving a contract award, and from receiving a purchase order from the City.
- C. Before a contractor or vendor is debarred there shall be a hearing by the Hearing Officer in accordance with the procedures stated in this Section.
- D. The City Manager or designee shall act as Hearing Officer and shall conduct the hearing. Where the Board of Water Commissioners is the awarding authority, the Hearing Officer shall be the General Manager of the Water Department or designee.

At least fourteen (14) days prior to the hearing before the Hearing Officer, the Hearing Officer shall give written notice to the contractor or vendor which notice shall contain the evidence to be presented by the City relating to the issue of debarment and the date, time and location of the hearing.

- E. At the hearing, the contractor and/or the contractor's attorney or the vendor and/or the vendor's Attorney may submit documentary evidence and present witnesses. The City will submit into the record the evidence previously provided to the contractor or vendor and may present witnesses and offer rebuttal evidence. A recording of the hearing may be made at the option of the City or the contractor

or vendor. The Hearing Officer will decide the order of proceeding and any time limits on the presentation of evidence and witnesses. If the contractor or vendor or their Attorney does not appear at the hearing, the Hearing Officer may proceed if proper notice to the contractor or vendor was given. Other than at the hearing, there shall not be any direct communication between the contractor or vendor or anyone acting on the contractor's or vendor's behalf and the Hearing Officer. All other communications to the Hearing Officer shall be in writing and shall be submitted to the City Clerk at least one (1) day prior to the date of the hearing, for delivery to the Hearing Officer.

- F. After the hearing, the Hearing Officer will promptly prepare a decision containing a determination to debar or not and deliver it to the contractor or vendor and to the City Attorney. The decision will state the basis for the determination on debarment. The determination shall be based on the fitness and capacity of the contractor or vendor to satisfactorily perform the obligations of the contract, whether or not the contractor or vendor is qualified to perform those obligations, whether or not the contractor or vendor is trustworthy, and such bases as may be relevant. The Hearing Officer may consider, among other things:
- (1) Whether or not the contractor or vendor has previously been found to be nonresponsible;
 - (2) The commission by the contractor or vendor of any act or omission or pattern or practice of acts or omissions that negatively reflects on the contractor's or vendor's quality, fitness or capacity to perform;
 - (3) The commission of any act or an omission that indicates a lack of integrity or honesty;
 - (4) The making of a false claim against the City or any other public entity or engaging in collusion;
 - (5) The contractor's or vendor's financial capability to perform;
 - (6) The contractor's or vendor's experience with its sureties and insurance companies;
 - (7) The contractor's or vendor's ability to perform on time and on budget, either in the present or as performed in the past;
 - (8) Whether or not contractor or vendor has performed satisfactorily in the past on its contracts with the City or any other public entity, including, but not limited to, whether or not contractor or vendor has been in default under a contract with the City or any other public entity;
 - (9) The contractor's or vendor's safety record;
 - (10) The contractor's or vendor's history of claims, litigation, and termination or disqualification on public projects; and
 - (11) Contractor's or vendor's contract management skills, including, but not limited to, use of scheduling tools, submission of schedules, compliance with prevailing wage rates, and certification of accurate payroll documents.
- G. The City Clerk shall mail a copy of the decision to the contractor or vendor. The contractor or vendor shall have five (5) days to file a notice of appeal with the City Clerk. On receipt of such notice, the City Clerk shall set a time for a hearing on the appeal before the City Council and shall send written notice of the time of the appeal hearing to the contractor or vendor at least five (5) days prior to the hearing. The City Clerk shall set the time for the appeal hearing within fourteen (14) days after the City receives the notice of appeal but no sooner than five (5) days after the date shown on the notice to contractor or vendor of the time of the appeal hearing. The City Clerk shall simultaneously send a copy of the decision of the Hearing Officer to the City Council.

If the Board of Water Commissioners, the City Clerk shall immediately forward the notice of appeal to the General Manager of the Water Department who shall set the time for a hearing of the appeal before the Board of Water Commissioners and shall send written notice of the time of the appeal hearing to the contractor or vendor at least five (5) days prior to the hearing. The General Manager shall set the time for the appeal hearing on the date of the first meeting of the Board of Water Commissioners held after the General Manager receives the notice of appeal but which time is, nevertheless, at least five (5) days after the date shown on the notice to the contractor or vendor of the time of the appeal hearing. The General

Manager shall simultaneously send a copy of the decision of the Hearing Officer to the Board of Water Commissioners.

- H. No new evidence or testimony may be presented by either the City or the contractor or vendor at the appeal hearing. The City Council or the Board of Water Commissioners, in its discretion, may limit the time allotted for an oral presentation by both the City and the contractor or vendor. At the conclusion of the appeal hearing, the City Council or the Board of Water Commissioners shall receive the decision of the Hearing Officer and either adopt the decision of the Hearing Officer or make its own finding on the issue of nonresponsibility for the purposes of the particular contract, and the City Clerk shall send a certified copy of the minute entry to the contractor or vendor with respect to decision of the City Council or the Secretary to the General Manager of the Water Department shall send a certified copy of the order of the Board to the contractor or vendor. Service of the minute entry or order shall be deemed made when it is deposited in the mail.
- I. The decision by the City Council or the Board of Water Commissioners on appeal to debar a contractor or vendor is solely within the discretion of that body acting on behalf of the City. The City Council or Board of Water Commissioners shall determine the length of time that the contractor or vendor is debarred, which time period may not exceed three (3) years.

(Ord. C-7805 § 2, 2002)

Exhibit B

3.80.210 - License and tax payment required.

There are hereby imposed upon the businesses, trades, professions, callings and occupations specified in this Chapter license taxes in the amounts hereinafter prescribed. It shall be unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the City without first having procured a license from said City to do so and paying the tax hereinafter prescribed and without complying with any and all applicable provisions of this Code, and every person conducting any such business in the City shall be required to obtain a business license hereunder.

This Section shall not be construed to require any person to obtain a license prior to doing business within the City if such requirement conflicts with applicable statutes of the United States or of the State of California.

Any person who engages in any business for which a business license is required, shall be liable for the amount of all taxes and penalties applicable from the date of commencement of the business, whether or not such person would have qualified for such business license; however, such payment shall not create any right for the person to remain in business.

All payments of business license tax received by the City, irrespective of any designation to the contrary by the taxpayer, shall be credited and applied first to any penalties and tax due for prior years in which the tax was due but unpaid.

(Ord. C-7783 § 2, 2002; Ord. C-6259 § 1 (part), 1986)

Exhibit C

3.80.236 - Tax on rental of nonresidential property.

Every person engaged in the business of rental of nonresidential property shall pay an annual business license tax to the City consisting of two and seven-tenths (27/10) cents for each square foot of rental space (based upon CPI base year 2000).

(Ord. C-7783 § 9, 2002: Ord. C-6837 § 7, 1990: Ord. C-6259 § 1 (part), 1986)

CITY OF LONG BEACH
BUSINESS LICENSE
OWNERSHIP - TRANSFERABLE
LICENSE EXPIRES ON 04/25/12

Exhibit D

ACCOUNT: BU07045412

DATE: 04/25/11

THE LICENSEE NAMED BELOW IS AUTHORIZED TO OPERATE THE FOLLOWING TYPE OF
BUSINESS: COMM/INDUST SPACE RENTAL
LOCATED AT: 4332 ATLANTIC AVE

908076
NGO, KHIEH CHI
4334 ATLANTIC AVE
LONG BEACH CA 90807

INCLDS: 4332-4336 ATLANTIC AVE
AUTHORIZED BY DAVID S. NAKAMOTO
ACTING FIN MGMT DIRECTOR

=====> 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.



CITY OF LONG BEACH, CALIFORNIA
PERMIT TO OPERATE
ANNUAL HEALTH PERMIT

ACCOUNT: HF00016935

Exhibit E

THE PERSON, FIRM OR CORPORATION HEREON NAMED IS GRANTED A PERMIT TO OPERATE IN CONFORMITY WITH EXISTING ORDINANCES REGULATING PUBLIC HEALTH AND SANITATION.

THIS PERMIT IS NOT TRANSFERABLE, AND MAY BE SUSPENDED OR REVOKED FOR JUST CAUSE.

REMOVE THE BOTTOM PORTION OF THIS FORM AND POST IT IN A CONSPICUOUS PLACE ON THE PREMISES.

CITY OF LONG BEACH, CALIFORNIA
PERMIT TO OPERATE
ANNUAL HEALTH PERMIT

4 285

ACCOUNT: HF00016935

DATE: 07/29/16

PERMIT EXPIRES ON 07/31/17

THE CITY OF LONG BEACH HEREBY AUTHORIZES THE PERMITTEE NAMED BELOW TO OPERATE AS: 1-1999 SQ. FT. RETAIL FOOD PROCESSOR.

LOCATED AT: 4334 ATLANTIC AVE

DBA: ALSACE LORRAINE FINE PASTRIES

POST THIS PORTION IN A CONSPICUOUS PLACE AT THE ABOVE ADDRESS.



ALSACE LORRAINE FINE PASTRIES INC
ALSACE LORRAINE FINE PASTRIES
4334 ATLANTIC AVENUE
LONG BEACH CA 90807

AUTHORIZED BY MITCHELL KUSHNER, M.D.
CITY HEALTH OFFICER