

CITY COUNCIL MEETING OF
March 4, 2009
VERBATIM TRANSCRIPT – ITEM 62

1 **Discussion and possible action regarding an Appeal of Non-renewal of a Tanning Salon**
2 **license, Hawaii Relax Tanning & Spa, 3053 South Valley View Blvd., Hoa Van Le, Owner,**
3 **100% - Ward 1 (Tarkanian)**

4 F

5 **Appearance List:**

6 OSCAR GOODMAN, Mayor

7 BRAD JERBIC, City Attorney

8 WILLIAM TERRY, Counsel for Hoa Van Le

9 LINDA NORVELL MARQUIS, Counsel for Hoa Van Le

10 JOHN REDLEIN, Assistant City Attorney

11 RICKI Y. BARLOW, Councilman

12 STEVE WOLFSON, Councilman

13 JIM DiFIORE, Business Services Manager

14 DAVID RIGGLEMAN, Communications Director

15 UNIDENTIFIED STAFF MEMBER

16 JEFF GENTRY, Detective, Las Vegas Metropolitan Police

17 GARY REESE, Councilman

18 LOIS TARKANIAN, Councilwoman

19

20

21 (1 hour 7 minutes)

22

23 Typed by: Carmel Viado/Deeny Araujo

24 Proofed by: Deeny Araujo/Carmel Viado

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25 **MAYOR GOODMAN**

26 All right. Item 62 is discussion and possible action regarding an appeal of non-renewal of a
27 Tanning Salon license for Hawaii Relax Tanning and Spa, at 3053 South Valley View
28 Boulevard, Hoa Van Le, owner. This is in Ward 1.
29 Let me, before we start this, folks, there're folks out there. Does anybody have another matter
30 before us? 'Cause this could take some time. And I could call your matter out of order if it
31 would be convenient to you. All right. I assume it's for other matters then. That's fine.
32 All right. Mr. Jerbic.

33

34 **BRAD JERBIC**

35 Thank you, Your Honor –

36

37 **MAYOR GOODMAN**

38 Why don't I –

39

40 **BRAD JERBIC**

41 Members of Council, I would –

42

43 **MAYOR GOODMAN**

44 – identify themselves for the record, please.

45

46 **BRAD JERBIC**

47 This is Brad Jerbic, speaking on behalf of the City Attorney's Office, representing the City of
48 Las Vegas.

49

50 **MAYOR GOODMAN**

51 Okay. Mr. Terry.

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52 **WILLIAM TERRY**

53 Mr. Mayor. Councilmen (sic). William Terry appearing with Mr. Le and Linda Norvell
54 Marquis.

55

56 **MAYOR GOODMAN**

57 Thank you very much.

58

59 **BRAD JERBIC**

60 Morning, Your Honor.

61

62 **MAYOR GOODMAN**

63 All right, Mr. Jerbic.

64

65 **BRAD JERBIC**

66 The procedure before we begin, to let you know that I may be calling two, as many, three
67 witnesses. One of the witnesses is an undercover detective. Before I do that, I will tell the, this
68 body that I'm calling the undercover detective. It's my understanding the cameras will then go
69 just to the Council. They will not go to the witnesses, like the camera's probably on me right
70 now as I'm talking. So for the public at home, that's why we're doing it. It's an undercover
71 officer. We don't wanna compromise his identity, but it will provide a full opportunity for Mr.
72 Terry and his client to examine him –

73

74 **MAYOR GOODMAN**

75 Fine.

76

77 **BRAD JERBIC**

78 – and do whatever they need to do.

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79 **MAYOR GOODMAN**

80 Fine. I think that the – folks should be advised that this, as far as the allegations are concerned,
81 in the backup material that we have, it's pretty graphic. And as a result, those folks who may be
82 offended by graphic depictions of allegations concerning sexual matters, they might want to
83 temper their watching it, based on that.

84

85 **BRAD JERBIC**

86 That was my next point, Your Honor, is that – we are going to get in some fairly graphic
87 testimony. There's some allegations, as you can read in the backup material, of illegal activity
88 including prostitution that obviously is gonna be disputed by Mr. Terry, but nevertheless, we're
89 gonna get into that kind of testimony and that testimony will be sometimes graphic. So –

90

91 **MAYOR GOODMAN**

92 Okay. Let me ask you this. How long do you think this will last?

93

94 **BRAD JERBIC**

95 I expect that to get through all this material, I can probably do it in about half an hour, Your
96 Honor, at the – least.

97

98 **MAYOR GOODMAN**

99 How about you, Mr. Terry?

100

101 **WILLIAM TERRY**

102 Say about 45 minutes.

103

104 **MAYOR GOODMAN**

105 All right. The reason I'm asking the question, we started at 8 o'clock this morning and really
106 didn't have a break. And what's your schedule like? If we took a half an hour, would that –

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107 **WILLIAM TERRY**

108 It's not good this afternoon, but –

109

110 **MAYOR GOODMAN**

111 It's not good.

112

113 **WILLIAM TERRY**

114 – could I raise one – question with the –

115

116 **MAYOR GOODMAN**

117 Certainly.

118

119 **WILLIAM TERRY**

120 – Council? We recognize that we received a notice in this situation, but we also wanna make it
121 clear that in September of '07, there was an original declination to renew this business license,
122 which we appealed from. And we appeared before you in November of 2007, and the City
123 withdrew their opposition. And – I think we can cut this down a little if the Council agrees that
124 really what we're dealing with is a period of time from November of 2007 to the current time.
125 Not going backwards. Because had that been the issue, we should have addressed it in
126 November of '07 when we were first before the Council.

127

128 **MAYOR GOODMAN**

129 Were all of the matters which pertain to that period of time known to the Council at the time that
130 we took that action?

131

132 **WILLIAM TERRY**

133 Absolutely. Because that was in the City's notice and the objection. Now, obviously, as a result
134 of the notice that we've received here, from August of 2008, there are additional allegations.

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135 **MAYOR GOODMAN**

136 Right. I understand that. Well, I'll ask the City Attorney for guidance on this one.

137

138 **BRAD JERBIC**

139 Well, let me speak and I'll have Mr. Redlein speak as well. Abdicating for the City, we intend to
140 introduce all the evidence that was in the letter that was given to Mr. Le. That would include
141 that evidence that preceded that original letter. Let me let you know procedurally of what
142 happened. Back in 2007 –

143

144 **MAYOR GOODMAN**

145 What I'm trying to do is –

146

147 **BRAD JERBIC**

148 I know.

149

150 **MAYOR GOODMAN**

151 I'm trying to ascertain whether or not the Clerk needs a little bit of a break here, whether the
152 Manager's Office needs a little bit of a break, whether the Council could use a little break and
153 what's your next court appearance or – office appointment –

154

155 **WILLIAM TERRY**

156 We – have a telephone conference at one o'clock which we – can probably put off 'til 1:30, but
157 not much more than that.

158

159 **LINDA NORVELL MARQUIS**

160 Unfortunately, it's a – hearing up in Carson City that I'm teleconferencing in so I have to be
161 available at one.

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162 **MAYOR GOODMAN**

163 And – would you be able to use a phone in this building to do it or do you have to go –

164

165 **LINDA NORVELL MARQUIS**

166 Unfortunately, I had to give the agency in Carson City 30 days notice of the telephone number –

167

168 **MAYOR GOODMAN**

169 I see.

170

171 **LINDA NORVELL MARQUIS**

172 – I would be available at. So I have all of the documents for that and my client as well at the

173 office.

174

175 **MAYOR GOODMAN**

176 How long will the telephonic conversation take?

177

178 **LINDA NORVELL MARQUIS**

179 They've given us a window of one o'clock to five o'clock p.m.

180

181 **MAYOR GOODMAN**

182 Oh, it could be that long.

183

184 **LINDA NORVELL MARQUIS**

185 It –

186

187 **WILLIAM TERRY**

188 Alphabetically.

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189 **LINDA NORVELL MARQUIS**

190 Unfortunately, it's a little bit more detailed than even this hearing.

191

192 **MAYOR GOODMAN**

193 All right. Then what we'll do, we'll go, we'll proceed.

194

195 **BRAD JERBIC**

196 Okay.

197

198 **MAYOR GOODMAN**

199 We'll proceed with the hearing now.

200

201 **BRAD JERBIC**

202 If I could, Your Honor –

203

204 **WILLIAM TERRY**

205 Mr. Mayor –

206

207 **BRAD JERBIC**

208 I'm sorry.

209

210 **WILLIAM TERRY**

211 I'm sorry. Mrs. Marquis will do the, any examination and make further arguments. We could

212 just exchange places.

213

214 **MAYOR GOODMAN**

215 Fine.

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216 **BRAD JERBIC**

217 I think you need to resolve the – similar question that Mr. Terry raised –

218

219 **WILLIAM TERRY**

220 Right.

221

222 **BRAD JERBIC**

223 – as to what kind of evidence are you gonna consider today. On behalf of the City, let me state

224 that I think the applicant's license expired albeit, about 30 days before the City decided to non-

225 renew. His license became due. He mailed in a check. I may be off by a couple of days here or

226 there, but he mailed another check. Then the decision was to return the check and non-renew.

227 And then the applicant appealed from that non-renewal. We advised our client that it was

228 basically too late to un-renew (sic) and – mail him back the check. And that's why we didn't

229 proceed at that time.

230 Now we're up for another renewal period. This time it was caught before the check was cashed,

231 before the renewal period. The letter was sent and it includes everything. And so our position is

232 that all the evidence of his conduct from the day he's owned this license and operated this

233 business ought to be considered.

234 Mr. Redlein's your board counsel on this. Mr. Terry's free to make his argument as well.

235

236 **MAYOR GOODMAN**

237 Mr. Redlein, do you have an opinion?

238

239 **JOHN REDLEIN**

240 I do. And I don't mean to be equivocal. But I would venture to suggest that if Mr. DiFiore

241 possessed only information about the misconduct in the year 2007 which preceded the issuance

242 of this license last time, he knows that that's fallen by the wayside with your decision to ignore it

243 and the issuance of the license in late 2007. I don't think that he would ever suggest that

244 misbehavior in 2007 would have been grounds for dismissal or that it would have been grounds

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245 for a declination to renew this license in the month of February 2008. But it is the same kind of
246 misconduct that he has recorded, given notice to the appellant of and lodged with you that has
247 occurred in the summer and the fall and the winter of 2008. It lends meaning to the subsequent
248 misconduct. It should not be regarded independently as grounds for the action that he has
249 recently taken.

250 So, in a mixed view, about its admissibility, it has utility. It gives meaning to the new
251 misbehavior. But by itself, I don't think you would hear Mr. DiFiore suggest that it's grounds
252 for him to have not renewed in the month of February.

253

254 **MAYOR GOODMAN**

255 Well, in an abundance of caution then, I'm going to say that we'll only consider events
256 subsequent to the licensing, and that will certainly limit the scope of the –

257

258 **BRAD JERBIC**

259 That will shorten it.

260

261 **MAYOR GOODMAN**

262 – presentation.

263

264 **BRAD JERBIC**

265 And the –

266

267 **JOHN REDLEIN**

268 And, Mr. Mayor, if I might, you might wanna keep in mind something that I'm sure you've been
269 exposed to in court before. Your view might change if there is testimony offered –

270

271 **MAYOR GOODMAN**

272 Oh, absolutely.

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273 **JOHN REDLEIN**

274 – by the appellant.

275

276 **MAYOR GOODMAN**

277 If they – open the door, then it’s a whole different ball game. I – haven’t forgotten those rules

278 either, even though I haven’t invoked them in the last ten years.

279

280 **COUNCILMAN BARLOW**

281 So Mayor, Mayor?

282

283 **MAYOR GOODMAN**

284 Yes.

285

286 **COUNCILMAN BARLOW**

287 Before Mr. Jerbic goes into his – liberation (sic) of this item, Brad, you, are you going to outline

288 those things or will we be notified of – those things we’re only to take into consideration of this

289 item?

290

291 **BRAD JERBIC**

292 Here’s what I’m going to do –

293

294 **COUNCILMAN BARLOW**

295 Being that, I’ve read the entire backup. I’ll at least know what parameters I should only judge

296 my comment (inaudible).

297

298 **BRAD JERBIC**

299 Here’s what I plan to do. You’ve all been provided with the same materials Mr. Terry has been

300 provided with. That contains all the evidence. I’m not going to talk about anything that the

301 Mayor has just ruled on. I’m gonna only talk about those things which came after the

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302 withdrawal of the non-renewal in 2007. I'm going to seek to make a record that we certainly
303 served the licensee with notice of the non-renewal in a timely manner and that he filed his notice
304 of appeal in a timely manner. That notice, that puts him, that – lets him know that he's gonna be
305 non-renewed, contains a list of everything that Mr. DiFiore relied on, including those things that
306 the Mayor has just said he would not allow us to introduce in our case in chief, so to speak. To
307 the extent that it's not evidence, but just evidence of proper notice, I would either seek a
308 stipulation from Council or introduce this just for the purpose of showing that we mailed the
309 letter on time.

310
311 **MAYOR GOODMAN**

312 Fine.

313
314 **LINDA NORVELL MARQUIS**

315 Just –

316
317 **BRAD JERBIC**

318 I'll go either way on that.

319
320 **WILLIAM TERRY**

321 Let us – address that. The letter is at Page 376 of the documents which you have. And if you
322 notice that letter, it – is limited to the notice. In other words, we're willing to comply with, one,
323 Your Honor's ruling already and, two, that – there is an issue as to anything that is set forth
324 within that letter. But we also take the position that if the City tries to evidence anything that is
325 not in that notice, it should not be admitted. In other words, that's the notice we appealed from.

326
327 **LINDA NORVELL MARQUIS**

328 And that's Exhibit 19.

329
330 **MAYOR GOODMAN**

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331 Exhibit 19.

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332 **LINDA NORVELL MARQUIS**

333 Page 376.

334

335 **COUNCILMAN WOLFSON**

336 Three, seventy-six.

337

338 **WILLIAM TERRY**

339 Three, seven, six.

340

341 **BRAD JERBIC**

342 Yeah. You have tabs and –

343

344 **MAYOR GOODMAN**

345 Yes.

346

347 **BRAD JERBIC**

348 – Mr. Terry has pages, I think.

349

350 **LINDA NORVELL MARQUIS**

351 Oh, I'm sorry.

352

353 **BRAD JERBIC**

354 So we'll go by tabs, if that's convenient for the Council. I think it makes it easier for everyone
355 to follow.

356

357 **LINDA NORVELL MARQUIS**

358 It's Tab 19.

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359 **MAYOR GOODMAN**

360 Well, basically, when were they before us before, Mr. Jerbic?

361

362 **LINDA NORVELL MARQUIS**

363 The last hearing was November 21st.

364

365 **MAYOR GOODMAN**

366 Of what year?

367

368 **LINDA NORVELL MARQUIS**

369 2007.

370

371 **MAYOR GOODMAN**

372 Okay. So there's plenty here from August the 12th, 2008.

373

374 **WILLIAM TERRY**

375 Right.

376

377 **BRAD JERBIC**

378 There is some. I, again, I would argue that it was never reached on the merits. The City never

379 put on a hearing. If we had put on a hearing, I would probably stand up here and say we're not

380 going to go back and rehash the same things twice, but again –

381

382 **MAYOR GOODMAN**

383 Well, I – may very well allow you to put on the prior acts, depending on what the defendant does

384 during their case.

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385 **BRAD JERBIC**

386 We'll go with your ruling right now and we'll go on with just the acts that are not prior. What I
387 would like to do –

388

389 **MAYOR GOODMAN**

390 Very good.

391

392 **BRAD JERBIC**

393 – is introduce –

394

395 **MAYOR GOODMAN**

396 (Inaudible.)

397

398 **BRAD JERBIC**

399 – for the limited purpose of showing you that notice was given to the applicant before his license
400 was due for renewal, I believe, on March 1st, a letter sent to him by Mr. DiFiore. It does contain
401 other acts in there, but again, I'm not going to go into them –

402

403 **MAYOR GOODMAN**

404 Right. That's fine.

405

406 **BRAD JERBIC**

407 – and, if I could file that with the Clerk.

408

409 **MAYOR GOODMAN**

410 All right. That's made a part of the record.

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411 **BRAD JERBIC**

412 (Inaudible) Thank you and make that part of the record. I would also like to make another letter
413 part of the record. It's dated February 24th, 2009, and that sets the hearing date for Wednesday,
414 March 4th. That is today at 9 a.m.

415

416 **MAYOR GOODMAN**

417 Any objection to that?

418

419 **WILLIAM TERRY**

420 Well, again, we're relying upon the letter of February 6th, 2009, and we acknowledge we
421 received the notice. Mr. Jerbic, and I apologize, what was the date of the other letter?

422

423 **BRAD JERBIC**

424 That other letter, and I'm sorry, is dated February 24th, 2009.

425

426 **MAYOR GOODMAN**

427 Just setting today as the date.

428

429 **WILLIAM TERRY**

430 Which would have been after the appeal time.

431

432 **MAYOR GOODMAN**

433 But it just set the –

434

435 **WILLIAM TERRY**

436 Hearing date.

437

438 **MAYOR GOODMAN**

439 Yes. We'll still hear it.

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440 **WILLIAM TERRY**

441 All right.

442

443 **BRAD JERBIC**

444 With that, I'd like to call Mr. DiFiore.

445

446 **MAYOR GOODMAN**

447 Okay.

448

449 **BRAD JERBIC**

450 Could you please state your name and occupation for the record?

451

452 **JIM DiFIORE**

453 My name is Jim DiFiore. I'm the manager of the Business Service (sic) Division for the City of

454 Las Vegas.

455

456 **BRAD JERBIC**

457 How long have you been that, manager – of the Business Services Division?

458

459 **JIM DiFIORE**

460 Twenty years.

461

462 **BRAD JERBIC**

463 During your time managing that division, are you familiar with the various types of licenses that

464 the City of Las Vegas issues for businesses in the City?

465

466 **JIM DiFIORE**

467 Yes, I am.

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468 **BRAD JERBIC**

469 Your indulgence, Your Honor. On October 2nd, 2006, did you have occasion to issue a license
470 for a tanning salon to Mr. Hoa Van Le?

471

472 **JIM DiFIORE**

473 Yes.

474

475 **BRAD JERBIC**

476 Is Mr. Le here today?

477

478 **JIM DiFIORE**

479 Yes, he is.

480

481 **BRAD JERBIC**

482 Is he the individual standing next to Mr. Terry?

483

484 **JIM DiFIORE**

485 Yes, he is.

486

487 **BRAD JERBIC**

488 The, what type of license, under the City's Licensing Code, did Mr. Le receive for his business?

489

490 **JIM DiFIORE**

491 It's a license known as a Tanning Salon license.

492

493 **BRAD JERBIC**

494 What does that license allow Mr. Le to do?

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495 **JIM DiFIORE**

496 Operate a tanning salon in – a general fashion.

497

498 **BRAD JERBIC**

499 Does that license allow for massage?

500

501 **JIM DiFIORE**

502 No, it does not.

503

504 **BRAD JERBIC**

505 Does, was that included in Mr. Le's application at the time that he received his tanning license?

506

507 **JIM DiFIORE**

508 Yes, it was.

509

510 **BRAD JERBIC**

511 Tanning salon license?

512

513 **JIM DiFIORE**

514 He, his description was in the description field, no massage.

515

516 **BRAD JERBIC**

517 If I could turn the Council's attention to Exhibit Number 1. Mr. DiFiore, I'm showing you some

518 documents behind what has been marked or – handed to the Council as Tab Number 1 in the

519 three-ring binder of exhibits. Do you recognize these documents I'm showing you?

520

521 **JIM DiFIORE**

522 Yes, I do.

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523 **BRAD JERBIC**

524 Is that the license application that was applied for and given eventually to Mr. Le?

525

526 **JIM DiFIORE**

527 Yes, it was.

528

529 **BRAD JERBIC**

530 On this application, turning to, your indulgence, Sir, turning to the first page of the application,

531 does there appear to be writing on there that indicates what the license is limited to?

532

533 **JIM DiFIORE**

534 Yes, it does.

535

536 **BRAD JERBIC**

537 What does it say the license is limited to?

538

539 **JIM DiFIORE**

540 It would be limited to a tanning spa. He has no massage, no beauty, food or tanning to be sold.

541

542 **BRAD JERBIC**

543 If Mr. Le were to allow massage activity on the premises, would he require a separate license for
544 that?

545

546 **JIM DiFIORE**

547 Yes, he would.

548

549 **BRAD JERBIC**

550 If he were to allow massage activity on the premises, given this license, would he be in violation
551 of the Las Vegas Municipal Code, in your opinion?

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552 **JIM DiFIORE**

553 Yes, he would.

554

555 **BRAD JERBIC**

556 Is that a Code that you have responsibility for administrating and – policing?

557

558 **JIM DiFIORE**

559 Yes, it is.

560

561 **BRAD JERBIC**

562 Turning your attention to Las Vegas Municipal Code 6.02.090, did you have occasion to review
563 the license for Mr. Le at Hawaiian (sic) Relax and Tanning to determine whether or not it should
564 be renewed earlier this year?

565

566 **JIM DiFIORE**

567 Yes, I did.

568

569 **BRAD JERBIC**

570 Did you make a determination whether or not Mr. Le’s license should be renewed?

571

572 **JIM DiFIORE**

573 Yes, I did.

574

575 **BRAD JERBIC**

576 And what was your determination?

577

578 **JIM DiFIORE**

579 My determination was it – violated the code and that we had grounds to non-renew it for a
580 March 1st renewal date.

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581 **BRAD JERBIC**

582 Let me show you a document which I've already filed with the Clerk. This is a letter dated
583 February 6, 2009. Are you the author of that letter?

584

585 **JIM DiFIORE**

586 Yes, I am.

587

588 **BRAD JERBIC**

589 Is that a letter that you sent to Mr. Le notifying that his license would not be renewed?

590

591 **JIM DiFIORE**

592 Yes, it is.

593

594 **BRAD JERBIC**

595 Does that letter contain a number of incidents that you relied on in making the determination not
596 to renew Mr. Le's license?

597

598 **JIM DiFIORE**

599 Yes, it does.

600

601 **BRAD JERBIC**

602 Mr. DiFiore, I'll represent to you that the Council has determined that, activity prior to August
603 12th, 2008, is not to be considered at this time, nor will I introduce any evidence that would
604 support those allegations. So I'm gonna ask you to look at those things which are contained in
605 your letter that begin on August 12th, 2008. When I say those things, those incidents, that you
606 brought to Mr. Le's attention, as part of the basis for the non-renewal, and ask you if those
607 incidents that occurred between August 12th, 2008 and the last incident, which I believe was your
608 finding an ad in City Life magazine on January 29th, 2009. If those incidents considered alone,
609 without anything before, would you have still made the decision to revoke Mr. Le's license?

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610 **JIM DiFIORE**

611 Yes, I would.

612

613 **BRAD JERBIC**

614 Council's indulgence, Your Honor. By the way, just for historical background –

615

616 **MAYOR GOODMAN**

617 He'd be lynched.

618

619 **BRAD JERBIC**

620 – are you familiar with this location prior to Mr. Le having a business license at it?

621

622 **JIM DiFIORE**

623 Yes, I am.

624

625 **BRAD JERBIC**

626 What was this location known as before?

627

628 **JIM DiFIORE**

629 It was known as VIP Massage.

630

631 **BRAD JERBIC**

632 Did they receive a massage license from the City in 2003?

633

634 **JIM DiFIORE**

635 Yes, they did.

636

637 **BRAD JERBIC**

638 And that would have permitted legal massage in the premises?

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639 **JIM DiFIORE**

640 Yes, it would.

641

642 **BRAD JERBIC**

643 The, did there come a time when VIP (sic) closed their doors?

644

645 **JIM DiFIORE**

646 Yes, they did.

647

648 **BRAD JERBIC**

649 Did it come a time when you made a recommendation to this Council that the license for VIP

650 Massage should be revoked?

651

652 **JIM DiFIORE**

653 Yes, I did.

654

655 **BRAD JERBIC**

656 Do you remember when that was?

657

658 **JIM DiFIORE**

659 I believe it was in the Fall of 2007.

660

661 **BRAD JERBIC**

662 And for the record, what was the basis of your recommendation for revocation of VIP Massage's

663 license?

664

665 **JIM DiFIORE**

666 Let me correct myself. I believe it was in the Fall of 2006 and my recommendation was for the

667 Council to revoke the massage establishment license for VIP Massage.

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668 **BRAD JERBIC**

669 And did the Council follow that recommendation?

670

671 **JIM DiFIORE**

672 Yes, they did.

673

674 **BRAD JERBIC**

675 Was it approximately two months later then, that Mr. Hoa Van Le came to you, came to your
676 department in October of 2006, asking for this license?

677

678 **JIM DiFIORE**

679 Approximately two months. That's correct.

680

681 **BRAD JERBIC**

682 Turning your attention to Tab Number 10, this is Tab Number 10 in your books. Do those
683 documents appear to be arrest reports pertaining to an incident at VIP Massage on August 12th,
684 2008?

685

686 **JIM DiFIORE**

687 Yes, they do.

688

689 **BRAD JERBIC**

690 Was that the incident that you reference in your letter of Aug, of – February 6, 2009?

691

692 **JIM DiFIORE**

693 Yes, it is.

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694 **BRAD JERBIC**

695 With the Council's indulgence, I would like to read into the record what I think are relevant parts
696 of that report.

697

698 **MAYOR GOODMAN**

699 Go ahead.

700

701 **BRAD JERBIC**

702 I am turning now to, what will be the back of the page. It says Exhibit 10. It's kind of a pinkish
703 colored page. At the top of it, it says, Arrest Report, and the name is Melanie Kang at the top of
704 the Arrest Report. I'm gonna read in relevant part, starting with the second paragraph.

705 On August 12th, 2008, at approximately 2100 hours, I walked into the Hawaii Relax Tanning and
706 Spa, located at 2053 (sic) South Valley View Boulevard. When I say I, we're talking about a
707 detective with the Las Vegas Metropolitan Police Department.

708 I was in plain clothes and acting in an undercover capacity. I was being monitored and
709 surveilled by Sergeant B. Vigna, with his P number; Sergeant or Detective Gentry, with his P
710 number; Detective Dias, with his P number; Detective Hardwood, and the P number and
711 Detective Bellman, and the P number.

712 Once inside the business, I was greeted by an Asian female at the front counter. I told the Asian
713 female I was looking for a massage and she told me, it would cost me \$60 for forty-five minutes
714 of massage. I agreed to pay the Asian female the \$60 for forty-five minutes. The Asian female
715 then escorted me to a back room and told me to sit down on the table and she would send a girl
716 right to, a girl right in to take care of me. Approximately five minutes later, an Asian female
717 adult, dressed in small (sic) red lingerie top and bottom, entered my room. The Asian female
718 asked me for \$60 and I handed her a \$100 bill.

719 The Asian female then left the room and returned approximately two minutes later with \$40 in
720 change. She gave me my change and told me to take my clothes off. She then left the room,
721 while I disrobed, and returned approximately two minutes later. Once the Asian female had
722 returned, she told me to lie face down on the massage table. She then covered her hands with

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723 lotion from a bottle on the table next to the massage table. She began to rub the lotion all over
724 my back and neck area. She began to massage my entire upper back, shoulder and neck area.
725 She then massaged my lower back and forehead.
726 While the massage was occurring, I attempted to solicit a sexual act from the Asian female. She
727 stated she would not be able to accommodate my needs and continued to massage my body. The
728 Asian female, who was later identified as Trang Nguyen, and has a d.o.b, continued to massage
729 my upper body and head for approximately five to six minutes. At the end of this time, Nguyen
730 then exited the room.
731 By the way, the name for the record is Trang, T-r-a-n-g, last name N-g-u-y-e-n. And after
732 approximately two to three minutes, another Asian female, later identified as Melanie Kang, K-
733 a-n-g, with an identification number, iden, entered the room. Once Kang entered the room, she
734 too applied lotion to her hands and began to massage my upper and lower back, shoulders, necks
735 (sic) and arms. I again attempted to solicit a sex act from Kang, but was again unsuccessful.
736 Kang continued to massage my upper body for approximately two to three minutes.
737 We continue to the next page, reading in relevant part. I want, let me stop right there for a
738 moment. Do you know, Mr. DiFiore, if Melanie Kang had a massage license, as a massage
739 therapist, or any other type of massage license?

740

741 **JIM DiFIORE**

742 I – do. And she did not have a massage license.

743

744 **BRAD JERBIC**

745 And did Trang Nguyen have a massage license or massage therapist license?

746

747 **JIM DiFIORE**

748 No, she did not.

749

750 **BRAD JERBIC**

751 And that was on the date in question, August of 2000, excuse me, August 12th, 2008?

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752 **JIM DiFIORE**

753 That's correct.

754

755 **BRAD JERBIC**

756 Cutting ahead, at some point in time, other detectives who were present entered Hawaiian Tropic

757 (sic), or Hawaiian Relax Massage (sic). Let me begin on the next page from the one I read from.

758 We were all wearing conspicuous clothing, yellow police raid jackets or police tactical vests

759 clearly marked with letters, police, on all sides of the vest. We then entered the front door of the

760 Hawaii Spa (sic). This is on the same day, same incident. As soon as we opened the door, we

761 contacted the counter clerk, working behind the counter, and I walked around the corner. Myself

762 and Detective Gentry saw two Asian females take off, running down the hallway toward the

763 back door. Detective Gentry and myself pursued these two Asian females, who ran through the

764 business and out the back door which exited into a parking lot onto Valley View. One of the

765 subjects that was running was identified as Smith, Hyun, with an ID number. Detective Gentry

766 grabbed Smith and took her into custody. As soon as Detective Gentry was okay with Smith, I

767 continued to pursue the second suspect down Valley View.

768 Other detectives of the SIB, Special Investigations Bureau, were assisting us with this

769 investigation. They were in their vehicle and contacted and arrested the second Asian female,

770 who was already running eastbound on Sirius. At this time, I returned to the Spa and identified

771 the subject that Detective Gentry had taken into custody, as Hyun Smith. Based on the facts

772 presented to me, as we were conducting an official notice investigation and were visually and

773 verbally identified ourselves as police officer (sic), and the fact that she exited the businesses

774 (sic) in attempt to flee our investigation, I arrested Smith for obstructing a police officer and she

775 was transported to City Jail.

776 Is, again I ask you, Mr. DiFiore, is that one of the incident reports that you relied on in your

777 recommendation to not renew Mr. Le's license?

778

779 **JIM DiFIORE**

780 Yes, it is.

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781 **BRAD JERBIC**

782 Mr. DiFiore, let me turn your attention to Tab 11 in the binder.

783

784 **MAYOR GOODMAN**

785 What number is that?

786

787 **BRAD JERBIC**

788 Tab Number 11, Your Honor.

789

790 **MAYOR GOODMAN**

791 Counsel, eleven or Tab 11?

792

793 **BRAD JERBIC**

794 Tab 11, I'm sorry

795

796 **MAYOR GOODMAN**

797 I have some questions about – Tab 11.

798

799 **BRAD JERBIC**

800 I knew you would. The –

801

802 **MAYOR GOODMAN**

803 Once you lay a foundation as to –

804

805 **BRAD JERBIC**

806 – if you'll permit me to, I'll lay a foundation here, we'll –

807

808 **MAYOR GOODMAN**

809 Who took the pictures?

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810 **BRAD JERBIC**

811 – the, let me – ask this way. Mr. DiFiore, are you familiar with the photographs that are
812 contained in Tab 11 of the binders that have been given to the Council here today?

813

814 **JIM DiFIORE**

815 Yes, I am.

816

817 **BRAD JERBIC**

818 And are those the number of photographs?

819

820 **JIM DiFIORE**

821 Yes, they are.

822

823 **BRAD JERBIC**

824 They, were you present at the time these photographs were taken?

825

826 **JIM DiFIORE**

827 No, I was not.

828

829 **BRAD JERBIC**

830 Did you appear on the premises shortly after the photographs were taken.

831

832 **JIM DiFIORE**

833 I believe these were taken –

834

835 **WILLIAM TERRY**

836 Unresponsive to the question –

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837 **BRAD JERBIC**

838 I – what I’m trying to get to is, whether or not Mr. DiFiore can authenticate these. I know I have
839 Detective Gentry here. I can bring him up here very briefly and go through that (sic) foundation
840 questions if you want me to and we’re not bound by rules of evidence here, but I’ll – go with
841 whatever Mr. Terry wants me to do, whether that be bring Detective Gentry up, or –

842

843 **WILLIAM TERRY**

844 If Counsel wants to make a representation to the panel, that’s fine.

845

846 **MAYOR GOODMAN**

847 All right, fine, we’ll accept the representation.

848

849 **BRAD JERBIC**

850 The, is it fair to represent, Mr. DiFiore, that it’s your belief that these pictures contained behind
851 Tab 11 represent the interior/exterior of Hawaii’s Tanning and Spa (sic) as it existed on August
852 12, 2008?

853

854 **JIM DiFIORE**

855 Yes, it is.

856

857 **BRAD JERBIC**

858 The, have you been inside this establishment?

859

860 **JIM DiFIORE**

861 Yes, I have.

862

863 **BRAD JERBIC**

864 In your professional capacity?

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865 **JIM DiFIORE**

866 Yes, I have.

867

868 **BRAD JERBIC**

869 And in your professional capacity, how many times have you been here?

870

871 **JIM DiFIORE**

872 Once.

873

874 **BRAD JERBIC**

875 And when was that?

876

877 **JIM DiFIORE**

878 That was on September 25th, 2007.

879

880 **BRAD JERBIC**

881 Given our earlier statement, that we're not gonna talk about incidents that occurred on
882 September 2007, do the pictures that were taken on August 12th, 2008 or thereabouts, are they
883 consistent with the way the interior of the business looked in September of 2007?

884

885 **JIM DiFIORE**

886 Yes, they are consistent.

887

888 **BRAD JERBIC**

889 Turning you attention to, we'll start with the first photograph. Does that represent the exterior of
890 Hawaii Tanning and Spa (sic)?

891

892 **JIM DiFIORE**

893 Yes, it does.

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894 **BRAD JERBIC**

895 The next couple of photographs, do they contain pictures of the interior lobby and/or customer
896 counter as you enter the massage establishment?

897

898 **JIM DiFIORE**

899 Yes, they do.

900

901 **BRAD JERBIC**

902 All right. A couple of pictures in, does there appear to be a photograph of a plaque on the wall
903 that says, relaxation and spa tanning bed with a number of fees associated with it?

904

905 **JIM DiFIORE**

906 Yes, there is.

907

908 **BRAD JERBIC**

909 Does that represent how many minutes for a hot towel body scrub, hot pads and shower?

910

911 **JIM DiFIORE**

912 Yes, it does.

913

914 **BRAD JERBIC**

915 Does that also contain a picture of a familiar individual?

916

917 **JIM DiFIORE**

918 Yes.

919

920 **MAYOR GOODMAN**

921 Well, I have a couple of questions along that line.

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922 **BRAD JERBIC**

923 I know you will.

924

925 **MAYOR GOODMAN**

926 Mr. DiFiore, is the person who's depicted in that picture, right above the no smoking, is that the
927 person who's purportedly going to give the non-members a hot towel body scrub, hot pads and a
928 single shower? Is that the purpose of that?

929

930 **JIM DiFIORE**

931 There is no allegation as to why the picture is there. I – don't know.

932

933 **MAYOR GOODMAN**

934 Okay, I'm very interested as to how the picture got there, why the picture's there, and why I'm
935 surrounded by Princess Di.

936

937 **BRAD JERBIC**

938 Yeah, for the record there are a picture (sic) of a number of other celebrities also.

939

940 **MAYOR GOODMAN**

941 I understand that, but I'm very interested in finding out why that particular picture is up there.

942 And so, Mrs. Goodman may very well be very interested in that.

943

944 **BRAD JERBIC**

945 Does the interior of Hawaii Relax Tanning and Spa contain a number of individual private
946 rooms?

947

948 **JIM DiFIORE**

949 Yes, they do.

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950 **BRAD JERBIC**

951 Do those individual private rooms contain tanning beds?

952

953 **JIM DiFIORE**

954 There is only one tanning bed on – the premises.

955

956 **BRAD JERBIC**

957 What is in the other rooms that, where there isn't a tanning bed?

958

959 **JIM DiFIORE**

960 Typically, known as massage beds or massage tables.

961

962 **BRAD JERBIC**

963 Turning your attention to a picture of what appears to be a hallway. Does that represent the

964 hallway with doors leading to private rooms inside Hawaii Tanning and Relax (sic)?

965

966 **JIM DiFIORE**

967 Yes, it does.

968

969 **BRAD JERBIC**

970 The next picture in that series behind Tab No. 10 (sic), does that appear to be a picture of a

971 tanning bed?

972

973 **JIM DiFIORE**

974 Yes, it does.

975

976 **BRAD JERBIC**

977 When you have, when you arrived at Hawaiian Relax and Tanning (sic) in September of 2007,

978 was there only one tanning bed there then?

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979 **JIM DiFIORE**

980 That's correct.

981

982 **BRAD JERBIC**

983 At the time you arrived, was it in use for tanning by customers.

984

985 **JIM DiFIORE**

986 No, it was not.

987

988 **BRAD JERBIC**

989 What was it used for?

990

991 **JIM DiFIORE**

992 It was used pretty much as it depicted –

993

994 **LINDA NORVELL MARQUIS**

995 I'm gonna object to going outside of the scope of what Your Honor has already ruled was
996 admissible.

997

998 **MAYOR GOODMAN**

999 Well –

1000

1001 **LINDA NORVELL MARQUIS**

1002 November 2007 forward.

1003

1004 **MAYOR GOODMAN**

1005 You're talking about 2007?

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1006 **BRAD JERBIC**

1007 We're talking about what the, how many tanning beds were there when he saw it in 2007 and
1008 whether that tanning bed was in operation. If you don't want me to go there –

1009

1010 **MAYOR GOODMAN**

1011 No. That's beyond the scope of the ruling.

1012

1013 **BRAD JERBIC**

1014 Are you aware, based on your review of the police reports on the incident, of the incident
1015 involved on August 12th, 2008, of whether or not there was one or more tanning beds on the
1016 premises?

1017

1018 **JIM DiFIORE**

1019 Yes, I am.

1020

1021 **BRAD JERBIC**

1022 How many tanning beds were on the premises on August 12th, 2008?

1023

1024 **JIM DiFIORE**

1025 I believe there was one.

1026

1027 **BRAD JERBIC**

1028 And do you know if it was in operation for use as a tanning bed?

1029

1030 **JIM DiFIORE**

1031 Not at the time, I believe, that they did their investigation.

1032

1033 **BRAD JERBIC**

1034 What do you believe it was used for at the time, or do you have any idea?

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1035 **JIM DiFIORE**

1036 I believe it was used for the warming of towels or the drying of towels for customer use.

1037

1038 **BRAD JERBIC**

1039 Turning your attention to the next series of photographs. Do these photographs, following a
1040 picture of the tanning bed, appear to depict individual rooms inside the business?

1041

1042 **JIM DiFIORE**

1043 Yes, they do.

1044

1045 **BRAD JERBIC**

1046 Do those rooms contain, what appear to be, small beds?

1047

1048 **JIM DiFIORE**

1049 Yes, they do.

1050

1051 **BRAD JERBIC**

1052 Do those beds, is there any tanning equipment in any of those rooms along with those beds?

1053

1054 **JIM DiFIORE**

1055 No, there is not.

1056

1057 **BRAD JERBIC**

1058 Is there any tanning lotion?

1059

1060 **JIM DiFIORE**

1061 No, I don't believe there is.

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1062 **BRAD JERBIC**

1063 Are there any of the accouchements that you would associate with a tanning spa in any of those
1064 rooms?

1065

1066 **JIM DiFIORE**

1067 No, there is not.

1068

1069 **BRAD JERBIC**

1070 For the record, have you been in other tanning spas?

1071

1072 **JIM DiFIORE**

1073 Yes, I have.

1074

1075 **BRAD JERBIC**

1076 What do you typically see in a tanning spa where, that has received a license from the City of
1077 Las Vegas?

1078

1079 **JIM DiFIORE**

1080 Typically, you would see a tanning bed. You might see a chair or a hanger, where you could
1081 enter the room, remove your clothes, dress accordingly to be within it, in the tanning bed itself.

1082 There may be a chair and that's pretty much it.

1083

1084 **BRAD JERBIC**

1085 After these pictures of the series of beds, did you have occasion to count the number of rooms
1086 that had beds, with no tanning beds in them?

1087

1088 **JIM DiFIORE**

1089 On this occasion, I was not on the – premises of the – establishment.

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1090 **BRAD JERBIC**

1091 Do you know approximately how many rooms were available for private use within this
1092 establishment?

1093

1094 **JIM DiFIORE**

1095 Approximately ten rooms. Nine of the ten rooms were approximately used for other purposes,
1096 other than a tanning bed salon.

1097

1098 **BRAD JERBIC**

1099 Turning your (inaudible) attention to the next photograph. It's titled, Page 218 of 391, also
1100 behind Tab 11. That a picture of a shower?

1101

1102 **JIM DiFIORE**

1103 Yes, it is.

1104

1105 **BRAD JERBIC**

1106 Turning your attention to the next picture, can you tell us what that represents?

1107

1108 **JIM DiFIORE**

1109 I believe, what it is, is known in the industry, and I'll say, massage industry, is vichy massage.

1110 And that is a – shower massage, where it's more pressure from water that is being massaging the
1111 individual rather than an individual being massaged by another person.

1112

1113 **BRAD JERBIC**

1114 Turning your attention to, again same photograph, same tab. It'll be number, Page 222 of 391.

1115 Do you recognize what's depicted in that photograph?

1116

1117 **JIM DiFIORE**

1118 I'm not familiar with this photograph specifically.

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1119 **BRAD JERBIC**

1120 Turning your attention to Picture Number 226 of 391. Do you recognize what's depicted in that
1121 photograph?

1122

1123 **JIM DiFIORE**

1124 Yes, I do.

1125

1126 **BRAD JERBIC**

1127 And what is that?

1128

1129 **JIM DiFIORE**

1130 It looks to be a – warmer, a – towel warmer, maybe a – sort of a modified microwave.

1131

1132 **BRAD JERBIC**

1133 Turning your attention to Picture Number 227 of 391. Could you tell us what's represented in
1134 that photograph?

1135

1136 **JIM DiFIORE**

1137 These appear to be cleaning products, mouthwash, shampoo and toilet paper.

1138

1139 **BRAD JERBIC**

1140 Are those products that you typically associate with a tanning spa?

1141

1142 **JIM DiFIORE**

1143 No, you do not.

1144

1145 **MAYOR GOODMAN**

1146 Mr. Jerbic, it's becoming cumulative, I believe.

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1147 **BRAD JERBIC**

1148 I'm gonna try and move right out and move out of this and into a new one. And so, Your Honor,
1149 the –

1150

1151 **MAYOR GOODMAN**

1152 And I'm worried about the young lady's telephone call.

1153

1154 **BRAD JERBIC**

1155 I understand, I am –

1156

1157 **LINDA NORVELL MARQUIS**

1158 Me too.

1159

1160 **MAYOR GOODMAN**

1161 Well.

1162

1163 **BRAD JERBIC**

1164 With the – limited materials I have left, I'm trying to make as good a record as I can.

1165

1166 **MAYOR GOODMAN**

1167 No, I appreciate that. Mr. Terry, I'm gonna ask you to stand in if the young lady has to leave
1168 (inaudible).

1169

1170 **WILLIAM TERRY**

1171 No problem.

1172

1173 **MAYOR GOODMAN**

1174 All right. Fine.

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1175 **BRAD JERBIC**

1176 Mr. DiFiore, let me turn your attention to Tab Number 12 in the binder, under Exhibit 12. Do
1177 you recognize the document that I'm handing you?

1178

1179 **JIM DiFIORE**

1180 Yes, I do.

1181

1182 **BRAD JERBIC**

1183 Did you, yourself, see the original of this document?

1184

1185 **JIM DiFIORE**

1186 Yes, I did.

1187

1188 **BRAD JERBIC**

1189 What are we looking at?

1190

1191 **JIM DiFIORE**

1192 We're looking at the inside of a page from the periodical known as the City Life Magazine.

1193

1194 **BRAD JERBIC**

1195 And on that page, is there an ad for Big Hawaii and Spa?

1196

1197 **JIM DiFIORE**

1198 Yes, there is.

1199

1200 **BRAD JERBIC**

1201 Is the address of that business and phone number the same as Hawaii Relax and Tanning Spa
1202 (sic).

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1203 **JIM DiFIORE**

1204 Yes, it is.

1205

1206 **BRAD JERBIC**

1207 And on which particular section of City Life does that particular ad appear?

1208

1209 **JIM DiFIORE**

1210 That appears in the massaz, massage section of City Life.

1211

1212 **BRAD JERBIC**

1213 And is that one of the pieces of evidence that you relied on in your determination that there was

1214 activity going on that should result in the non-renewal of Mr. Le's license?

1215

1216 **JIM DiFIORE**

1217 Yes, it was.

1218

1219 **BRAD JERBIC**

1220 Turning your attention to November 13th, 2008. Are you familiar with another incident that

1221 occurred at the establishment on that date?

1222

1223 **JIM DiFIORE**

1224 Yes, I am.

1225

1226 **BRAD JERBIC**

1227 And was that another incident involving the Las Vegas Metropolitan Police Department?

1228

1229 **JIM DiFIORE**

1230 Yes, it is.

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1231 **BRAD JERBIC**

1232 Did you rely on those, that particular incident and the facts contained in those reports as, again,
1233 part of the basis for your denial of the renewal of Mr. Le's license?

1234

1235 **JIM DiFIORE**

1236 Yes, I did.

1237

1238 **BRAD JERBIC**

1239 If I could, Your Honor, we're now behind Tab Number 14 –

1240

1241 **MAYOR GOODMAN**

1242 Good.

1243

1244 **BRAD JERBIC**

1245 – in the binder. We're on November 13th, 2008. Again, this is a – another undercover activity,

1246 if I may represent to that, involving two detectives. This is being written by Detective Pates, P-

1247 a-t-e-s. Let me read a relevant part. Detective Gentry drove me to Hawaii Relax Tanning and

1248 Spa where I exited the vehicle at 2053 (sic) South Valley View. I entered and was greeted by a

1249 white male adult who was behind a counter, known to be Bret Bertollini, with an ID number. I

1250 asked if he would open and he said, yes. He said it would be \$60 for the first 45 minutes. I

1251 purch, I produced a \$100 bill and asked him if he could change it and he said that he could and

1252 he gave me \$40 back, two \$20 bills. He led me into a room, Number. 1, that is right in back and

1253 to the left. He told me that the girl would be right with me, and as I was disrobing, there was

1254 knock at the door and it was Shaun Hammet, with an ID number.

1255 She asked me if I paid up front, if I paid the guy up front for my session, and I told him (sic) that

1256 I did. She told me to give her a second, that she'd be right back and she told me that she was

1257 giving me a second to change. I told her I was ready and she told me that she was already to

1258 give her, give her one second, that she'd be right back. She came back approximately one

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1259 minute later and asked, have you a session? Have you had a session with us before? And I told
1260 her, no. She told me to lay on my stomach and she would start my massage.
1261 She started to massage my entire body from head to toe, feet, calves, buttocks, lower neck, upper
1262 back, shoulders and even my head, using baby oil. During the whole time, she gave casual
1263 conversation, asked where I was from, what I did for a living and other sorts of questions. She
1264 told me to roll over, and Hammet was wearing a red negligee, exposing her right breast and said,
1265 you, have you been to one of these places be, you've been to one of these places before, right? I
1266 said, oh yeah, that's what I'm looking for. She came close and said, quote, we can do a lot of
1267 fun things, but we gotta talk about a few things unquote. I said, sure. She made a hand signal,
1268 like in a circle in a finger and she said, quote, can we start out doing this, unquote, pointing to
1269 her index finger and then putting her finger, her index finger in a round circle. And I was asked,
1270 what are you talking about, I don't know what you're talking about. Are you talking about, like,
1271 a hand job or blow job? She said, oh, no. This signal is like blow job. I said, oh, okay. She
1272 said, if you want this, and then she did an up and down motion, which is common motion for
1273 hand job or manual masturbation, we can do that too.
1274 She told me that that it would be \$50, that if I wanted –

1275

1276 **MAYOR GOODMAN**

1277 A \$150.

1278

1279 **BRAD JERBIC**

1280 I'm sorry, a \$150, but if I wanted the other, it would be one hundred. I said, that's cool. What if
1281 I wanted a little bit and after the blow job, you get on top and start riding me. She said, no.
1282 That's what this is and she did a little circle with her index finger, and I said, okay. She said that
1283 I'll start it out with a little this. So I confirmed, so I'm starting out with a little bit of a blow job
1284 and you're gonna get on top and then we have some sex. She said, oh, yeah. I said, okay. I just
1285 don't understand. She said, well, why don't we get the business portion out of the way. I
1286 reached over to my wallet to get my money. We're now, there's a, because we have to double
1287 copy these pages, it's a little hard to follow, but they have to go over to the – next page on the

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1288 next side. It's Page 255 of 391. Reached over to get my money and I said to her, so I don't have
1289 any protection? And she told me that that was all, that she has all that and that she would go get
1290 it after I paid her.

1291 I produced her two \$100 bills from my wallet and gave it to Hammet and she heard the
1292 detectives come in and identify themselves as LVMPD. She asked me several times if I was a
1293 cop and I told her, no, and she said, take this money back. Quick, quick, quick. And then she
1294 put it in my hand and told me to lay down and I told her I was gonna get dressed.

1295 After I started to get dressed, she said, quote, take this money and put it in your pocket real
1296 quick, unquote. She asked me again if I was a cop and I told her, no, and took the two hundred
1297 back. Assisting detectives came in and took her into custody for soliciting for the purpose of
1298 prostitution because she did willfully and unlawfully agree to commit a sex acts (sic), oral sex
1299 and intercourse for a fee of \$200. She also agreed to, offered me manual masturbation for a fee
1300 of \$150. She was booked accordingly.

1301 I'll also turn your attention to the police report on Page 254 of 391. We're also dealing with the
1302 same date, just another portion of this particular incident. We're talking now about detectives of
1303 the Las Vegas Metropolitan Police Department in an undercover capacity investigating vice-
1304 related crime at the location of the business. We had received an information complaint,
1305 number, and then there's a number, who had run, who had received several letters from an
1306 anonymous informant from out of state, who told us that this was being used for a house of
1307 prostitution. We had an individual pose as a customer, go inside to receive a massage and get or
1308 solicit for prostitution. I was also there posing as a cab driver. This is a Las Vegas Metropolitan
1309 Police officer, posing as a cab driver. Had – subject that was later identified as Bertollini Brett,
1310 who approached me in the parking lot and asked, quote, did you drop the customer off, unquote.
1311 I stated, yes, he is my customer and I'm waiting for him to come back out. He said, okay, thank
1312 you and handed me \$40. The subject then walked back inside and continued to stay inside.
1313 About every ten minutes, he would walk out, look out the front parking lot, walk out the back
1314 door and look out the back parking lot. At which time, when the detectives inside gave a pre-
1315 determined bust signal, when all of us entered to make an arrest of the subjects inside.

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1316 I interviewed Bertollini and he admitted to me that he was paid \$500 in cash a week, under the
1317 table, to provide security for the business and the girls. He stated to me that he knows the girls
1318 provide massage. When I asked him do they provide any other service, like hand jobs or blow
1319 jobs, he stated, quote, well, this is Las Vegas, but I haven't seen any personally, unquote. He also
1320 told, he was also told to pay each cab driver \$40 every time they brought the customer to the
1321 location. That was verified by when he paid – me outside in the parking lot, assuming I was a
1322 cab driver for the customer. Bertollini was placed under arrest for aiding and abetting a
1323 prostitute and transported to jail.

1324 Mr. DiFiore is it legal for businesses in this town to pay money to cab drivers to bring
1325 customers?
1326

1327 **JIM DiFIORE**

1328 The subject of paying cab drivers, the violation there is at the licensee's expense and under the
1329 Privileged License Code, it is unlawful to pay gratuity, a gratuity to a cab driver, from a
1330 privileged license business.
1331

1332 **BRAD JERBIC**

1333 And in addition to the illegal massage activity, as described in the police report on November
1334 13th, 2008, did you rely, in part, on the tip from Mr. Bertollini to the undercover officer, as part
1335 of your reason for denying Mr. Le's renewal of his license?
1336

1337 **JIM DiFIORE**

1338 Yes, I did.
1339

1340 **MAYOR GOODMAN**

1341 Anything further?

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1342 **BRAD JERBIC**

1343 Just a moment, Your Honor. I think, turning your attention to Tab Number 18 and this will be
1344 the last. I can appreciate where you're coming from. The Tab Number 18, is (sic) there
1345 appeared to be an ad similar to the one we talked about that you saw on August 18, 2008?

1346

1347 **JIM DiFIORE**

1348 Yes, there is.

1349

1350 **BRAD JERBIC**

1351 Was that something that you saw on January 29, 2009?

1352

1353 **JIM DiFIORE**

1354 Yes, it is.

1355

1356 **BRAD JERBIC**

1357 Was there also an ad in the City Life Magazine?

1358

1359 **JIM DiFIORE**

1360 Yes, it was.

1361

1362 **BRAD JERBIC**

1363 Was there also a lad, an ad for Big Hawaii and Spa with the same phone number and address as
1364 Hawaii Relax Tanning and Spa?

1365

1366 **JIM DiFIORE**

1367 That's correct.

1368

1369 **BRAD JERBIC**

1370 And what section in City Life did that ad appear in?

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1371 **JIM DiFIORE**

1372 It appeared in the massage section.

1373

1374 **BRAD JERBIC**

1375 Based upon your testimony today, your review of the events between August 12th, 2008,
1376 including the police reports, the ads that you viewed in City Life, and your knowledge of the
1377 interior of this premises, do you have an opinion as to whether or not Hawaii Relax Tanning and
1378 Spa is conducting just tanning and spa activity?

1379

1380 **JIM DiFIORE**

1381 My opinion is that it's – conducting business outside the scope of their license, some unlawful
1382 activity, some illegal activity and this would be, this was the basis for my non-renewing their
1383 business license.

1384

1385 **BRAD JERBIC**

1386 And if you had to limit your decision making to just those facts which occurred between August
1387 2008 and the present time, would you have made the same decision to non-renew?

1388

1389 **JIM DiFIORE**

1390 Yes, I would have.

1391

1392 **BRAD JERBIC**

1393 Your Honor, I don't have any further questions.

1394

1395 **MAYOR GOODMAN**

1396 All right, thank you. Cross-examination.

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1397 **WILLIAM TERRY**

1398 Please. It's been represented, Sir, that in November of 2007, the City withdrew their objection to
1399 the license and you've heard (inaudible) –

1400

1401 **MAYOR GOODMAN**

1402 You're getting into –

1403

1404 **WILLIAM TERRY**

1405 No.

1406

1407 **MAYOR GOODMAN**

1408 – a very dangerous area here, because I – ruled in your favor, Mr. Terry –

1409

1410 **WILLIAM TERRY**

1411 From November of '07

1412

1413 **MAYOR GOODMAN**

1414 – as far as the acts that could be considered. I understand –

1415

1416 **WILLIAM TERRY**

1417 Correct.

1418

1419 **MAYOR GOODMAN**

1420 – but what we're talking about is events after that date.

1421

1422 **WILLIAM TERRY**

1423 And we're going to get in to all those events.

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1424 **MAYOR GOODMAN**

1425 I know, but if you open up the door, I'm gonna, we'll be here another five hours –

1426

1427 **WILLIAM TERRY**

1428 Understood.

1429

1430 **MAYOR GOODMAN**

1431 – listening to everything that took place in 2007.

1432

1433 **WILLIAM TERRY**

1434 From November of 2007, the first thing that you write in your report, which is part of the record,

1435 is August 12, 2008. Correct?

1436

1437 **JIM DiFIORE**

1438 Correct.

1439

1440 **WILLIAM TERRY**

1441 All right. So from November of 2007 to August 12th of 2008, as a result of certain information,

1442 the Vice Unit does a (sic) undercover operation. Correct?

1443

1444 **JIM DiFIORE**

1445 Correct.

1446

1447 **WILLIAM TERRY**

1448 And they try to get two girls to soli, to solicit them. Correct?

1449

1450 **JIM DiFIORE**

1451 Correct.

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1452 **WILLIAM TERRY**

1453 And they don't. Correct?

1454

1455 **JIM DiFIORE**

1456 Correct.

1457

1458 **WILLIAM TERRY**

1459 All right. And so no one is arrested for soliciting prostitution. Correct?

1460

1461 **JIM DiFIORE**

1462 Correct.

1463

1464 **WILLIAM TERRY**

1465 Any of the young ladies arrested for massage?

1466

1467 **JIM DiFIORE**

1468 I believe so.

1469

1470 **WILLIAM TERRY**

1471 Any of them get convicted?

1472

1473 **JIM DiFIORE**

1474 I'm not aware of the disposition of those cases at this time.

1475

1476 **WILLIAM TERRY**

1477 You're not able to represent to the Council members as to whether or not any one of those ladies
1478 got convicted? Correct?

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1479 **JIM DiFIORE**

1480 Correct.

1481

1482 **WILLIAM TERRY**

1483 Now you also represented, in fact, Mr. Jerbic read the report, that one woman was arrested for

1484 obstruction. Correct?

1485

1486 **JIM DiFIORE**

1487 Correct.

1488

1489 **WILLIAM TERRY**

1490 When she ran?

1491

1492 **JIM DiFIORE**

1493 That's correct.

1494

1495 **WILLIAM TERRY**

1496 Correct? She was in fact acquitted of that charge. Correct?

1497

1498 **JIM DiFIORE**

1499 That, I'm not aware of.

1500

1501 **WILLIAM TERRY**

1502 All right. You're not offering any evidence to the contrary, correct?

1503

1504 **JIM DiFIORE**

1505 That's correct.

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1506 **WILLIAM TERRY**

1507 All right. Now, in reference to August 12, 2008. Are you able to tell any of the Commissioners
1508 (sic) that any one person was convicted of anything as a result of the August 12, 2008 activities?
1509 Yes or no?

1510

1511 **JIM DiFIORE**

1512 No.

1513

1514 **WILLIAM TERRY**

1515 All right. Mr. Le was not present on August 12, 2008. Correct?

1516

1517 **JIM DiFIORE**

1518 I don't know if he was or not.

1519

1520 **WILLIAM TERRY**

1521 Okay, because you weren't there?

1522

1523 **JIM DiFIORE**

1524 Correct.

1525

1526 **WILLIAM TERRY**

1527 Okay. Certainly Mr. Jabbic, Jerbic has just read those reports, you didn't hear Mr. Le's name
1528 mentioned as one of the individuals present?

1529

1530 **JIM DiFIORE**

1531 That's –

1532

1533 **WILLIAM TERRY**

1534 Correct?

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1535 **JIM DiFIORE**

1536 That's correct.

1537

1538 **WILLIAM TERRY**

1539 All right. So there's a logical assumption, he was not present.

1540

1541 **JIM DiFIORE**

1542 We could presume that.

1543

1544 **WILLIAM TERRY**

1545 All right. Now in reference to the ads that you made reference to. In the photographs that Mr.

1546 Jerbic showed you, Hawaiian Tanning is advertising as Hawaiian Tanning, not as a massage

1547 parlor, correct?

1548

1549 **JIM DiFIORE**

1550 No.

1551

1552 **WILLIAM TERRY**

1553 Okay. Show me the Hawaiian Tanning ad and show me where it says in that ad, it's a tanning,

1554 it's a massage parlor.

1555

1556 **JIM DiFIORE**

1557 It – does not.

1558

1559 **WILLIAM TERRY**

1560 All right.

1561

1562 **JIM DiFIORE**

1563 Does not.

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1564 **WILLIAM TERRY**

1565 All right. What – you’re taking objection to is that it appears in an area where there are massage
1566 parlor ad (sic)? Correct?

1567

1568 **JIM DiFIORE**

1569 That’s correct.

1570

1571 **WILLIAM TERRY**

1572 But it does not indicate it’s a massage parlor. Correct?

1573

1574 **JIM DiFIORE**

1575 That’s correct.

1576

1577 **WILLIAM TERRY**

1578 All right. Now in reference to November 13th, Mr. Bertolini was arrested. Correct?

1579

1580 **JIM DiFIORE**

1581 That’s correct.

1582

1583 **WILLIAM TERRY**

1584 And the City denied the charges as to him. Correct?

1585

1586 **JIM DiFIORE**

1587 That’s correct.

1588

1589 **WILLIAM TERRY**

1590 All right. So no prosecution as a result of that? Correct?

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1591 **JIM DiFIORE**

1592 Correct.

1593

1594 **WILLIAM TERRY**

1595 I have nothing further.

1596

1597 **MAYOR GOODMAN**

1598 All right. Thank you. Any redirect?

1599

1600 **BRAD JERBIC**

1601 Just quickly. The question was asked, are any of them been convicted. Have any of them been

1602 acquitted either?

1603

1604 **JIM DiFIORE**

1605 I'm not aware of the dispositions of the current cases that are pending.

1606

1607 **BRAD JERBIC**

1608 Has anybody even gone down to trial yet?

1609

1610 **JIM DiFIORE**

1611 I don't believe so.

1612

1613 **MAYOR GOODMAN**

1614 Okay,

1615

1616 **BRAD JERBIC**

1617 That's it.

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1618 **COUNCILMAN WOLFSON**

1619 May I, Mayor?

1620

1621 **MAYOR GOODMAN**

1622 Certainly.

1623

1624 **COUNCILMAN WOLFSON**

1625 There – are certain persons that have been charged with crimes as a result of this investigation.

1626 Isn't that right?

1627

1628 **JIM DiFIORE**

1629 That is correct.

1630

1631 **COUNCILMAN WOLFSON**

1632 And that probably updates pending.

1633

1634 **JIM DiFIORE**

1635 Correct.

1636

1637 **COUNCILMAN WOLFSON**

1638 So it's not like the City Attorney denied the prosecution. In fact, they accepted prosecution and
1639 we have pending court dates.

1640

1641 **WILLIAM TERRY**

1642 Mr. Wolfson, I, with great respect, I don't think you could make that assumption. In fact, I'll
1643 represent a number of these cases were denied. So –

1644

1645 **COUNCILMAN WOLFSON**

1646 Were any approved?

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1647 **BRAD JERBIC**

1648 Perhaps I can help out Mr. Terry, we could stipulate what's been approved, what's been
1649 continued and what's been denied.

1650

1651 **MAYOR GOODMAN**

1652 I'm not sure it's relevant, so go, let's go on with this.

1653

1654 **BRAD JERBIC**

1655 I appreciate that, Your Honor. I don't have any more questions of Mr. DiFiore.

1656

1657 **MAYOR GOODMAN**

1658 All right.

1659

1660 **WILLIAM TERRY**

1661 Nothing further, Sir. Thank you.

1662

1663 **MAYOR GOODMAN**

1664 Okay. Next witness.

1665

1666 **BRAD JERBIC**

1667 Thank you. Detective Gentry. This is where we would like the camera, before the Detective
1668 comes up, to focus just on the Council, please.

1669

1670 **MAYOR GOODMAN**

1671 Fine. Are you able to do that, Mr. Riggleman?

1672

1673 **DAVID RIGGLEMAN**

1674 (Inaudible)

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1675 **BRAD JERBIC**

1676 Are we in a position now?

1677

1678 **UNIDENTIFIED STAFF MEMBER**

1679 Hold on.

1680

1681 **BRAD JERBIC**

1682 Hold on.

1683

1684 **MAYOR GOODMAN**

1685 We okay, Mr. Riggleman?

1686

1687 **DAVID RIGGLEMAN**

1688 Yes.

1689

1690 **MAYOR GOODMAN**

1691 You understand what we're trying to accomplish here?

1692

1693 **DAVID RIGGLEMAN**

1694 We will show you at all times.

1695

1696 **MAYOR GOODMAN**

1697 Right. We will not show this witness. We will not show the witness.

1698

1699 **BRAD JERBIC**

1700 Just don't turn around. Thank you. Could you please state your name and spell your last name

1701 for the record?

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1702 **JEFF GENTRY**

1703 Yes. My name is Detective Jeff Gentry. Last name is G-e-n-t-r-y.

1704

1705 **BRAD JERBIC**

1706 And by whom are you employed?

1707

1708 **JEFF GENTRY**

1709 Las Vegas Metro Police Department.

1710

1711 **BRAD JERBIC**

1712 And how long you been employed by Metro?

1713

1714 **JEFF GENTRY**

1715 Ten years.

1716

1717 **BRAD JERBIC**

1718 And what division do you work for at the met, at the police department?

1719

1720 **JEFF GENTRY**

1721 Sir, I work for the Vice Section.

1722

1723 **BRAD JERBIC**

1724 How long have you been a Vice Officer?

1725

1726 **JEFF GENTRY**

1727 Approximately three years.

1728

1729 **BRAD JERBIC**

1730 Do you do undercover activity as a Vice Officer?

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1731 **JEFF GENTRY**

1732 Yes, I do.

1733

1734 **BRAD JERBIC**

1735 Do you sometimes have occasion to pose as someone who you're not, like a potential customer

1736 for a prostitute or a cab driver or something?

1737

1738 **JEFF GENTRY**

1739 Yes Sir, I do.

1740

1741 **BRAD JERBIC**

1742 I'll turn your attention to the 13th of November, 2008.

1743

1744 **MAYOR GOODMAN**

1745 Is this gonna be additional to what Mr. DiFiore testified to or corroborative of it, or what?

1746

1747 **BRAD JERBIC**

1748 A little bit corroborative. I'm just gonna ask his opinion. I'm gonna discuss three questions and

1749 I'll be out.

1750

1751 **MAYOR GOODMAN**

1752 Okay. Let's hear the three questions and real fast.

1753

1754 **BRAD JERBIC**

1755 Did you – participate in undercover activity at the Hawaii Relax and Tanning Spa on November

1756 13, 2008?

1757

1758 **JEFF GENTRY**

1759 Yes Sir, I did.

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1760 **BRAD JERBIC**

1761 Were you in an undercover capacity?

1762

1763 **JEFF GENTRY**

1764 Yes, Sir.

1765

1766 **BRAD JERBIC**

1767 Did, were there arrests made on, as a result of your undercover work on that date for prostitution
1768 activity?

1769

1770 **JEFF GENTRY**

1771 Yes Sir, there was.

1772

1773 **BRAD JERBIC**

1774 Do you have an opinion, have you investigated Hawaiian Spa and Tropic (sic) in the past?

1775

1776 **JEFF GENTRY**

1777 Yes Sir, we have.

1778

1779 **BRAD JERBIC**

1780 Have you had complaints in the past?

1781

1782 **JEFF GENTRY**

1783 Yes Sir, several.

1784

1785 **BRAD JERBIC**

1786 Based upon your investigation of this business, do you have an opinion as to whether or not it's a
1787 legitimate tanning spa?

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1788 **JEFF GENTRY**

1789 No Sir, it's not a legitimate tanning spa.

1790

1791 **BRAD JERBIC**

1792 What is your opinion of the type of business conducted inside Hawaiian Tropic and Tanning

1793 (sic)?

1794

1795 **JEFF GENTRY**

1796 No Sir, I –

1797

1798 **BRAD JERBIC**

1799 Hawaiian Relax and Tanning (sic). I'm sorry.

1800

1801 **JEFF GENTRY**

1802 – I personally have received massages in this place and have been solicited for acts of
1803 prostitution.

1804

1805 **BRAD JERBIC**

1806 No further questions, Your Honor.

1807

1808 **MAYOR GOODMAN**

1809 Okay, Mr. Terry.

1810

1811 **WILLIAM TERRY**

1812 Name one person, since August of '08, that's been convicted of an act of prostitution there?

1813 Convicted.

1814

1815 **JEFF GENTRY**

1816 Sir, I don't have – access to that information.

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1817 **WILLIAM TERRY**

1818 All right. Name one person that's been convicted since August of '08 of any acts in reference to
1819 massages?

1820

1821 **JEFF GENTRY**

1822 Sir, I don't have access to that information either.

1823

1824 **WILLIAM TERRY**

1825 All right. Mr. Le was not present on the November 13th date, correct?

1826

1827 **JEFF GENTRY**

1828 Correct.

1829

1830 **WILLIAM TERRY**

1831 You pick and choose the times that you go there, correct?

1832

1833 **JEFF GENTRY**

1834 Yes Sir.

1835

1836 **WILLIAM TERRY**

1837 Nothing further.

1838

1839 **MAYOR GOODMAN**

1840 All right. Any redirect?

1841

1842 **BRAD JERBIC**

1843 No redirect.

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1844 **MAYOR GOODMAN**

1845 All right. You're excused, Sir.

1846

1847 **JEFF GENTRY**

1848 Thank you.

1849

1850 **MAYOR GOODMAN**

1851 Next, please.

1852

1853 **BRAD JERBIC**

1854 I don't have any further witnesses, Your Honor.

1855

1856 **MAYOR GOODMAN**

1857 Very good. Mr. Terry.

1858

1859 **WILLIAM TERRY**

1860 We would rest, likewise.

1861

1862 **MAYOR GOODMAN**

1863 Do I get to ask how my picture got in the, in this –

1864

1865 **WILLIAM TERRY**

1866 You're with other celebrities, Mr. Mayor.

1867

1868 **MAYOR GOODMAN**

1869 It's unbelievable how a guy could be put in a very embarrassing spot and be completely

1870 innocent. You would agree with that, would you not, Mr. Terry?

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1871 **WILLIAM TERRY**

1872 Absolutely.

1873

1874 **MAYOR GOODMAN**

1875 And Mr. Jerbic, you would agree with that would you not?

1876

1877 **BRAD JERBIC**

1878 I would completely agree with that. If this were a tanning booth, this would be nothing to be
1879 embarrassed about.

1880

1881 **MAYOR GOODMAN**

1882 All right.

1883

1884 **WILLIAM TERRY**

1885 What is a tanning booth? And there's nothing to be embarrassed about.

1886

1887 **MAYOR GOODMAN**

1888 Okay, well, I just wanna know how my picture got in there, but it will be for another day then.

1889 Okay.

1890

1891 **BRAD JERBIC**

1892 Do you want some (inaudible)?

1893

1894 **MAYOR GOODMAN**

1895 Let's hear some argument.

1896

1897 **BRAD JERBIC**

1898 I'll be very, very brief, Your Honor. The, because of the limitations put on us by the Council,
1899 we have been able to introduce only those incidents that Mr. DiFiore says. In spite of the

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1900 incidents that you're not considering, in spite of the evidence we're not proffering testimony to
1901 support, the incidents from August until now alone, would have been the basis for his denial of
1902 Mr. Le's license. You've heard from a Las Vegas Metropolitan Police Department detective that
1903 this business is not a tanning spa, that this business is consistent with other illegal activity.
1904 You've heard the activity can be anything from illegal, because they don't have a massage
1905 license and they're performing illegal massages to illegal because they're performing acts of
1906 prostitution.

1907 Now Mr. Terry, I'm sure, will argue that there's not a conviction to go with it, but I'm here to
1908 represent to you, you don't need a conviction to make a decision. You are a tribunal. Your
1909 appearing may come before the court. The court might become before you. And even if there
1910 were a court hearing before you, and even if the court acquitted, as you know, Your Honor, as a
1911 former criminal defense lawyer and Councilman Wolfson knows as well, the standard of proof
1912 and before a criminal ju, in a criminal court, is beyond reasonable doubt, the highest standard
1913 available.

1914 I've asked Mr. Redlein to do some research to let you know what the standard of proof is for this
1915 hearing today. And so before going further with my argument, I would like Mr. Redlein to put
1916 on the record what the standard of proof is for this Council to uphold Mr. DiFiore's decision.

1917

1918 **MAYOR GOODMAN**

1919 Mr. Redlein, can you make it very brief, please.

1920

1921 **JOHN REDLEIN**

1922 I can, Your Honor. The, there are three rules that apply to all these appeals. Number 1, we're
1923 appealing the administrative action of our Administrative Officer, Mr. DiFiore. The action
1924 below is assumed to be correct. Rule Number 2. This Council doesn't substitute its judgment
1925 for his. Number 3, it is the appellant's, Mr. Le's, burden to prove that the action below was
1926 unsupportable or incorrect. The standard of review is this, or I should say, now the standard of
1927 view, review is the best way to put it. Your standard of review was there substantial evidence to
1928 support the administrative decision below and you have to be cautious when you use that. That

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1929 is lowest standard of proof that exists in the law. The word, substantial, doesn't mean the way
1930 we usually use it, massive or big. It means, is there something that has substance to it, other than
1931 caprice, other than whim. And the Nevada Supreme Court, I found 22 Nevada Supreme Court
1932 decisions which give precisely the same definition in this State. Substantial evidence is defined
1933 as that which a reasonable mind might accept as adequate to support a conclusion.

1934

1935 **MAYOR GOODMAN**

1936 Very good. Mr. Jerbic.

1937

1938 **BRAD JERBIC**

1939 Thank you, Your Honor. Before I continue, as a matter of record, I want to file the photographs
1940 behind Tab Number 11, these is (sic) just the evidence that we agreed would be able to be
1941 discussed and abated today with the Clerk so they are also part of the record.

1942

1943 **MAYOR GOODMAN**

1944 Mayor Pro Tem.

1945

1946 **COUNCILMAN REESE**

1947 Speaking of those pictures, just for my own edification, I guess. I look at some of these pictures
1948 and all I see is a little child's bedroom. I see stereos, beds. And I never been in a tanning spa in
1949 my life, okay. Never been in one of these places, a massage parlor either in my life. So my
1950 question is, if this is a tanning spa, where is (sic) the tanning lights at?

1951

1952 **BRAD JERBIC**

1953 If I could, that's part of the argument I was about to launch into, is – the photographs. What you
1954 have are two incidents here that we've been able to discuss. One, where illegal massage was
1955 going on by people in an establishment that doesn't have a massage license, by people who don't
1956 have a massage therapist license. The next incident you have is in November where you actually
1957 have an individual discussing an act of prostitution in great detail with an undercover detective

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1958 and an individual who apparently runs the front desk and keeps a pretty close eye on the parking
1959 lot, tipping a cab driver illegally.

1960 I can submit to you that, combined with these photographs, is absolutely inconsistent with any
1961 creditable claim that this is a legitimate tanning spa. If this were a legitimate tanning spa, why
1962 do we have people acting almost as bodyguards and running out into the parking lots? Why do
1963 we have women dressed in lingerie and running around bearing their breasts? Why do we have
1964 women inside offering sex acts for money? Why do we have women inside doing illegal
1965 massages? Why do we have one, two, three, four, five, you can count the photographs, of one
1966 bed after another that are no tanning lights.

1967 You heard Mr. DiFiore talk about the only piece of equipment that he saw inside this
1968 establishment is one tanning bed. And you can look at the photograph for yourself, it's Number
1969 201 of 391 and it's open with towels draped over the top. He believed it was used for drying or
1970 heating towels. If this is a tanning salon, where are the tanning beds? Why do we have nine cots
1971 that are not in any way associated with tanning, according to Mr. DiFiore, and only one tanning
1972 bed?

1973 I submit there's only one logical conclusion and that – this is not a tanning spa. The illegal
1974 activity is going on in the form of massages without a license and in the form of prostitution and
1975 in the form of illegal tapping (sic) of cab drivers. I submit that there is more than enough
1976 evidence to back the decision of your Business Licensing Director to not renew Mr. Le's license
1977 and it shouldn't be renewed.

1978

1979 **MAYOR GOODMAN**

1980 All right. Thank you. Mr. Terry.

1981

1982 **WLLIAM TERRY**

1983 Substantial evidence is the test. And this is a gentleman that's had a license since November of
1984 '07, that Mr. DiFiore could have objected to or instituted some type of proceedings at – any
1985 point in time. So what you have is November of '07, nothing is occurring that's even being

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1986 reported, according to Mr. DiFiore, until August of '08. They go in in August of '08 and it's the
1987 undercover police officers who attempt to get the ladies to solicit, which they do not do.
1988 Now there has been no representations made to you, no evidence, that any one of these people
1989 has even been charged. The mere fact that they were arrested and/or cited, doesn't mean that the
1990 City Attorney charged it. That's an affirmative burden upon the City. As far as the ads are
1991 concerned, the ad does not say Hawaiian Tanning gives massages. What Mr. DiFiore objects to
1992 is the fact that it is an air, in an area where there are massage parlors that are advertised for, but
1993 there is not a word under Hawaiian Tanning that indicates that they do massages.
1994 Now as far as the beds are concerned, did you hear Mr. DiFiore define or attempt to define what
1995 a tanning bed was and why you can't use some other type of a bed for that? Did you hear him
1996 indicate that it would not be or would be common for an individual that is doing this type of
1997 work, which is the rubbing of a body, to carry their own solution? You didn't hear any
1998 testimony in that regard.

1999 If you look at the actions from August of 2008, including the ad situation, Mr. Le should still be
2000 allowed to have his license. He was not present on the only two dates that you've had before
2001 you. Mr. DiFiore did not bring it, you didn't hear Mr. DiFiore testify that he brought it to Mr.
2002 Le's attention at any point in time after August of 2008. And we would submit it to you on that.
2003

2004 **MAYOR GOODMAN**

2005 All right. Thank you.
2006

2007 **BRAD JERBIC**

2008 I'll just say about one thing in response and if the argument is this place doesn't say massage on
2009 the outside and, therefore, they're not doing massage, you can go down Fremont Street and look
2010 at hookers, and they don't have a sign around their neck that say, I'm a hooker, either. That
2011 doesn't mean they're not performing illegal activity.
2012

2013 **MAYOR GOODMAN**

2014 Mayor Pro Tem.

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2015 **COUNCILMAN REESE**

2016 Mr. Terry, you referenced that on two different occasions, that when the supposedly massages
2017 was (sic) taking play, place, Mr. Le wasn't present at that time.

2018

2019 **WILLIAM TERRY**

2020 August and November, Sir.

2021

2022 **COUNCILMAN REESE**

2023 Yes. But he still is the owner of this and he is responsible for what goes on, even whether he's
2024 there or whether he's not there though.

2025

2026 **WILLIAM TERRY**

2027 Absolutely and that's why I brought it to your attention, that had Mr. DiFiore, after August, had
2028 Mr. DiFiore testified that after August of 2008, he brought it to Mr. Le's attention, and in effect,
2029 put him on notice, then the argument would have been different. Mr. Le was not present in
2030 August. He was not present in November.

2031

2032 **BRAD JERBIC**

2033 Your Honor, I –

2034

2035 **MAYOR GOODMAN**

2036 No – I've heard enough.

2037

2038 **BRAD JERBIC**

2039 Okay.

2040

2041 **MAYOR GOODMAN**

2042 Heard enough. Everybody had a chance to make the record and I've heard enough, unless, I, I'm
2043 not gonna limit the Council from asking questions but no more arguments.

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2044 **COUNCILMAN WOLFSON**

2045 Just – one question, please. Going to Page 5 of the book, and I don't think I'm going to be
2046 violating your ruling, Your Honor. Are you there, Mr. Jerbic?

2047

2048 **BRAD JERBIC**

2049 I'm here.

2050

2051 **COUNCILMAN WOLFSON**

2052 One, two, third paragraph from the bottom relates to the November 21st, 2007, the appeal, et
2053 cetera. I think I remember what happened at the time. But the reason that the agenda item was
2054 stricken and the non-renewal was withdrawn, and this is more of a question, it was more of a
2055 technicality.

2056

2057 **BRAD JERBIC**

2058 I believe –

2059

2060 **COUNCILMAN WOLFSON**

2061 Is that right?

2062

2063 **BRAD JERBIC**

2064 – it's procedural as I – argued earlier. I think what happened is, staff –

2065

2066 **WILLIAM TERRY**

2067 And again, I'm gonna object. There's no record made as of that point in time.

2068

2069 **MAYOR GOODMAN**

2070 All right.

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2071 **WILLIAM TERRY**

2072 As to what the reasons were.

2073

2074 **MAYOR GOODMAN**

2075 I'm gonna allow the question to be answered.

2076

2077 **WILLIAM TERRY**

2078 Very well.

2079

2080 **MAYOR GOODMAN**

2081 This is not due to our consideration. It's just a question which is basically outside the

2082 proceeding at this point.

2083

2084 **BRAD JERBIC**

2085 And would, I would, no disrespect to Mr. Terry, if my recollection's wrong in any way, shape or

2086 form. I trust you will correct me. I did not talk to Mr. Terry directly about withdrawing it. I

2087 talked with Mr. Henry in my office and I talked to him recently. If, my recollection was, is that

2088 staff had attempted to non-renew the license after renewing it, in essence. They got, accepted

2089 the check and it had already passed through that time barrier. And when Mr. Terry was retained

2090 and we learned that fact we advised, that based on these facts, we shouldn't go forward and it

2091 was withdrawn. My, it was my recollection, the merits of this were never reached or discussed

2092 at the Council level and no waiver was intentionally given by the City of a right to bring it up

2093 later.

2094 But what I was gonna say, Your Honor, is that when Mr. Terry is making an implication here,

2095 that Mr. Le wasn't on notice because Mr. DiFiore –

2096

2097 **MAYOR GOODMAN**

2098 No, I know – I understand.

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2099 **BRAD JERBIC**

2100 – did tell him.

2101

2102 **MAYOR GOODMAN**

2103 I –

2104

2105 **BRAD JERBIC**

2106 We're getting very, very close to an implication that he's never been notified.

2107

2108 **MAYOR GOODMAN**

2109 No – I understand that, but once again, I'm – not, I don't believe that's relevant. It may go to the

2110 weight –

2111

2112 **BRAD JERBIC**

2113 Okay.

2114

2115 **MAYOR GOODMAN**

2116 – but it's – irrelevant as far as responsibility.

2117

2118 **BRAD JERBIC**

2119 Okay.

2120

2121 **MAYOR GOODMAN**

2122 The – Code makes him responsible as the licensee for conduct that takes place on his premises.

2123 We're not talking about prostitution. That's not what the allegation is. The allegation is having

2124 a massage license and not having a massage license, having a sun tanning license. And if other

2125 activities go on that's, it may be probative of something, but the only issue that I think is relevant

2126 here is whether or not massages were taking place without a, an appropriate license.

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2127 **BRAD JERBIC**

2128 Let me state, Your Honor, that it's really two things. And if you'll look at the very first section
2129 before we get to the tab, we're at Page 12 of 391. This is the Las Vegas Municipal Code. I
2130 think that the reasons we're down to is, Number 6.02.090 (2) (a), that's not having a massage
2131 license.

2132

2133 **MAYOR GOODMAN**

2134 Right.

2135

2136 **BRAD JERBIC**

2137 It's also (2) (h), and that's the business activity constitutes, promotes, causes, allows, fosters,
2138 aids or otherwise enables a private nuisance, public nuisance, chronic nuisance or is being
2139 conducted in an unlawful and illegal and personal manner. That is the prostitution.

2140

2141 **MAYOR GOODMAN**

2142 I appreciate that.

2143

2144 **BRAD JERBIC**

2145 So –

2146

2147 **MAYOR GOODMAN**

2148 All right. Thank you. Councilwoman, your motion please.

2149

2150 **COUNCILWOMAN TARKANIAN**

2151 I agree that the incidents from August 2008 to the present support there is substantial evidence to
2152 support the establishment is not a tanning salon and **I move for non-renewal of the business**
2153 **license.** And Mr. Jerbic I ask you if this is the correct language I should use to support our
2154 license manager's recommendation.

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2155 **BRAD JERBIC**

2156 I think that's – good enough, Your Honor. I – think that quite technically, it would just be, move
2157 to uphold Mr. DiFiore's cision, decision to non-renew –

2158

2159 **COUNCILWOMAN TARKANIAN**

2160 And basically,

2161

2162 **BRAD JERBIC**

2163 – based upon the evidence.

2164

2165 **COUNCILWOMAN TARKANIAN**

2166 – we're voting on the renewal or non-renewal of the tanning license.

2167

2168 **BRAD JERBIC**

2169 Right. And this would be just the tanning license, the only license the establishment has. So it
2170 would be to uphold Mr. DiFiore's decision to non-renew.

2171

2172 **COUNCILWOMAN TARKANIAN**

2173 And as I said, I think there's substantial evidence to support that this is not a tanning salon.

2174

2175 **WILLIAM TERRY**

2176 (Inaudible) denied the appeal.

2177

2178 **MAYOR GOODMAN**

2179 All right.

2180

2181 **COUNCILWOMAN TARKANIAN**

2182 Thank you. That's my motion.

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2183 **MAYOR GOODMAN**

2184 That's the motion. Let's vote please. Okay, all those in favor of the Councilwoman's motion,
2185 say aye.

2186

2187 COUNCIL MEMBERS

2188 Aye.

2189

2190 **MAYOR GOODMAN**

2191 Opposed? Motion carries. Thank you very much. **(Motion carried unanimously.)**

2192

2193 WILLIAM TERRY

2194 Thank you, Mr. Mayor, Ladies and Gentlemen of the Council.

2195

2196 (END OF DISCUSSION)

2197 /cv; da