

ALLEN LICHTENSTEIN
ATTORNEY AT LAW

3315 Russell Road, No.222
Las Vegas, NV 89120
Phone: (702) 433-2666
Fax: (702) 433-9591
e-mail: allaw@lvcoxmail.com
alichtensteinlaw@aol.com

May 23, 2010

Peter Lowenstein
Planning Supervisor
Planning and Development Dept.
City of Las Vegas
731 S. Fourth Street
Las Vegas, NV 89101

Re: 1238 S. Las Vegas Blvd. (TCP 38255)

Dear Mr. Lowenstein:

This letter is in response to your correspondence of May 13, 2010 to my client Raymond Pistol, concerning the denial of his request for a temporary commercial permit on the property at 1238 South Las Vegas Boulevard. In your denial letter you state the following:

Planning has made a finding that the proposed special event with dunk tank is not compatible or harmonious with existing development within the surrounding area; therefore this application has been denied.

Unfortunately, the letter does not explain how this special event is incompatible with the surrounding area. The premises in question, Talk of the Town is licensed as an adult bookstore and erotic dance establishment. While the dunk tank is clearly designed for promotional purposes, it involves no nudity toplessness or adult activity. The "incompatibility with the surrounding area" is curious in that the particular section of Las Vegas Boulevard in question, has long been rundown, populated mostly by weekly motels and wedding chapels and many vacant buildings. Moreover, the street fair that takes place right behind Talk of the Town every month at First Friday also belies the incompatibility argument.

The May 13, 2010 letter provides absolutely no explanation as to the basis for the conclusion of incompatibility. In fact, it appears totally arbitrary. This raises the troubling possibility that the decision has more to do with apparent dislike of the business itself rather than any objective standard. The fact that Talk of the Town is involved with constitutionally protected expression that certain people may find distasteful raises even greater concern.

DIR-38357

Therefore, this letter should be considered an appeal of the May 13, 2010 denial letter, and a request for a fuller explanation of the basis of the denial. Also, please be aware that in Paragraph 3 of the May 13, 2010 letter, you misquote the appeal process set forth in Code Section 19.18.100(E) by stating:

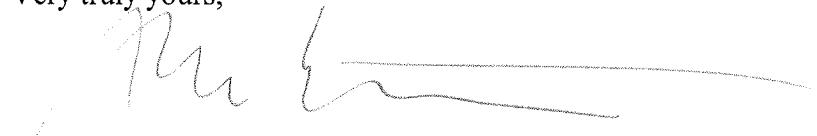
any person aggrieved in connection with the inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of this Title may appeal the decision to the City Council . . .

Section 19.18.100(E) actually reads as follows:

(E) Appeal. The applicant may appeal a decision of the Director to the Planning Commission by filing a written request with the Department of Planning and Development. Any appeal pursuant to this Section must be filed within ten days after the date of the decision that is the subject of the appeal. The decision of the Planning Commission is final, unless appealed to the City Council as in the case of a Variance.

The significance is that the Code provides for a two part appeal process for a temporary commercial permit denial. The first appeal goes to the Planning Commission. Then there is the option of a further appeal to the City Council. Please let me know if you have any questions.

Very truly yours,



Allen Lichtenstein

Al/pn

Received this 24th day of May by: Ange Horn

PLANNING & DEVELOPMENT



DEVELOPMENT SERVICES CENTER

731 S. Fourth Street
Las Vegas, NV 89101

Voice: 702-229-6301
Fax: 702-474-0352
TTY: 702-386-4908

www.lasvegashnvada.gov

May 13, 2010

Raymond Pistol
631 Las Vegas Boulevard
Las Vegas NV 89101

RE: TCP-38255

Mr. Pistol:

This letter is in response to a request for temporary commercial permit on property at 1238 S Las Vegas Boulevard in Las Vegas with Assessor's Parcel Number of 162-03-112-012.

Planning has made a finding that the proposed special event with dunk tank is not compatible or harmonious with existing development within the surrounding area; therefore this application has been denied.

Per 19.18.100 (E) – Appeal, “any person aggrieved in connection with the inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of any provision of this Title may appeal the decision to the City Council. An appeal must be in written form and must be filed in the office of the City Clerk, with a copy to be filed in the office of the Department of Planning and Development. The appeal must be filed within ten days after the administrative decision is made and shall specifically describe the decision at issue and the basis for the appeal. The appeal shall be considered on the next available agenda of the City Council.”

If you have any questions concerning this matter, please contact me at (702) 229-4693.

Sincerely,

Peter Lowenstein, AICP
Planning Supervisor
Planning & Development Department

Mayor
Oscar B. Goodman

City Council
Gary Reese

(Mayor Pro Tem)

Steve Wolfson

Lola Tarkanian

Steven D. Ross

Ricki Y. Barkow

Stavros S. Anthony

City Manager

Elizabeth N. Fretwell

