



Legislation Text

File #: 17-192, **Version:** 1

Staff report to approve a resolution authorizing the City Manager or his designee to perform certain functions pertaining to the business license denial of Pearle Cab pursuant to City of San Leandro Municipal Code Section 2-2-450 and approving the findings of the Hearing Officer to deny the appeal of Ahmad Meher, Owner, regarding the Finance Director's Decision to deny the business license for Pearle Cab

Recommendation

Staff recommends that the City Council approve the finding of the hearing officer, that the business license applicant, Mr. Ahmad Meher, failed to show why the determination of the Finance Director should not be approved. Based upon the evidence submitted and the findings of the Hearing Officer, the business license denial for Pearle Cab should be upheld and the appeal should be denied

Background and Summary

Pursuant to the San Leandro Municipal Code, the Finance Director has the authority to reject a business license whenever the Finance Director has reasonable cause to believe that any statement contained in a business license application is not true or that a business will not comply with any applicable laws. Applicants that have had their license rejected are entitled to appeal the Finance Director's determination within 10 days of mailing the notice of revocation.

The San Leandro Municipal Code designates the City Council as the hearing body for business license rejection determinations. The San Leandro Municipal Code also authorizes the City Council to delegate the authority to conduct the hearing to a hearing officer to make a recommendation to the City Council for a final determination.

On or around August 5, 2016, Mr. Meher submitted a taxicab driver's permit application to the Police Department. Additionally, Mr. Meher submitted a business license application and a taxicab business permit application to the Finance Director on or around August 8, 2016.

Pursuant to San Leandro Municipal Code Section 6-6-315(h), the Police Department denied the taxicab driver's permit application on October 4, 2016 after determining that Mr. Meher had, within the past ten (10) years, been convicted of an offense involving the use of force or violence upon

another person. Mr. Meher never appealed the denial of the taxicab driver's permit.

Pursuant to San Leandro Municipal Code Section 6-6-225(j), the Finance Director denied the taxicab business permit application and corresponding business license application on March 8, 2017 after determining that Mr. Meher had, within the past ten (10) years, "committed an act of violence, dishonesty or fraud with the intent to injure another person or to benefit the applicant or another".

Mr. Meher submitted an appeal of the Finance Director's denial of the taxicab business permit and the business license. Pursuant to the San Leandro Municipal Code, the City Manager considers appeals of the denial of the taxicab business permit and the City Council considers appeals of the denial of the business license.

The proposed resolution authorizes the City Manager, or his designee, to perform the City Council's duties regarding the appeal by Pearle Cab. Transferring this responsibility to the City Manager relieves the City Council of the task of holding the full appeal at a City Council meeting and allows the City Manager's designee to concurrently consider the appeal of the denials of the taxicab business permit and the business license.

The City Manager designated Deputy City Manager Eric Engelbart to serve as the Hearing Officer for the appeal of the denials for the taxicab business permit and business license. Under the San Leandro Municipal Code, the City Council, based upon the record only, may approve or disapprove the Hearing Officer's Findings. On March 23, 2017, the Deputy City Manager, the City's independent Hearing Officer for this case, held a hearing for the applicant to show cause why the action or determination of the Finance Director should not be approved. On April 3, 2017, the Hearing Officer rendered his findings, and decision. The Hearing Officer's findings and decision are attached.

For purposes of expedience for both the business applicant and the City Council, staff recommends that the City Council concurrently and retroactively refer consideration of the business license appeal to the City Manager or his designee, in this case, the Deputy City Manager. Pursuant to the Hearing Officer's Findings and Decision, the applicant failed to show cause why the action or determination of the Finance Director should not be approved, which was to deny the business license. Based upon the evidence submitted and the findings, the business license rejection of Pearle Cab should be upheld and the Pearle Cab owner's appeal of the business license rejection should be denied.