



MINUTES

September 27, 2018

BOARD OF APPEALS HEARING

3:00 p.m.

City Council Chambers

311 Vernon Street

Roseville, CA

1. CALL TO ORDER

Chairperson Hagler called the meeting to order at 3:07 p.m. in the City Council Chambers.

2. ROLL CALL (SILENT)

The following Hearing Panel members were present:

Bruce Hagler

Drew Haydu

Sherry Rutledge

The following Staff members were present:

Joseph Speaker

Deputy City Attorney

April Esparza

Legal Clerk

3. DESIGNATION OF CHAIR

Chairperson for the September 27, 2018 hearing was Bruce Hagler.

4. PLEDGE OF ALLEGIANCE

Chairperson Hagler led the audience in the Pledge of Allegiance.

5. PUBLIC COMMENT

No one from the public offered any comments.

6. SWEAR IN

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

7. MATTERS TO BE HEARD

At the request of the Appellants, the matters were heard in a different order than what was reflected on the Agenda.

7.3 Citation No. 12671

Appellant: Bijun Wang

- Roseville Municipal Code Section 9.10.190(E), Operating Requirements- General Conditions (Employee Certificates)

A. Staff Report:

Police Officer Grove 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 – Redacted report of July 25, 2018 inspection of 1200 Cirby Way Suite G

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 September 5, 2018

Bijun Wang and Mary Zhang, her interpreter, presented Exhibit C, offered testimony in support of the appeal and answered panel questions.

Exhibit C:

- Copy of Request for Hearing Form
- Photocopy of Bijun Wang's Driver's License
- Massage Therapy program Certificate of Completion
- Student Academic Performance Report
- Photocopy of Massage Business Permit

- Business License Certificate

C. Rebuttals and Panel Questions:

Police Officer Grove offered rebuttal testimony and answered panel questions.

D. Panel Discussion:

The panel discussed the evidence and testimony presented for Administrative Citation No. 12671.

In regards to Roseville Municipal Code Section 9.10.190(E), Operating Requirements- General Conditions (Employee Certificates), a motion was made by Sherry Rutledge and seconded by Drew Haydu to deny the appeal and uphold the charge because the City/Complainant 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: Sherry Rutledge, Drew Haydu, Bruce Hagler

NOES: none

E. Panel Decision:

The panel decided to deny the appeal the appeal of Administration Citation No. 12671 and uphold the charge of Roseville Municipal Code Section 9.10.190(E), Operating Requirements- General Conditions (Employee Certificates) because the City/Complainant proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party.

Chairperson Hagler 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.

7.1. Citation No. 12662

Appellant: Elena Scomaroha

- Roseville Municipal Code Section 9.10.190(H), Operating Requirements-General Conditions (Open to Inspection), second offense
- Roseville Municipal Code Section 9.10.210(H), Operating

- Requirements (Records), second offense
- Roseville Municipal Code Section 9.10.230(A), Display of Permit, second offense

A. Staff Report:

Police Officer Rahn was not present to offer testimony and answer 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 – Redacted report of July 25, 2018 inspection of 901 Sunrise Avenue Suite A10

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 September 5, 2018

Elena Scomaroha was present at the hearing but did not testify because the City/Complainant failed to appear.

C. Rebuttals and Panel Questions:

No rebuttal testimony was made.

D. Panel Discussion:

At 3:15 p.m., City/Complainant was not present. According to Section VII(B) of the rules for Administrative Hearing Procedures, if the City/Complainant fails to appear for the hearing within 15 minutes after the hearing commences, the responsible party's appeal will be automatically granted.

A motion was made by Sherry Rutledge and seconded by Drew Haydu to grant the appeal and dismiss the charge because the City/Complainant failed to appear.

The motion passed with the following vote:

AYES: Sherry Rutledge, Drew Haydu, Bruce Hagler

NOES: none

E. Panel Decision:

The panel decided to grant the appeal of Administration Citation No. 12662 and dismiss the charges of Roseville Municipal Code Section 9.10.190(H), Operating Requirements-General Conditions (Open to Inspection), second offense; Roseville Municipal Code Section 9.10.210(H), Operating Requirements (Records), second offense; and Roseville Municipal Code Section 9.10.230(A), Display of Permit, second offense.

Chairperson Hagler 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. 12670

Appellant: Hongshu Shi

- Roseville Municipal Code Section 9.10.190(A), Operating Requirements- General Conditions (Manager/Owner Present)
- Roseville Municipal Code Section 9.10.190(E), Operating Requirements- General Conditions (Employee Certificates), second offense
- Roseville Municipal Code Section 9.10.210(H), Operating Requirements- Operations (Client Records), second offense

A. Staff Report:

Police Officer Grove 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 – Redacted report of July 25, 2018 inspection of 1200 Cirby Way Suite G

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 September 5, 2018

Hongshu Shi and Mary Zhang, her interpreter presented Exhibit C, and offered testimony in support of the appeal and answered panel questions.

Exhibit C:

- Copy of Request for Hearing Form
- Two pages of flight itineraries
- Photo of client record in the business
- Photo of four Roseville Massage Business Permits
- Photocopy of Shihong Jiang's CMTC card
- Photocopy of Massage Business Permit
- Blank Client Record

C. Rebuttals and Panel Questions:

Police Officer Grove offered rebuttal testimony and answered panel questions.

Hongshu Shi and Mary Zhang offered rebuttal testimony and answered panel questions.

D. Panel Discussion:

The panel discussed the evidence and testimony presented for Administrative Citation No. 12670.

Regarding Roseville Municipal Code Sections; 9.10.190(A), Operating Requirements-General Conditions (Manager/Owner Present); 9.10.190(E), Operating Requirements-General Conditions (Employee Certificates), second offense; and 9.10.210(H), Operating Requirements-Operations (Client Records), second offense a motion was made by Sherry Rutledge and seconded by Drew Haydu to deny the appeal and uphold the charges 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: Sherry Rutledge, Drew Haydu, Bruce Hagler

NOES: none

E. Panel Decision:

The panel decided to deny the appeal of Administration Citation No. 14731 and uphold the charges of Roseville Municipal Code Sections; 9.10.190(A), Operating Requirements-General Conditions (Manager/Owner Present); 9.10.190(E), Operating Requirements-General Conditions (Employee Certificates), second offense; and 9.10.210(H), Operating Requirements-Operations (Client Records), second offense because the City/Complainant proved by a preponderance of the evidence that the violations occurred and that the appellant is the responsible party.

Chairperson Hagler 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 Sherry Rutledge and seconded by Drew Haydu to adjourn the September 27, 2018 Appeal Hearing.

AYES: Sherry Rutledge, Drew Haydu, Bruce Hagler

NOES: none

Chairperson Hagler adjourned the September 27, 2018 hearing at 4:29 p.m.

April Esparza
Legal Clerk