



*Las Vegas*

Agenda Item No.: 67.

**AGENDA SUMMARY PAGE**  
**CITY COUNCIL MEETING OF SEPTEMBER 19, 2007**

DEPARTMENT: FINANCE AND BUSINESS SERVICES

DIRECTOR: MARK R. VINCENT

Consent  Discussion

**SUBJECT:**

Discussion and possible action regarding an appeal of Non-renewal of a Cosmetological Establishment License, Tranquility Spa, dba Tranquility Spa, 2123-A Paradise Road, Jay Smith, Mgr, 33.3% Jason Gatley, Mgr, 33.3%, and Connie Ferrero, Mgr, 33.3% - Ward 3 (Reese)

**Fiscal Impact**

- No Impact  Augmentation Required  
 Budget Funds Available

**Amount:**

**Funding Source:**

**Dept./Division:**

**PURPOSE/BACKGROUND:**

On September 4, 2007 this business license was denied due to several infractions of business licensing codes and criminal violations. The licensees have requested an appeal of non-renewal of this business license to be heard by the City Council.

**RECOMMENDATION:**

The City Council to uphold the action to non-renew this business license.

**BACKUP DOCUMENTATION:**

1. Letter of Appeal submitted by Jay Smith
2. Letter of non-renewal of the business license dated September 4, 2007
3. Department prepared Investigative Report dated August 30, 2007
4. Submitted at meeting Letter from City Life by Connie Ferrero

Motion made by GARY REESE to Deny the appeal, thereby denying the license

Passed For: 6; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 1

RICKI Y. BARLOW, LOIS TARKANIAN, LARRY BROWN, OSCAR B. GOODMAN,  
GARY REESE, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-None);  
(Excused-STEVE WOLFSON)

Minutes:

JIM DiFIORE, Manager of Business Services, explained that this matter is on the agenda due to appeal of non-renewal of the license. He gave a chronological history on this matter. A business license application was submitted March 27, 2007, for a cosmetological establishment license with the description of the business as a day spa with cosmetology, heat therapy, body wraps,

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facials, relaxation, two stations; no massage, reflexology or sales. The license being sought is state regulated, and since the applicants could not provide proof of state licensing, a letter of denial was subsequently sent to the applicants. The administrative denial allows the applicants to obtain a state license prior to being considered for City licensing. In early May, proof of state licensing was submitted, and the City issued the cosmetological license May 8. On May 24, pictures, which he displayed on the overhead projectors, were taken. On May 29, an inspection revealed that massage tables existed in four rooms and little or no equipment could be found in the establishment. MR. SMITH insisted that all activities fell within the scope of the license, claiming they offered relaxation sessions, which he insisted the sessions did not involve massage, but offered pleasant company, conversation and body rubs.

LVMC 6.52 defines massage as any method of treating any of the external parts of a person, including, but not limited to rubbing, stroking, kneading, tapping, pounding, vibrating or stimulating with hands, feet, elbows or any other part of the body. MR. SMITH was provided a copy of this code, and the definition of massage was discussed with him. Staff believes that the intent of the applicants was to offer massage within the correct license. ANNIE CURTIS, Chief Inspector for the Nevada Board of Cosmetology, was present at the inspection, and she determined that MS. FERRERO was a duly licensed massage therapist by the state. MS. CURTIS issued a citation and the unlicensed persons were asked to leave and to not return until receipt of state licensing. She also advised MR. SMITH that the state limits rubbing only to scalp treatments. During the inspection, licensing officers also learned that one of the employees was being allowed to live in the establishment while making tenant improvements without a licensed contractor.

On July 10, vice and special investigation detectives conducted an undercover operation at Tranquility Spa, and one of the officers paid \$100 for massage, during which he was made an offer of a sexual nature. After an agreed upon amount, detectives entered the building and MR. GATLEY attempted to leave. A list of services was observed which included full-body massage, foot reflexology and body wraps, yet nobody in the establishment held a valid license to offer or conduct massage. MR. GATLEY and MS. FERRERO, who were present, denied having any knowledge about what happens behind closed doors at the establishment. MS. FERRERO stated to the detectives that the massage tables situated in the rooms were used for body wraps and that she was performing facials; however, there were no sinks or warming devices for towels in the rooms. MS. FERRERO showed the detective a warming device, which turned out to be a rice cooker.

MR. GATLEY and MS. FERRERO were both issued citations for operating a massage establishment without proper licensing, to which MR. GATLEY and MS. FERRERO pleaded not guilty at the arraignment. Both are set for pre-trial in November. Moreover, the attendant was arrested for soliciting prostitution, obscene touching, exposure of the genitals and performing massage without a license. Her arraignment date is also set for November.

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On August 29, licensing officers found documentation that led them to find that Tranquility Spa was advertising in a magazine for hand and foot massage for a \$25 fee. MR. DiFIORE showed a picture of the ad, noting that the LVMC defines reflexology as a method of using hands, thumbs or fingers to apply specific pressure to reflex points located in the hands, feet or ears. The services advertised require a reflexology license, which Tranquility Spa does not have. Additionally, an ad has been running in the massage section of City Life for Tranquility Spa. MR. DiFIORE listed the grounds for denial, which are included in the letter of non-renewal dated September 4, 2007 in the backup. MR. DiFIORE requested that the Council uphold the denial of the renewal of this business license.

MAYOR GOODMAN confirmed with CITY ATTORNEY JERBIC that the advertisements were not protected under the First Amendment in this case.

MS. FERRERO conceded that there have been some issues with Tranquility Spa. She submitted a letter, a copy of which is made part of the minutes, from the city affirming that Tranquility Spa never advertised in the massage section and should have been advertised in the mind, body and spirit section of the magazine. The other advertisements for hand and foot massage ceased when they found out that they could not perform such massage. As far as her arraignment, she said she has not yet received a subpoena to court in November; MR. GATLEY is the only one that has received one. She noted that she would like to lose the business, and she is the only person currently operating in the area.

COUNCILMAN REESE sympathized with MS. FERRERO, but expressed concern about the problems arising from these types of establishments along Paradise Road. To his understanding, this location was supposed to run a cosmetology shop, but it is evident that is not what is happening. He commented that he wanted the business to cease and desist until the matter is handled in court, thereby denying the appeal.