

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: February 13, 2025

PREPARED BY: Richard D. Cannone, AICP, Development Services Director

SUBJECT: CONSIDER AN APPEAL OF THE CITY MANAGER'S REVOCATION OF THE BUSINESS LICENSE FOR MASSAGE 111 LOCATED AT 45120 SAN PABLO, SUITE 2A, PALM DESERT, CALIFORNIA

RECOMMENDATION:

1. Find that this report, including attachments, and any additional evidence provided at the hearing provides satisfactory evidence that the City Manager's decision to revoke the business license for Massage 111 was correct.
2. Adopt a Resolution entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, UPHOLDING THE CITY MANAGER'S REVOCATION OF THE BUSINESS LICENSE FOR MASSAGE 111, LOCATED AT 45120 SAN PABLO, SUITE 2A, AND MAKING FINDINGS IN SUPPORT THEREOF."

BACKGROUND/ANALYSIS:

Business Information

Massage 111 obtained Business License #13701926 (see Attachment 2) on December 9, 2019, to operate a massage parlor at 45120 San Pablo, Suite 2A, Palm Desert. The business is solely owned and operated by Haiwei Xia Donkersgoed as a sole proprietorship, a structure in which a single individual maintains full control and responsibility for the business. Additionally, Haiwei Xia Donkersgoed is the only massage therapist listed on file with the City.

Investigation and Violations

On November 26, 2024, at approximately 1:00 PM, the Palm Desert Sheriff's Station Special Enforcement Team (SET) and the Riverside County Anti-Human Trafficking Task Force (RCAHT) executed a search warrant at Massage 111. The investigation stemmed from a tip regarding illicit activities in the 45000 block of San Pablo Avenue, revealing prostitution activities at the business.

At 2:10 PM the same day, the Sheriff's Office contacted Code Compliance Officer Paul Villanueva for assistance with Palm Desert Municipal Code (PDMC) violations. Officer Villanueva opened Code Enforcement Case 24-5896 (see Attachment 3) and arrived on-site, where the Sheriff's Office confirmed that Haiwei Xia Donkersgoed was arrested for maintaining an illicit brothel (PC 315) and booked into the Riverside County Jail in Indio (see Attachment 4).

Additionally, Officer Villanueva observed unauthorized interior construction and evidence of on-site living. Images documenting these violations are included in Attachment 5. In accordance with the PDMC, Massage 111 was declared a public nuisance, and notices were issued for PDMC §5.87.120A.3 and building code violations under Case 24-5900 for unpermitted construction.

According to the Riverside County Sheriff's Department press release (see Attachment 6), two females identified as possible human trafficking victims were located on-site. Officer Villanueva's observations of on-site living further supports these concerns. The individuals received advocacy services and were released. Multiple suspected sex buyers were also identified and released pending further investigation.

Revocation of Business License and Findings of Fact

On November 27, 2024, City Manager Todd Hileman issued a Notice of Revocation (see Attachment 7) pursuant to PDMC §§ 5.04.070 and 5.87.130. Additionally, the Notice of Revocation informed Haiwei Xia Donkersgoed of the right to appeal within 15 calendar days per PDMC § 5.04.080(A). The grounds for revocation and findings of fact include:

1. **That the licensee has violated any provision of the California Business and Professions Code, Palm Desert Municipal Code, or any emergency order issued by the city manager or city council (PDMC §5.04.070(A)(4)).**

Findings of Fact:

- A. *On November 26, 2024, Code Compliance Officer Villanueva conducted an inspection of the licensed premises and observed several violations of the Palm Desert Municipal Code. Those violations include:*
 - 1) *Failure to obtain the required building permits for interior modifications made to the premises (California Building Code §105.1).*
 - 2) *Failure to notify the City Manager of additional massage practitioners employed by the business. Additionally, the California Massage Therapy Council certifications for two massage therapists expired on January 24, 2021, and January 8, 2022, respectively (PDMC §5.87.100 and 5.87.210.T).*
 - 3) *Failure to obtain plumbing permits for completed work (PDMC §5.87.200.F and California Building Code §105.1).*
 - 4) *Lack of a single-service towel dispenser and a trash receptacle at the washbasin (PDMC §5.87.200.G).*
 - 5) *Accumulation of dirt and refuse on the floors (PDMC §5.87.200.I).*
 - 6) *Inadequate equipment for disinfecting and sterilizing materials used in administering massages, including unmarked bottles of liquid, some stored in reused hair dye bottles (PDMC §5.87.210.D).*
 - 7) *Failure to maintain the establishment in good repair and in a clean and sanitary condition (PDMC §5.87.210.I).*
 - 8) *Improper storage of towels, linens, and sheets, which were found in piles on massage tables, furniture, and floor instead of in properly marked cabinet or containers labeled "clean linen" and "soiled linen" (PDMC §5.87.210.J).*
 - 9) *Use of non-compliant massage table cover pads that were not made of durable, washable plastic or other waterproof material (PDMC §5.87.210.K).*

10) Evidence that individuals were using the establishment for residential and sleeping purposes, creating unsanitary conditions and hazardous environments for both employees and customers (PDMC §5.87.210.Q).

11) Violation of mandatory requirements set forth in PDMC Chapter 5.87, as detailed in Findings 1-10 above (PDMC §5.87.210.U).

B. The violations were documented with photographs and official reports, confirming that the licensee failed to adhere to the requirements for maintaining a business license.

2. **That the licensee has violated any rule or regulation adopted by any governmental agency relating to the licensee's business (PDMC §5.04.070(A)(7)).**

Findings of Fact:

- A. On November 26, ~~2024~~2025, an inspection and review of the licensee's business operations revealed violations of California Penal Code 315 for maintaining an illicit brothel and the Palm Desert Municipal Code as provided herein, which govern the licensee's business activities. These violations were documented in Code Enforcement Case Number 24-5900.
- B. On that same date, Code Compliance Officer Villanueva's inspection revealed additional violations of the Palm Desert Municipal Code resulting in the business being declared a public nuisance. Those violations are enumerated in Finding 1.
- C. These documented violations provide sufficient grounds for revocation of the license.

3. **That the licensee has conducted the licensed business in a manner contrary to the peace, health, safety, and the general welfare of the public (PDMC §5.04.070(A)(8)).**

Findings of Fact:

- A. On November 26, 2024, evidence gathered from the Riverside County Sheriff's Office along with observations by Code Compliance Officer Villanueva confirmed that the licensee's operation contributed directly to endangering the peace, health, safety, and general welfare of the public. Specific infractions included operating an illicit brothel, failure to maintain sanitary conditions, and living on the premises, which created a dangerous environment.
- B. On that same date, Code Compliance Officer Villanueva's inspection revealed additional violations of the Palm Desert Municipal Code resulting in the business being declared a public nuisance. Those violations are enumerated in Finding 1.
- C. Based on the documented harm caused by these actions, revocation of the license is necessary to protect the public from further injury.

4. **The massage establishment business license holder has been arrested or filing of charges of a crime that would have caused denial of the massage establishment business license (PDMC §5.87.120(A)(1)).**

Findings of Fact:

- A. *On November 26, 2024, the licensee was arrested, and criminal charges were filed for maintaining an illicit brothel, a crime that, if known at the time of application, would have led to the denial of the massage establishment business license under PDMC §5.87.120.*
- B. *The crime is classified as a misdemeanor and directly impacts the qualifications required to maintain a massage establishment license.*
- C. *Official records, including the Riverside Sheriff Press Release and booking information, confirm the charges against the licensee, highlighting the violation of legal standards necessary for obtaining and maintaining a business license.*
- D. *The severity of the criminal charges, coupled with their direct impact on public trust and safety, justifies the revocation of the massage establishment business license.*

5. **The massage establishment business license holder has engaged in conduct or operated the certified massage establishment or as a massage practitioner in a manner which violates any of the provisions of this chapter, any conditions of the permit, or any of the laws which would have been grounds for denial of the permit. A massage therapist or massage practitioner employed by the massage establishment has been arrested for violating the provisions of Section 647(a) and (b) of the California Penal Code, or any other state law involving a crime of moral turpitude, or the premises for which the business license was issued is being operated in an illegal or disorderly manner. (PDMC §25.87.120(A)(3)).**

Findings of Fact:

- A. *On November 26, ~~2024~~2025, investigations by the Palm Desert Sheriff's Station Special Enforcement Team and the Riverside County Anti-Human Trafficking Task Force revealed that the licensee violated provisions of PDMC Chapter 25.87 and other relevant laws. These violations included engaging in activities that led to criminal arrests for offenses involving moral turpitude and operating the establishment in a disorderly or illegal manner. Specifically, the licensee was arrested and booked into the Riverside County Jail for maintaining an illicit brothel, a violation of California Penal Code §315 .*
- B. *Evidence, including the law enforcement press release and booking information confirms that the licensee was arrested for violating California Penal Code §315, which is a crime of moral turpitude as it pertains to operating the business for prostitution.*

- C. *On that same date, Code Compliance Officer inspection revealed additional violations of the Palm Desert Municipal Code resulting in the business being declared a public nuisance. Those violations are enumerated in Finding 1.*
- D. *As documented, the manner in which the licensee operated the business, constitute grounds for revocation.*

6. Violations of this chapter or of the California Business and Professions Code Section 4600 et seq., have occurred on the establishment premises. (PDMC §5.87.120(A)(5)).

Findings of Fact:

- A. *On November 26, 2024, inspections and investigations revealed violations of PDMC Chapter 5.87 and the California Business and Professions Code, specifically related to the failure to comply with required standards as provide in Finding 1.*
- B. *Documentation from inspections and code enforcement confirmed that the establishment was operating outside the legal requirements, including unlicensed practitioners and failure to maintain the necessary permits and records.*
- C. *The violations documented in official reports warrant the revocation of the business license, as the establishment did not meet the legal requirements for lawful operation.*

7. There is an urgency of immediate action to protect the public from injury or harm (PDMC §5.87.120(A)(8)).

Findings of Fact:

- A. *On November 26, ~~2024~~2027, immediate action was deemed necessary to protect the public from unsafe and unlawful conditions at Massage 111, leading to the immediate suspension of the business license.*
- B. *Inspections and reports indicated that unsafe conditions existed due to unpermitted construction and unsanitary conditions on the premises.*
- C. *These violations were documented through photographs and official inspection notes by Code Compliance Officer Villanueva, who identified the licensee's failure to obtain the necessary building permits for modifications made to the premises.*
- D. *Additionally, the premises were found to be in a state of squalor, with evidence indicating that individuals were living on the property. This contributed to unsanitary and hazardous conditions, posing a significant risk to the health and safety of both employees and customers.*
- E. *The violations enumerated in Finding 1 confirm noncompliance with the Palm Desert Municipal Code and highlight the serious threat to public health and safety associated with the operation of the business under these conditions.*

F. Given the immediacy and severity of these risks, urgent action was required to protect the public, further justifying the ultimate revocation of the business license by the City Manager on November 27, 2024.

8. Conducting a (massage) business as a nuisance (PDMC §5.87.240).

Findings of Fact:

A. On November 26, 2024, Code Compliance Officer Villanueva's inspection revealed violations of the Palm Desert Municipal Code resulting in the business being declared a public nuisance. Those violations are enumerated in Finding 1. and the business license should be revoked.

Notice of Appeal

On December 2, 2024, Attorney George L. Young, Esq., from the Law Offices of George L. Young in Arcadia, CA, submitted a Notice of Appeal (see Attachment 8) to City Manager Hileman.

Deficiency in Notice of Appeal

On December 4, 2024, City Clerk Anthony Meija issued a deficiency notice (see Attachment 9), citing failure to meet PDMC § 2.72.020(C) requirements, including:

1. The specific decision being appealed.
2. The specific grounds for the appeal.
3. The relief or action requested from the City Council.

City Clerk Meija further clarified in the deficiency notice that the appeal lacked a clear statement of the grounds upon which the appeal is based (e.g., why the decision is being challenged), and does not specify the relief or action requested from the City Council.

Mr. Young was further notified that he has five business days (December 11, 2024) to cure the deficiencies and refile the appeal.

Amended Notice of Appeal

On December 9, 2024, Mr. Young submitted an Amended Notice of Appeal (see Attachment 10), stating:

1. The decision being appealed: Revocation of Business License #13705141 issued on November 27, 2024.
2. Grounds for appeal: The nine cited violations were "blatantly false."
3. Requested relief: License reinstatement, compensation for damages, and a formal apology from the City of Palm Desert for revoking her business license without good cause and without due process.

Scheduling of Appeal

On December 12, 2024, City Clerk Meija sent a notice scheduling the public hearing for the appellant's appeal (see Attachment 11), in accordance with PDMC §2.72.030, which states that the appeal hearing must occur no later than 45 days after receipt of the [amended] notice and

that notice must be provided at least ten days prior to the hearing unless waived in writing by the appellant.

On December 14, 2024, Mr. Young, Esq. provided a written notice requesting that the appeal be moved to February 2025 due to a scheduling conflict and inquiring about the possibility of a virtual appearance (see Attachment 12).

On December 16, 2024, City Clerk Meija provided a new hearing notice setting the public hearing on the appeal for February 13, 2025, to accommodate the appellant's request (see Attachment 13). City Clerk Meija also cautioned Mr. Young, Esq. that:

While virtual appearances via Zoom are permitted, if necessary, I must note that, given the importance of this hearing and ensuring the integrity of due process, virtual participation carries inherent risks. These risks include potential technical issues or challenges in presenting or receiving evidence and arguments effectively, which could impact the proceedings. For these reasons, virtual representation is not recommended in this case. However, if you need to participate via Zoom, please let me know, and I will be happy to provide the meeting link.

As of Friday, January 31, 2025, the appellant has not requested a Zoom link to participate virtually.

Staff's Response to Amended Notice of Appeal

1. Appellant's Claim of False Violations. The appellant's claim that the violations are "blatantly false" suggests that the Sheriff's investigation, arrest of the licensee, and Code Compliance Officer Villanueva's investigation were untrue. However, documented evidence, attachments, photographs, and testimony confirm that the revocation was based on verifiable facts, not mere allegations. Furthermore, the appellant failed to provide any evidence, affidavits/statements, or factual arguments to refute the findings, only an assertion that staff's findings are "blatantly false."
2. Contradiction with PDMC. The requested relief, which includes reinstatement of the business license, contradicts the PDMC, which is specifically designed to protect public health, safety, and welfare. Allowing the reinstatement would undermine the purpose of the PDMC and fail to address the public nuisance created by the licensee's actions.
3. Due Process Claim. The appellant's statement of lack of due process is baseless. The appellant was provided with an ample opportunity to challenge the revocation. Rather than presenting factual rebuttals, the appellant again resorted to baseless claims without any supporting evidence. Additionally, at the appellant's request, the hearing date was postponed accommodating his scheduling conflicts, demonstrating that due process was not only provided but extended as a courtesy.

Conclusion

Based on the Findings of Fact, including the investigation findings, documented violations, reports, photographs, and any additional testimony or evidence presented at the public hearing,

staff recommends that the City Council uphold the revocation of Massage 111's business license. The appellant's request for reinstatement, damages, and an apology should be denied, as it is unsupported by any substantive evidence and is contrary to the public interest.

Legal Review:

This report has been reviewed by the City Attorney's Office.

FINANCIAL IMPACT:

There is no financial impact associated with this action.

ATTACHMENTS:

1. Draft City Council Resolution
2. Massage 111 Business License
3. Code Enforcement Case 24-5896 log
4. Booking Information
5. Images documenting Officers Villanueva's observations
6. Riverside County Sheriff's Department press release
7. Notice of Revocation
8. Notice of Appeal
9. Deficiency Notice
10. Amended Notice of Appeal
11. Notice of Appeal Hearing
12. Appellant's request to postpone hearing
13. Notice of Appeal Hearing
14. Presentation