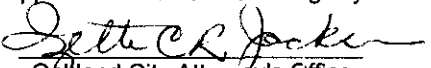


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Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. 80060 C.M.S.

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**RESOLUTION DENYING THE APPEAL FILED BY KIM NGO  
AGAINST THE ADMINISTRATIVE HEARING OFFICER'S  
DECISION TO DENY A MASSAGE ESTABLISHMENT PERMIT FOR  
NEW BEGINNINGS CENTER, LOCATED AT 4107 BROADWAY,  
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**, since 1999, Kim Ngo operated the New Beginnings Center Massage Establishment, located at 4107 Broadway, under a healing arts exemption; and

**WHEREAS**, the healing arts exemption was eliminated by Ordinance No. 12675 C.M.S., amending Oakland Municipal Code Chapter 5.36, and adopted by the City Council on June 21, 2005; and

**WHEREAS**, Ms. Ngo applied for a Massage Establishment permit on October 19, 2005; and

**WHEREAS**, on February 2 and February 8, 2006, undercover Oakland police officers were solicited for sex by two different New Beginnings massage therapists, whose sexual performance had been noted by entries posted on an internet site from 2001 through 2005; and

**WHEREAS**, one of the therapists submitted a statement that she has been having sex with customers for money at New Beginnings for nine years; and

**WHEREAS**, the Oakland Police Department submitted police reports, RD06-013042 dated February 2, 2006 and RD06-014733 dated February 8, 2006, documenting sexual solicitations of undercover police officers by two of Ms. Ngo's therapists; and

**WHEREAS**, a public hearing was conducted on March 20, 2006, regarding Ms. Ngo's application; and

**WHEREAS**, at the hearing, in addition to credible testimony by Oakland Police Department officers regarding illegal activity by Ms. Ngo's massage therapists, residents provided substantial credible testimony that the use of New Beginnings hot tubs by prostitutes has adversely affected the health, safety, and general welfare of the neighborhood for many years; and

**WHEREAS**, Ms. Ngo knew, or should have known, that illegal activity was blatantly taking place at her Massage Establishment for many years, did nothing to curb or discourage illegal activity and, in fact, by her acceptance, encouraged the activity; and

**WHEREAS**, pursuant to Oakland Municipal Code section 5.36.150, any violation of this [Massage Establishments and Massage Therapists] Chapter by any employee 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**, on April 17, 2006, the City's Administrative Hearing Officer denied the permit application, based upon the preponderance of the evidence and the requirements of Oakland Municipal Code Chapters 5.02 and 5.36; and

**WHEREAS**, Ms. Ngo submitted a timely appeal, listing sixteen grounds for the appeal; and

**WHEREAS**, none of the grounds submitted by Ms. Ngo 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; 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 Ms. Ngo has failed to refute that illegal activity has been conducted over an extensive period of time by both her employees and customers or to establish that she does not bear the responsibility for this activity; and be it

**FURTHER RESOLVED**, that the Administrative Hearing Officer's April 17, 2006 decision to deny Ms. Ngo's application for a Massage Establishment permit for New Beginnings Center, located at 4107 Broadway, is hereby affirmed.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 18 2006, 2006

**PASSED BY THE FOLLOWING VOTE:**

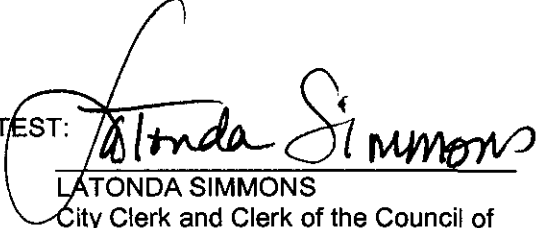
AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND  
PRESIDENT DE LA FUENTE - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:

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