

City of San Leandro
Business License Revocation Appeal
Royal Ice Cream
Hearing Date: March 23, 2017

Appearing for Appellant:

- Mr. Patras Mashi Gill, owner, Royal Ice Cream

Appearing for City:

- Robert McManus, Police Lieutenant
- Mary Ann Perini, Budget & Compliance Manager

The appeal came for hearing after written notice in accord with San Leandro Municipal Code Section 2-2-450 before Eric Engelbart, Deputy City Manager. Testimony was provided by Mr. Patras M. Gill, Mary Ann Perini, and Lieutenant Robert McManus.

Background

On or about February 16, 2017, Mr. Gill and another associate, Mr Jamshaid Bhatti each applied for a business license in order to operate a mobile ice cream vendor business within the City, identified as Royal Ice Cream. The applications were assigned business license application # 16663 and 46627.

On March 8, 2017, the Finance Director denied the business license applications of both parties. The denial was based on San Leandro Municipal Code Section 2-2-420, which states that such applications may be denied “whenever the Finance Director has reasonable cause to believe that any statement contained in an application is not true.”

A driving record investigation of Mr. Gill, which is required for all mobile vendor applicants, revealed that on May 12, 2008, Mr. Gill received a traffic citation for causing a collision with another vehicle in violation of California Vehicle Code (CVC) Section 22107 (Turning and Stopping and Turning Signals). In addition, an investigation of Mr. Gill’s driving record revealed a July 9, 2014 citation for a violation of CVC Section 22350 (Speed Laws). However, on the section of the mobile ice cream vendor application form which requires the applicant to explain whether he or she has been involved in a traffic accident or received a citation for a moving violation, the applicant stated: “none”.

Thus, pursuant to San Leandro Municipal Code Section 2-2-420, the business license applications of both employees of Royal Ice Cream were denied because the lead applicant, Mr. Gill, stated that he had not received any citations for moving violations in the past ten years, which led the Finance Director to conclude that Mr. Gill provided a false statement in his application.

Consistent with San Leandro Municipal Code Section 2-2-450, the applicant timely filed an appeal to the City of the rejection of the business license for mobile food vending. In his letter of appeal, the appellant asserted that the ice cream vending business was his only means of providing for his family and apologized for any mistakes he may have made in his application.

Per San Leandro Municipal Code Section 2-2-450, the applicant was provided notification by the City that a hearing date to consider the merits of his appeal was scheduled for March 23, 2017.

Testimony

At the hearing, Police Lieutenant McManus testified to the moving violations that were revealed in the applicant's driving record, which consisted of a speeding ticket in 2014 and a rear-end collision in 2008. Mary Ann Perini provided testimony outlining how the applicant's driving record was inconsistent with statements made in the application, which led to the Finance Director's decision to deny the application.

Mr. Gill, the applicant, provided testimony in which he acknowledged that if his driving record listed the aforementioned moving violations, then he did not dispute the veracity of those records. He also acknowledged that his command of the English language was limited and so he had received assistance from another person in filling out the application forms. As a result, any failure to acknowledge the two moving violations was not intentional and was simply a function of not having properly understood the application questions. Mr. Gill also testified that he been driving an ice cream truck for a living in San Leandro for many years without incident and that this business provided him and his family members with their only source of income. Therefore, he contended that a denial of his business license would create a severe hardship for him and his family.

Findings

1. On or about February 16, 2017, Mr. Gill and another associate, Mr. Jamshaid Bhatti each applied for a business license in order to operate a mobile ice cream vendor business within the City, identified as Royal Ice Cream. The applications were assigned business license application # 16663 and 46627.
2. A driving record investigation revealed that on May 12, 2008, the applicant received a traffic citation for causing a collision with another vehicle in violation of California Vehicle Code (CVC) Chapter 6, Section 22107 (Turning and Stopping and Turning Signals). The investigation also revealed a July 9, 2014 citation for a violation of CVC Chapter 7, Section 22350 (Speed Laws).
3. On March 8, 2017, the Finance Director denied the business license applications of both parties associated with Royal Ice Cream. The denial was based on San Leandro Municipal Code Section 2-2-420, which states that such applications may be denied

“whenever the Finance Director has reasonable cause to believe that any statement contained in an application is not true.”

4. The applicant showed cause why the action or determination of the Finance Director should not be approved. The applicant provided a plausible explanation for the inaccurate information contained in the business license application which suggests that he did not intentionally omit information. Based upon the evidence submitted and the findings set forth, the appeal of the business license denial should be approved and the business license granted.

Conclusion

The applicant showed cause why the action or determination of the Finance Director should not be approved. More specifically, the applicant sufficiently demonstrated to the hearing officer that the failure to acknowledge two prior California Vehicle Code violations on his business license application for mobile food vending was not an intentional omission but was rather an unintentional mistake. Based upon the evidence submitted and the findings set forth, the appeal of the business license denial is approved and the business license granted for business license application # 16663 and 46627.

Prepared by: Eric Engelbart, Deputy City Manager