

Hearing Examiner



501 Delta Ave
Marysville, WA 98270

**Public Hearing
January 30, 2024**

CALL TO ORDER

Hearing Examiner Kevin McDonald called the meeting to order at 6:00 p.m. and made preliminary remarks.

ATTENDANCE

Hearing Examiner: Kevin McDonald

City of Marysville: Deputy City Attorney Burton Eggertsen, Planning Manager Chris Holland, Community Development Director Haylie Miller, Police Chief Erik Scairpon (online), Assistant Police Chief Jim Lawless, Commander Robb Lamoureux

Applicant: Feng Xu (online); Bert Whipple, attorney for Feng Xu (online)

HEARING

1. [Lavender Massage Appeal](#)

File Number: PA23022

Appeal Description: The Community Development Director has reasonable grounds to believe the applicant to be dishonest and desires to practice illegal activities injurious to the public health and safety. Therefore, the Director issued a business license application denial to Lavender Massage 1, LLC, dated October 13, 2023. The applicant submitted a timely appeal on October 17, 2023. Pursuant to MMC 5.02.060(3) the Hearing Examiner shall conduct an open record public hearing, de novo, whether to issue or deny the business license.

Appellant: Lavender Massage 1, LLC

Staff Contact: Haylie Miller, Community Development Director

Hearing Examiner McDonald reviewed the subject at hand and stated he has read the staff report and submittal materials. He admitted 16 exhibits into the record including Exhibit 6 which is the Staff Report and Recommendation. He reviewed hearing procedures and expectations.

Staff Presentation:

Deputy City Attorney Burton Eggertsen said he had certified copies of Exhibits 13 to 15 if desired. He noted that the questions are if the applicant was dishonest with regard to their application and if the applicant desires it to use for criminal activity. He stated that an affirmative answer to either question would be grounds for denial of the application. He explained the phone number listed for the business and for Feng Xu was used online for hundreds of ads for prostitutions along with the business address. He reviewed examples of these ad locations and the pornographic content. The Community Development Director denied the application for these reasons, and the applicant has appealed. Deputy City Attorney Eggertsen pointed out that the declarations provided by the Feng Xu and Curtis Cannon were not provided under penalty of perjury as required by law.

He stated that Feng Xu in his statement claimed that he was not familiar with the telephone number and that he had never used it despite the fact he used it twice on his application. Mr. Xu said that the prior owners' accountant helped him apply for the license. He also says he has a new phone number. There is also a statement from Curtis Cannon who says that the number on the ads belongs to Gerald and Jing Emtage. Those people are currently charged with ten counts of promoting prostitution in King County along with money laundering. These are the people the applicant is associating with to assist him with his professional business. He reiterated that the applicant says he now has a different number. However, this new phone number and the business site address are used for nearly identical new ads on various websites with the new number instead of the old number. He shared examples of the new ads. It is overwhelmingly clear that the intent for the business license is to use it as a front for prostitution activity. He asserted that the applicant was also dishonest with his application and requested that the license be denied.

Hearing Examiner McDonald asked what happens if you dial the first phone number. Deputy Director Eggertsen said he did not try, but the police might have more information on that.

Appellant Testimony:

Bert Whipple, attorney for Feng Xu, said his intent was to put Mr. Xu under oath and ask him questions regarding his purchase of Lavender Massage and his intent going forward. His argument was going to be based on the fact that Mr. Xu had purchased the location with the intent to move forward with legal activity. Mr. Xu had given him the new

number which Deputy City Attorney Eggertsen showed tonight has been tied to prostitution-type activities as well. He is aware that the previous owners have been charged with prostitution-related activity in King County. He is aware that Mr. Xu had purchased the business from them with the intent to move forward on his own. It appears that the first phone number and new number are both tied to prostitution-related activities. With this new information about the new phone number, he believes it would be in Mr. Xu's best interest not to move forward. He stated he did not want to advocate for or be associated with any inappropriate activity. He encouraged the applicant to make a new application at a later date and make sure there is no association with illegal activities.

Hearing Examiner McDonald asked Mr. Whipple if he was withdrawing the appeal. Mr. Whipple affirmed that he was and said he wished he knew about this issue prior to this evening.

Mr. McDonald invited any further comments. There were none.

The meeting was adjourned at 6:30 p.m.