



MINUTES

July 10, 2018

BOARD OF APPEALS HEARING

9:00 a.m.
City Council Chambers
311 Vernon Street
Roseville, CA

1. CALL TO ORDER

Chairperson Stenklyft called the meeting to order at 9:00 a.m. in the City Council Chambers.

2. ROLL CALL (SILENT)

The following Hearing Panel members were present:

Brian Stenklyft
Pete Constant
Scott Sanford

The following Staff members were present:

Joseph Speaker	Deputy City Attorney
April Esparza	Legal Clerk

3. DESIGNATION OF CHAIR

Chairperson for the July 10, 2018 hearing was Brian Stenklyft.

4. PLEDGE OF ALLEGIANCE

Chairperson Stenklyft led the audience in the Pledge of Allegiance.

5. PUBLIC COMMENT

No one from the public offered any comments.

6. SWEAR IN

Chairperson Stenklyft administered the Oath to those in attendance who would be offering testimony at the hearing.

7. MATTERS TO BE HEARD

7.1. Citation No. 14675

Appellant: Margaret Delgado on behalf of Shawn Delgado

- Roseville Municipal Code Section 10.71.030, Social Hosting of Minors Prohibited

A. Staff Report:

Police Officer Casey Mara offered testimony in regards to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.060(D), the Staff Report was submitted to the City of Roseville Attorney's Office prior to the hearing, and was provided to the Appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

B. Appellant's Response:

Exhibit B:

(Appellant's Exhibit B was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's Office on May 1, 2018

Shawn Delgado presented Exhibit C, and offered testimony in support of the appeal and answered panel questions.

Exhibit C:

- Two pages of text message screenshots
- Four pages of academic transcripts and awards

C. Rebuttals and Panel Questions:

Police Officer Mara offered rebuttal testimony and answered panel questions.

Shawn Delgado offered rebuttal testimony and answered panel questions.

D. Panel Discussion:

The panel discussed the evidence and testimony presented for Administrative Citation No. 14675.

In regards to Roseville Municipal Code Section 10.71.030, Social Hosting of Minors Prohibited, a motion was made by Pete Constant and seconded by Scott Sanford to uphold the citation but waive the fine in the interest of justice.

There was additional discussion among the panel. The motion was restated by Pete Constant to uphold the citation but waive the fine in the interest of justice and was seconded by Brian Stenklyft.

The motion passed with the following vote:

AYES: Pete Constant, Scott Sanford, Brian Stenklyft

NOES: none

E. Panel Decision:

Regarding Roseville Municipal Code Sections 10.71.030, Social Hosting of Minors Prohibited, the panel decided to uphold the citation but waive the fine in the interest of justice.

Chairperson Stenklyft signed the decision form, asked the Appellant to see staff for the paperwork, and informed the parties that they may file a petition for review with the Superior Court in Placer County within 20 days.

7.2. Citation No. 12617

Appellant: Janine Lendl-Sanchez

- Roseville Municipal Code Section 7.16.010, Failure to License, four counts
- Roseville Municipal Code Section 7.20.010, Kennels – License Required
- Roseville Municipal Code Section 7.25.010, Animal Noise, four counts

A. Staff Report:

Animal Control Officer Sarah DeRego offered testimony in regards to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.060(D), the Staff Report was submitted to the City of Roseville Attorney's Office prior to the hearing, and was provided to the Appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

Complainant's Statement:

Complainants Janice and Richard Nishita offered testimony in support of the complaint and answered panel questions.

Witnesses Yvette and Robert Sipes presented Exhibit B, and offered testimony in support of the complaint and answered panel questions

Exhibit B:

- Animal Noise Affidavit signed by Yvette and Robert Sipes
- Two page log of barking incidents

B. Appellant's Response:

Chairperson Stenklyft administered the Oath to Janine Lendl-Sanchez and Enrique Sanchez.

Exhibit C:

(Appellant's Exhibit C was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's Office on April 27, 2018

Janine Lendl-Sanchez presented Exhibit D, and offered testimony in support of the appeal and answered panel questions.

Exhibit D:

- Letters from four Caragh Street neighbors

Enrique Sanchez offered testimony in support of the appeal and answered panel questions.

C. Rebuttals and Panel Questions:

Janice Nishita offered rebuttal testimony and answered panel questions.

Yvette Sipes offered rebuttal testimony and answered panel questions.

Officer DeRego offered rebuttal testimony and answered panel questions.

Janine Lendl-Sanchez offered rebuttal testimony and answered panel questions.

D. Panel Discussion:

The panel discussed the evidence and testimony presented for Administrative Citation No. 12617.

Regarding Roseville Municipal Code Section 7.16.010, Failure to License, Pete Constant made a motion to deny the appeal and uphold the charge of one count because the City proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party and to uphold the citation but waive the fine for three counts in the interest of justice. The motion was seconded by Scott Sanford.

The motion passed with the following vote:

AYES: Pete Constant, Scott Sanford, Brian Stenklyft

NOES: none

In regards to Roseville Municipal Code Section 7.20.010, Kennels – License Required, a motion was made by Scott Sanford and seconded by Pete Constant to uphold the citation but waive the fine in the interest of justice.

The motion passed with the following vote:

AYES: Pete Constant, Scott Sanford, Brian Stenklyft

NOES: none

In regards to Roseville Municipal Code Section 7.25.010, Animal Noise, four counts, a motion was made by Pete Constant and seconded by Scott Sanford to deny the appeal and uphold the charge because the City/Complainant proved by a preponderance of the evidence that the violations occurred and that the appellant is the responsible party.

The motion passed with the following vote:

AYES: Pete Constant, Scott Sanford, Brian Stenklyft

NOES: none

E. Panel Decision:

The Panel decided to deny the appeal and uphold the charge of one count of violating Roseville Municipal Code Section 7.16.010, Failure to License, because the City proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party. In regards to the remaining three counts of violating RMC Section 7.16.010, the Panel decided to uphold the citation but waive the fine in the interest of justice.

For the charge of violating Roseville Municipal Code Section 7.20.010, Kennels – License Required, the panel decided to uphold the citation but waive the fine in the interest of justice.

Regarding the charge of four counts of violating Roseville Municipal Code Section 7.25.010, Animal Noise, the panel decided to deny the appeal and uphold the charge because the City/Complainant proved by a preponderance of the evidence that the violations occurred and that the appellant is the responsible party.

Chairperson Stenklyft informed the parties that they may file a petition for review with the Superior Court in Placer County within 20 days.

At 10:07 a.m., the Board of Appeals took a five minute recess in order to coordinate an over the phone interpreter for the final matter.

7.3. Citation No. 12651

Appellant: Aiyun Cao

- Roseville Municipal Code Section 9.10.030(A), Requirements for Massage Business- Permits
- Roseville Municipal Code Section 9.10.140(H)(1), Engaged in Unprofessional Conduct – Sexually Suggestive Advertising

Once the interpreter was arranged, Chairperson Stenklyft introduced himself again and read the hearing instructions, pausing to allow time for Aiyun Cao, who was present at the hearing, to receive the mandarin interpretation.

Chairperson Stenklyft administered the Oath to those in attendance who would be offering testimony.

A. Staff Report:

Police Officer Rob Pratt offered testimony in regards to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.060(D), the Staff Report was submitted to the City of Roseville Attorney's Office prior to the hearing, and was provided to the Appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

B. Appellant's Response:

Exhibit B:

(Appellant's Exhibit B was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's Office on April 25, 2018

On behalf of Aiyun Cao, Gary Minnis presented Exhibit C, and offered testimony in support of the appeal and answered panel questions.

Exhibit C:

- Request for Hearing Form (three pages)
- Letter written by John Donaldson (two pages)
- Lease Assumption Agreement for 632 Vernon Street dated January 28, 2018 (three pages)
- Email dated January 25, 2018
- Email dated January 26, 2018
- Copy of City of Roseville Business Tax Certificate for J. Massage
- Copy of Request for Live Scan Service form for Aiyun Cao
- Screen shot of text message showing two photos for advertisements
- Purchase Agreement for Spring Spa (two pages)
- Lease Assumption Agreement for 632 Vernon Street dated March 5, 2018 (three pages)
- Code Enforcement Notice dated March 23, 2018
- Lease Cancellation Agreement of the Lease Assumption dated March 19, 2018 (two pages)
- Acknowledgement of Insurance Policy Cancellation Request processed on April 9, 2018
- Copy of citation number 12651
- Copy of letter and envelope from City Attorney's Office dated April 4, 2018 (two pages)

C. Rebuttals and Panel Questions:

Officer Pratt offered rebuttal testimony and answered panel questions.

Nita Minnis and Gary Minnis offered rebuttal testimony.

Officer Pratt was called again to answer panel questions.

Deputy City Attorney Speaker was asked clarifying questions by the panel.

D. Panel Discussion:

The panel discussed the evidence and testimony presented for Administrative Citation No. 12651.

In regards to Roseville Municipal Code Section 9.10.030(A), Requirements for Massage Business- Permits, a motion was made by Scott Sanford and seconded by Brian Stenklyft to deny the appeal and uphold the charge because the City proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party.

The panel entered into further discussed the charge of violating RMC Section 9.10.030(A).

The motion was restated by Scott Sanford and seconded by Brian Stenklyft to deny the appeal and uphold the charge because the City proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party.

The motion passed with the following vote:

AYES: Scott Sanford and Brian Stenklyft

NOES: Pete Constant

In regards to Roseville Municipal Code Section 9.10.140(H)(1), Engaged in Unprofessional Conduct – Sexually Suggestive Advertising, a motion was made by Pete Constant and seconded by Scott Sanford to grant the appeal and dismiss the charge because the City did not prove by a preponderance of the evidence that the appellant is the responsible party.

The motion passed with the following vote:

AYES: Pete Constant, Scott Sanford and Brian Stenklyft

NOES: none

E. Panel Decision:

Regarding Roseville Municipal Code Sections 9.10.030(A), Requirements for Massage Business- Permits, the panel decided to deny the appeal and uphold the charge because the City proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party.

Regarding Roseville Municipal Code Section 9.10.140(H)(1), Engaged in Unprofessional Conduct – Sexually Suggestive Advertising, the board decided to grant the appeal and dismiss the charge because the City did not prove by a preponderance of the evidence that the appellant is the responsible party.

Chairperson Stenklyft signed the decision form, asked the Appellant to see staff for the paperwork, and informed the parties that they may file a petition for review with the Superior Court in Placer County within 20 days.

8. ADJOURNMENT

A motion was made by Scott Sanford and seconded by Pete Constant to adjourn the July 10, 2018 Appeal Hearing.

AYES: Pete Constant, Scott Sanford and Brian Stenklyft

NOES: none

Chairperson Stenklyft adjourned the July 10, 2018 hearing at 11:32 a.m.

April Esparza
Legal Clerk