

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. 82128 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, JUL 7 2009, 2009

**PASSED BY THE FOLLOWING VOTE:**

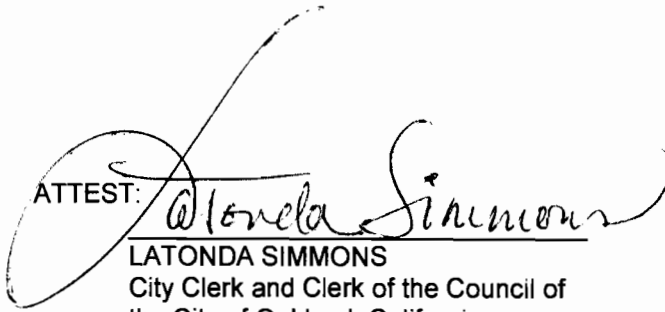
AYES - BROOKS, ~~DE LA FUENTE, KAPLAN~~, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER - 6

NOES - De La Fuente - 1

ABSENT - 0

ABSTENTION - Kaplan - 1

ATTEST:



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