



Legislation Details (With Text)

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File created:	10/4/2016	In control:		In control:	City Council
On agenda:	11/22/2016	Final action:		Final action:	11/22/2016
Title:	Recommendation to receive 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)				
Sponsors:	Financial Management				
Indexes:	Licenses				
Code sections:					
Attachments:	1. 101816-H-2sr&att.pdf, 2. 112216-CH-1sr&att.pdf				

Date	Ver.	Action By	Action	Result
11/22/2016	1	City Council	approve recommendation	Pass
10/18/2016	1	City Council	laid over	Pass

Recommendation to receive 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)

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.

In addition, these were the events leading up to the hearing officer's decision, in chronological order:

- 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. On April 17, 2012, the hearing officer recommended that the Director of Financial Management revoke business license number BU07045412 (Attachment A). On April 19, 2012, and prior to Alsace Lorraine's application for a business license, the Department of Financial Management revoked the property owner's commercial/industrial business license (Attachment B).

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 property owner Khien C. Ngo's business license being revoked, there is no longer a valid commercial/industrial business license located at 4332-4336 Atlantic Avenue. Subsequently, with no valid business license to lease the commercial/industrial space, the application for Alsace Lorraine, located at 4334 Atlantic Avenue, was denied.

- On June 19, 2014, Alsace Lorraine applied for a food processing license to operate as a bakery at 4334 Atlantic Avenue (Attachment C).
- On September 2, 2014, the Department of Financial Management denied the business license application (BU21426600) submitted by Alsace Lorraine due to failure of the property owner, Khien C. Ngo, to comply with applicable laws and regulations, pursuant LBMC Sections 3.80.421.1 (A), 3.80.421.5, and 3.80.429.1 (Attachment D).
- On September 9, 2014, Alsace Lorraine lodged its written request for appeal (Attachment E). 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 (Attachment F).
- 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 (Attachment G).
- On July 6, 2016, Alsace Lorraine lodged a second written request for appeal (Attachment H), and, on August 9, 2016, the City Council referred the matter to a hearing officer in accordance with LBMC 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.

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

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

Approve recommendation.

JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

APPROVED:

PATRICK H. WEST
CITY MANAGER