

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2009 APR 23 PM 6:48

TO: Office of the City Administrator
ATTN: Mr. Dan Lindheim
FROM: Administrative Hearing Officer
DATE: May 5, 2009

RE: A Public Hearing on the Appeal of the Administrative Hearing Officer's Decision to Deny the Application of Ms. Bing Rong Mi to Operate a Massage Establishment, "Sunny Relax" at 1531 Webster Street, and Adopting a Resolution Affirming the Hearing Officer's Denial of the Massage Establishment Application

SUMMARY

On January 8, 2009 Ms. Bing Rong Mi applied to the Office of the City Administrator for a permit to operate a massage establishment, under the name Sunny Relax, at 1531 Webster Street. A public hearing on the application was conducted on February 27, 2009. A permit was not issued at that time because Sunny Relax had not passed its fire inspection.

Additionally, because 1531 Webster Street is within 1000 feet of a school and also within 1000 feet of other massage establishments, a permit cannot be issued unless written findings are made that the establishment will not have an impact on public safety or neighborhood quality of life. Prior to the hearing the Oakland Police Department (OPD) had forwarded to the Hearing Officer a police report, detailing how two OPD officers were solicited for sex by two different massage therapists upon an undercover visit to Sunny Relax. One of the officers planned to attend the hearing but was unable to. With the allegation of sexual solicitation unresolved, the required finding could not be made, and the hearing was continued to March 16, 2009.

At the March 16, 2009 continuation, Ms. Mi's attorney stipulated to the veracity of the police report, but advocated that Ms. Mi had no knowledge of these acts and, in fact, did not know the names of the therapists who had solicited the officers because they were job applicants, who were on the premises when she left briefly to make a bank deposit, who fled before Ms. Mi became aware of the situation upon the entry of uniformed officers.. Based upon the preponderance of the evidence and the requirements of Oakland Municipal Code (OMC) Chapters 5.02 and 5.36 Ms. Mi's application was denied. The Findings and Decision of the Hearing Officer is provided as *Attachment A*. Police report number 09-009150 is included as *Attachment B*.

Pursuant to OMC section 5.02.100, any person excepting to the denial of a permit may, within 14 days of notification, submit a written appeal to the City Council. Ms. Mi submitted a timely written appeal. The appeal is provided as *Attachment C*.

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FISCAL IMPACT

There is no fiscal impact to revoking this permit, other than the annual permit renewal fee of \$400.

BACKGROUND

Special Activity Business permits, in general, are regulated by OMC Chapter 5.02. In prescribing the application process, section 5.02.060 directs that the City Administrator “shall consider the character of the applicant as respects morality, honesty and integrity, and all pertinent acts which may concern the health, safety, and general welfare of the public.” The Hearing Officer found that Ms. Mi’s operation of the business, particularly her lack of oversight, encouraged the illegal activity that occurred on her premises. Ms. Mi’s lack of oversight resulted in acts that negatively impacted the health, safety, and general welfare of the public, specifically the solicitation of prostitution by two unpermitted massage therapists.

Massage Establishment permits are specifically regulated by OMC Chapter 5.36. In June of 2005, Chapter 5.36 was amended in response to community concerns that Oakland’s permitting process should be a vehicle for validating legitimate practitioners of massage and not for authorizing prostitution or human trafficking. The amendments stress the responsibility of the business owner for establishing and maintaining a legitimate, crime-free massage establishment.

Section 5.36.010, “Statement of legislative policy,” states, “It is also the intent of the City Council that the person, business or entity holding a massage establishment permit be responsible for all activity that occurs on the establishment’s premises whether the activity is offered or conducted by the business, the business owner(s), an employee, an independent contractor, an assistant, a sole practitioner, a lessee, sub-lessee or a separate business.”

Section 5.36.150, “Responsibility of owner(s),” states, “Any violation of this chapter by a massage therapist, massage therapist trainee, operator, manager or employee on the premises of a massage establishment shall be considered also as a violation by the owner.”

KEY ISSUES AND IMPACTS

Ms. Ngo’s appeal lists 11 grounds on which the appeal is based. The grounds, as stated on her appeal are in bold typeface, followed by the Hearing Officer’s responses.

1. **“Ms Bing Rong Mi is a new owner of a new business. The Hearing Officer used the background of a different and now closed massage establishment that was owned, operated, and managed by a different person. This other massage establishment was owned by a man named, Ken Zee, and closed in late 2008.”**

Pursuant to OMC Section 5.02.070 Massage Establishment permits are not transferable. Ms. Mi was therefore required to apply for a permit as a new owner. The business owned by Mr. Zee

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was named "Sunny Relax Center" and Ms. Mi's business is named "Sunny Relax". Ms. Mi's business is at the same location as Mr. Zee's business.

Most significantly, however, is the fact that Ms. Mi was the manager of Sunny Relax Center during Mr. Zee's ownership. Mr. Zee was an absentee owner. Ms. Mi was therefore in the position to most affect the practices and reputation established by Sunny Relax Center and the expectations that would carry over to Sunny Relax. With the same business location and similarity of name, the reputation of Mr. Zee's business, under Ms. Mi's management, would likely carry over to Ms. Mi's business, as evidenced by the sexual solicitations made by job applicants to Ms. Mi's business.

2. "Ken Zee is not and never has been an associate of Ms. Mi's new business enterprise."

The Hearing Officer has never contended that Mr. Zee is related to Ms. Mi's business.

3. "The Hearing Officer's reliance upon a "call from a party associated with another permitted Oakland massage establishment" is not trustworthy because:

- a. The source of the call is not identified;**
- b. The allegations of this complaint are vague and unsubstantiated;**
- c. Ms. Mi and/or her advocates have not had the opportunity to either confront the caller or question/respond to those allegations;**
- d. The other Oakland massage establishment is a competitor and therefore has an adverse and biased interest in the granting/denying of a new permit;"**

The Hearing Officer received the call from another massage establishment, and utilized it for two purposes: 1) to warn Ms. Mi that a complaint had been received and would likely be investigated and 2) to notify the division of OPD that makes the recommendations on Massage Establishment applications. The call is the type of complaint which the City often receives reporting illegal activity. These calls help focus police resources, which are inadequate to proactively check every business. Sometimes no illegal activity is found but, in this case, the illegal activity was confirmed by OPD when they performed a sting operation. The call itself was not used as evidence. The results of the investigation it prompted provided concrete evidence of illegal activity.

4. "The Hearing Officer believes that she had expressed adequate warnings to Ms. Mi and her friend Raymond Yee on January 8, 2009 is not supported by the recollections of Ms. Mi and Mr. Yee. Rather Mr. Yee recalls that Mrs. Killey referred to the website, known as Redbook.com when she admonished Ms. Mi about the illegality of sex acts.

- a. Redbook.com is a web site that provides forum for massage clients to post reviews of massage establishments.**
- b. Any reviews posted prior to January 8, 2009 would not have been for Ms. Mi's new business, d.b.a. "Sunny Relax" but for a similarly named massage business "Sunny Relax Center" owned by Ken Zee who operated this business."**

Because the complaint had been received and passed on to OPD, the Hearing Officer felt obliged to warn Ms. Mi of the complaint and that her operation would be under scrutiny by the police during the application period. Although the ordinance was provided in Chinese to Ms. Mi, the Hearing Officer thought it was important to reiterate to Ms. Mi that a Massage Establishment could not be a cover for prostitution in Oakland, that Oakland was serious about this and, that, as the owner, she would be responsible for any illegal activity that occurred on the premises. She could then take any steps necessary to correct any problems and ensure that no illegal behavior occurred. All of this was conveyed in very explicit terms. Both Ms. Mi and Mr Yee confirmed that they understood and that there would not be any problem with prostitution at Sunny Relax. The major concern of the Hearing Officer was conveying the seriousness of the prostitution issue and the owner's responsibility for ensuring it did not occur.

The Hearing Officer may have mentioned Redbook.com as a site where Ms. Mi could check to see if comments are being made about her therapists so that she could eliminate any behaviors or employees whose actions threatened her permit. The Hearing Officer did not check the website regarding either Sunny Relax Center or Sunny Relax and does not know whether OPD did so.

5. "The Hearing Officer also referred to Ken Zee as another source of objections to the application filed by Ms. Mi, during conversation but was not made part of the findings and decision from which this appeal is taken."

Mr. Zee did object to Ms. Mi's continuing operation of the business. His objections were not part of the findings because it was not sworn testimony.

6. "The Hearing Officer characterization that Ms. Mi "misjudged the character" of "Alan" the "handyman" and that Ms. Mi "has shown incredibly poor judgment and lack of common sense." This is unprofessional inappropriate subjective conclusion and should not be used to deny the permit of Ms. Mi.

These statements in another context would amount to actionable slander and therefore should not be part of a decision based upon the Oakland Municipal Code."

At the continuation of the hearing, Ms. Mi's attorney, Margaret Lowrie, spoke for Ms. Mi, regarding what had occurred on the day that the OPD officers called upon Sunny Relax. The explanation was that Ms. Mi left the two therapist applicants and a handyman at Sunny Relax while she went to the bank. Ms. Lowrie argued that, in the future, Ms. Mi could avoid the occurrence of prostitution at Sunny Relax through training.

In the Discussion section of the Findings and Decision, the Hearing Officer wrote,
Accepting as true Ms. Lowrie's explanation of what occurred on the day the OPD officers went to Sunny Relax, it would indicate a lack of common sense that the Hearing Officer does not believe is a matter of training. To leave one's business open and in the hands of two complete strangers, from whom no identification has

been obtained, while the owner goes to the bank indicates a serious lack of judgment. If Ms. Mi believed the handyman would protect her interests, she misjudged his character as well.

In her advocacy for Ms. Mi, Ms. Lowrie offered her belief that any prior lapses in conforming to the law may have been due to cultural differences. Ms. Lowrie explained that, in many countries, including China, there are numerous laws that, in actuality, are just ignored. She proposed this as one of the reasons that illegal activity occurred despite the Hearing Officer's admonitions and despite receipt and explanation of the OMC Massage Chapter in Chinese. In the Decision section of the Findings and Decision, the Hearing Officer wrote,

Evaluating Ms. Mi's character in the best light, that offered by Ms. Lowrie, Ms. Mi has shown incredibly poor judgment and lack of common sense. While the Hearing Officer accepts that cultural differences could affect one's beliefs about the enforcement of local laws, it defies credulity that a prudent business person in any country would leave their sole livelihood open and attended only by a non-employee and two job applicants, of whom the business owner has no knowledge and no ability to trace.

Ms. Mi's poor judgment resulted in acts that negatively impacted the health, safety, and general welfare of the public, specifically the solicitation of prostitution by two unpermitted massage therapists. The Hearing Officer cannot accept that such poor judgment was a one-time occurrence. The Hearing Officer also does not accept that adults with poor judgment and lack of common sense can quickly be taught good judgment and common sense. Under these circumstances a finding cannot be made that the establishment will not impact public safety or neighborhood quality of life.

Pursuant to OMC section 5.02.060, "in granting or denying [a] permit. . . the City Administrator. . . shall consider the character of the applicant as respects morality, honesty and integrity, and all pertinent acts which may concern the health, safety, and general welfare of the public." Ms. Mi's judgment is indicative of her character and, when that judgment and the actions that accompany it result in acts that negatively impact the health, safety, and general welfare of the public, the Hearing Officer is mandated to consider it.

The permits issued under Title 5 of the OMC are discretionary permits for types of businesses that have been known to sometimes create nuisance or other negative effects. The OMC therefore requires greater governmental scrutiny than is required in the permitting of other businesses. The OMC also recognizes that the ability of the business to avoid the potentially negative impacts of such businesses is highly dependent upon the character and actions of the business owner. Ms. Mi's actions and lapses prevent the required finding that her establishment would not impact public safety or neighborhood quality of life.

7. “The hearing on February 27, 2009, was conducted without giving Ms. Mi notice that the administration would consider other allegations/evidence other than those presented by the application procedure itself. Attached is the letter, dated January 23, 2009 which is attached as Exhibit ‘3’”

The letter to which the appeal refers is the letter accompanying the “Notice of Public Hearing,” which must be posted on the premises of applicants for permits covered by Title 5. The Notice itself states, “At such hearing, petition may be presented in favor of or against the granting of such permission by the City Administrator.” Even if Ms. Mi did not interpret this to mean that any evidence and opinions may be presented at the public hearing, the consideration of the solicitation for prostitution was postponed to a date of Ms. Mi’s choosing, at which she was represented by counsel.

8. “To date all inspections by the various city departments have been passed. The Hearing Officers reference to a failed fire inspection is not an accurate representation because the fire inspection is in the process that occurs between the business owner, the building owner and the fire department in which a failure would result in the building being shut down, while here Ms. Mi was only subject to a re-inspection for the correction of minor defects. See Exhibit 1, page 4, line 34 of the findings and decision.

a. Ms. Mi’s business passed the final fire inspection. Attached is the final fire inspection which is attached as Exhibit ‘4.’”

Permits under OMC Title 5 are not issued until the passage of all required inspections. Although the passage date is cut off on Exhibit 4, it occurred after the 20th of March, 2009. Failure of the fire inspection was therefore a valid basis for not issuing the permit on the day of the hearing, even in the absence of the prostitution issue.

9. “The Hearing Officer failed to take into account the letters present in support of the application. Attached are the letters presented to the Hearing Officer at the hearing on March 16, 2009. Attached are copies of the letters submitted in support as Exhibit ‘5’”

As with the input from the former proprietor, Mr. Zee, the letters in support of Sunny Relax were not included in the findings and decision because they were not sworn testimony. The cover letter from Ms. Mi that accompanies the request for support from the “Neighbors and Customers of Sunny Relax” states, “Because my business location is within 1000 feet of a public or private school or youth center . . . the City will waive the requirement only if my business does not have negative impact on City resources, public safety and neighborhood quality of life.” One of the letters states that the writer does not believe illegal activity is occurring there and another opines the business will not have negative impacts. The others do not address this issue but do comment on the professionalism of the services.

The City requires all permitted massage therapists to have levels of training that provide a professional massage, and the Hearing Officer does not argue that there may have been many legal professional massages provided at Sunny Relax Center, as well as Sunny Relax. This fact, however, does not outweigh the lack of oversight provided by Ms. Mi and its disqualifying effect on her application to operate as the owner of a permitted Oakland Massage Establishment.

10. “The City issued another permit for a massage establishment since January 8, 2009 that is within the 1000’ of a public or private school, . . . or another massage establishment. Whereas Ms. Mi’s permits was filed prior to that of this other massage establishment.”

Applicants within proximity of sensitive uses must present evidence regarding why their businesses will not create negative impacts. Although Ms. Mi does not indicate the establishment to which she is referring, permits have been issued to new businesses on the basis of a volume of character references and to businesses that have additional locations on the basis of lack of illegal activity or problems at the other locations. In no other instances of recent permitting have there been any allegations of illegal activity. Should such allegations occur in the future, they will be referred to OPD for investigation, as occurred with the allegations regarding Ms. Mi’s business.

11. “The allegations of the Oakland Police are not currently being pursued and there exists substantial statements/evidence contradicting these allegations. Attached is the citation issued on February 5, 2009 as Exhibit “6”.

a. On February 5, 2009 the Oakland Police Officers interacted with two job applicants therefore the hearing officer reliance of the police report is [in]appropriate as these women were [not] employed by Ms. Mi nor permitted massage therapists.

b. Ms. Mi will institute a training program for all hired employees to assure that her employees do not compromise the public safety and neighborhood quality of life.”

Sunny Relax has a camera surveillance system which captures those entering the business before they climb the stairs to Sunny Relax’s 2nd floor location. This type of system as a warning system is a violation of OMC section 5.36.160. The therapists who solicited the undercover officers fled out a back exit before the uniformed officers arrived, likely due to seeing them on the surveillance system. Therefore, no citations were possible for the sexual solicitations. Ms. Mi was cited for a violation of OMC section 5.36.160, illegal warning devices. At the continuation of the hearing, Officer Saleda told Ms. Mi that OPD may not pursue the prosecution of that citation.

Ms. Mi does not explain the “substantial statements/evidence contradicting these [OPD] allegations, and, as noted previously, Ms. Mi’s counsel stipulated to the occurrence of the sexual solicitations, as described by the officers in the police report.

Whether the citation for warning devices is prosecuted or not is not relevant to what this situation reveals about Ms. Mi’s handling of her business and the negative consequences of her actions, first upon the OPD investigation, and ultimately upon her application for an ongoing permit to operate such a business.

Assuming that Ms. Mi’s appeal meant to state that the applicants were not employed by Ms. Mi, it is also unclear how Ms. Mi plans to prevent a similar recurrence by proposing only a training program for hired employees.

SUSTAINABLE OPPORTUNITIES

Economic

The denial of this permit impacts the revenues gained by the City through the payment of the operation’s business taxes.

Environmental

There are no environmental impacts of denying this permit.

Social Equity

Sunny Relax is located in the downtown area of Oakland near the newly renovated Fox Theater, the Uptown residences developed by Forest City, and other businesses that are changing the face of this part of Oakland. As the area becomes more residential, encouraging only businesses that operate legally becomes increasingly important.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no disability or senior citizen access issues involved in the denial of this permit.

RECOMMENDATION AND RATIONALE

The Administrative Hearing Officer recommends that the City Council uphold the denial of Ms. Mi’s application for a permit to operate a massage establishment at 1531 Webster Street. Ms. Mi operated the business in a way that encouraged the illegal activity confirmed by the OPD officers on February 5, 2009.

The amendments to OMC Chapter 5.36, passed by the City Council in June 2005, were intended to validate professional massage and to eliminate establishments, such as Sunny Relax, that use massage as a cover for illegal activity. As the owner of the business, Ms. Mi was responsible for operating in a manner in which her employees knew that illegal activity would not be tolerated and certainly where job applicants, of whom Ms. Mi had no knowledge, would not be free to practice massage during her absence.

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Had Ms. Mi been the holder of a massage establishment permit, her operation of the business and the actions of her applicants would have been grounds for revocation of the permit. As a permit applicant, Ms. Mi should be denied on the basis of her character, as respects morality and integrity, as well as actions that concern the health, safety, and general welfare of the public (OMC section 5.02.060).

Ms. Mi's appeal concludes:

Ms. Mi's oversight was unfortunate but fails to amount to [the] level of the hearing officer's characterization of Ms Mi as [having] "incredibly poor judgment and lack of common sense". This alone should not be a basis to deny her a business permit.

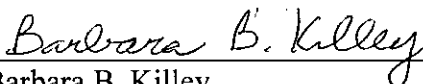
The Hearing Officers differs with the appeal's conclusion. Ms. Mi is a qualified massage therapist and she holds a valid massage therapist permit. The decision to deny her a Massage Establishment permit in no way affects her ability to continue practicing as a massage therapist. However, the illegal activity resulting from her judgment and actions during the application period dictates against awarding her a discretionary permit to operate a business in which continuous diligence and responsible oversight are required to ensure that the business functions as a legitimate therapeutic massage business and not as a cover for prostitution.

It is the hearing officer's experience that applicants are on their best behavior prior to the awarding of a permit. Considering Ms. Mi's actions during the application period, the Hearing Officer cannot make the required findings that a massage establishment business operated by Ms. Mi would not have an impact on public safety and neighborhood quality of life.


ACTION REQUESTED OF THE CITY COUNCIL

The Administrative Hearing Officer requests that the City Council adopt the resolution affirming the Hearing Officer's decision and upholding the denial of Ms. Mi's application for a permit to operate a massage establishment, Sunny Relax, at 1531 Webster Street.

Respectfully submitted,

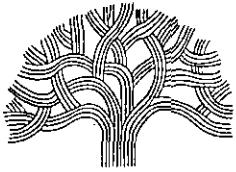

Barbara B. Killey
Administrative Hearing Officer
Office of the City Administrator

APPROVED AND FORWARDED
TO THE CITY COUNCIL:



Office of the City Administrator

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CITY OF OAKLAND

1 FRANK H. OGAWA PLAZA – OAKLAND, CALIFORNIA 94612

Office of the City Administrator
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Administrative Hearing Officer

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March 20, 2009

**FINDINGS AND DECISION OF HEARING OFFICER ON HEARING REGARDING
MESSAGE ESTABLISHMENT PERMIT APPLICATION OF BING RONG MI TO
OPERATE A MESSAGE ESTABLISHMENT UNDER THE NAME SUNNY RELAX
AT 1531 WEBSTER**

BACKGROUND

Prior to 2005, Oakland Municipal Code (OMC) Chapter 5.36, Oakland's ordinance regulating massage establishments, provided for several exemptions from the requirement for an establishment to obtain a Massage Establishment business activity permit. One of these exemptions was for holders of unrevoked certificates to practice healing arts under the laws of California. If massage therapists were also employed at such a business, the exemption could continue if massage did not account for more than thirty percent of the business. All massage therapists employed by the business were required to obtain Oakland Massage Therapist permits. On March 14, 2005 Sunny Relax Center, at 1531 Webster Street, was granted an exemption from the massage establishment requirement on the basis that it was the business of a licensed acupuncturist and not more than thirty percent of revenues were derived from the work of massage therapists.

On May 20, 2005 the exemption was revoked based upon an April 13, 2005 visit by the Oakland Police Department, which found no acupuncturist on site and three persons functioning as massage therapists without Oakland Massage Therapists permits.

In June of 2005, OMC Chapter 5.36 was amended in response to community concerns that Oakland's permitting process should be a vehicle for validating legitimate practitioners of massage and not for authorizing prostitution or human trafficking. The exemption based upon a percentage of revenues was eliminated.

On January 10, 2006 Ken Zee applied for a permit to operate a Massage Establishment under the name Sunny Relax Center at 1531 Webster Street. On May 25, 2006, following a public hearing and successfully completing inspections by the City's Building Services and Fire

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Departments and the Alameda County Health Department, Mr. Zee was issued a Massage Establishment Permit for Sunny Relax Center. Massage Establishment permits must be renewed annually, and Mr. Zee renewed the permit in 2007 and 2008.

Near the end of 2008, Mr. Zee decided to withdraw from the business, and on November 25, 2008, Bing Rong Mi called the Hearing Officer to inquire about transferring Mr. Zee's permit to her. The Hearing Officer explained that the Special Business permits issued under Oakland Municipal Code (OMC) Title 5, including Massage Establishment Permits, are not transferable, and that prospective business owners must apply for their own permits and meet all of the permit requirements.

On January 8, 2009, Ms. Mi applied, as a corporation, Sunny Relax LLC, for a permit to operate a massage establishment under the name Sunny Relax at 1531 Webster Street. Because Sunny Relax was a functioning business and the hearing on the application could not be conducted for at least 30 days, the Hearing Officer issued Ms. Mi a temporary permit valid through the scheduled date of the hearing, February 27, 2009.

On the day Ms. Mi filed her application the Hearing Officer met with Ms. Mi to notify her that the Special Business Permits Unit had received a call from a party associated with another permitted Oakland massage establishment alleging sexual activity at Sunny Relax and urging the City to take action to close the facility. The Hearing Officer reminded Ms. Mi that massage involving any sexual touching is illegal in Oakland and that an offer to perform a sexual service is as illegal as actually performing it. The Hearing Officer strongly cautioned Ms. Mi to take all steps to ensure that the massage therapists at Sunny Relax not engage in any illegal activity because, as the owner of the business, she is ultimately responsible for the activity in her business. Finally, the Hearing Officer warned Ms. Mi that the Oakland Police Department (OPD) is noticed on all Special Business Activity permits, and, because of the allegations of sexual activity at Sunny Relax, it was likely they would come to her business to determine the veracity of those allegations.

The public hearing was conducted on February 27, 2009 at Oakland City Hall in Hearing Room 3. Ms. Mi was accompanied by a friend. An Oakland Police officer, who planned to attend the hearing was unable to attend. The hearing was then continued to March 16, 2009 at Oakland City Hall in the 11th Floor Conference Room. Ms. Mi was represented by attorney Margaret Lowrie and accompanied by a friend, Victor Jue. Officer Jason Skrdlant and Officer James Saleda also attended the continued hearing. Following are the Findings of the Hearing Officer.

FINDINGS

1. Between May 25, 2006 and January 7, 2009, Sunny Relax Center at 1531 Webster St. operated as a Massage Establishment under a permit issued to Ken Zee.
2. On January 8, 2009 Bing Rong Mi applied for a permit to operate a Massage Establishment under the name of Sunny Relax at 1531 Webster St.
3. A hearing date was scheduled for February 27, 2009.
4. On January 8, 2009 a temporary permit was issued to Bing Rong Mi to operate a Massage Establishment, Sunny Relax, at 1531 Webster St. from January 8, 2009 to February 27, 2009.

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5. The Special Business Permits Administrative Analyst distributed copies of the application to City departments including OPD.
6. On February 5, 2009 Oakland Police Department Officers Mark Battle and Jason Skrdlant went undercover to Sunny Relax.
7. OPD delivered police report number RD09-009150 to the Hearing Officer, and it was entered into evidence for the public hearing.
8. Ms. Mi's attorney stipulated to the truth of the officers' reports regarding the "massage therapists" who gave them massages at Sunny Relax on February 5, 2009.
9. Ms. Mi was not present at Sunny Relax when the officers arrived, having gone to the bank to make a deposit.
10. Upon entering Sunny Relax, the officers were greeted by an unidentified woman. The officer paid her \$50 apiece in advance of the massage.
11. While giving the massage to Officer Skrdlant, the therapist also ran her hands down the middle of his buttocks and brush against his scrotum while rubbing his legs.
12. After 35-40 minutes of massaging Officer Skrdlant's back, the therapist rolled him over on his back. She patted his penis over the towel that covered him and asked if he "wanted a ... (fist pumping motion toward my penis) or a ... (open mouth fist pumping motion toward her protruding tongue) or a ... (pump both arms at her sides and rocking her hips front and back.)"
13. Officer Skrdlant asked the price, and she held up her right hand, motioning "5" and said \$50.
14. Officer Skrdlant said "no", but the "therapist" began to slowly massage his penis.
15. Officer Skrdlant stopped her, and told her "no thank you" but that he would give her a tip anyway.
16. *Officer Skrdlant tipped her \$50. The therapist hugged and thanked him.*
17. Officer Battle received a massage by a woman named "Tracy".
18. After 40 minutes Tracy asked Officer Battle to roll on his back
19. Tracy continue to "accidentally" brush her hand against Officer Battle's penis while massaging him.
20. After approximately 5 touches, Tracy asked, "you want this?", motioning with her hand and pointing to his penis.
21. Officer Battle asked what it would cost, and Tracy held up 5 fingers.
22. Officer Battle asked, "\$50.00?" and Tracy replied "yes."
23. Tracy pointed to her mouth and asked, "You want this instead?" and held up all 10 fingers.
24. Officer Battle asked, "\$100.00?" and Tracy replied "yes."
25. Officer Battle asked if he could return and request two girls for oral sex.
26. Tracy answered, "No, hand only", and explained that "the Boss" told them they can only masturbate customers, and that she was afraid she would get in trouble if a second employee was in the room and discovered that she was offering oral sex.
27. The massage ended, and Officer Battle tipped Tracy \$50.00.
28. Neither of the massage therapists was wearing an Oakland badge.
28. There are numerous surveillance cameras installed at Sunny Relax.
29. Ms. Mi arrived back at Sunny Relax while the officers were receiving their massages and began giving a massage to a client.
30. The officers exited Sunny Relax. Less than 10 minutes later they re-entered with a team of uniform officers.

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31. Both of the therapists who gave massages to the officers had apparently left by the back door before the officers re-entered.
32. The marked money was not recovered, and Ms. Mi stated she received none of it.
33. Ms. Mi was cited for violation of OMC 5.36.160M, Prohibition against warning devices.
34. Prior to the hearing, Sunny Relax passed its Building, Electrical, and Mechanical/Plumbing inspections but failed the Fire inspection.
35. On the basis of the fire inspection failure and the outstanding issue of the solicitations for prostitution, the temporary permit for Sunny Relax to operate was not extended, and Ms. Mi was ordered to cease and desist operations.
36. Because Sunny Relax is within 1000 feet of other massage establishments, a permit cannot be issued without written findings that the establishment will not have an impact on public safety or neighborhood quality of life.

DISCUSSION

Pursuant to Oakland Municipal Code Chapter 5.36, the City of Oakland requires massage establishment operators to obtain special activity permits in order to operate their business. The permitting process involves an application, background check, premise inspections, and a public hearing. The purpose of this process is to protect the citizens and neighborhoods of Oakland by ensuring that only law-abiding businesses that meet the prescribed standards will be permitted in Oakland.

Speaking for Ms. Mi at the continuation of the hearing, attorney Lowrie provided the following explanation of what occurred the day the OPD officers went to Sunny Relax. It is true that the two women who gave the OPD officers massages were not permitted massage therapists. This was because most of the therapists who previously worked for Sunny Relax left due to the uncertainty of whether a permit would be issued to Ms. Mi. Ms. Mi was therefore interviewing therapists, and the two women who gave the officers massages had come to Sunny Relax that day to apply for jobs. Ms. Mi left the therapist candidates and a handyman at Sunny Relax while she went to the bank. When she returned she saw neither therapist candidate. She assumed they had left. It was only when the officers returned with the uniformed team that she realized they had given the officers massages and had left with all the money. Ms. Mi does not know their names or how to reach them, as she had taken no formal application from them. She does not give sexual massages herself and she instructs her employees that it is prohibited.

Ms. Lowrie advocated that Ms. Mi be given one more chance because Ms. Mi had expended a substantial amount of money on the Sunny Relax facility, it is Ms. Mi's only livelihood, and, Ms. Lowrie believes that the problems are essentially training issues. Both Ms. Lowrie and Mr. Jue committed to assist Ms. Mi to understand and enforce Oakland's Massage Establishment regulations, despite cultural differences that Ms. Lowrie believes may account for any previous lapses.

In response to the Hearing Officer's admonition to Ms. Mi, all massage therapist and massage establishment applicants receive a copy of Oakland's ordinances. Ms. Mi received a copy in Chinese, her primary language, and signed a statement that she understood and accepted the

FINDINGS AND DECISION OF HEARING OFFICER
ON HEARING REGARDING MASSAGE ESTABLISHMENT PERMIT APPLICATION OF
SUNNY RELAX, 1531 WEBSTER

responsibilities. Ms. Lowrie pointed to this as an example of the cultural differences, in that, in many countries, including China, there are numerous laws that, in actuality, are just ignored.

Accepting as true Ms. Lowrie's explanation of what occurred on the day the OPD officers went to Sunny Relax, it would indicate a lack of common sense that the Hearing Officer does not believe is a matter of training. To leave one's business open and in the hands of two complete strangers, from whom no identification has been obtained, while the owner goes to the bank indicates a serious lack of judgment. If Ms. Mi believed the handyman would protect her interests, she misjudged his character as well. Neither Ms. Lowrie's explanation nor Ms. Mi's claim that she received none of the money accounts for the unidentified woman to whom the officers paid the initial \$50 upon entering the establishment.

DECISION

Pursuant to OMC section 5.02.060, "In granting or denying [a] permit . . . the City Manager . . . shall consider the character of the applicant as respects morality, honesty and integrity, and all pertinent acts which may concern the health, safety, and general welfare of the public."

Evaluating Ms. Mi's character in the best light, that offered by Ms. Lowrie, Ms. Mi has shown incredibly poor judgment and lack of common sense. While the Hearing Officer accepts that cultural differences could affect one's beliefs about the enforcement of local laws, it defies credulity that a prudent business person in any country would leave their sole livelihood open and attended only by a non-employee and two job applicants, of whom the business owner has no knowledge and no ability to trace.

Ms. Mi's poor judgment resulted in acts that negatively impacted the health, safety, and general welfare of the public, specifically the solicitation of prostitution by two unpermitted massage therapists. The Hearing Officer cannot accept that such poor judgment was a one-time occurrence. The Hearing Officer also does not accept that adults with poor judgment and lack of common sense can quickly be taught good judgment and common sense. Under these circumstances a finding cannot be made that the establishment will not impact public safety or neighborhood quality of life.

Based upon the preponderance of the evidence, and in accordance with the requirements of OMC chapters 5.02 and 5.36, Bing Rong Mi's application for a permit to operate a massage establishment at 1531 Webster Street, is hereby denied.

Barbara B. Killey
BARBARA B. KILLEY, HEARING OFFICER

3/20/09
DATE

FINDINGS AND DECISION OF HEARING OFFICER
ON HEARING REGARDING MASSAGE ESTABLISHMENT PERMIT APPLICATION OF
SUNNY RELAX, 1531 WEBSTER

Enclosures:

Proof of Service
Appeal Information
Police Report RD 09-009150

Mailing List

Ms. Margaret Lowrie, Esq., via email and fax
Bing Rong Mi, via email and postal service

cc: by email

Mayor Ron Dellums
Ms. Nancy Nadel, City Councilmember
Mr. Dan Lindheim, City Administrator
Sgt. Thomas Hogenmiller, OPD
Officer Jason Skrdlant, OPD

cc:

CAO File

Appeal Information

Any person excepting to the granting of, denial, suspension or revocation of a permit by the City Manager or his designee may appeal to the City Council. The appeal must be in writing setting forth the specific grounds or reasons why the decision of the City Manager should be overturned. The appeal must be filed within fourteen (14) days after the decision is posted in the United States mail.

The filing fee for the appeal is \$125.00 and may be paid in cash or check (payable to the City of Oakland). The filing fee must be paid at the City Manager's Office on the 11th Floor, City Hall, 1 Frank H. Ogawa Plaza, Oakland, California. A receipt for the filing fee shall be given for attachment to the appeal for filing with the City Clerk's Office.

The appeal must be filed with the City Clerk, 2nd Floor, City Hall, 1 Frank H. Ogawa Plaza, Oakland, California. Upon receipt of the appeal, the City Clerk shall give notice to the appellant, and to the adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties, not less than five (5) days prior to the appeal hearing. A copy of the appeal shall also be provided to the City Manager's Office, 11th Floor, City Hall, 1 Frank H. Ogawa Plaza, Oakland, California.

At the hearing, the appellant shall show cause why the decision being appealed should not be approved. The Council may continue such hearing, and its findings on the appeal shall be final and conclusive in the matter.

If you have any questions regarding this matter, you may contact the City Manager's Office at (510) 238-6914 or the Office of the City Clerk at (510) 238-3611.

Date: _____

TO THE HONORABLE CITY COUNCIL
Oakland, California 94612

An appeal is hereby taken from the decision of the City Manager in

() granting () denying

the application of _____

to _____

located at _____

Pursuant to Section 5-2.08 of the Oakland Municipal Code

"Any person excepting to any denial, suspension or revocation of a permit applied for or held by him pursuant to the provisions of this Chapter, or pursuant to the provisions of this Code where the application for said permit is made to, or the issuance thereof is by the City Manager, or any person excepting to the granting of, or to the refusal to suspend or revoke, a permit issued to another pursuant to the provisions of this Chapter, or issued to another by the City Manager pursuant to the provisions of this Code, may appeal in writing to the City Council by filing with the City Clerk a written notice of such appeal setting forth the specific grounds thereof."

The appeal is based upon the following: _____

Respectfully submitted,

(Name)

(Address)

(Please include Zip Code)

(Telephone Number)

Permit No.: _____

Date Appeal Received: _____

Filing Fee: _____

Receipt No.: _____



Oakland Police Department
455 - 7th Street
Oakland, CA 94607-3885

ASSIGN TO: _____

RD # _____

- ROUTING
- CID
 - YSD
 - VICE
 - CSP
 - TRAFFIC
 - D.A.
 - VICAWIT
 - _____
 - _____

Outside Reporting Agency _____ Case No. _____ Police Beat **4** CP Beat **X** Incident No. **09-009150**

VICTIM 1 Last, First, Mid **State Of California** Business Name Local / State / Federal Sex _____ Race _____ D.O.B. _____ Age _____

Home Address City Oakland Zip _____ Home/Msg. Phone _____

Business Address / School City Oakland Zip _____ Work Phone _____

Occupation _____ D.L. Number _____ State _____ Domestic Violence Victim Injured Sex Assault Victim Request Conf. _____

Working Hours _____ Victim's Support Resource Info Provided _____

ADDITIONAL PERSON RIP Parent Witness 1 Last, First, Mid **Officer M. Battle** 8189 Sex _____ Race _____ D.O.B. _____ Age _____

Home Address City Oakland Zip _____ Home/Msg. Phone _____

Business Address / School City Oakland Zip _____ Work Phone _____

OPD Vice

LOCATION	POINT OF ENTRY	LOCATION P.O.E.	METHOD OF ENTRY	BREAK GLASS	BURGLARY	WEAPON USED
<input type="checkbox"/> BANK/ATM	<input checked="" type="checkbox"/> DOOR	<input checked="" type="checkbox"/> FRONT	<input checked="" type="checkbox"/> OPEN/UNLOCKED	<input type="checkbox"/> REMOVE DOOR	<input type="checkbox"/> AUTO	<input type="checkbox"/> FIREARM
<input type="checkbox"/> CONVENT MKT	<input type="checkbox"/> WINDOW	<input type="checkbox"/> REAR	<input type="checkbox"/> FORCED SCREEN	<input type="checkbox"/> REMOVE WINDOW	<input type="checkbox"/> RESIDENTIAL	<input type="checkbox"/> CUT/STAB INSTR
<input type="checkbox"/> GAS STATION	<input type="checkbox"/> GARAGE	<input type="checkbox"/> SIDE	<input type="checkbox"/> CUTTING DEVICE	<input type="checkbox"/> POSS. EMPLOYEE	<input type="checkbox"/> COMMERCIAL	<input type="checkbox"/> HANDS, FEET, FIST
<input checked="" type="checkbox"/> OTHER COMM	<input type="checkbox"/> ADJ. PREM.	<input type="checkbox"/> ROOF	<input type="checkbox"/> BODY FORCE	<input type="checkbox"/> KEY	<input type="checkbox"/> OTHER	<input type="checkbox"/> CHEMICAL
<input type="checkbox"/> RESIDENCE	<input type="checkbox"/> VENT/SKYLIGHT	<input type="checkbox"/> UNK.	<input type="checkbox"/> PRY TOOL	<input type="checkbox"/> WATER METER	<input type="checkbox"/> ALARM RESP	<input type="checkbox"/> NONE
<input type="checkbox"/> STREET	<input type="checkbox"/> OTHER		<input type="checkbox"/> CHANNEL LOCKS	<input type="checkbox"/> NONE		<input type="checkbox"/> OTHER
<input type="checkbox"/> MISC.			<input type="checkbox"/> ATTEMPT FORCE	<input type="checkbox"/> UNK		

Gang Related Hate Crime Race Ethnicity Religion Sexual Orientation Physical Disability Mental Disability Gender Motivated By: _____

CRIME Common Name **Solicitation of Prostitution** Section/Subsection **647(b)** Code **PC** Pertains To: **V: 1**

Location (Address/Block No./InterseCtion) OHA ABC **1531 Webster Street**

LOSS	TYPE OF THEFT	Occurred	Date	Time	Day	VANDALISM
<input type="checkbox"/> None	<input type="checkbox"/> PICKPOCKET	On or From	5-Feb-09	1630	Thu	<input type="checkbox"/> EGGED
(CHECK ALL THAT APPLY) 1 <input checked="" type="checkbox"/> CURRENCY / NOTES 2 <input type="checkbox"/> CLOTHING / FURS 3 <input type="checkbox"/> JEWELRY / PRECIOUS METAL 4 <input type="checkbox"/> FIREARMS 5 <input type="checkbox"/> OFFICE EQUIPMENT 6 <input type="checkbox"/> TVS, RADIO, STEREO	<input type="checkbox"/> PURSENATCH <input type="checkbox"/> AUTO ACCESS <input type="checkbox"/> AUTO CLOUT <input type="checkbox"/> SHOPLIFTING <input type="checkbox"/> BICYCLE <input type="checkbox"/> COIN OP. DEVICE <input type="checkbox"/> FROM BUILDING <input type="checkbox"/> OTHER	To	5-Feb-09	1730	Thu	<input type="checkbox"/> BREAK WINDOW <input type="checkbox"/> SHOOT WINDOW <input type="checkbox"/> GRAFFITI <input type="checkbox"/> MAIL BOX <input type="checkbox"/> KEYPING / SCRATCHING <input type="checkbox"/> SLASH TIRES <input type="checkbox"/> OTHER
7 <input type="checkbox"/> HOUSEHOLD GOODS 8 <input type="checkbox"/> CONSUMABLE GOODS 9 <input type="checkbox"/> LIVESTOCK 10 <input type="checkbox"/> MOTOR VEHICLES 11 <input type="checkbox"/> MISCELLANEOUS		Reported	5 Feb 09	1730	Thu	

U.C.R. CODE 1 _____ (LIST MOST EXPENSIVE ITEM ABOVE)

SOLVABILITY FACTORS (Check All That Apply)
 SURVEILLANCE PHOTO NAMED SUSPECT
 SERIOUS INJURY IDENTIFIABLE SUSPECT
 EVIDENCE R/O REQUESTS INVEST.
 SUSPECT IN CUSTODY

The VICTIM / REPORTING PARTY contacted the police department to report the THEFT / LOSS / DAMAGE of the listed property. There are no known suspects. This report is made to alert the police. No narrative was completed.

VICTIM VEHICLE License No. _____ State _____ Secured At The Scene Towed Released To The Owner Fingerprinted Stolen Hold (Unit) _____ Tow Number _____

Car Truck Other Year _____ Make _____ Model _____ Body Type _____ Color _____ Vin No. _____

Stolen Bicycle Mens Mtn. Road Color _____ Brand _____ Model _____ Speed _____ License No. _____ Serial No. _____

PROPERTY / NARRATIVE Loss Evidence Safekeeping Recovered Location When Stolen Interior Exterior Garage

AOD and Juvenile Reporting Code (Refer to AOD Code Card)

Loss : **\$200.00 U.S. Currency**

ADD	Settling (2 Digit #)	Juvenile

Total Number Of				Phone Report	Photos Taken	Evidence Collected	Tech: On Scene	Rec. Value	Loss Value	Page
Vict.	Wit.	Susp.	Arr.	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	0	200	1 of 6
1		3	0							

Reported By **M. BATTLE** Serial No. **8189** Watch _____ Area _____ Supervisor **T. HOGENMILLER** Serial No. **7490** Reviewer _____ Serial No. _____



SUSPECT REPORT

OAKLAND POLICE DEPARTMENT
455 - 7th Street
Oakland, CA 94607

RD #

09-009150

CRIME Solicitation of Prostitution 647(b) PC	INCIDENT # V1	VICTIM LAST, First, Mic. State Of California
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SUSPECT		Number 1	LAST, First, Mic Unknown		RELATIONSHIP TO VICTIM None	IN CUSTODY THIS OFFENSE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
SEX F	RACE C	D.O.B.	AGE 45	HEIGHT 5'3	WEIGHT 130	HAIR BLK	EYES BRO
HOME ADDRESS			CITY <input type="checkbox"/> OAKLAND		ZIP	APT. NO.	HOME/MSG. PHONE
WORK ADDRESS (Name of Business) (School) 1531 Webster Street			CITY <input checked="" type="checkbox"/> OAKLAND		OCCUPATION Massage	WORK PHONE	
ADMONISHMENT: ADMONISHED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO REFUSED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO STATEMENT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				PROBATION COUNTY _____		Officer _____	
BY: (OFFICER/DATE/TIME)				PAROLE AGENT _____		<input type="checkbox"/> PAL	

DESCRIPTION PROVIDED BY 8417 CLOTHING, SCARS, MARKS, TATOOS, WORDS USED
Stripped shirt, black pants

HAIR LENGTH <input type="checkbox"/> SHORT <input type="checkbox"/> MED. (HALF EAR) <input type="checkbox"/> LONG (COVER EAR) <input type="checkbox"/> COLLAR <input type="checkbox"/> SHOULDER <input type="checkbox"/> BALD/SHAVED <input type="checkbox"/> RECEEDING	HAIR STYLE <input checked="" type="checkbox"/> NATURAL / AFRO <input type="checkbox"/> BRAIDED <input type="checkbox"/> CREWCUT <input type="checkbox"/> CURLY <input type="checkbox"/> PONYTAIL <input type="checkbox"/> PUNK <input type="checkbox"/> CONSERVATIVE	FACIAL HAIR <input checked="" type="checkbox"/> NONE <input type="checkbox"/> BEARD <input type="checkbox"/> MUSTACHE <input type="checkbox"/> BEARD & MUSTACHE <input type="checkbox"/> GOATEE <input type="checkbox"/> SIDEBURNS	COMPLEXION <input checked="" type="checkbox"/> LIGHT <input type="checkbox"/> MEDIUM <input type="checkbox"/> DARK <input type="checkbox"/> FRECKLED <input type="checkbox"/> ACNE <input type="checkbox"/> POCKMARK <input type="checkbox"/> RUDDY	APPEARANCE <input checked="" type="checkbox"/> CASUAL <input type="checkbox"/> WELL GROOMED <input type="checkbox"/> UNKEMPT <input type="checkbox"/> RIGHT HANDED <input type="checkbox"/> LEFT HANDED <input type="checkbox"/> BIRTHMARK <input type="checkbox"/> MOLE	SPEECH <input type="checkbox"/> LOW PITCH <input type="checkbox"/> HIGH PITCH <input type="checkbox"/> SLURRED <input type="checkbox"/> STUTTER <input checked="" type="checkbox"/> ACCENT TYPE CHINESE <input type="checkbox"/> OTHER	DEMEANOR <input type="checkbox"/> CALM <input type="checkbox"/> POLITE <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> NERVOUS <input type="checkbox"/> PROFESSIONAL <input type="checkbox"/> OFFENSIVE <input type="checkbox"/> HOSTILE <input type="checkbox"/> VIOLENT
OTHER DISTINCTIVE FEATURES <input type="checkbox"/> GOLD TOOTH <input type="checkbox"/> MISSING TEETH <input type="checkbox"/> SILVER TOOTH <input type="checkbox"/> GLASSES		<input type="checkbox"/> BODY ODOR TYPE _____ <input type="checkbox"/> LARGE EYES <input type="checkbox"/> MISSING LIMBS	WEAPON USED CAL. _____ BARREL _____ <input type="checkbox"/> BLUDGEON CLUB <input type="checkbox"/> HANDS/FEET	<input type="checkbox"/> REVOLVER <input type="checkbox"/> SEMI-AUTO PISTOL <input type="checkbox"/> SHOTGUN <input type="checkbox"/> RIFLE <input type="checkbox"/> SAWED OFF <input type="checkbox"/> NICKEL <input type="checkbox"/> BLUED <input type="checkbox"/> ROCK/BRICK <input type="checkbox"/> CUT/STAB <input type="checkbox"/> VEHICLE		

SUSPECT		Number 2	LAST, First, Mic Unknown		RELATIONSHIP TO VICTIM None	IN CUSTODY THIS OFFENSE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
SEX F	RACE C	D.O.B.	AGE 35	HEIGHT 5'4	WEIGHT 120	HAIR BLK	EYES BRO
HOME ADDRESS			CITY <input type="checkbox"/> OAKLAND		ZIP	APT. NO.	HOME/MSG. PHONE
WORK ADDRESS (Name of Business) (School) 1531 Webster Street			CITY <input checked="" type="checkbox"/> OAKLAND		OCCUPATION Massage	WORK PHONE	
ADMONISHMENT: ADMONISHED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO REFUSED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO STATEMENT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				PROBATION COUNTY _____		Officer _____	
BY: (OFFICER/DATE/TIME)				PAROLE AGENT _____		<input type="checkbox"/> PAL	

DESCRIPTION PROVIDED BY 8189 CLOTHING, SCARS, MARKS, TATOOS, WORDS USED
Red sweater, Blue jeans

HAIR LENGTH <input type="checkbox"/> SHORT <input type="checkbox"/> MED. (HALF EAR) <input checked="" type="checkbox"/> LONG (COVER EAR) <input type="checkbox"/> COLLAR <input type="checkbox"/> SHOULDER <input type="checkbox"/> BALD/SHAVED <input type="checkbox"/> RECEEDING	HAIR STYLE <input checked="" type="checkbox"/> NATURAL / AFRO <input type="checkbox"/> BRAIDED <input type="checkbox"/> CREWCUT <input type="checkbox"/> CURLY <input type="checkbox"/> PONYTAIL <input type="checkbox"/> PUNK <input type="checkbox"/> CONSERVATIVE	FACIAL HAIR <input checked="" type="checkbox"/> NONE <input type="checkbox"/> BEARD <input type="checkbox"/> MUSTACHE <input type="checkbox"/> BEARD & MUSTACHE <input type="checkbox"/> GOATEE <input type="checkbox"/> SIDEBURNS	COMPLEXION <input checked="" type="checkbox"/> LIGHT <input type="checkbox"/> MEDIUM <input type="checkbox"/> DARK <input type="checkbox"/> FRECKLED <input type="checkbox"/> ACNE <input type="checkbox"/> POCKMARK <input type="checkbox"/> RUDDY	APPEARANCE <input checked="" type="checkbox"/> CASUAL <input type="checkbox"/> WELL GROOMED <input type="checkbox"/> UNKEMPT <input type="checkbox"/> RIGHT HANDED <input type="checkbox"/> LEFT HANDED <input type="checkbox"/> BIRTHMARK <input type="checkbox"/> MOLE	SPEECH <input type="checkbox"/> LOW PITCH <input type="checkbox"/> HIGH PITCH <input type="checkbox"/> SLURRED <input type="checkbox"/> STUTTER <input checked="" type="checkbox"/> ACCENT TYPE CHINESE <input type="checkbox"/> OTHER	DEMEANOR <input type="checkbox"/> CALM <input checked="" type="checkbox"/> POLITE <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> NERVOUS <input type="checkbox"/> PROFESSIONAL <input type="checkbox"/> OFFENSIVE <input type="checkbox"/> HOSTILE <input type="checkbox"/> VIOLENT
OTHER DISTINCTIVE FEATURES <input type="checkbox"/> GOLD TOOTH <input type="checkbox"/> MISSING TEETH <input type="checkbox"/> SILVER TOOTH <input type="checkbox"/> GLASSES		<input type="checkbox"/> BODY ODOR TYPE _____ <input type="checkbox"/> LARGE EYES <input type="checkbox"/> MISSING LIMBS	WEAPON USED CAL. _____ BARREL _____ <input type="checkbox"/> BLUDGEON CLUB <input type="checkbox"/> HANDS/FEET	<input type="checkbox"/> REVOLVER <input type="checkbox"/> SEMI-AUTO PISTOL <input type="checkbox"/> SHOTGUN <input type="checkbox"/> RIFLE <input type="checkbox"/> SAWED OFF <input type="checkbox"/> NICKEL <input type="checkbox"/> BLUED <input type="checkbox"/> ROCK/BRICK <input type="checkbox"/> CUT/STAB <input type="checkbox"/> VEHICLE		

SUSPECT VEHICLE		VEHICLE WAS <input type="checkbox"/> SECURED AT SCENE <input type="checkbox"/> RELEASED TO OWNER	<input type="checkbox"/> TOW (#) _____ <input type="checkbox"/> FINGERPRINTED <input type="checkbox"/> HOLD (UNIT) _____	DAMAGE DETAILS, UNIQUE FEATURES			OTHER DESCRIPTION			
OWNER				ADDRESS				CITY <input type="checkbox"/> OAKLAND	ZIP	PHONE
LIC./STATE/PLATE COLORS		YEAR	MAKE	MODEL	STYLE	EXTERIOR COLOR	CONDITION <input type="checkbox"/> CLEAN <input type="checkbox"/> NEW <input type="checkbox"/> DIRTY <input type="checkbox"/> POOR	INTERIOR COLOR	INTERIOR <input type="checkbox"/> CLEAN <input type="checkbox"/> ODOR <input type="checkbox"/> DIRTY <input type="checkbox"/>	
TIRES <input type="checkbox"/> STOCK <input type="checkbox"/> WIDE <input type="checkbox"/> SMALL	RIMS <input type="checkbox"/> STOCK <input type="checkbox"/> CHROME <input type="checkbox"/> MAGS <input type="checkbox"/> SPOKE	LEVEL <input type="checkbox"/> STOCK <input type="checkbox"/> LOWERED <input type="checkbox"/> RAISED <input type="checkbox"/>	ROOF <input type="checkbox"/> VINYL <input type="checkbox"/> LANDAU <input type="checkbox"/> CONV	WINDOWS <input type="checkbox"/> INTED <input type="checkbox"/> BROKEN	SEATS <input type="checkbox"/> VINYL <input type="checkbox"/> BENCH <input type="checkbox"/> CLOTH <input type="checkbox"/> BUCKET		TRANSMISSION <input type="checkbox"/> AUTOMATIC <input type="checkbox"/> MANUAL			

REPORTED BY M. BATTLE	SERIAL # 8189	WATCH	DISTRICT	SUPERVISOR	SERIAL #	PAGE 2 OF 6
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SUSPECT REPORT

OAKLAND POLICE DEPARTMENT
455 - 7th Street
Oakland, CA 94607

RD #
09-009150

CRIME Solicitation of Prostitution 647(b) PC	INCIDENT # V1	VICTIM LAST, First, Mid State Of California
---	------------------	--

SUSPECT		Number 3	LAST, First, Mid Bingrong Mi		RELATIONSHIP TO VICTIM None	IN CUSTODY THIS OFFENSE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
SEX F	RACE C	D.O.B. 7-Oct-62	AGE 46	HEIGHT 5'8	WEIGHT 130	HAIR BLK	EYES BRO	DL NUMBER D3200877	PFN
HOME ADDRESS 55 Fairmount Ave.			CITY <input checked="" type="checkbox"/> OAKLAND		ZIP 94611	APT. NO. 204	HOME/MSG. PHONE		
WORK ADDRESS (Name of Business) (School) 1531 Webster Street				CITY <input checked="" type="checkbox"/> OAKLAND		OCCUPATION Massage		WORK PHONE	

ADMONISHMENT: ADMONISHED YES NO REFUSED YES NO STATEMENT YES NO

BY: (OFFICER/DATE/TIME)

PROBATION COUNTY _____ Officer _____

PAROLE AGENT _____ PAL

DESCRIPTION PROVIDED BY: 8223 CLOTHING, SCARS, MARKS, TATOOS, WORDS USED
Green shirt, blue jeans

HAIR LENGTH <input type="checkbox"/> SHORT <input type="checkbox"/> MED. (HALF EAR) <input checked="" type="checkbox"/> LONG (COVER EAR) <input type="checkbox"/> COLLAR <input type="checkbox"/> SHOULDER <input type="checkbox"/> BALD/SHAVED <input type="checkbox"/> RECEEDING	HAIR STYLE <input type="checkbox"/> NATURAL /AFRO <input type="checkbox"/> BRAIDED <input type="checkbox"/> CREWCUT <input type="checkbox"/> CURLY <input type="checkbox"/> PONYTAIL <input type="checkbox"/> PUNK <input type="checkbox"/> CONSERVATIVE	FACIAL HAIR <input type="checkbox"/> NONE <input type="checkbox"/> BEARD <input type="checkbox"/> MUSTACHE <input type="checkbox"/> BEARD & MUSTACHE <input type="checkbox"/> GOATEE <input type="checkbox"/> SIDEBURNS	COMPLEXION <input checked="" type="checkbox"/> LIGHT <input type="checkbox"/> MEDIUM <input type="checkbox"/> DARK <input type="checkbox"/> FRECKLED <input type="checkbox"/> ACNE <input type="checkbox"/> POCKMARK <input type="checkbox"/> RUDDY	APPEARANCE <input checked="" type="checkbox"/> CASUAL <input type="checkbox"/> WELL GROOMED <input type="checkbox"/> UNKEMPT <input type="checkbox"/> RIGHT HANDED <input type="checkbox"/> LEFT HANDED <input type="checkbox"/> BIRTHMARK <input type="checkbox"/> MOLE	SPEECH <input type="checkbox"/> LOW PITCH <input type="checkbox"/> HIGH PITCH <input type="checkbox"/> SLURRED <input type="checkbox"/> STUTTER <input checked="" type="checkbox"/> ACCENT TYPE CHINESE <input type="checkbox"/> OTHER	DEMEANOR <input type="checkbox"/> CALM <input checked="" type="checkbox"/> POLITE <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> NERVOUS <input type="checkbox"/> PROFESSIONAL <input type="checkbox"/> OFFENSIVE <input type="checkbox"/> HOSTILE <input type="checkbox"/> VIOLENT
--	--	--	---	--	--	--

OTHER DISTINCTIVE FEATURES BODY ODOR TYPE _____ WEAPON USED REVOLVER SEMI-AUTO PISTOL SHOTGUN RIFLE
 GOLD TOOTH MISSING TEETH LARGE EYES CAL. _____ BARREL _____ SAWED OFF NICKEL BLUE
 SILVER TOOTH GLASSES MISSING LIMBS BLUDGEON CLUB HANDS/FEET ROCK/BRICK CUT/STAB VEHICLE

SUSPECT		Number	LAST, First, Mid		RELATIONSHIP TO VICTIM	IN CUSTODY THIS OFFENSE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
SEX	RACE	D.O.B.	AGE	HEIGHT	WEIGHT	HAIR	EYES	DL NUMBER	PFN
HOME ADDRESS			CITY <input type="checkbox"/> OAKLAND		ZIP	APT. NO.	HOME/MSG. PHONE		
WORK ADDRESS (Name of Business) (School)				CITY <input checked="" type="checkbox"/> OAKLAND		OCCUPATION		WORK PHONE	

ADMONISHMENT: ADMONISHED YES NO REFUSED YES NO STATEMENT YES NO

BY: (OFFICER/DATE/TIME)

PROBATION COUNTY _____ Officer _____

PAROLE AGENT _____ PAL

DESCRIPTION PROVIDED BY: CLOTHING, SCARS, MARKS, TATOOS, WORDS USED

HAIR LENGTH <input type="checkbox"/> SHORT <input type="checkbox"/> MED. (HALF EAR) <input type="checkbox"/> LONG (COVER EAR) <input type="checkbox"/> COLLAR <input type="checkbox"/> SHOULDER <input type="checkbox"/> BALD/SHAVED <input type="checkbox"/> RECEEDING	HAIR STYLE <input type="checkbox"/> NATURAL /AFRO <input type="checkbox"/> BRAIDED <input type="checkbox"/> CREWCUT <input type="checkbox"/> CURLY <input type="checkbox"/> PONYTAIL <input type="checkbox"/> PUNK <input type="checkbox"/> CONSERVATIVE	FACIAL HAIR <input type="checkbox"/> NONE <input type="checkbox"/> BEARD <input type="checkbox"/> MUSTACHE <input type="checkbox"/> BEARD & MUSTACHE <input type="checkbox"/> GOATEE <input type="checkbox"/> SIDEBURNS	COMPLEXION <input type="checkbox"/> LIGHT <input type="checkbox"/> MEDIUM <input type="checkbox"/> DARK <input type="checkbox"/> FRECKLED <input type="checkbox"/> ACNE <input type="checkbox"/> POCKMARK <input type="checkbox"/> RUDDY	APPEARANCE <input type="checkbox"/> CASUAL <input type="checkbox"/> WELL GROOMED <input type="checkbox"/> UNKEMPT <input type="checkbox"/> RIGHT HANDED <input type="checkbox"/> LEFT HANDED <input type="checkbox"/> BIRTHMARK <input type="checkbox"/> MOLE	SPEECH <input type="checkbox"/> LOW PITCH <input type="checkbox"/> HIGH PITCH <input type="checkbox"/> SLURRED <input type="checkbox"/> STUTTER <input type="checkbox"/> ACCENT TYPE _____ <input type="checkbox"/> OTHER	DEMEANOR <input type="checkbox"/> CALM <input type="checkbox"/> POLITE <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> NERVOUS <input type="checkbox"/> PROFESSIONAL <input type="checkbox"/> OFFENSIVE <input type="checkbox"/> HOSTILE <input type="checkbox"/> VIOLENT
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OTHER DISTINCTIVE FEATURES BODY ODOR TYPE _____ WEAPON USED REVOLVER SEMI-AUTO PISTOL SHOTGUN RIFLE
 GOLD TOOTH MISSING TEETH LARGE EYES CAL. _____ BARREL _____ SAWED OFF NICKEL BLUE
 SILVER TOOTH GLASSES MISSING LIMBS BLUDGEON CLUB HANDS/FEET ROCK/BRICK CUT/STAB VEHICLE

SUSPECT VEHICLE		VEHICLE WAS <input type="checkbox"/> SECURED AT SCENE <input type="checkbox"/> RELEASED TO OWNER	<input type="checkbox"/> TOW (#) _____ <input type="checkbox"/> FINGERPRINTED <input type="checkbox"/> HOLD (UNIT)	DAMAGE DETAILS, UNIQUE FEATURES		OTHER DESCRIPTION	
OWNER			ADDRESS		CITY <input type="checkbox"/> OAKLAND	ZIP	PHONE
LIC./STATE/OR PLATE COLORS	YEAR	MAKE	MODEL	STYLE	EXTERIOR COLOR	CONDITION <input type="checkbox"/> CLEAN <input type="checkbox"/> NEW <input type="checkbox"/> DIRTY <input type="checkbox"/> POOR	INTERIOR COLOR <input type="checkbox"/> CLEAN <input type="checkbox"/> ODOR <input type="checkbox"/> DIRTY <input type="checkbox"/>
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REPORTED BY: M. BATTLE SERIAL # 8189 WATCH DISTRICT SUPERVISOR SERIAL #

PAGE 3 OF 6

OPD

ADDITIONAL INFORMATION REPORT

OAKLAND POLICE DEPARTMENT
455 - 7th Street
Oakland, CA 94607

RD # 09-009150

CRIME 647(B) PC	<input type="checkbox"/> SUPPLEMENTAL	INCIDENT # V 1	VICTIM: LAST, First, MId. State Of California
SUSPECT LAST, First, MId. Mi, Bingrong	INCIDENT LOCATION 1531 Webster	DATE OF THIS REPORT 6 Feb 09	ORIGINAL DATE REPORTED 5 Feb 09

ITEM #	QNTY	PROPERTY (and/or NARRATIVE) ITEM TYPE, BRAND, MODEL #, SIZE, COLOR, MARKS, ETC	SERIAL #	VALUE
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Summary :

On the listed date and time I was working in an undercover capacity with Officer J. Skrdlant 8417. We were assigned to investigate possible prostitution activity occurring inside of "Sunny Relax" massage parlor located at 1531 Webster Street. I was given \$400.00 (4X100) in marked U.S. currency.

We entered the establishment and were greeted by an unidentified woman. Numerous CCTV cameras were placed inside in violation of OMC 5.36.160M. I stated that I wanted an hour massage and that I was purchasing one for my friend as well. The total price was \$100 which I gave her.

I was then led to room A6 and told to undress. After approximately five minutes, a female (S2) who identified herself as "Tracy" entered the room and started to massage my back. After approximately 40 minutes, she asked me to roll onto my back. (S2) continued the massage and continued to "accidentally" brush her hand against my penis. After approximately 5 touches, (S2) asked "you want this?" while motioning with her hand towards my penis as if she were masturbating me. I asked her how much more money it would cost and she replied by holding up five fingers. I asked "\$50.00", to which she responded "yes". I know from my training and experience that in the massage parlor industry therapists believe that if they don't verbalize the dollar amount they can't be arrested. I told her that I would think about it while she massaged me. She then pointed to her mouth and asked "You want this instead ?" and held up all 10 fingers. I asked "\$100.00" and she again replied "yes", and stated that her customers prefer oral sex. I again stated that I would think about it.

I asked (S2) if I would be able to return and request two girls for oral sex. (S2) stated "No, only hand" while again making the gesture consistent with masturbation. She then went on to explain that "The Boss" told the employees that they are only allowed to masturbate their customers. (S1) was afraid that if a second employee was in the room and discovered that she was offering oral sex as well that she would get in trouble.

The massage ended and I tipped (S2) \$50.00. I then exited the establishment and met up with Officer Skrdlant. He stated that he had also been solicited and tipped the therapist \$50.00. We met with the arrest teams and briefed them. We all then entered the parlor a second time. The total time from when we left to when we returned was less than 10 minutes. Once we were inside Officer Bilitnikoff located owner (S3) Bing Rong Mi masturbating a male in one of the rooms. She stated that he was a friend of hers. (S1) and (S2) had fled out the back door upon seeing uniformed officers entering on the CCTV system. We were unable to locate them. (S3) was cited #4984101 for violation of OMC 5.36.160M and released.

The total dollar amount spent was \$200.00. We were unable to locate the marked bills used.

REPORTED BY M. BATTLE	SERIAL # 8189	WATCH	AREA	SUPERVISOR T. HOGENMILLER	SERIAL # 7490	Page 4 of 6
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CRIME 647(B) PC	<input checked="" type="checkbox"/> SUPPLEMENTAL	INCIDENT #	V 1	VICTIM LAST First MI State Of California
SUSPECT LAST, First MI Unknown FA (apprx 45 y/o)	INCIDENT LOCATION 1531 Webster St (Sunny Relax)	DATE OF THIS REPORT 5 Feb 09	ORIGINAL DATE REPORTED 5 Feb 09	

ITEM #	QNTY	PROPERTY (and/or NARRATIVE) ITEM TYPE, BRAND, MODEL #, SIZE, COLOR, MARKS, ETC	SERIAL #	VALUE
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SUMMARY:

On 5 Feb 09 at approximately 1630hrs I was working as part of an undercover unit (9A72) with Ofc M. Battle 8189V and Sgt J. Encinias. We were investigating a report of possible prostitution activity being conducted at Sunny Relax Massage located at 1531 Webster St.

On 14 Jan 09 I received an e-mail from Sgt Hogenmiller that had been forwarded from Barbara Killey (City of Oakland) advising that Sunny Relax Massage was undergoing a change of ownership. Due to this change their, a public hearing was scheduled to take place on 27 Feb 09. Ms. Killey requested that OPD conduct an investigation into the prostitution allegations.

On this date and approximate time, Ofc Battle and I entered Sunny Relax Massage. I noticed that the front door appeared to be under video surveillance. We walked up the stairs and entered the establishment. We were greeted by an unknown female Asian that appeared to be in her late 30's. Ofc Battle told her that we wanted to get an hour long massage apiece. Ofc Battle told her that he was paying for my massage as a gift.

I was directed by S1, an approx 45 year old FA, 5-3, 130lbs, with long black hair in a ponytail, and wearing a striped (yellow, orange, blue) long sleeve shirt, and black stretch pants. S1 led me to a room marked as "A8" and she asked me in very broken English if I wanted a heater in the room. I told her that I would prefer a heater and we relocated to room "A7". S1 pointed to a chair and coat rack attached to the back of the door and told me to get comfortable. S1 left the room while I removed my clothing and covered the area below my waist with a towel that had been left for me. I laid down on the massage table and waited for S1 to return.

When S1 returned she dimmed the lights in the room and began to apply baby oil to her hand and rub my back, neck and shoulders. S1 would frequently remove the towel covering my buttocks as she was giving me the massage. S1 would also ran her hands down the middle of my buttocks and brush against my scrotum while rubbing my legs.

After approximately 35-40 minutes, S1 asked me to roll over and she began to massage my chest. S1 slid her hand down my chest, over my stomach and began to reach under the towel. She then pulled her hands back and patted my penis over the top of the towel and asked me if I wanted a... (fist pumping motion toward my penis) or a (open mouth fist pumping motion toward her protruding tongue) or a... (pump both arms at her sides and rocking her hips front and back). I asked her how much and she held up her right hand and motioned "5" and said \$50. I told her no when she offered sex and told her that I was married. I asked her to tell my friend (Ofc Battle) that we had if he asked. S1 seemed to misunderstand me when I told her no and began to slowly massage my penis. I reached out my hand and stopped her and told her again "No thank you." She seemed to understand me this time and I told her that I would give her a tip anyway.

REPORTED BY OFc. J. SKRDLANT	SERIAL # 8417Y	WATCH	AREA	SUPERVISOR SGT. ENCINIAS	SERIAL #
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OPD

ADDITIONAL INFORMATION REPORT

OAKLAND POLICE DEPARTMENT
455 - 7th Street
Oakland, CA 94607

RD # 09-009150

CRIME 647(B) PC	<input type="checkbox"/> SUPPLEMENTAL	INCIDENT #	V 1	VICTIM LAST, First, Mid. State Of California	
SUSPECT LAST, First, Mid. Unknown FA (apprx 45 y/o)	INCIDENT LOCATION 1531 Webster St (Sunny Relax)		DATE OF THIS REPORT 5 Feb 09	ORIGINAL DATE REPORTED 5 Feb 09	
ITEM	QNTY	PROPERTY (and/or NARRATIVE) ITEM TYPE, BRAND, MODEL #, SIZE, COLOR, MARKS, ETC		SERIAL #	VALUE

SUMMARY CONTINUED:

S1 then completed my massage, thanked me, and walked out of the room to let me get dressed. When S1 returned I gave her \$50 tip and she then hugged me and thanked me again.

As I walked out of the business I noticed that there was another surveillance camera in the hallway and one behind the receptionist desk. I walked outside the business to meet with Ofc Battle. After getting together we briefed the arrest teams about the layout of the business prior to them going in.

After officers secured the business, it appeared that S1 had been able to get out the back door before officers could make their way to her. Ofc Battle also advised that the female suspect that solicited sex from him had also left the building. None of the money paid to the establishment was recovered.

Ofc Webber cited the owner, Bing Rong Mi, who had been on scene for OMC 5.36.160M Warning Devices (surveillance camera, dimmer switches, ect.). She was released on the scene.

Reported By OFC. J. SKRDLANT	Serial No. 8417Y	Watch	Area	Supervisor	Serial No.	Page 6 of 6
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OAKLAND POLICE DEPARTMENT
 NOTICE TO APPEAR (Form 9.00) ISAPERIC MSDBAEMKVA NONTRAFERIC MSHBAMKVA

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 Date of Violation: 2 15 10 9
 Time: 1 130 PM
 Report: TRU
 Home (Print, Address, Last): BANGKONG MI
 Address: 55 FARMWANT AVE #204
 City: OAKLAND CA 94611
 State: CA
 Zip Code: 94611
 District Lt. No.: D3200871
 Stake: CA
 Commercial: Yes No
 Age: 46
 Bill Date: 10/17/62
 Sex: F
 Eyes: Blue
 Height: 5'8 1/2
 Weight: 130
 Race: A
 Vehicle No. or VIN: [Blank]
 Reg. Exp. Date: [Blank]

2
 Oakland Citation Number: 4984101
 Division No.: 07-009150
 Owner's Responsibility (Veh. Code, § 49111):

3
 Plate No.: [Blank]

4
 License No.: [Blank]

5
 Vehicle Description: COMMERCIAL VEHICLE (Veh. Code, § 45210) PASSENGER VEHICLE (Veh. Code, § 45210) HAZARDOUS MATERIAL (Veh. Code, § 4521)

6
 Registered Owner or Lessee: [Blank]

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 Address: [Blank]

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SEE REVERSE
 Judicial Council of California Form
 Rev. 07-01-06 (Veh. Code, §§ 40500(b), 40512(b), 40522, 40600; Pen. Code, § 663.0)

TR-130

WHITE - COURT YELLOW - SUPERVISORY STAFF
 PINK - VIOLATOR WHITE ICF TAG - OFFICER

Date: March 27 09

TO THE HONORABLE CITY COUNCIL
Oakland, California 94612

An appeal is hereby taken from the decision of the City Manager in

() granting () denying

the application of Bing Rong Mi

to operate New business "Sunny Relax"

located at 1531 Webster Street Oakland, CA 94612

Pursuant to Section 5-2.08 of the Oakland Municipal Code

"Any person excepting to any denial, suspension or revocation of a permit applied for or held by him pursuant to the provisions of this Chapter, or pursuant to the provisions of this Code where the application for said permit is made to, or the issuance thereof is by the City Manager, or any person excepting to the granting of, or to the refusal to suspend or revoke, a permit issued to another pursuant to the provisions of this Chapter, or issued to another by the City Manager pursuant to the provisions of this Code, may appeal in writing to the City Council by filing with the City Clerk a written notice of such appeal setting forth the specific grounds thereof."

The appeal is based upon the following: see attach Appeal
document.

Respectfully submitted,

Bing Rong Mi
(Name)

1531 Webster St.
(Address)

Oakland, CA 94612
(Please include Zip Code)

510 [REDACTED]
(Telephone Number)

Permit No.: _____
Date Appeal Received: _____
Filing Fee: _____
Receipt No.: _____

Law Office of Margaret Lowrie
1011 Channing Way
Berkeley, CA 94710
Tel: (510) 845-6510
Fax: (510) 845-6530
margaret_lowrie@yahoo.com

March 27, 2009

To: THE HONORABLE CITY COUNCIL
CITY OF OAKLAND, CALIFORNIA

An appeal is hereby taken from the decision of the Administrator Hearing Officer Barbara Kelley, Office of the City Administrator, denying the application of Ms. Bing Rong Mi of Sunny Relax, located at 1531 Webster Street, Oakland, California.

The appellant, Ms. Mi, believes that the findings and decision of the Hearing Officer is flawed and respectfully requested that the Oakland City Council reverse said order. Attached is a copy of the findings and decisions dated March 20, 2009 as Exhibit "1".

Additionally the appellant reverses the right to present additional issues/items and evidence in support of her appeal.

The Appeal is based upon, but not limited to the following issues:

1. Ms. Bing Rong Mi is a new owner of a new business. The Hearing Officer used the background of a different and now closed massage establishment that was owned, operated, and managed by a different person. This other massage establishment was owned a man named, Ken Zee, and closed in late 2008.
2. Ken Zee is not and never has been an associate of Ms. Mi's new business enterprise.
3. The Hearing Officer's reliance upon a "call from a party associated with another permitted Oakland massage establishment" is not trustworthy because:
 - a. The source of the call is not identified;
 - b. The allegations of this complaint are vague and unsubstantiated;
 - c. Ms. Mi and/or her advocates have not had the opportunity to either confront the caller or question/respond to those allegations;
 - d. The other Oakland massage establishment is a competitor and therefore has an adverse and biased interest in the granting/denying of a new permit;
4. The Hearing Officer believes that she had expressed adequate warnings to Ms. Mi and her friend Raymond Yee on January 8, 2009 is not supported by the recollections of Ms. Mi

and Mr. Yee. Rather Mr. Yee recalls that Mrs. Killey referred to the web site, known as Redbook.com when she admonished Ms. Mi about the illegality of sex acts.

- a. Redbook.com is a web site that provides forum for massage clients to post reviews of massage establishments.
 - b. Any reviews posted prior to January 8, 2009 would not have been for the Ms. Mi's new business, d.b.a. "Sunny Relax" but for a similarly named massage business "Sunny Relax Center" owned by Ken Zee who operated this business. Attached is a copy of the D.B.A. obtained by Ms. Mi. As Exhibit "2"
5. The hearing officer also referred to Ken Zee as another source of objections to the application filed by Ms Mi, during conversation but was not made part of the findings and decision from which this appeal is taken.
 6. The hearing officer characterization that Ms Mi "misjudged the character" of "Alan" the "handyman" and that Ms. Mi "has shown incredibly poor judgment and lack of common sense". This is unprofessional inappropriate subjective conclusion and should not be used to deny the permit of Ms. Mi.

These statements in another context would amount to actionable slander and therefore should not be part of a decision based upon the Oakland Municipal Code. See page 5, paragraph's 2 and 4, of the findings and decision dated March 20, 2009.

7. The hearing on February 27, 2009, was conducted without giving Ms. Mi notice that the administration would consider other allegations/evidence other than those presented by the application procedure itself. Attached is the letter, dated January 23, 2009 which is attached as Exhibit "3"
8. To date all inspections by the various city departments have been passed. The hearing officers reference to a failed fire inspection is not an accurate representation because the fire inspection is in the process that occurs between the business owner, the building owner and the fire department in which a failure would result in the building being shut down, while here Ms/. Mi was only subject to a re-inspection for the correction of minor defects. See Exhibit 1, page 4, line 34 of the findings and decision.
 - a. Ms. Mi business passed the final fire inspection. Attached is the final fire inspection which is attached as Exhibit "4".
9. The hearing officer failed to take into account the letters present in support of the application. Attached are the letters presented to the hearing officer at the hearing on March 16, 2009. Attached are copies of the letters submitted in support as Exhibit "5".
10. The City issued another permit for a massage establishment since January 8, 2009 that is

within the 1000' of a public or private school, . . . or another massage establishments. Whereas Ms. Mi's permits was filed prior to that of this other massage establishment.

11. The allegations of the Oakland Police are not currently being pursued and there exists substantial statements/evidence contradicting these allegations. Attached is the citation issued on February 5, 2009 as Exhibit "6".
 - a. *On February 5, 2009 the Oakland Police Officers interacted with two job applicants therefore the hearing officer reliance of the police report is appropriate as these women were employed by Ms Mi nor permitted massage therapists.*
 - b. Ms Mi will institute a training program for all hired employees to assure that her employees do not compromise the public safety and neighborhood quality of life.

In conclusion a reversal of the city administrator decision is justified and to deny the appeal would result in a mis-justice. Every person has a right to make a living in their chosen trade. Ms. Mi has outlaid a substantial investment for her massage establishment and to date has to pay rent, insurance, taxes, maintenance and utilities, just to name a few.

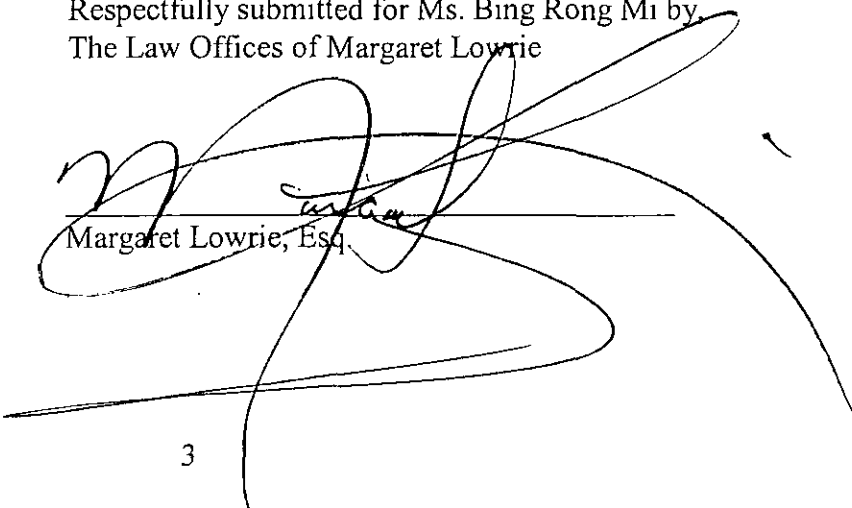
Ms Mi oversight was unfortunate but fails to amount to level of the hearing officer's characterization of Ms Mi as "incredibly poor judgment and lack of common sense". This alone should not be a basis to deny her a business permit.

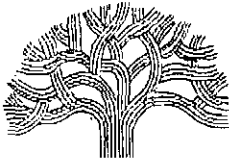
I know of no city that will deny a business permit to a person who lacks common sense, education, business or communication skills. Ms. Mi is a permanent resident of Oakland, California with English as her second language, and with an education equivalent to a graduate of an American high school.

It is my belief that the denial of Ms Mi's would be very un-business friendly. The previous decision reflects the hearing officer's personal feelings and fails to take into account the letters offered in support of Ms. Mi's, new business and her desire to be contributing member of the Oakland business community.

March 27, 2009

Respectfully submitted for Ms. Bing Rong Mi by
The Law Offices of Margaret Lowrie


Margaret Lowrie, Esq.



CITY OF OAKLAND

1 FRANK H. OGAWA PLAZA – OAKLAND, CALIFORNIA 94612

Office of the City Administrator
Barbara B. Killey
Administrative Hearing Officer

(510) 238-2257
FAX: (510) 238-7084

March 20, 2009

**FINDINGS AND DECISION OF HEARING OFFICER ON HEARING REGARDING
MESSAGE ESTABLISHMENT PERMIT APPLICATION OF BING RONG MI TO
OPERATE A MESSAGE ESTABLISHMENT UNDER THE NAME SUNNY RELAX
AT 1531 WEBSTER**

BACKGROUND

Prior to 2005, Oakland Municipal Code (OMC) Chapter 5.36, Oakland's ordinance regulating massage establishments, provided for several exemptions from the requirement for an establishment to obtain a Massage Establishment business activity permit. One of these exemptions was for holders of unrevoked certificates to practice healing arts under the laws of California. If massage therapists were also employed at such a business, the exemption could continue if massage did not account for more than thirty percent of the business. All massage therapists employed by the business were required to obtain Oakland Massage Therapist permits. On March 14, 2005 Sunny Relax Center, at 1531 Webster Street, was granted an exemption from the massage establishment requirement on the basis that it was the business of a licensed acupuncturist and not more than thirty percent of revenues were derived from the work of massage therapists.

On May 20, 2005 the exemption was revoked based upon an April 13, 2005 visit by the Oakland Police Department, which found no acupuncturist on site and three persons functioning as massage therapists without Oakland Massage Therapists permits.

In June of 2005, OMC Chapter 5.36 was amended in response to community concerns that Oakland's permitting process should be a vehicle for validating legitimate practitioners of massage and not for authorizing prostitution or human trafficking. The exemption based upon a percentage of revenues was eliminated.

On January 10, 2006 Ken Zee applied for a permit to operate a Massage Establishment under the name Sunny Relax Center at 1531 Webster Street. On May 25, 2006, following a public hearing and successfully completing inspections by the City's Building Services and Fire

FINDINGS AND DECISION OF HEARING OFFICER
ON HEARING REGARDING MASSAGE ESTABLISHMENT PERMIT APPLICATION OF
SUNNY RELAX, 1531 WEBSTER

Departments and the Alameda County Health Department, Mr. Zee was issued a Massage Establishment Permit for Sunny Relax Center. Massage Establishment permits must be renewed annually, and Mr. Zee renewed the permit in 2007 and 2008.

Near the end of 2008, Mr. Zee decided to withdraw from the business, and on November 25, 2008, Bing Rong Mi called the Hearing Officer to inquire about transferring Mr. Zee's permit to her. The Hearing Officer explained that the Special Business permits issued under Oakland Municipal Code (OMC) Title 5, including Massage Establishment Permits, are not transferable, and that prospective business owners must apply for their own permits and meet all of the permit requirements.

On January 8, 2009, Ms. Mi applied, as a corporation, Sunny Relax LLC, for a permit to operate a massage establishment under the name Sunny Relax at 1531 Webster Street. Because Sunny Relax was a functioning business and the hearing on the application could not be conducted for at least 30 days, the Hearing Officer issued Ms. Mi a temporary permit valid through the scheduled date of the hearing, February 27, 2009.

On the day Ms. Mi filed her application the Hearing Officer met with Ms. Mi to notify her that the Special Business Permits Unit had received a call from a party associated with another permitted Oakland massage establishment alleging sexual activity at Sunny Relax and urging the City to take action to close the facility. The Hearing Officer reminded Ms. Mi that massage involving any sexual touching is illegal in Oakland and that an offer to perform a sexual service is as illegal as actually performing it. The Hearing Officer strongly cautioned Ms. Mi to take all steps to ensure that the massage therapists at Sunny Relax not engage in any illegal activity because, as the owner of the business, she is ultimately responsible for the activity in her business. Finally, the Hearing Officer warned Ms. Mi that the Oakland Police Department (OPD) is noticed on all Special Business Activity permits, and, because of the allegations of sexual activity at Sunny Relax, it was likely they would come to her business to determine the veracity of those allegations.

The public hearing was conducted on February 27, 2009 at Oakland City Hall in Hearing Room 3. Ms. Mi was accompanied by a friend. An Oakland Police officer, who planned to attend the hearing was unable to attend. The hearing was then continued to March 16, 2009 at Oakland City Hall in the 11th Floor Conference Room. Ms. Mi was represented by attorney Margaret Lowrie and accompanied by a friend, Victor Jue. Officer Jason Skrdlant and Officer James Saleda also attended the continued hearing. Following are the Findings of the Hearing Officer.

FINDINGS

1. Between May 25, 2006 and January 7, 2009, Sunny Relax Center at 1531 Webster St. operated as a Massage Establishment under a permit issued to Ken Zec.
2. On January 8, 2009 Bing Rong Mi applied for a permit to operate a Massage Establishment under the name of Sunny Relax at 1531 Webster St.
3. A hearing date was scheduled for February 27, 2009.
4. On January 8, 2009 a temporary permit was issued to Bing Rong Mi to operate a Massage Establishment, Sunny Relax, at 1531 Webster St. from January 8, 2009 to February 27, 2009.

FINDINGS AND DECISION OF HEARING OFFICER
ON HEARING REGARDING MASSAGE ESTABLISHMENT PERMIT APPLICATION OF
SUNNY RELAX, 1531 WEBSTER

5. The Special Business Permits Administrative Analyst distributed copies of the application to City departments including OPD.
6. On February 5, 2009 Oakland Police Department Officers Mark Battle and Jason Skrdlant went undercover to Sunny Relax.
7. OPD delivered police report number RD09-009150 to the Hearing Officer, and it was entered into evidence for the public hearing.
8. Ms. Mi's attorney stipulated to the truth of the officers' reports regarding the "massage therapists" who gave them massages at Sunny Relax on February 5, 2009.
9. Ms. Mi was not present at Sunny Relax when the officers arrived, having gone to the bank to make a deposit.
10. Upon entering Sunny Relax, the officers were greeted by an unidentified woman. The officer paid her \$50 apiece in advance of the massage.
11. While giving the massage to Officer Skrdlant, the therapist also ran her hands down the middle of his buttocks and brush against his scrotum while rubbing his legs.
12. After 35-40 minutes of massaging Officer Skrdlant's back, the therapist rolled him over on his back. She patted his penis over the towel that covered him and asked if he "wanted a ... (fist pumping motion toward my penis) or a ... (open mouth fist pumping motion toward her protruding tongue) or a ... (pump both arms at her sides and rocking her hips front and back.)"
13. Officer Skrdlant asked the price, and she held up her right hand, motioning "5" and said \$50.
14. Officer Skrdlant said "no", but the "therapist" began to slowly massage his penis.
15. Officer Skrdlant stopped her, and told her "no thank you" but that he would give her a tip anyway.
16. Officer Skrdlant tipped her \$50. The therapist hugged and thanked him.
17. Officer Battle received a massage by a woman named "Tracy".
18. After 40 minutes Tracy asked Officer Battle to roll on his back
19. Tracy continue to "accidentally" brush her hand against Officer Battle's penis while massaging him.
20. After approximately 5 touches, Tracy asked, "you want this?", motioning with her hand and pointing to his penis.
21. Officer Battle asked what it would cost, and Tracy held up 5 fingers.
22. Officer Battle asked, "\$50.00?" and Tracy replied "yes."
23. Tracy pointed to her mouth and asked, "You want this instead?" and held up all 10 fingers.
24. Officer Battle asked, "\$100.00?" and Tracy replied "yes."
25. Officer Battle asked if he could return and request two girls for oral sex.
26. Tracy answered, "No, hand only", and explained that "the Boss" told them they can only masturbate customers, and that she was afraid she would get in trouble if a second employee was in the room and discovered that she was offering oral sex.
27. The massage ended, and Officer Battle tipped Tracy \$50.00.
28. Neither of the massage therapists was wearing an Oakland badge.
28. There are numerous surveillance cameras installed at Sunny Relax.
29. Ms. Mi arrived back at Sunny Relax while the officers were receiving their massages and began giving a massage to a client.
30. The officers exited Sunny Relax. Less than 10 minutes later they re-entered with a team of uniform officers.

FINDINGS AND DECISION OF HEARING OFFICER
ON HEARING REGARDING MASSAGE ESTABLISHMENT PERMIT APPLICATION OF
SUNNY RELAX, 1531 WEBSTER

31. Both of the therapists who gave massages to the officers had apparently left by the back door before the officers re-entered.
32. The marked money was not recovered, and Ms. Mi stated she received none of it.
33. Ms. Mi was cited for violation of OMC 5.36.160M, Prohibition against warning devices.
34. Prior to the hearing, Sunny Relax passed its Building, Electrical, and Mechanical/Plumbing inspections but failed the Fire inspection.
35. On the basis of the fire inspection failure and the outstanding issue of the solicitations for prostitution, the temporary permit for Sunny Relax to operate was not extended, and Ms. Mi was ordered to cease and desist operations.
36. Because Sunny Relax is within 1000 feet of other massage establishments, a permit cannot be issued without written findings that the establishment will not have an impact on public safety or neighborhood quality of life.

DISCUSSION

Pursuant to Oakland Municipal Code Chapter 5.36, the City of Oakland requires massage establishment operators to obtain special activity permits in order to operate their business. The permitting process involves an application, background check, premise inspections, and a public hearing. The purpose of this process is to protect the citizens and neighborhoods of Oakland by ensuring that only law-abiding businesses that meet the prescribed standards will be permitted in Oakland.

Speaking for Ms. Mi at the continuation of the hearing, attorney Lowrie provided the following explanation of what occurred the day the OPD officers went to Sunny Relax. It is true that the two women who gave the OPD officers massages were not permitted massage therapists. This was because most of the therapists who previously worked for Sunny Relax left due to the uncertainty of whether a permit would be issued to Ms. Mi. Ms. Mi was therefore interviewing therapists, and the two women who gave the officers massages had come to Sunny Relax that day to apply for jobs. Ms. Mi left the therapist candidates and a handyman at Sunny Relax while she went to the bank. When she returned she saw neither therapist candidate. She assumed they had left. It was only when the officers returned with the uniformed team that she realized they had given the officers massages and had left with all the money. Ms. Mi does not know their names or how to reach them, as she had taken no formal application from them. She does not give sexual massages herself and she instructs her employees that it is prohibited.

Ms. Lowrie advocated that Ms. Mi be given one more chance because Ms. Mi had expended a substantial amount of money on the Sunny Relax facility, it is Ms. Mi's only livelihood, and, Ms. Lowrie believes that the problems are essentially training issues. Both Ms. Lowrie and Mr. Jue committed to assist Ms. Mi to understand and enforce Oakland's Massage Establishment regulations, despite cultural differences that Ms. Lowrie believes may account for any previous lapses.

In response to the Hearing Officer's admonition to Ms. Mi, all massage therapist and massage establishment applicants receive a copy of Oakland's ordinances. Ms. Mi received a copy in Chinese, her primary language, and signed a statement that she understood and accepted the

FINDINGS AND DECISION OF HEARING OFFICER
ON HEARING REGARDING MASSAGE ESTABLISHMENT PERMIT APPLICATION OF
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responsibilities. Ms. Lowrie pointed to this as an example of the cultural differences, in that, in many countries, including China, there are numerous laws that, in actuality, are just ignored.

Accepting as true Ms. Lowrie's explanation of what occurred on the day the OPD officers went to Sunny Relax, it would indicate a lack of common sense that the Hearing Officer does not believe is a matter of training. To leave one's business open and in the hands of two complete strangers, from whom no identification has been obtained, while the owner goes to the bank indicates a serious lack of judgment. If Ms. Mi believed the handyman would protect her interests, she misjudged his character as well. Neither Ms. Lowrie's explanation nor Ms. Mi's claim that she received none of the money accounts for the unidentified woman to whom the officers paid the initial \$50 upon entering the establishment.

DECISION

Pursuant to OMC section 5.02.060, "In granting or denying [a] permit . . . the City Manager . . . shall consider the character of the applicant as respects morality, honesty and integrity, and all pertinent acts which may concern the health, safety, and general welfare of the public."

Evaluating Ms. Mi's character in the best light, that offered by Ms. Lowrie, Ms. Mi has shown incredibly poor judgment and lack of common sense. While the Hearing Officer accepts that cultural differences could affect one's beliefs about the enforcement of local laws, it defies credulity that a prudent business person in any country would leave their sole livelihood open and attended only by a non-employee and two job applicants, of whom the business owner has no knowledge and no ability to trace.

Ms. Mi's poor judgment resulted in acts that negatively impacted the health, safety, and general welfare of the public, specifically the solicitation of prostitution by two unpermitted massage therapists. The Hearing Officer cannot accept that such poor judgment was a one-time occurrence. The Hearing Officer also does not accept that adults with poor judgment and lack of common sense can quickly be taught good judgment and common sense. Under these circumstances a finding cannot be made that the establishment will not impact public safety or neighborhood quality of life.

Based upon the preponderance of the evidence, and in accordance with the requirements of OMC chapters 5.02 and 5.36, Bing Rong Mi's application for a permit to operate a massage establishment at 1531 Webster Street, is hereby denied.

Barbara B. Killey
BARBARA B. KILLEY, HEARING OFFICER

3/20/09
DATE

FINDINGS AND DECISION OF HEARING OFFICER
ON HEARING REGARDING MASSAGE ESTABLISHMENT PERMIT APPLICATION OF
SUNNY RELAX, 1531 WEBSTER

Enclosures:

Proof of Service
Appeal Information
Police Report RD 09-009150

Mailing List

Ms. Margaret Lowrie, Esq., via email and fax
Bing Rong Mi, via email and postal service

cc: by email

Mayor Ron Dellums
Ms. Nancy Nadel, City Councilmember
Mr. Dan Lindheim, City Administrator
Sgt. Thomas Hogenmiller, OPD
Officer Jason Skrdlant, OPD

cc:

CAO File



NEW BUSINESS APPLICATION TAX YEAR 200

NOTE: Please read all instructions on the other side before completing this application.

Official Use Only

Acct#: 27998298

Industry Code: F SIC Code: 8011

1. BUSINESS NAME: Sunny Relax
2. BUSINESS LOCATION: 1531 Webster street
3. CITY: Oakland STATE: CA ZIP +4: 94612
4. BUSINESS PHONE: () EXT: CONTACT PHONE: 408 EXT: [REDACTED]
- EMAIL/WEB SITE ADDRESS: [REDACTED]
5. BUSINESS START DATE: 01/15/09 6. NO. OF FULL TIME EMPLOYEES: _____
7. OWNERSHIP TYPE: LLC 8. DO YOU OWN THIS BUSINESS LOCATION? (CHECK ONE) YES NO
9. MAILING NAME: Bing Rong Mi ATTENTION: _____
10. MAILING ADDRESS: [REDACTED]
11. CITY: Oakland STATE: CA ZIP +4: 94612

12. OWNER'S NAME(S): First, Last, Middle Initial & Title Include all partners; if corporation, list principal officers; if LLC or LLP list all members.	
1. <u>Bing Rong Mi</u>	4. _____
2. _____	5. _____
3. _____	6. _____

13. ZONING PERMIT#: 01102338 14. CALIF STATE SELLER'S PERMIT #: _____
15. SOCIAL SECURITY #: [REDACTED] 16. FEDERAL TAX ID #: _____
17. DRIVERS LICENSE/STATE ID #: [REDACTED] STATE: CA EXP DATE: [REDACTED]
18. CONTRACTOR'S LICENSE #: _____ EXP DATE: _____

19. ENTER YOUR 200__ ESTIMATED TAX BASE (Optional) \$ _____	
20. REGISTRATION FEE:	\$ <u>30.00</u>
21. ESTIMATED TAX PAYMENT: (SEE INSTRUCTIONS ON HOW TO COMPUTE YOUR ESTIMATED TAX)	\$ _____
22. PENALTY: 1 - 60 days = 10%; 61 days or more = 25% (if applicable)	\$ <u>2</u>
23. INTEREST (IF DELINQUENT): 1% per month of fraction thereof or registration fee plus penalty	\$ <u>2</u>
24. TOTAL AMOUNT DUE: (Total of registration fee, estimated tax, penalty & interest)	\$ <u>2</u>
25. PAYMENT ENCLOSED: Payment of registration fee must be included. (Enter amount of payment)	\$ _____

Note: Payment must be made within 30 days of the business start date to avoid penalty and interest.

26. CREDIT CARD INFORMATION: Visa MasterCard Discover
- Credit card number: [REDACTED] Expiration Date: [REDACTED] MO [REDACTED] YR [REDACTED]
- Amount Charged to this card: \$ 30 Signature: _____

27. PLEASE CHECK THE APPROPRIATE BOX IF APPLICABLE TO YOUR BUSINESS:

Convenience Markets Fast Food Business Gasoline Station Markets Liquor Stores

If you are classified as one of the above, you may be subject to the City of Oakland Excess Litter Fee, Ordinance No. 12727, Sections 17.10.345; 17.10.040 & 17.10290: 17.10.345; 17.10.300 & 17.10.345., effective February 21, 2006.

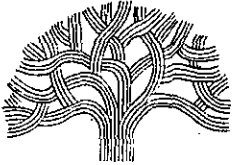
28. Please Provide A Detailed Description Of Your Business: provide therapeutic to clients / patients.

29. Complete attached Business Tax Questionnaire. (Business Tax will follow-up to obtain additional information for applications submitted without questionnaire and/or when additional information is required.)

I declare under penalty of perjury that to the best of my knowledge, all information contained on this application is true and complete.

Signature: [Signature] Title: owner Date: 01/08/09

Initials: _____
Payment Type: _____
Date: _____
Batch #: _____



CITY OF OAKLAND

1 FRANK H. OGAWA PLAZA – OAKLAND, CALIFORNIA 94612

January 23, 2009

Sunny Relax
Attention: Bing Rong Mi
1531 Webster St.
Oakland, CA 94612

Dear Manager:

Re: Notice of Hearing for Massage Establishment at: Sunny Relax, 1531 Webster St.

Enclosed is a Notice of Public Hearing for the above applicant. As required by the Oakland Municipal Code, this notice must be posted in your establishment in such a way that it can easily be seen and read from outside. **Please post it immediately; do not remove it until after February 27, 2009 (after the hearing is over).** Failure to post this notice will delay the issuance of the permit and will subject you to additional publication fee.

Please complete and sign the enclosed verification of posting; give it to the above applicant to give to Hearing Officer Barbara Killey at the hearing.

Sincerely,


Nancy Marcus

Enclosure: Notice of Public Hearing

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT BING RONG MI, has filed an application with the City Administrator of the City of Oakland for permission to OPERATE A MASSAGE ESTABLISHMENT AT 1531 WEBSTER ST and that FRIDAY, the 27TH day of FEBRUARY, 2009, at the hour of 3:00 P.M., in Hearing Room 2 City Hall, One Frank H. Ogawa Plaza, in said City of Oakland, is hereby fixed as the time and place for hearing of said Application.

AT SUCH HEARING, petition may be presented in favor of or against the granting of such permission by the City Administrator.

**OFFICE OF THE CITY ADMINISTRATOR
ONE FRANK OGAWA PLAZA, OAKLAND, CA 94612
(510) 238-3294**

**IT IS UNLAWFUL TO ALTER OR REMOVE THIS
NOTICE UNTIL AFTER DATE OF HEARING.**

Such an act is punishable by a fine of not more than five hundred dollars, or by imprisonment in the City Jail for not more than six months, or by both fine and imprisonment.

(Sec. 9.04.050 O.M.C.)

Oakland Fire Department
Fire Inspection Notice of Violation

Occ Class: _____

Business Name: <u>Sunny Relax</u>	Bus Lic #: _____
Address: <u>1531 Webster St</u>	Block #: _____
City: <u>Oakland</u> Zip Code: <u>94612</u>	

Inspection Type:

- Commercial Kitchen Hood & Duct Suppression System LPG Tanks Generator/Aboveground Tank
 Medical Gas System Annual Reinspection

Additional Findings:

All Violations Noted for Tenant have been
corrected, Message posted for clearance
approved

Acknowledgement of Receipt

Inspector's Name (print): J. P. [Signature] Date: 5/24

Responsible Party Signature: [Signature] Date: 5/23

Representing _____ Phone: _____

All Violations Corrected. Date: _____ FD Inspector: _____

I support Sunny Relax
Sunny Relax
1530 Webster St
Oakland CA 94612
Tel: (510) 238-8848

Kim, Su

To the Neighbors and Customers of Sunny Relax:

My name is B.R. Mi and I am the new owner of Sunny Relax in 1500 block Webster St neighborhood. I recently applied for my permit renewal to perform therapeutic massage service. However, because my business location is within 1000 feet of a public or private school or youth center (First Church Christ Scientist in this case), the City will waive the requirement only if my business does not have negative impact on City resources, public safety and neighborhood quality of life.

With help from the community, I hope to offer the therapeutic massage service in my current location. I request your support by signing this petition, and I will present the petition to the City of Oakland to approve my permit application.

Thank you for your support in advance.

Sincerely,

1. *[Signature]* ⁸ *[Redacted]*
Oakland CA
 2. *[Signature]*
[Redacted], Oakland, CA
 3. *[Signature]*
[Redacted] Oakland CA
946 *[Redacted]*
 4. *[Signature]*
[Redacted]
 5. *[Signature]* *[Redacted]*
[Redacted]
 6. Sam *[Redacted]*
[Redacted]
 7. *[Signature]* *[Redacted]*
- [Signature]*
510-*[Redacted]*
Pablo Ramirez
[Redacted] Oakland CA
946 *[Redacted]*
[Signature]

TO WHOM IT MAY CONCERN,

SUNNY RELAX MASSAGE SPA HAS BEEN DOING MY BACK
MASSAGES FOR A WHILE. THEY ARE FRIENDLY AND DO A
FINE JOB. THEY ALWAYS HAVE BEEN VERY PROFESSIONAL,
AND I WOULD LIKE THE BUSINESS TO CONTINUE. I
ALWAYS RECOMMEND THEM TO MY FRIENDS.

ALI ALTALFI

ROBERT BINNER

VICTOR JUE

BAYPOINT IMPORTS

The image contains four handwritten signatures in black ink. The first signature is for Ali Altalfi, the second for Robert Binner, the third for Victor Jue, and the fourth for Baypoint Imports. The signatures are written in a cursive, stylized font. A long, thin horizontal line is drawn across the bottom of the page, starting from the left side and extending towards the right.

To Whom It May Concern:

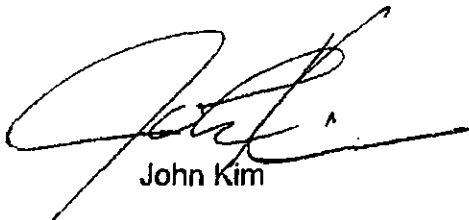
I travel to the East Bay on business frequently and am fortunate to have found Sunny Relax for therapeutic massage.

I used to dine out and shop in Berkeley and Emeryville and avoid Oakland because of its negative reputation. However, because of my visits to Sunny Relax, I have discovered Chinatown and its wonderful restaurants and shops. I now try to visit Chinatown whenever I stop at Sunny Relax.

I sincerely hope that Sunny Relax continues to operate in its current location. If not I would have little reason to visit and patronize downtown Oakland businesses.

If you have any questions, please do not hesitate to contact me at 510- [REDACTED]

Sincerely,

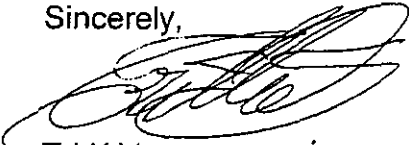


John Kim

To Whom It May Concern:

I have used Sunny Relax therapeutic massage service every so often due to its convenience location to my place of employment - [REDACTED] Harrison St, [REDACTED] Oakland, CA 946[REDACTED]. In my opinion, Sunny Relax offers professional body works with a clean and pleasant environment for its employee and clients. Furthermore, Sunny Relax does not have negative impact on City resources, public safety and or neighborhood quality of life. Ergo, I would like to see Sunny Relax continues to be opened and contribute to Oakland diverse communities.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tri K Vu', written over a white background.

Tri K Vu

[REDACTED] Harrison St, [REDACTED] Oakland, CA 946[REDACTED].

To Whom It May Concern:

I am an electrician and have worked in Oakland Downtown neighborhood in recent months. I have used Sunny Relax to relieve my back pain due to job related injury. I found Sunny Relax provided me with professional therapeutic massage service and reduced my back pain substantially. I would really like to see Sunny Relax to continue operating in the current location.

Sincerely,

Steven Chan

[REDACTED]
CA 945 *[REDACTED]*.

[REDACTED]
/

[REDACTED]

San Leandro.

To Whom It May Concern:

I am in windows and doors sales business and I live only 2 blocks away from Sunny Relax. I use their therapeutic massage service whenever I feel stressful and tired from work. Sunny Relax has provided me with professional massage service every single time. I appreciate their professionalism in helping me to relax my tired muscles due to work, and I would like to see Sunny Relax continues to stay open for business and to serve the neighborhood well.

Sincerely,

Phillip Banks

510- [REDACTED]

[REDACTED]

ST OAKLAND CA 946 [REDACTED]

[REDACTED]

March 13, 2009

To whom it may concern:

My name is Gerald Salaam, I am a business owner located at [REDACTED] 17th St. in Oakland.

I have had a therapeutic massage from Sunny Relax center in Oakland for, my lower back pain and general relaxation.

Their services were rendered in a professional manner.

Because of the quality of the services rendered at Sunny Relax I have recommended their services to my friends.

Sincerely,


Gerald Salaam

(510) [REDACTED]
[REDACTED] 17th St.
Oakland CA 946 [REDACTED]

To Whom It May Concern:

I am working around in Oakland downtown neighborhood. My job always cause my back hurts, and body muscle sore. My friend recommended me to Sunny Relax. After I came Sunny Relax, my muscle pain gradually goes away, I feel better and go back to work. Also I like the place quiet and nice. I would like to see Sunny Relax operate in the same location.

Sincerely,

Scott Williams

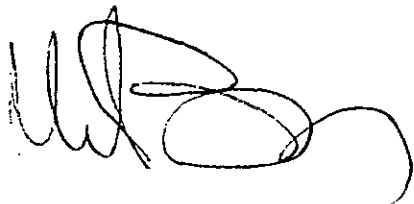
510



To Whom It May Concern:

I am in sales business and I work in downtown Oakland few blocks away from Sunny Relax. Some time ago due to my swimming activity, I hurt my shoulder joints and had visited Sunny Relax for therapeutic massage to relief the pain. I found Sunny Relax massage service very helpful for my pain and since then I have used their therapeutic massage on a periodic basis whenever I feel stressful from my work. I would like to see this place continue to operate in serving the community in a positive way as I experienced.

Sincerely,

A handwritten signature in black ink, appearing to be 'SIO [redacted] -CEV'.

SIO

A black rectangular redaction box covering a portion of the signature.

-CEV

To Whom It May Concern:

I am a worker at [REDACTED] located a block from Sunny Relax, and I have heard many positive feedbacks about their therapeutic massage service from my patrons. I believe this place provides professional massage service, and I would like to see Sunny Relax continue to be open and to serve the neighborhood.

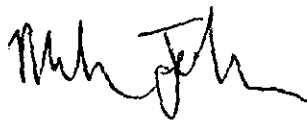
Sincerely,

Gustavo Briseno [REDACTED] WEBSTER ST


TO WHOM IT MAY CONCERN

I HAVE BEEN COMING TO SUNNY RELAX CENTER FOR OVER TWO YEARS. THEY HELP ME WITH MY BAD BACK AND RIGHT SHOULDER, I TRY TO COME IN FOR A MASSAGE ~~ONCE~~ A WEEK IF I DONT I CAN FEEL THE DIFFERENCE.

SINCERELY



MIKE JEFFERS


DANFORD, CA 946

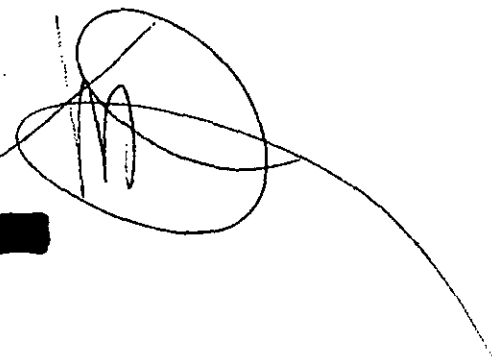
To Whom It may concern,

I have had a back problem for the last 41 years. I have been to many message therapists and think that Cindy at Sunny Relax is very helpful to my problem. I see no reason, not to give her a permit. The spa is always very clean and neat.

Regards,

Victor Jue

510 [REDACTED]

A handwritten signature in black ink, appearing to be 'Victor Jue', is written over the printed name. The signature is somewhat stylized and includes a large circular flourish that extends to the right.

To Whom It may concern

I work in Downtown Oakland [REDACTED]
and I get a massage after work
at Sunny Relax before I go home
by Bart train. Cubicle work
is cramped and confining, a massage
to relieve stress on the shoulders
and lower back is needed once in a while.

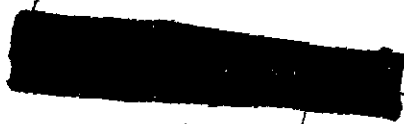
Andrew Lee
[REDACTED]

To whom it may concern,

Local Employee, FIM

Therapeutic Foot Massage

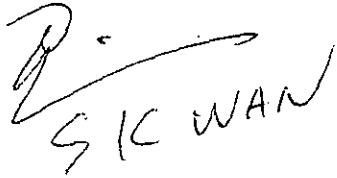
Helpful Professionally.

A handwritten signature in black ink, appearing to be the name 'Lou' enclosed in a circular flourish.

To Whom It May Concern:

I am the owner of a restaurant few blocks down from Sunny Relax. Few weeks ago I had a shoulder and back pain that caused me much inconvenience at work. I came to Sunny Relax and had few sessions of therapeutic massage on my shoulders and back. Since then my pain gradually went away. I just want to express my appreciation to Sunny Relax's service, and I am glad that they are close by and providing the community with excellent pain/stress relief services.

Sincerely


P. SIKWAN

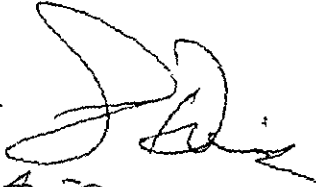


Oakland, Ca 94612

TO WHOM IT MAY CONCERN:

I HAVE ENJOYED SUNNY'S FOR 2.5 YEARS.
THEY HELP ME RELAX WITH THEIR TREAT
MASSAGE:

THANK YOU,



JOHN DAVIS

[REDACTED]

OAKLAND, CA 94612

To whom it may concern:

I'm the female counselor in Sunny Relax center.

It's close to my sweater store in Broadway. Thanks a lot

for the great message. I'm used to Sunny Relax center each other

weekend. Since then my shoulders, neck and back feel more

and more better. I appreciate that there is a professional message

enter close my office. I would like to introduce it to my friends and my
family. hope it can keep open.

incerely



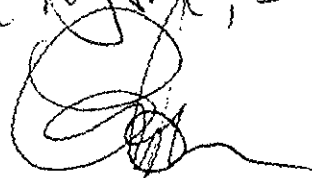
NIE

CA 947

To: Whom it may concern,

I'm very thankful that Sunny Relax Center is close to my home. Years ago I had surgery on my right knee, periodically, I would have sharp pain on my knee. Thankful for the great massage services that were professionally provided my Sunny Relax Center's therapists to ease my pain, my knee is getting stronger & stronger. The services the therapists provided meant a lot to me & to the people that needs the services.


Polina, 510 



To Whom It May Concern:

Few months ago I have pulled my shoulder tendon and that caused me a lot of pain. A friend of mine refers me to seek therapeutic massage at Sunny Relax. Since then I have used several sessions of shoulder massage and my shoulder pain had improved substantially. Based on my personal experience the Sunny Relax is a clean and warm place and its service is nothing but professional. I would like to see it continue to serve the community in a positive way as I experienced once in the past.

Sincerely,

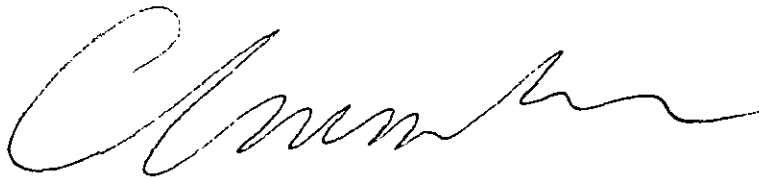


(510) [REDACTED]

To Whom It May Concern:

I go to Sunny Relax for therapeutic massage once in awhile whenever I feel stressful from work or my muscle tightened up from exercise. I found this place has provided me with very professional service that relaxed my muscles in every session. I would like to see this place to be open and serve the community.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Smith", written in a cursive style.

TO WHOM IT MAY CONCERN:

MARCH 5, 2007

I WOULD LIKE TO TESTIFY ON BEHALF OF SUNNY RELAX THAT THEY RUN A VERY NICE MASSAGE BUSINESS. I PLAY A LOT OF GOLF AND EACH TIME AFTER MY GOLFING GAME, I GO TO SUNNY RELAX TO HAVE MY MUSCLE WORKED ON.

THE STAFF HERE ARE VERY PROFESSIONAL. I DON'T BELIEVE THERE ARE ANY ~~ANY~~ ILLEGAL ACTIVITY GOING ON THERE. I BELIEVE THIS BUSINESS SHOULD STAY OPEN AT ITS PRESENT LOCATION. I BELIEVE THIS BUSINESS CAN ONLY ADD VALUE TO THE NEARBY COMMUNITY. AS A NEIGHBOR IN THIS COMMUNITY, I WOULD LIKE TO PLEA TO KEEP SUNNY RELAX OPEN.

BEST REGARDS,

Alex Chiu
ALEX CHIU

TO: WHOM IT MAY CONCERN.

I LIVE IN OAKLAND AND HAVE COME
TO GET A MASSAGE AT SUNNY RIFLEX
FOR THE OUTSTANDING WORK & PROFESSIONAL
MANNER IN WHICH THE EMPLOYEES TREAT ME.
I WOULD LIKE TO SEE THE COMPANY
STAY AS LONG AS POSSIBLE.

Thank You

A handwritten signature in cursive script, appearing to be the name 'Ron'.

for ticket

SHERIFF POLICE DEPARTMENT		NOTICE TO APPEAR 635-011 (Rev. 8-05)		<input type="checkbox"/> TRAFFIC <input type="checkbox"/> MISDEMEANOR		4984101	
Date of Violation		Time		Day of Week		AD/Incar. No.	
2-15-09		1730		THU		19-009150	
Name (First, Middle, Last)						Owner's Responsibility (Veh. Code, § 40001)	
BING-RONG MI							
Address							
[REDACTED] AVE # [REDACTED]							
City		State		Zip Code		Arrest - Photo No.	
OAKLAND		CA		946			
Driver Lic. No.		State		Class		App. Birth Date	
[REDACTED]		CA		C		46 [REDACTED]	
Sex		Hair		Eyes		Height	
F		BLK		BLU		5'8 1/2	
Weight		Race		Other Description			
130		A					
Veh. Lic. No. or VIN		State		Reg. Exp. Date			
Yr. of Veh.		Make		Model		Color	
Evidence of Financial Responsibility						<input type="checkbox"/> Same as Driver	
Registered Owner or Licensee						<input type="checkbox"/> Same as Driver	
Address						<input type="checkbox"/> Same as Driver	
City						State Zip Code	
Currentable Violation (Veh. Code § 40610)						<input type="checkbox"/> Booking Required	
Yes		No		Code and Section		Description	
<input type="checkbox"/>		<input checked="" type="checkbox"/>		5.36.160 M		WASHERS	
						M I	
						M I	
						M I	
Speed Excess		P.F./Mtr. Sed.		Veh. Lmt.		<input type="checkbox"/> Continuation Form Issued	
Location of Violation(s)						Director	
at 1531 WEBSTER ST							
Weather		Road Conditions		Traffic Conditions		Accident	
						<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Violations not committed in my presence, declared on information and belief.							
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.							
H. WEBSTER							
Arresting or Citing Officer						Serial No.	
1							
Date		Name of Arresting Officer, if different from Citing Officer				Serial No.	
1/1							
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.							
X Signature Bing-Rong Mi							
WHEN:		After 10 days but not later than on or before this date:		3-16-09 TIME		9:00 AM <input type="checkbox"/> PM <input type="checkbox"/>	
WHAT TO DO:		FOLLOW THE INSTRUCTIONS ON THE REVERSE.					
WHERE:		Wiley W. Manuel Courthouse Traffic Division		Wiley W. Manuel Courthouse 681 Washington St., Dept. No. 107		Oakland, CA 94607	
		681 Washington St., Oakland, CA 94607		681 Washington St., Oakland, CA 94607		1510 268-7700	
		Traffic Bat Infr. (510) 268-7673					
<input type="checkbox"/> To be notified							

Judicial Council of California Form 7A-110 SEE REVERSE Rev. 07-01-05 (Veh. Code, §§ 40500(b), 40513(b), 40522, 40500; Pen. Code, § 853.9)

WHITE - COURT YELLOW - SUPERVISORY STAFF PINK - VIOLATOR WHITE ICF TAG - OFFICER

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2009 APR 23 PM 6:49

Approved as to Form and Legality

Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION DENYING THE APPEAL FILED BY BING RONG MI AND UPHOLDING THE ADMINISTRATIVE HEARING OFFICER'S DECISION TO DENY A MASSAGE ESTABLISHMENT PERMIT FOR SUNNY RELAX, LOCATED AT 1531 WEBSTER STREET, OAKLAND, CALIFORNIA

WHEREAS, pursuant to Oakland Municipal Code section 5.36.080A, it is unlawful to operate a Massage Establishment without a valid permit granted by the City of Oakland; and

WHEREAS, pursuant to Oakland Municipal Code section 5.02.060, in granting or denying business permits, the City official acting thereon shall consider the character of the applicant as respects morality, honesty and integrity, and all pertinent acts which may concern the health, safety, and general welfare of the public; and

WHEREAS, because Ms. Mi's proposed Massage Establishment is within 1000 feet of a public or private school, a Massage Establishment permit cannot be issued unless written findings are made that the establishment will not have a negative impact on City resources, public safety and neighborhood quality of life; and

WHEREAS, Bing Rong Mi applied for a Massage Establishment permit on January 8, 2009; and

WHEREAS, on February 5, 2009, two undercover Oakland police officers were solicited for sex by two different massage therapists, who were applying for jobs at Sunny Relax; and

WHEREAS, the Oakland Police Department submitted police report, RD09-009150, dated February 5, 2009, documenting sexual solicitations of undercover police officers by two of Ms. Mi's therapist applicants; and

WHEREAS, neither police officer was able to attend the public hearing conducted on February 27, 2009, regarding Ms. Mi's Massage Establishment application; and

WHEREAS, the hearing was continued to March 16, 2009 to provide Ms. Mi with an opportunity to respond to the allegations of sexual solicitation at Sunny Relax; and

WHEREAS, Ms. Mi's explanation was that she was unaware that the job applicants had provided massages and sexually solicited the officers because the officers arrived at Sunny Relax when Ms. Mi had left the applicants on the premises when she went to the bank to make a deposit; and

WHEREAS, pursuant to Oakland Municipal Code section 5.36.150, any violation of this [Massage Establishments and Massage Therapists] Chapter by a massage therapist on the premises of the massage establishment shall be considered also as a violation by the Owner; and

WHEREAS, pursuant to Oakland Municipal Code section 5.02.060, the City official acting on a permit application "shall consider the character of the applicant as respects morality, honesty and integrity, and all pertinent acts which may concern the health, safety, and general welfare of the public"; and

WHEREAS, prostitution concerns the health, safety and general welfare of the public and has negative impacts on City resources, public safety, and neighborhood quality of life; and

WHEREAS, on March 20, 2009, the City's Administrative Hearing Officer denied the permit application, based upon the preponderance of the evidence, the requirements of Oakland Municipal Code Chapters 5.02 and 5.36, and the inability to make a written finding that the business will not have a negative impact on City resources, public safety, and neighborhood quality of life; and

WHEREAS, Ms. Mi submitted a timely appeal, listing eleven grounds for the appeal; and

WHEREAS, none of the grounds submitted by Ms. Mi rebut the grounds upon which her application was denied, her responsibility for the illegal activity conducted at her Massage Establishment, and that activity's adverse affects on the health, safety, and general welfare of the public and neighborhood quality of life; now, therefore be it

RESOLVED: That the City Council finds and determines that the Administrative Hearing Officer's decision was made in accordance with the requirements of Oakland Municipal Code Chapters 5.02 and 5.36; and be it

FURTHER RESOLVED: That the Administrative Hearing Officer's March 20, 2009 decision to deny Ms. Mi's application for a Massage Establishment permit for Sunny Relax, located at 1531 Webster Street, is hereby affirmed.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2009

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT BRUNNER.

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California