



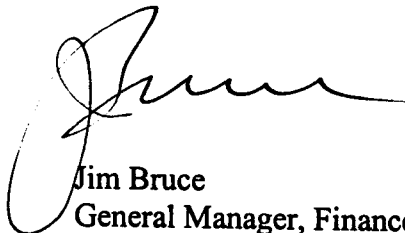
City of Richmond

Report to Council

To: Richmond City Council
From: Jim Bruce
General Manager, Finance and Corporate Services
Re: **Suspension of Business Licence for Swan Lake 88 Enterprises Co. Ltd**
Date: November 20, 2001
File: 8060-20-7048

Staff Recommendation

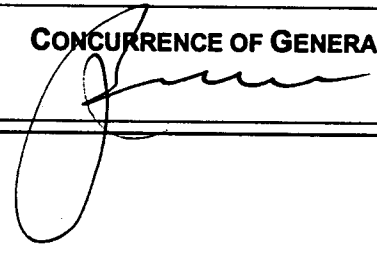
That Council suspend the Business Licence of Swan Lake 88 Enterprises Co. Ltd for the period December 1, 2001 through December 31, 2001 both dates inclusive.



Jim Bruce
General Manager, Finance and Corporate Services

Attach.2

FOR ORIGINATING DIVISION USE ONLY
CONCURRENCE OF GENERAL MANAGER



Staff Report

Origin

A report relative to a licence suspension for Swan Lake had been prepared and was on the agenda for the October 8, 2001 Council meeting. The business licence holder had engaged the services of the lawyer who had suggested that the decision made by the Chief Licence Inspector was based in part on hearsay evidence and that the business operator was not given adequate opportunity to question the individual that had provided a portion of the evidence used in the decision making process. The Chief Licence Inspector recognized that as the suspension of a business licence has serious impacts that a second hearing should be held and as a consequence, the report was pulled from the Council agenda and therefore, not dealt with. A copy of that report and relevant information is attached with this report. A second licence suspension hearing has now been held and this report addresses the findings.

Analysis

A business licence suspension hearing was held on October 16, 2001. There was a delay in holding the hearing as it was necessary to have the RCMP officer, who attended the business location and whose correspondence was part of the evidence used to make the original decision, was available during his regular shift.

The business owner's lawyer was present at the hearing and was able to address her concerns with both the RCMP officer and the City's Licence Inspector. A copy of the minutes of that hearing is attached. Subsequent to the hearing, the business owner's lawyer has corresponded with the City regarding the minutes and offered further argument and recommendation in an effort to clarify various items to assist in the decision making process.

Having reviewed all the evidence again from the first hearing, taking into consideration the evidence from the second hearing and the lawyers concerns expressed in correspondence, I believe there is adequate evidence to demonstrate that the activities taking place in the business establishment known as Swan Lake Shiatsu contravenes what are considered approved business practices allowed under the Business Licence and Regulation Bylaws and as such, a licence suspension is warranted.

Financial Impact

There is no financial impact for the City.

Conclusion

That the evidence gathered and presented at the two business licence suspension hearings warrant a business licence suspension.



Jim Bruce

General Manager, Finance and Corporate Services



City of Richmond

6911 No.3 Road, Richmond, BC V6Y 2C1
Telephone (604) 276-4000
www.city.richmond.bc.ca

November 20, 2001
File: 8060-20-7048

Finance & Corporate Services
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Payroll (604) 276-4137 Purchasing (604) 276-4097
Tax (604) 276-4145

Ms. Penny Green
Bacchus Law Group
Suite 7-3, 550 Beatty Street
Vancouver V6B 2L3

Dear Ms Green:

Re: Business Licence Review of Swan Lake Shiatsu

Thank you for your letter of October 26, 2001 relative to the above topic and I can assure you I have carefully considered the issues you have raised.

On the matter of evidence, I have reviewed my notes and the notes made by the investigating officer and am satisfied that my notes provide an accurate enough reflection of what transpired at the hearing.

On the basis of the evidence, I am satisfied that there has been misconduct of such a nature that requires action to be taken. I am also satisfied that considering all the circumstances that the payment of a fine is not sufficient deterrent in this case.

I reject your submission that having the licence holder appear at two hearings is harsh and unfair. It was your request that the hearing be reheard with the attendance of the RCMP officer involved that lead to the second hearing and, of course, the results of the original hearing were removed from the Council agenda. In regard to the article appearing in the newspaper, the City cannot be held responsible for how the newspapers handled the story.

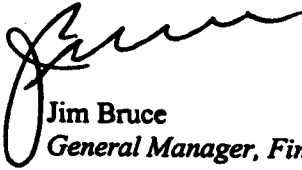
As Chief Licence Inspector, after considering the evidence at both hearings and your written submission, I hereby must advise you that I will be making a recommendation to Richmond City Council on November 26, 2001 that the business licence of Swan Lake 88 Enterprises Co. Ltd be suspended for a period of 31 days commencing December 1, 2001 through December 31, 2001.

If you wish to appear before Richmond City Council to express your concerns relative to this recommendation, please contact the City Clerk, Mr. Richard McKenna no later than 5:00 pm Wednesday November 21, 2001.


RICHMOND
Island City, by Nature

Should you have any questions relative to this matter, please feel free to call me directly at 604-276-4095.

Yours truly,

A handwritten signature in black ink, appearing to read "Jim Bruce", with a stylized, flowing script.

Jim Bruce
General Manager, Finance and Corporate Services

JWB:naw



October 26, 2001

BY FAX (604) 276 4222 4 PAGES

City of Richmond
6911 No. 3 Road
Richmond BC V6X 2Z8
Tel 604 276 4000
Fax 604 278 5139

Attention: Jim Bruce, Chief Inspector

Dear Mr. Bruce

Re: Business License Review of Swan Lake Shiatsu

We write this letter to you pursuant to your agreement to accept a written response to the minutes of the License Suspension Hearing of Swan Lake Shiatsu, which took place at Richmond City Hall on October 16, 2001.

The hearing was to provide the City with evidence to assist it with a decision of whether to suspend the business license of Swan Lake Shiatsu. We provide argument below to further assist the City in making its decision.

The Evidence

The minutes of the evidence that you provided only include certain portions of the evidence which was given at the hearing and it is unclear on what basis you omitted certain details.

In particular, based on the notes I took during the hearing, the minutes of evidence did not contain the following:

- a) Cpl. D. Meikle stated that the top that the female in the room was wearing was made of nylon and was really tight and extended below the elbows;
- b) Cpl. D. Meikle stated that he took the female out of the room and to the police vehicle, not the customer;
- c) Mr. Duarte admitted that the first ticket was given to Swan Lake when it was licensed under a different license, and so Swan Lake has only received one ticket under its current business license.

As for the reliability of Cpl. D. Meikle's evidence, we point out that neither the customer nor the "female" were present at the hearing to provide evidence. In reference to the female's clothing, we suggest that in the process of leaning over to give a massage, it is

**BACCHUS
LAW GROUP**

entirely possible that a tight skirt could rise up above the knee, and a tight shirt would need to be readjusted. Any reference to what a customer said is hearsay and should have been omitted from the minutes of evidence.

The Law

Suspending a license is a serious issue and consequences to the business' owners, employees and the effect on the local economy have to be considered. The courts give a strict interpretation to what powers are within the jurisdiction of municipalities.

Section 660 of the *Local Government Act*, R.S.B.C. 1996, c.323 gives the authority to the City to suspend a license only where reasonable, and a reasonable basis includes the following:

- (a) the holder of the license fails to comply with a term or condition of the licence;
- (b) the holder is convicted of an offence indictable in Canada;
- (c) the holder is convicted of an offence under an Act or municipal bylaw in respect of the business for which the holder is licensed or with respect to the premises named in the licence;
- (d) the holder has ceased to comply with a bylaw or has otherwise ceased to meet the lawful requirements to carry on the business for which the holder is licensed or with respect to the premises named in the licence;
- (e) in the opinion of the council, the holder has engaged in misconduct that warrants the suspension or cancellation of the license, if the misconduct is
 - i. in respect of the business
 - ii. in or with respect to the premises named in the license, or
 - iii. in respect of that business or another business, or in or with respect to the premises of that business or other business, carried on by the holder inside or outside the municipality."

The Application of the Law to the Facts

In the present circumstances, Swan Lake was not given a ticket, and no one has been charged with an indictable offence. Also, there are no special terms or conditions of Swan Lake's license. Therefore the only basis on which the City could suspend the license of Swan Lake would be under subsections (d) or (e).

Since August, there have been several visits to Swan Lake by R.C.M.P. or City of Richmond representatives, and each time no bylaw infractions have been found. Also, the R.C.M.P. made over 10 visits to Swan Lake Shiatsu in the past year and a half. Patrick Li testified that Swan Lake is currently abiding by all of the City bylaws and no one could produce evidence to the contrary. Mr. Duarte gave evidence that in general, Swan Lake complies with all of the bylaws and keeps an up to date register with the City of all of its employees. There is no evidence on which to conclude that Swan Lake continues to be in breach of any bylaws.

**BACCHUS**
LAW GROUP

There has never been a single complaint to the City regarding Swan Lake by any member of the public, any employee or any customer of Swan Lake. There is no evidence of misconduct in respect of the business which is within the jurisdiction of the City of Richmond.

The next test would be whether a penalty of a business suspension would be reasonable. The factors to consider are:

1. The City's practices with regards to other similar businesses,
 2. The business' history,
 3. The punitive effect, and
 4. Punishment already received
-
- 1) No other body rub studio has had its business license suspended by the City of Richmond after only one ticket is issued. Some businesses, like Holiday Massage Centre, received seven violation tickets for the same bylaw infraction before their license was suspended.
 - 2) It is unfair to consider a ticket under a different business license. Swan Lake has only been issued one ticket since it began operating under its current business license. Swan Lake has never yet received a warnings as the result of a hearing. It would be fair to give Swan Lake a warning before suspending its license.
 - 3) The effect of suspending the license of the Swan Lake, in addition to costing Swan Lake lost revenues, would be to put into jeopardy the 17 female employees of Swan Lake who depend on their work there for food and shelter, and to feed their children.
 - 4) On Tuesday, October 9, 2001, Swan Lake appeared at Council meeting to deal with this issue, but the Council quietly removed the matter from the list. Unfortunately, two newspapers erroneously reported that Swan Lake's license had been suspended from October 12 to November 10, 2001, and this had a negative effect on the business of Swan Lake. The newspaper reports occurred on October 11, 2001 in the Vancouver Sun and on October 10, 2001 as a headline in a local Chinese newspaper called the Sing Tao Daily. In addition to this, Swan Lake has had to go to the time and expense of attending so far 2 hearings at the Richmond City Hall and one City Council meeting. Punishing Swan Lake any further would be harsh and unfair.



In summary, it is our position that at this time it would not be reasonable for the Richmond City Council to suspend Swan Lake's business license. We urge you to give Swan Lake Shiatsu the opportunity to demonstrate that it will continue to abide by all of the City of Richmond's bylaws.

Many Kind Regards,
BACCHUS LAW GROUP per

A handwritten signature in black ink, appearing to be 'Penny Green', written over a horizontal line.

Penny Green

PG



CITY OF RICHMOND

LICENCE SUSPENSION HEARING SWAN LAKE 88 ENTERPRISES CO. LTD.

MINUTES

**HELD OCTOBER 16, 2001
AT 5:00P.M. TAG MEETING ROOM
RICHMOND CITY HALL**

In Attendance:

Ms. P. Green (PG)
Mr. P. Li (PL)
Cpl. D. Meikle (DM)
V. Duarte (VD)
J. Bruce (JB)

- JB introduced everyone and explained the process and why we were here. Referenced the inability to interview the RCMP at the last hearing.
- JB asked VD to review his involvement in the matter and directed that DM would address the RCMP letters.
- VD gave history of problems with Swan Lake back to November 10, 1999, including the MTI's given and the licence suspension hearing that had been conducted after the first incident. Advised that no suspension was given, only a warning.
- VD advised that on September 6, 2000 he gave Swan Lake a warning for a dress code violation. As this was just after the bylaw changes he was a bit lenient.
- VD issued an MTI on May 1, 2001 for inappropriate dress.
- VD concluded presentation-referencing letters from RCMP.
- JB asked PG if she wanted to ask questions now or wait until end. PG advised she would wait until end. JB advised she could jump in anytime.
- DM advised that on August 12, 2001, three RCMP attended. A plain-clothes officer was admitted. He held door open and other members entered.
- DM went immediately to the first door and it was locked. The window was opaque so he could not see in.

- DM waited for about 30 seconds and then the door was opened.
- DM said the female in the room was pulling her top garment down and pulling her hair out of the back of her sweater.
- DM said the male customer was in the room and he took him out to the police vehicle.
- DM said the customer advised him that he had paid \$20 for the employee to give him massage while she was nude.
- DM gave the name of the customer and employee as well as birth dates.
- JB asked why DM was giving the birthdays. JB wanted to know if this was important to prove the employee was under age or just information. DM advised it was for information and JB advised this was not important.
- PG advised that DM was using hearsay evidence, and it should not be used as the customer was not there. DM questioned this, and made a reference to PG being a lawyer. PG answered she was a lawyer, but not a criminal lawyer.
- DM said he confirmed with the customer that the \$20 was for the employee to perform the massage in the nude, and that the customer advised he had not negotiated a price for any other services.
- DM advised that a female RCMP constable had checked out the employee and she had no undergarments on.
- PG asked DM to describe what the sweater looked like that the employee was pulling down when he entered the room. DM said it was very tight fitting down to the elbow and waist, a shiny cloth.
- PG asked about the skirt the employee was wearing and DM advised it was a mini skirt only down to the thighs and not below the knees.
- PG asked about the employee pulling her hair out of the sweater. Was it long hair? DM advised it was hair down to shoulders.
- PG reiterated question about skirt. Was the skirt very tight? DM responded yes.
- PG asked DM if he checked other massage room doors. DM confirmed he did but none were locked and there were no other customers.
- PG asked if DM knew how many times Swan Lake had been visited by RCMP. DM advised he was unaware, but knew he had been twice and wasn't sure of the actual dates.
- PG said Swan Lake had been visited about 12 times. DM said he couldn't confirm or deny this as he only knew his part. DM thought there were about 16 massage parlours left and VD confirmed that there were now only 14.
- PG asked that when the RCMP and City visit these massage parlours did they find similar infractions. DM & VD responded that they visit all massage parlours, and they all have a

variety of infractions for which MTI's are issued. DM advised that he can only report on what his watch observes and can not speak for what other RCMP watches describe.

- PG asked DM & VD if the City had received any complaints from any of Swan Lake staff, customers or the public. Both responded in the negative.
- PG asked if Swan Lake practiced good business standards. DM & VD responded that they could not comment on business practices, but only operations relative to the bylaw regulations.
- PG asked if DM & VD thought the employees were working in a safe environment. DM & VD responded that, they were again not experts in this area and wouldn't comment.
- JB gave a brief overview of the history of the City's involvement in the enforcement of regulations. JB explained the rules changes for health and safety of the employees and customers, as well as the zoning changes, and late night activity problems of adult entertainment premises including pool halls and Karoke bars.
- PG asked DM how the door was locked and how did he know it was 30 seconds before it was opened. DM advised it was locked from the inside and he knew it was about 30 seconds because he was just about to kick the door in.
- JB asked VD if we had received any complaints about Swan Lake. VD responded no, but advised we had received other reports from the RCMP. JB advised PG had received these in the package of information previously provided.
- PG asked VD about the different licence types and VD gave a brief overview of the evolution of licencing and licencing requirements, including the licencing of the employees.
- JB again detailed the process of the tightening of the rules.
- PG asked VD if Swan Lake had always complied with the changing licencing requirements, and VD confirmed they had.
- PG asked VD to confirm that Swan Lake has a good reputation on how he conducts his business. VD said he only checks on bylaw rules and regulations and could not comment on their business practices.
- PG asked VD to explain the incident with the Health Inspector. VD advised the Health Department staff had been experiencing a rise in cases of venereal disease in Richmond, and asked VD if he could help them identify massage parlour locations so they could visit each location to drop off information packages. VD confirmed that was his role in the process. VD was asked to take the Health Department staff to the various locations, and he did so.
- PG asked VD if there had ever been a health problem at Swan Lake. VD said he would not know this, and if there was the Health Department would know and he believed this type of information would be confidential and he would not be privy to such information.

- PG asked VD if Swan Lake was in contravention of any rules since the last visit. VD explained he was suspicious of something on his last visit when he delivered the hearing letter as the owner ran to the back of their business premises.
- JB asked if he actually saw something or was he just suspicious, and VD advised he was just suspicious. VD advised he had no knowledge of any new contraventions.
- PG asked PL how many employees he now had. PL advised 17, and all were licenced. Some are part time and others are full time.
- PG asked PL if any of his employees were mothers. PL responded yes.
- PG asked PL that if he was shut down for a month, what would happen to employees. PL said he didn't know but thought some of them may go to work somewhere else and probably not come back.
- PG advised she asked this to demonstrate to the City the problem of the suspension. It would put 17 people out of work.
- PG asked PL to confirm that everything at Swan Lake is now in compliance with the City's bylaw and PL confirmed it was.
- PG asked PL if there were any locking devices on the doors now. PL said no.
- PG advised that was all the questions she had.
- JB explained the process from here.
- PG asked if she could review the minutes of the meeting before a report went to Council. JB agreed but said due to his requirement to be out of town for a few days this week, he may not get them to her until the early part of next week. JB advised he would not have a report ready for the October 22 Council meeting.
- PG asked for the minutes, and asked that she be given a chance to respond to the City after she received the minutes, and before the report for Council was written. PG advised she could do a one day turn around on this. JB agreed.
- JB asked if any last comments from anyone.

Meeting adjourned at 5:43 pm



City of Richmond

6911 No.3 Road, Richmond, BC V6Y 2C1

Telephone (604) 276-4000

www.city.richmond.bc.ca

October 11, 2001

File: 8275-20

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Admin. 276-4219 Accounts Receivable 276-4277

Payroll 276-4137 Purchasing 276-4097

Tax 276-4145

Via Fax: 604-408-5177

Bacchus Law Group
Suite 802 - 233 Abbott Street
Vancouver, B. C.
V6B 2K7

Attention: Ms. Penny Green

Dear Ms. Green:

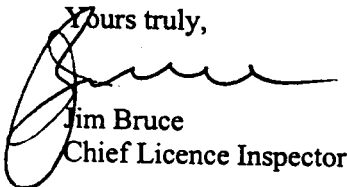
Re: Swan Lake

This letter will serve to inform you that I will be holding a new hearing on the matter of the possible suspension or cancellation of the Business Licence of the above named firm.

You have been previously provided with the written material that I have on hand, and at the hearing the investigating Royal Canadian Mounted Police officer will be in attendance to give evidence in this regard and to be available for your cross-examination.

As you are aware it is difficult to schedule these hearings, as the police work shift work, however the officer is available on Tuesday, October 16th, at 5:00 p.m.. I have therefor scheduled a hearing for Tuesday October 16th, 2001 at 5:00 p.m. to be held in my office on the second floor at the City Hall in Richmond, 6911 No. 3 Road, Richmond, B. C.

Yours truly,



Jim Bruce
Chief Licence Inspector

JB:pk

cc: Cpl. D. D. Meikle
V. Duarte

Swan Lake 88 Enterprises Co.Ltd.

Swan Lake Shiatsu, 1120 - 4651 Garden City Road, Richmond V6X 4A9


RICHMOND
Island City, by Nature



City of Richmond

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October 11, 2001

File: 8275-20

Finance & Corporate Services

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Receivable 276-4277

Payroll 276-4137 Purchasing 276-4097

Tax 276-4145

Mr. Chi Yau Patrick Li
Swan Lake 88 Enterprises Co.Ltd.
Swan Lake Shiatsu,
1120 - 4651 Garden City Road,
Richmond V6X 4A9

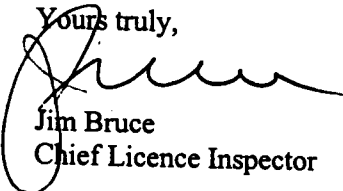
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You have been previously provided with the written material that I have on hand, and at the hearing the investigating Royal Canadian Mounted Police officer will be in attendance to give evidence in this regard and to be available for your cross-examination.

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Yours truly,


Jim Bruce
Chief Licence Inspector

JB:pk

cc: Cpl. D. D. Meikle
V. Duarte
Bacchus Law Group - Ms. Penny Green
Suite 802 - 233 Abbott Street
Vancouver, B. C.



TO: MAYOR & EACH
COUNCILLOR
FROM: A/CITY CLERK

See Council Agenda
Oct 9, 2001
Item 3

October 5, 2001

BY COURIER

City of Richmond
6911 No. 3 Road
Richmond BC V6X 2Z8
Tel 604 276 4000
Fax 604 278 5139

Attention: Richard McKenna, City Clerk

Dear Mr. McKenna,

**Re: Business License Review before Richmond City Council on October 9, 2001
at 7:00 p.m.**

We are the solicitors for Swan Lake Shiatsu and we will represent them at the above mentioned hearing.

Would you please pass a copy of this letter, and the enclosed letter from Patrick Li, to each of the City Council members in preparation of the hearing on October 9, 2001.

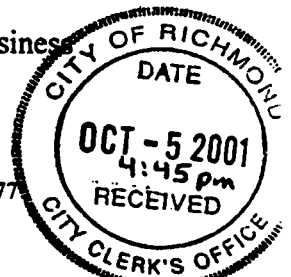
Before the City revokes or suspends a business license, it must give a business a full hearing, at which standards of natural justice must be applied.

At the council meeting on October 9, 2001, we ask that the City Council review all of the evidence before it and make a fair and impartial decision regarding the business license of Swan Lake Shiatsu.

It is our submission that the recommendation given by Jim Bruce to suspend the license of Swan Lake for one month is based upon inadequate evidence. Further, it is our submission that some of the reasons given by Mr. Bruce for the recommendation are improper.

In his letter dated September 19, 2001, Jim Bruce, General Manager of Finance and Corporate Services and Chief Licence Inspector, states the reason for the recommended suspension as:

- Cited for two previous infractions prior to August 12 RCMP visit
- On August 12 acting in contravention of bylaws
- Activities taking place "which are not permitted with any type of business license for the City of Richmond"





We submit that the first reason is improper. We submit it is unfair to take into consideration an infraction under a different business license. Previously, Swan Lake was licensed as an unregistered massage parlour, and was regulated by a very different set of Bylaws. Swan Lake has only been cited for one previous infraction under its current classification as a Bodyrub studio, prior to August 12, 2001.

We submit that the second reason is based on hearsay or otherwise unreliable evidence. The council is only entitled to make a decision based on reliable evidence before them.

We submit that the third reason is unspecific, unclear and improper. The law is quite clear that the City of Richmond has the right to regulate business, but it has no authority to restrict a particular business. The third reason cited by Mr. Bruce is an improper reason upon which to suspend a license.

A one month suspension would have serious consequences on the business of Swan Lake.

One particular danger is for the girls that work in Swan Lake. There are 17 females who work at Swan Lake. Each female employee is licensed and her identification is registered with the R.C.M.P. Each of these girls works in a safe environment that is well regulated by the City. At Swan Lake, people from the R.C.M.P. and the City make regular checks, and the female employees are given many opportunities to make sure that the working conditions of Swan Lake are safe.

If Swan Lake must suspend business operations for one month, all 17 of the female employees who work at Swan Lake will lose one month of income, and are likely have to find other income during that month. There is a real danger that some of these women may decide to work in massage parlours that are not licensed, or are underground, and some might work out of their own homes. These situations might put the women in jeopardy and certainly expose them to more risk than the stable and regulated working conditions of Swan Lake.

We acknowledge that the City must enforce its Bylaws. However, the Bylaws must be enforced in a fair and reasonable manner, keeping the best interests of the employees and the community in mind. Swan Lake is one of the most cleanest and well run body rub studios in Richmond and has an excellent reputation in the community. Swan Lake has never received a warning from the City for suspension of its Bodyrub license.

The City should take into consideration the purpose of the Bylaws. One of the main purposes of the Bylaws is to provide a safe working environment. It does not make sense for the City to execute such a harsh penalty on Swan Lake that will result in harm to the 17 female employees.



We ask the City to weigh the evidence that is before them and balance it with the needs and best interests of the community and the employees of Swan Lake. We submit that everyone is best served if Swan Lake is given a fine and a warning letter.

We thank you for your careful attention to this matter.

Many Kind Regards,
BACCHUS LAW GROUP per

A handwritten signature in black ink, appearing to read 'Penny Green', with a stylized flourish at the end.

Penny Green

PG
Encls.

cc: Jim Bruce, Chief Inspector
cc: Paul Kendrick, City Solicitor

From:
Swan Lake 88 Enterprises Co. Ltd. d.b.a.
Swan Lake Shiatsu
1120 - 4651 Garden City Rd.
Richmond, BC

TO: MAYOR & EACH
COUNCILLOR
FROM: ACITY CLERK

See Council Agenda
Oct 9, 2001
Item 3

Friday, October 05, 2001

Attention: The Mayor, and other Members of the Richmond City Council
Paul Kendrick, City Solicitor
Jim Bruce, General Manager, Finance and Corporate Services
Richard McKenna, City Clerk

City of Richmond
6911 No. 3 Road
Richmond BC V6X 2Z8

**Re: Swan Lake Shiatsu Business License Hearing
on Tuesday, October 9, 2001**

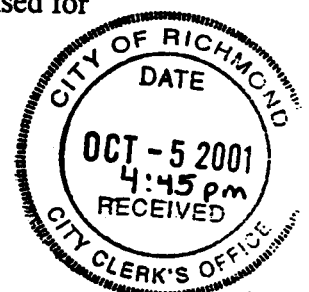
I am writing to you as the manager of Swan Lake Shiatsu, regarding the proposed suspension of the business license of Swan Lake Shiatsu.

I have been the manager of Swan Lake since it first opened, in August 1999, when Swan Lake Shiatsu passed its final inspection by the City of Richmond.

The first business license under which Swan Lake operated was for an unregistered massage parlour. When I registered for the license, no mention was made to me by anyone at the City about filing a registration for employees.

In late 1999, the City of Richmond was proposing changes to the City Bylaws which would change the classification of the business license of Swan Lake to a body rub studio and require it to make many changes to the business. Before the new Bylaws were in force, in November, 1999, Swan Lake was visited by Jim Bruce and Swan Lake was fined for not having a registration of all of its employees. I believe that at the time many unregistered massage parlours in the City of Richmond received similar fines, as the City had not previously enforced that portion of the Bylaw.

In 2000, I applied for a business license for Swan Lake for a body rub studio, which was a new category of business license required by the new amended Bylaws. Swan Lake paid \$3,000.00 for the licence, and each of the Swan Lake employees paid \$100.00. In 2001, Swan Lake again paid \$4,500.00, which included license fees for 15 employees, and its business license was renewed. Swan Lake is currently registered and licensed for 17 employees.



Since Swan Lake began operating, we have received over 15 visits from the City and the R.C.M.P. Since Swan Lake has been operating under a business license for a Body Rub Studio, Swan Lake has been cited with only two Bylaw infractions.

The first Bylaw infraction Swan Lake was incited for was in May, 2001 and it was because one employee was not wearing clothing down to her knees and elbows as required by the Bylaws. After this fine, I tried to ensure that all of the employees were dressed according to the Bylaws. Since then, we have had many visits from the R.C.M.P., sometimes in plain clothes and sometimes in uniform.

The second time was when the R.C.M.P. visited in August, 2001.

I have read the notes that the City Inspector reviewed as part of his recommendation for the first time on October 5, 2001. At the September 19, 2001 meeting, the City informed me for the first time about discussions that the R.C.M.P. apparently had with some of the Swan Lake customers. I have never had an opportunity to question the customers myself.

I have made it very clear to all of the employees at Swan Lake that no Bylaw infractions will be tolerated, or termination will result.

Currently, I believe that Swan Lake is abiding by all of the Bylaws which regulate body rub studios and I will make my best efforts to ensure that it continues to do so.

If Swan Lake is suspended for one month, the consequences will be seriously detrimental to the business. Some of the problems we would face are:

- Potentially losing some or all of our 17 employees
- Losing some customers permanently
- Losing future business because of the uncertainty of whether we will be open
- Losing revenues for a month, while still having to pay overhead expenses.

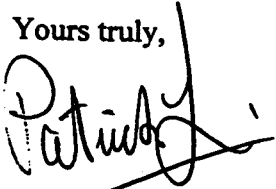
It is possible that a month suspension could cause Swan Lake to go out of business.

My wife is the guarantor on a five year lease for the premises of Swan Lake, which she signed before the Bylaws were amended. Swan Lake, and my wife as guarantor are liable to pay \$6,000.00 each month until June, 2004. If the one month suspension causes Swan Lake to go out of business, my wife will be liable for over \$200,000.00 in lease payments.

I am concerned about the safety and welfare of my employees. I am not sure what they would do during a month of suspension. I don't know how some would be able to pay their bills. I know at least one is a single mother.

I ask the honourable members of the City of Richmond Council not to give Swan Lake a one month suspension, as it will cause irreparable harm to the business, and cause harm to the 17 employees of Swan Lake. Please give Swan Lake a warning and give us the opportunity to stay in business and ensure that all of the City of Richmond Bylaws are complied with.

Yours truly,

A handwritten signature in black ink, appearing to read "Patrick Li", with a long horizontal stroke extending to the right.

Patrick Li
Manager, Swan Lake Massage



CITY OF RICHMOND

REPORT TO COUNCIL

TO: Richmond City Council

DATE: October 3, 2001

FROM: Jim Bruce
General Manager, Finance and Corporate Services

FILE: 8060-20-7048

RE: Suspension of Business Licence for Swan Lake 88 Enterprises Co.Ltd

STAFF RECOMMENDATION

That Council suspend the Business Licence of Swan Lake 88 Enterprises Co.Ltd. for the period October 12, 2001 through November 10, 2001 both dates inclusive.


Jim Bruce
General Manager, Finance and Corporate Services

Att.

FOR ORIGINATING DIVISION USE ONLY

CONCURRENCE OF GENERAL MANAGER


STAFF REPORT

ORIGIN

The City continues to enforce its business licence bylaws with an emphasis on the operating hours and permissive functions within the business complex. These efforts are part of our continuous effort to promote customer and employee safety and to ensure that all businesses are operating in a consistent manner so as to not prevent one business gaining an operational advantage over another business in the same business category.

ANALYSIS

City staff and RCMP personnel continue to make unscheduled visits to various adult entertainment businesses to ensure business operations comply with City regulations. Many of these businesses, because of the nature of the business, are open late at night. The RCMP have on several occasions advised Council of their concerns relative to these types of businesses and the impact on the community of extended operating hours and RCMP policing costs.

The Swan Lake 88 Enterprises Co. Ltd. is considered an adult entertainment establishment. This business continues to ignore the City's hours of operation for such a business and has in fact previously received Municipal Ticket Informations for various bylaw infractions.

This business has appeared before the Chief Licence Inspector on September 19, 2001 to review its operations and to explain why they continue to operate in contravention of the City's business operating regulations and bylaws. Having completed the review and taking into consideration information from the City's Business Licence Inspector and the RCMP, I believe this business should have their licence suspended for a period of roughly 30 days. The information detailed in Attachment 1. reflects the information that is the basis of this recommendation.

FINANCIAL IMPACT

- ✓ There is no direct financial impact for the City.

CONCLUSION

That Swan Lake 88 Enterprises Co. Ltd. continues to ignore the City's business licence bylaw and regulations and as such, their non-compliance warrants a business licence suspension of roughly 30 days that should be enforced from October 12, 2001 through November 10, 2001 both dates inclusive.

Jim Bruce
General Manager, Finance and Corporate Services

JWB:naw



CITY OF RICHMOND

LICENCE SUSPENSION HEARING SWAN LAKE 88 ENTERPRISES CO. LTD

MINUTES

**HELD September 19, 2001
at 9:40 am Room T.2.121
RICHMOND CITY HALL**

In Attendance:

Mr. Vic Duarte (VD)
Mr. Jim Bruce (JB)
Mr. P. Li (PL)

1. JB opened the meeting and explained the process for the hearing and why PL was here. JB asked VD to start off the hearing with his presentation.
 - VD commenced his presentation with reference to findings by the RCMP and their last site inspection
 - The RCMP conducted an on site inspection on August 12, 2001 at roughly 8:30 pm. Upon entering and checking the first room, it was locked from the outside. This is against the regulations. Shortly after attempting to open the door the RCMP officer was allowed entry. It was observed that the employee was putting her top back on and a male customer was sitting on a chair partially clothed. The RCMP report indicating that the customer had on pants, however, his undergarments and socks were sitting by the shower door.
 - VD elaborated on the conversation between the customer and the RCMP and verified that the customer had received a massage from the employee who was nude at the time of providing the service.
 - VD detailed the past inspections of this business
 - VD explained that the business had received two previous Municipal Ticket Information for bylaw infractions. The last one was on May 1st of this year and it was specific to the dress code regulations.
 - VD advised he had, on previous visits, reiterated to PL about proper dress code regulations and the intolerance for sexual activity on the business premises.
 - VD advised that he had arranged a Health Board Seminar on September 10, 2001

- JB asked PL to make his presentation
- PL said he did not have much to say except he tries to follow the rules
- PL said business is very slow and the last incident on August 12, 2001 should not have happened as he has told his employees they must follow the rules
- PL said it is very hard to make sure the girls follow the rules as he can't control them when they are in the room
- PL said he has followed all our rules and asked that they be given one more chance. He advised that the girl that caused the problem on January 8th was let go because of her actions
- PL again said business was slow and a licence suspension would be a financial hardship so he would like one chance and promised to make the girls follow the rules
- JB explained what would happen from here and advised PL that VD would deliver a letter by Friday September 29, 2001 detailing JB decision.



City of Richmond

6911 No.3 Road, Richmond, BC V6Y 2C1

Telephone (604) 276-4000

www.city.richmond.bc.ca

September 19, 2001

File: 8275-20

Finance & Corporate Services

Fax: (604) 276-4162

Admin. 276-4219 Accounts Receivable 276-4277

Payroll 276-4137 Purchasing 276-4097

Tax 276-4145

Mr. Chi Yau Patrick Li
Swan Lake 88 Enterprises Co. Ltd.
doing business as
Swan Lake Shiatsu
Unit 1120- 4651 Garden City Road
Richmond BC V6X 4A9

Dear Mr. Li:

**Re: Swan Lake Shiatsu
Business Licence Review Hearing**

This correspondence will serve as official follow-up to your business licence review hearing held before me at Richmond City Hall at 9:30 a.m. on September 19, 2001 in meeting room T.2.121.

I have now had the opportunity to review all the facts as presented by Mr. Duarte, the City's representative who presented both his findings and those of the RCMP as gathered at on-site visits. I have also taken into consideration all the comments put forward by yourself.

The findings clearly indicate that your business was operating in contravention to the City of Richmond Business Licence and Regulations bylaws. You have been cited for two previous infractions prior to the RCMP's last visit on August 12, 2001. This last visit by the RCMP indicates that you were again operating in violation of the Business Licence Bylaws and in fact, the RCMP indicated that there was specific evidence that would indicate that there were activities taking place in the room that is not permitted with any type of business licence for the City of Richmond.

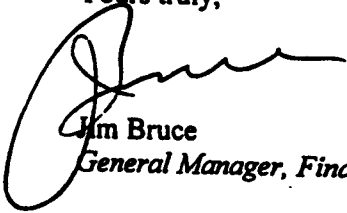
The Facts presented indicate that a licence suspension is warranted. I will therefore be recommending to Richmond City Council that your business licence be suspended from October 12, 2001 through November 10, 2001 both dates inclusive, which is a total of 30 days.

This recommendation will be dealt with by Richmond City Council at their meeting of October 9, 2001 at City Hall, 6911 No.3 Road. This meeting will commence at 7:00 p.m. sharp and you have the right to appear before Council to debate the recommendation and to present your case as to why the recommendation should not be supported. Should you wish to attend the meeting to present your case,

please contact Mr. Richard McKenna, the City Clerk, and he will ensure you are added to the Council agenda as a delegation.

Should you have any questions regarding this recommendation, or the process relating to the Council meeting, please feel free to call me directly at 276-4095.

Yours truly,



Jim Bruce

General Manager, Finance and Corporate Services

JWB:tlm

pc: J. Hikida
V. Duarte
R. McKenna
A. Spevak - RCMP