



AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: SEPTEMBER 17, 2008

DEPARTMENT: FINANCE AND BUSINESS SERVICES
DIRECTOR: MARK R. YICCI

Consent Discussion

SUBJECT:

Discussion and possible action regarding an Appeal of Denial for a Management Consultant License, Getting Out LLC, dba Getting Out, LLC, 840 South Rancho Drive, Suite 4, #607, Darren Hernes, Manager, Member, 100% - Ward 1 (Tarkanian)

Fiscal Impact

No Impact

Augmentation Required

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

Discussion and possible action regarding an Appeal of Denial for a Management Consultant License.

RECOMMENDATION:

Recommendation to be provided following the discussion of this item at the City Council Meeting.

BACKUP DOCUMENTATION:

1. Business license application
2. Denial letter
3. Applicant's letter of appeal
4. Submitted after Final Agenda - Informational Packet by Applicant

Motion made by LOIS TARKANIAN to Deny

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

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

Minutes:

JIM DiFIORE, Manager of Business Services, outlined the history of the application and the correspondence that took place prior to denying the applicants request for a business license. On October 2nd, staff sent a letter to the applicant notifying him that his application was denied



DATE: SEPTEMBER 17, 2008

based upon LVMC 6.02.090, specifically a) the application was incomplete or contained false or misleading information, b) a fixed place of business where the business will be conducted is required and a post office box is not acceptable and c) the proposed business constitutes a chronic nuisance, should staff receive complaints/concerns but has no physical address to investigate. In addition, the Code allows for staff to enforce Title 6 relative to monitoring the business but without a proper physical address, staff cannot do so. In conclusion, MR. DiFIORE recommended Council uphold staffs denial of the business license. MR. DiFIORE confirmed for MAYOR GOODMAN that he met with the applicant a week prior to today's meeting and was given an opportunity to rectify the violation by providing a home address. Had MR. HERNES obliged, his application would have gone forward and not be placed on the agenda.

Applicant DARRIN HERNES explained that he uses the 840 Rancho Drive address as a means of protecting his family from a stalker. He explained his position to the Mayor and stated he is a commercial registered agent and his business is under the fictitious name, Getting Out LLC. In reciting portions of the Code, he pointed that any due process of law can take place by the address he provided, including certified mailings. MR. HERNES could not clarify for COUNCILMAN BARLOW his hours of operation. He believed the application could be misleading and within several of staffs correspondence, staff has failed to cite the code adequately relative to his request and their reason for denial.

COUNCILWOMAN TARKANIAN noted that being a point of contact for LLCs is currently an issue before the State, as all individuals involved may not be disclosed. She pointed out that the decision is based upon the business license itself and not on the due process of law. She deferred to the City Attorney regarding staffs September 2, 2008 letter to the applicant and also questioned if the Nevada Revised Statutes support MR. HERNES request. DEPUTY CITY ATTORNEY VAL STEED clarified for the Councilwoman that the main issue with this application is that should Business License need to inspect MR. HERNES place of business, staff would not be able to do so without a physical address. The State accepting a post office box for a physical address is irrelevant; the Citys local licensing powers are much broader than the States ability to regulate business and how they are conducted. It was the City Attorneys opinion that staffs reasons for denial were appropriate.

COUNCILMAN WOLFSON noted that, technically, MR. HERNES may not be abiding by the Code but in all practicality, he could be contacted if necessary. Yet, he understood staffs reasons for denying MR. HERNES request. MR. HERNES inserted that he has also included contact numbers, including an email address, on his application. MR. DiFIORE pointed out that many times contact information changes including email addresses, which makes it very difficult to serve notice and/or conduct inspections. It is the applicants responsibility to notify staff of any change(s) on the initial application.

After further attempts to clarify what MR. HERNES business entailed and the validity of the business, COUNCILWOMAN TARKANIAN was lead to support staff and counsel in upholding the denial of the business license. She emphasized it is her responsibility to protect the residents in her ward and ensure that businesses are appropriate and compatible.