

# CITY OF LAS VEGAS

Bradford R. Jerbic  
City Attorney

OFFICE OF THE CITY ATTORNEY



400 Stewart Avenue, Ninth Floor  
Las Vegas, NV 89101-2986  
(702) 229-6629  
Fax: (702) 386-1749  
E-mail: [whenry@lasvegasnevada.gov](mailto:whenry@lasvegasnevada.gov)

October 31, 2006

**HAND DELIVERED**

Mulugeta Bour  
d/b/a OAKY DISCOUNT MARKET  
1401 Via Savona Drive  
Henderson, NV 89052

**RE: Notice of City Council Meeting on November 15, 2006, at 9 a.m. to Consider Taking Administrative Action Against Your Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No. C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408**

Dear Mr. Bour:

Please be informed that on Wednesday, November 15, 2006, at 9 a.m., or as soon thereafter as the matter can be heard, the Las Vegas City Council, meeting in its Chambers at 400 Stewart Avenue, Las Vegas, Nevada, will consider whether or not to take administrative action against your Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No. C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408. This will occur at a meeting open to the public and you are entitled to attend the proceedings.

Very truly yours,

OFFICE OF THE CITY ATTORNEY

A handwritten signature in black ink, appearing to read "W. Henry".

WILLIAM P. HENRY  
Senior Litigation Counsel

WPH:ck

Submitted at City Council

Date 11/15/2006 Item # 53

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BEFORE THE CITY COUNCIL  
OF THE CITY OF LAS VEGAS, NEVADA

IN THE MATTER OF:

DEPARTMENT OF FINANCE AND  
BUSINESS SERVICES on behalf of the  
CITY OF LAS VEGAS, NEVADA,

Petitioner,

vs.

MULUGETA BOUR d/b/a OAKY  
DISCOUNT MARKET,

Respondent.

AFFIDAVIT OF SERVICE

STATE OF NEVADA        )  
                                  ) ss:  
COUNTY OF CLARK     )

LEONARD D. WILSON, being first duly sworn, says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, and not a party to or interested in the proceeding in which this affidavit is made. That on November 1, 2006, affiant received a letter notice of a hearing considering administrative action to be held November 15, 2006, before the Las Vegas City Council in relation to Respondent's Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No. C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408 addressed to Mulugeta Bour d/b/a OAKY DISCOUNT MARKET, 1616 Las Vegas Boulevard South, Las Vegas, NV 89104, and served

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.....  
.....

1 the same on Mulugeta Bour d/b/a OAKEY DISCOUNT MARKET, Respondent herein, at  
2 1616 Las Vegas Boulevard South, Las Vegas, Clark County, Nevada, November 1, 2006.

3 DATED this 14<sup>th</sup> day of November, 2006.

4  
5   
LEONARD D. WILSON

6 SUBSCRIBED AND SWORN TO before  
7 me this 14<sup>th</sup> day of November, 2006.



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NOTARY PUBLIC

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BEFORE THE CITY COUNCIL  
OF THE CITY OF LAS VEGAS, NEVADA

\* \* \*

IN THE MATTER OF:

DEPARTMENT OF FINANCE AND  
BUSINESS SERVICES on behalf of the  
CITY OF LAS VEGAS, NEVADA,

Petitioner,

vs.

MULUGETA BOUR d/b/a OAKY  
DISCOUNT MARKET,

Respondent.

**COMPLAINT FOR  
DISCIPLINARY ACTION**

The DEPARTMENT OF FINANCE AND BUSINESS SERVICES, on behalf of the  
CITY OF LAS VEGAS, NEVADA (Department), Petitioner, brings this Complaint for  
Disciplinary Action against MULUGETA BOUR d/b/a OAKY DISCOUNT MARKET,  
1616 Las Vegas Boulevard South, Las Vegas, Clark County, Nevada, Respondent, and states:

Respondent MULUGETA BOUR d/b/a OAKY DISCOUNT MARKET, holds  
Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No.  
C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408.

**SUMMARY OF ALLEGATIONS**

Mulugeta Bour is the sole proprietor of Oakey Discount Market. Starting in March  
2003, he was **granted a number of temporary Beer/Wine/Cooler Off-Sale licenses** by the  
Las Vegas City Council. Finally, in June 2004, he was granted a permanent license. Between  
May 2003 and April 2006 Mr. Bour was **cited and arrested** by the Las Vegas Metropolitan  
Police Department for Failure to Possess a Health Card, Failure to Possess an Alcohol

Submitted at City Council

Date 11/15/2006 Item #53

1 Awareness Card, Failure to Maintain an Employee List, and **Sale of Narcotics**

2 **Paraphernalia, a felony.**

3 On April 27, 2006, Mr. Bour appeared before the Las Vegas Planning Commission  
4 seeking a special use permit to sell beer and wine at Fourth Street Market, 113 North Fourth  
5 Street, Las Vegas, Clark County, Nevada. **Mr. Bour told Commissioner Steinman** he had  
6 never had problems with Metro at his other place of business, Oakey Discount Market. **He**  
7 **lied.** In truth and fact, Mr. Bour had been arrested by the Las Vegas Metropolitan Police  
8 Department April 13, 2006, at Oakey Discount Market for a felony, Sale of Narcotics  
9 Paraphernalia to an undercover officer.

10 Mulugeta Bour violated the law in the operation of his business. Substantial  
11 information exists to believe that he is dishonest and corrupt. He engaged in a deceptive  
12 practice upon the public when he lied to a public body, the Las Vegas Planning Commission.

13 **PROCEDURAL HISTORY**

14 The Las Vegas City Council issued a temporary license for beer/wine/cooler off-sale to  
15 Mulugeta Bour on March 5, 2003. The license provided for a six-month review of Oakey  
16 Discount Market. On September 3, 2003, a six-month review was conducted before the City  
17 Council. The Council was informed that warning notices had been written to Mr. Bour for  
18 selling single containers of beer. Mr. Bour admitted that he had engaged in this conduct on  
19 one occasion. He also admitted not posting an employee list, but told the City Council that he  
20 had one. He also admitted to not having a valid health card in his possession when Metro  
21 Special Investigations detectives asked to inspect it, but stated that he had left it in his wallet in  
22 his car. He apologized. The City Council granted an extension to the temporary license.

23 The matter appeared on the March 3, 2004-agenda but was abeyed to March 17, 2004,  
24 when a second extension to the temporary license was granted.

25 On June 16, 2004, the City Council granted a permanent license to sell beer and wine,  
26 including single containers.

27 . . . .

28 . . . .

## VIOLATIONS OF LAW

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2           **On May 29, 2003**, officers of the Las Vegas Metropolitan Police Department  
3 determined that Mulugeta Bour did not possess a health card, an alcohol awareness card, or an  
4 employee list.

5           **On June 12, 2003**, officers of the Las Vegas Metropolitan Police Department  
6 determined that Nuriden Shifa, an employee at Oakey Discount Market, did not possess a  
7 work card. They also determined that Mr. Bour did not have a completed work card list with  
8 employees' work card numbers. Finally, it was noted that he had not posted his business  
9 license.

10           **On August 21, 2003**, officers of the Las Vegas Metropolitan Police Department  
11 determined that Mr. Bour did not have an employee list.

12           **On April 13, 2006**, an officer of the Las Vegas Metropolitan Police Department acting  
13 in an undercover capacity purchased narcotics' paraphernalia from Mulugeta Bour at Oakey  
14 Discount Market. The officer purchased a "set up," specifically a three-inch galls tube  
15 containing a plastic rose and a chor boy brillo pad placed in a brown paper bag. Thereafter,  
16 Mr. Bour was arrested for **felony Sale of Narcotics Paraphernalia**. During the course of the  
17 arrest he showed officers that he stored the chor boys in the bathroom, and the glass pipes  
18 under the cash register. Two hundred and eighty-eight (228) glass pipes were found in a box  
19 under the cash register, with an additional thirty (30) pipes in the cash register. Officers noted  
20 a sign in the store which read "If you don't see what you want, ask for it."

21           The officer involved formed an opinion, based on his training and experience, and  
22 from a consideration of all the circumstances, that **the "set ups" being sold by Mulugeta**  
23 **Bour were narcotics paraphernalia intended to facilitate smoking crack cocaine**. One of  
24 the circumstances considered by the officer was that Sergeant Wally of the Downtown Area  
25 Command had **warned** Mulugeta Bour four months earlier that the sale of narcotics  
26 paraphernalia was a crime.

27           **On April 27, 2006**, Mulugeta Bour appeared before the Las Vegas Planning  
28 Commission on Agenda Item No. 25, an **application for special use permit to utilize Fourth**

1 **Street Market**, located at 113 North Fourth Street, Las Vegas, Clark County, Nevada, **for**  
2 **the sale of beer and wine**. During the course of the hearing Mr. Bour entered into  
3 conversation with Commissioner Steinman. **He told Commissioner Steinman** that he had  
4 never had problems with Metro at his other place of business, Oakey Discount Market, located  
5 at 1616 Las Vegas Boulevard South, Las Vegas, Clark County, Nevada. **This was a lie**. Mr.  
6 Bour had been arrested two weeks earlier on April 13, 2006, by officers of the Las Vegas  
7 Metropolitan Police Department. They arrested him for felony Sale of Narcotics  
8 Paraphernalia, "set ups" intended to facilitate smoking crack cocaine.

9 **THE LAW**

10 LAS VEGAS MUNICIPAL CODE (LVMC) § 6.06.250(A) and (B)(6), (7), and (10)  
11 provide:

12 A licensee may be subject to disciplinary action as set  
13 forth in Sections 6.02.330 through 6.02.360.

14 A principal approved for suitability may be subject to  
15 **disciplinary action** by the City Council for good cause, which  
16 may include, but is not limited to:

17 . . . .

18 **The principal has committed acts which would**  
19 **constitute a crime** involving moral turpitude or involving any  
20 Federal, State or local law or regulation relating to the same or a  
21 similar business;

22 When substantial information exists which tends to show  
23 that **the principal is dishonest** or corrupt;

24 . . . .

25 The principal has engaged in **deceptive practices** upon the  
26 public . . . . [Emphasis added.]

27 LVMC § 6.02.330(H) provides:

28 The licensee may be subject to disciplinary action by the  
City Council for good cause, which may, without limitation,  
include:

. . . .

The actual business activity constitutes a public or private  
**nuisance**, or has been or is being **conducted in an unlawful**,  
illegal or impermissible **manner**. [Emphasis added.]

1 LVMC § 6.50.440 provides:

2 It is unlawful for any of the following to be employed in  
3 the retail sales of alcoholic beverages for on or off premises  
4 consumption without having in his or her possession a valid **work**  
5 **card** for alcoholic beverages pursuant to LVMC Chapter 6.86:

6 (A) A manager;

7 (B) Any employee who pours or serves alcoholic  
8 beverages for on premises consumption; or

9 (C) Any employee who accepts payment for the sale or  
10 delivery of alcoholic beverages for off premises consumption.  
11 [Emphasis added.]

12 LVMC § 6.50.570 provides:

13 The **completion card** or a copy thereof issued by the  
14 instructor of an **alcohol awareness training** course or refresher  
15 course to a person successfully completing the course must be  
16 available during the work shift on the premises where the person,  
17 as an employee, is serving, selling or distributing alcoholic  
18 beverages for inspection by Metro, City or other governmental  
19 personnel. [Emphasis added.]

20 LVMC § 6.02.350 provides:

21 A licensee under this Chapter shall be subject to  
22 **disciplinary action not only for acts or omissions done by such**  
23 **licensee but also for acts and omissions done by the principals,**  
24 **managers, agents, representatives, servants or employees of such**  
25 **licensee.** [Emphasis added.]

26 Nevada Revised Statute (NRS) 453.560 provides:

27 Unless a greater penalty is provided in NRS 212.160, a  
28 person who delivers or sells, possesses with the intent to deliver  
or sell, or manufactures with the intent to deliver or sell any  
**drug paraphernalia**, knowing, or under circumstances where  
one reasonably should know, that it will be used to plant,  
propagate, cultivate, grow, harvest, manufacture, compound,  
convert, produce, prepare, test, analyze, pack, repack, store,  
contain, conceal, inject, ingest, inhale or otherwise introduce into  
the human body a controlled substance in violation of this chapter  
is guilty of a **category E felony** and shall be punished as  
provided in NRS 193.130. [Emphasis added.]

29 NRS 453.554(11)(a) and (b) provides:

30 As used in NRS 453.554 to 453.566, inclusive, unless the  
31 context otherwise requires, "**drug paraphernalia**" means all  
32 equipment, products and materials of any kind which are used,  
33 intended for use, or designed for use in planting, propagating,  
34 cultivating, growing, harvesting, manufacturing, compounding,

1 converting, producing, preparing, testing, analyzing, packaging,  
2 repackaging, storing, containing, concealing, injecting, ingesting,  
3 inhaling or otherwise introducing into the human body a  
4 controlled substance in violation of this chapter. The term  
5 includes, but is not limited to:

6 . . . .

7 **Objects used, intended for use, or designed for use in**  
8 **ingesting, inhaling or otherwise introducing marijuana, cocaine,**  
9 **hashish or hashish oil into the human body, such as:**

10 Metal, wooden, acrylic, **glass**, stone, plastic or ceramic  
11 **pipes** with or without screens, permanent screens, hashish heads  
12 or punctured metal bowls;

13 Water pipes . . . . [Emphasis added.]

14 **EVIDENCE**

15 LVMC § 6.88.090 provides:

16 (A) **The hearing need not be conducted according to**  
17 **technical rules relating to evidence** and witnesses. Any relevant  
18 evidence may be admitted.

19 (B) The respondent shall have the right to call and  
20 examine witnesses on his own behalf, cross-examine opposing  
21 witnesses, introduce exhibits and evidence relevant to the issues  
22 of the case, and offer rebuttal evidence.

23 (C) The respondent may be called and examined by the  
24 City.

25 (D) The Clerk shall have the power to issue subpoenas for  
26 witnesses to appear to give testimony. [Emphasis added.]

27 **PENALTY**

28 LVMC § 6.02.360 provides:

Upon a showing of good cause and in the discretion of the  
City Council, disciplinary action against a holder may take the  
form of cancellation, **revocation**, refusal to renew, **suspension**,  
imposition of conditions or restrictions or civil **fine** in an amount  
not to exceed one thousand dollars for each day that the violation  
which forms the subject matter of the complaint that recommends  
such disciplinary action is demonstrated to have been in  
existence, or any combination of such actions, as the particular  
situation may require. The Council may also impose against the  
licensee the actual costs incurred, and a reasonable amount for  
attorney's fees, resulting from the imposition of disciplinary  
action. The disciplinary actions available in this Section shall be

1 in addition to, and not exclusive of, any other civil or criminal  
2 remedy which otherwise might be available. [Emphasis added.]

3 **ALLEGATION**

4 It is alleged that between May 29, 2003, and April 13, 2006, Mulugeta Bour d/b/a  
5 Oakey Discount Market operated the business so that the actual business activity constituted a  
6 public or private nuisance, and was conducted in an unlawful, illegal or impermissible manner.  
7 It is further alleged that Mulugeta Bour committed acts which constitute crimes under state and  
8 local law. Mulugeta Bour has demonstrated that he is dishonest and corrupt by lying to the  
9 Las Vegas Planning Commission. Further, he engaged in a deceptive practice upon the public  
10 when he lied to members that public body.

11 WHEREFORE, the Petitioner respectfully requests the City Council to:

12 A. Approve the Complaint for Disciplinary Action and order a disciplinary hearing  
13 at which the Respondent shall appear and show cause why the licenses that are the subject of  
14 this Complaint should not be suspended or revoked, or other disciplinary action taken; or

15 B. Grant such other and further relief as the Council deems appropriate.

16 DATED this 8<sup>th</sup> day of November, 2006.

17 RESPECTFULLY SUBMITTED:

18  
19 By:



MARK R. VINCENT, Director  
Finance and Business Services

20  
21 BRADFORD R. JERBIC  
22 City Attorney

23 By:



24 WILLIAM P. HENRY  
25 Senior Litigation Counsel  
26 Nevada Bar No. 101  
27 400 Stewart Avenue, Ninth Floor  
28 Las Vegas, NV 89101  
Attorneys for CITY OF LAS VEGAS