# NOVI cityofnovi.org

### CITY of NOVI CITY COUNCIL

Agenda Item B May 21, 2018

SUBJECT: Approval of Resolution Referring Massage License Appeal to Administrative Hearing Officer for purposes of hearing an appeal by Mulan Massage from the denial of a business license by the City Clerk.

SUBMITTING DEPARTMENT: City Clerk

CITY MANAGER APPROVAL:

### **BACKGROUND INFORMATION:**

Mulan Massage applied for the renewal of its massage business license. The application was denied on the basis of findings listed in the attached denial letter.

There is a formal appeal process in Section 20-37 of the massage ordinance for an appeal to an administrative hearing officer appointed by Council in the event of a suspension or revocation of a license, but the Clerk's decision here was framed as a license "denial" of a license.

The City Council has previously appointed hearing officer to hear appeals under Section 20-37 (Patrick Sullivan). Because it was framed as a denial, this appeal was filed by the applicant under the "general" appeal provision of Section 1-12 of the City Code, which allows appeals to City Council where there is no other formal appeal process under the Code.

The attached resolution would refer this appeal to Mr. Sullivan (or his alternate) to use the same procedure as would apply if this had been an appeal under Section 20-37.

RECOMMENDED ACTION: Approval of Resolution Referring Massage License Appeal to Administrative Hearing Officer for purposes of hearing an appeal by Mulan Massage from the denial of a business license by the City Clerk.

#### CITY OF NOVI

### COUNTY OF OAKLAND, MICHIGAN

# RESOLUTION REFERRING MASSAGE LICENSE APPEAL TO ADMINISTRATIVE HEARING OFFICER

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland
Michigan, held in the City Hall of said City on, 2018, ato'clock P.M
Prevailing Eastern Time.
DDECENT. Comments of the second secon
PRESENT: Councilmembers
ABSENT: Councilmembers
The following preamble and Resolution were offered by Councilmember
and supported by Councilmember

- WHEREAS, the City has adopted a comprehensive massage ordinance at Chapter 20 of the City Code, including a requirement for a business engaging in the practice of massage to secure an annual business license from the City; and
- **WHEREAS**, Mulan Message filed an application to renew its massage business license on December 4, 2017; and
- **WHEREAS**, after careful consideration and investigation, the City Clerk determined to deny the application for a business license, and so no license was issued; and
- **WHEREAS,** Section 20-37 of the massage ordinance allows an applicant to appeal from a decision of the City Clerk to either "revoke" or "suspend" a business license, but it does not specifically refer to appeals in the event of a "denial" of a license; and
- **WHEREAS**, on April 11, 2018, Mulan Message filed an appeal from the City Clerk's decision to deny its license, and citing §1-12(b) of the City Code, which provides for general appeals to the City Council where no other appeal is available; and
- WHEREAS, if Mulan Massage's appeal had been filed under Section 20-37, it would have been referred to an administrative hearing officer to be appointed to hear and decide the applicant's appeal, such hearing officer being expected to have a

"familiarity with the building and health codes and other state or local laws or ordinances"; and

**WHEREAS**; the City Council has previously appointed Patrick Sullivan, City Manager of Northville, MI, as the administrative hearing officer for license suspension/revocation appeals, with Matthew Friedrich, Magistrate of the 47<sup>th</sup> District Court, as an alternate hearing officer if Mr. Sullivan is unable to serve; and

**WHEREAS**, the City Council believes that it would be appropriate for a hearing officer to conduct a similar review in the event of a denial of a license as well:

**NOW THEREFORE, IT IS THEREFORE RESOLVED** that the City Council directs that the City Administration refer Mulan Massage's appeal form its license denial to the administrative hearing officer as set forth in Section 20-37 for determination in accordance with the procedure set forth therein.

discourse , the processing services.
AYES:
NAYS:
RESOLUTION DECLARED ADOPTED.
Cortney Hanson, City Clerk
CERTIFICATION
I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this day of, 2018, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.
Cortney Hanson, City Clerk



CITY COUNCIL

Mayor Bob Gatt

Mayor Pro Tem Dave Staudt

Andrew Mutch

Wayne M. Wrobel

Laura Marie Casey

Gwen Markham

Kelly Breen

City Manager Peter E. Auger

City Clerk Cortney Hanson

City of Novi 45175 Ten Mile Road Novi, Michigan 48375 248.347.0460 248.347.0577 fax

cityofnovi.org

March 26, 2018

Yajing Huang Mulan Massage 39809 Grand River Ave, Novi, MI 48375

Dear Ms. Huang:

The City Clerk's office has received your application, dated, December 4, 2017, for a massage establishment license renewal.

As Novi City Clerk, I am charged with reviewing the applications and determining whether to issue the permit. (See Sections 20-30 and Section 20-55 of the City Code.)

Section 20-29 of the City's Code of Ordinances outlines grounds for granting or denying an applicant's license for a massage establishment. Based on the information obtained through your application and the City's investigation performed in accordance with the City's ordinance, your application for a massage business license renewal is **denied**, for the following reasons:

- 1. Section 20-29(4): "The applicant's general business reputation." Mulan Massage, including the applicant, have been investigated at multiple locations for improper, inappropriate, and potentially illegal activities; articles have appeared in several news publications regarding the business that have not portrayed the business in a favorable light. As a result, it is my conclusion that Mulan has a poor business reputation in Novi and other local communities.
- Section 20-29(5): "The applicant's moral character." The
  applicant and Mulan Massage have been linked to an
  investigation by the Oakland County Sheriff's Office at multiple
  Mulan locations, including the location in Novi.
- 3. Section 20-29(8): "The effects that the proposed facility would have upon the surrounding neighborhood and business establishments, including impacts upon residential areas, church and school districts." Due to the nature of the conduct reported at the Novi Mulan Massage, and other Mulan locations, the overall effect of the business on surrounding neighborhoods and business establishments is negative.
- Section 20-29(10): "Whether the applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the city in conjunction therewith;" Mulan Massage failed to disclose in its

December 4, 2017 application to Novi the fact that the Charter Township of Canton in February 2017 revoked its certificate of occupancy for an establishment in the Township due to lack of compliance with Township ordinances.

5. Section 20-29(11): "Whether the applicant has had a massage business, massage therapist, or other similar permit or license denied, revoked, or suspended by the city or any other state or local agency within five (5) years prior to the date of the application." Mulan Massage was denied a massage business license renewal by the Charter Township of Canton in February 2017.

As such, Mulan Massage's application for a massage business license renewal is **denied**. As a business license is a requirement for the operation of a massage business, **the City of Novi orders Mulan Massage** to cease all operations and close the business completely by Monday, May 21, 2018. If Mulan Massage fails to cease all operations by this date, the City of Novi shall take immediate legal action against it.

Please note that you have the right to appeal this decision to the City Council under Section 1-12 of the City Code.

If you have any questions, please call me at (248) 347-0456.

Dawn Spaulding

Dawn Spaulding

City Clerk

City of Novi

Cc: David Molloy, Director of Public Safety / Chief of Police

Pete Auger, City Manager

Kevin Gilmore, Detective Sergeant



# HIRMIZ, FRANSO, AND ASSOCIATES, PLLC

Attorneys and Counselors 33200 Dequindre Road, Suite 202 Sterling Heights, Michigan 48310 Phone (248) 420-2711 Fax (586) 722-2718

April 11, 2018

via USPS

# RE: Appeals Request for Massage Establishment License Renewal

To the City Clerk:

Enclosed, please find the following documents for Mulan Massage:

- 1. Renewal Appeal Request; and
- 2. Supporting Exhibits.

If you have any question, please feel free to contact me.

sincerely,

Tim Wei, Attorney

CITY CLERK'S OFFICE

TO:

City of Novi, City Clerk's Office 45175 Ten Mile Road Novi, Michigan 48375

Attention: Appeal Request

### RE: DENIAL/NON-RENEWAL APPEAL REQUEST; MULAN MASSAGE

Please be advised that our firm has been retained by Mulan Massage (hereinafter as "Applicant") for the above-referenced Appeal Request.

In responding to the Notice of Denial/Non-Renewal, Applicant has submitted the following response to each and every allegation contained in the Notice:

First and foremost, pursuant to Ord. § 1-12 (b), that an appeal shall be made "within ten (10) days" of the determination; however said ordinance does not specify whether it is business days, nor does it specify whether it shall be counted from the date of receiving, delivering, or the date that the denial was sent. As such, given the fact that the Applicant received the Notice on March 30, 2018, this Appeal shall be deemed as on time pursuant to Ord. § 1-12 (b). see Exhibit 1, USPS Tracking Report. In the event that the City Clerk has deemed it as untimely, please do take into consideration that the appeal was filed with minimum delay, or to refuse Applicant's chance for an appeal would be considered as extremely unjust and lack of due process.

1.

The Clerk first cited Ord. § 20-29 (4), stating that the Applicant has poor business reputation and therefore, should be denied the license. However, the Clerk failed to consider the following facts:

a. <u>Police Investigation</u>. It is true that the Applicant has been investigated by the Oakland Sheriff's Department for "potential" criminal activities; however, no findings thus far to warrant any criminal charge. In fact, although Applicant's location were raided and ceased by law enforcement, all ceased property were promptly returned to the Applicant as soon as said raid elicit no evidence of actionable criminal offense. As the most sacred principles in the American justice system, it is that a person (or in this case, a business) "is innocent until proven guilty"; and as such, the license shall not be denied on mere "allegations" or "potential".

- b. <u>News Publication</u>. On January 13, 2018, the 45<sup>th</sup> President of the United States stated (or tweeted to be more precise), "[s]o much Fake News is being reported. They don't even try to get it right, or correct it when they are wrong." Fake news or not, news publication should not be taken at face value, especially nowadays when anyone with a recorder and computer can call themselves "journalists" without having the actual journalistic integrity to fact check their publications.
- c. <u>Actual Business Reputation</u>. Despite the Clerk's allegation, the overall business reputation of the Applicant is more than good. *see* **Exhibit 2 & 3, Reviews**.

2.

The Clerk further cited Ord. § 20-29 (5), stating that the Applicant has poor moral character and therefore, should be denied the license. As evidence to such allegation, the Clerk points to the Oakland County Sheriff's investigation. And as indicated in previous paragraphs, the investigation did not lead to any criminal charges. Just because a person is charged and indicted for criminal offense does not necessary mean that the person is in fact guilty. (see Steven Avery of Making a Murderer or the Central Park Five of The Central Park Five). Moreover, simply being investigated should never ever constitute evidence of guilt or wrong doing.

3.

The Clerk also cited Ord. § 20-29 (8), stating that the effect of Applicant's business will have adverse effect on the nearby schools and businesses and therefore, should be denied the license. Once again, this denial is stemmed from the investigation and the allegation, should not be an immediate conclusion of the "suppose" negative influence on nearby schools or businesses; in fact, according to the business reviews, the Applicant's business is well received within the community. see Exhibit 2 & 3.

4.

The Clerk cited Ord. § 20-29 (10), stating that on its renewal application, Applicant submitted false information, specifically regarding the February 2017 revocation of the license of the Canton location, and therefore, should be denied the license. The Applicant did not intentionally submit any false information as it was mistakenly believed that the information it submitted was true; and which in fact, was true with regards to the Novi license - no criminal charge or ordinance violation at the time when the application was submitted. Again, the Applicant mistakenly believed that the application's question only pertains to the Novi licensed massage establishment, and did not intentionally provide false information.

The Clerk lastly cited Ord. § 20-29 (11), stating that since Applicant's Canton license was revoked in February 2017, the Applicant should be denied the license. While it is true that the previous owner Xu (Ben) Liu's Canton license was revoked, it also should be known that Applicant's business is under new management. In fact, following the police allegations, and subsequent license revocation, the previous owner Xu Liu died soon after the Canton location closed down. And as a result, Applicant's Novi location was transferred to and under the new management of Ms. Yajing Huang. Applicant believes that under the new management, Ms. Huang will be able to prove to the city that Mulan Massage is beneficial to the community.

And for the above reasons and evidence provided, the Applicant request the Board to reconsider the denial and to grant the renewal for Applicant's license.

Respectfully,

Tim (Yu Ting) Wei Attorney for Applicant

# Exhibit 1.

# **USPS Tracking®**

FAQs > (http://faq.usps.com/?articleId=220900)

# Track Another Package +

**Tracking Number:** 70171450000061970400

Remove X

**Expected Delivery on** 

FRIDAY

30 MARCH 2018 (2) 8:00pm (2)

# **Oblivered**

March 30, 2018 at 10:18 am Delivered, Front Desk/Reception NOVI, MI 48375

Get Updates ✓

Text & Email Updates	~
Tracking History	~
Product Information	~

See Less ^

# Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

# Exhibit 2.

# Mulan Massage Center 39809 Grand River Ave, Novi, MI

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4.3

7 reviews

Sort by: Most helpful \*



#### Stephan Savoie

1 review

I have been here multiple times, and gosh I received a good massage everytime but once. Recommend. ... More





ВН

4 reviews

10 months ago -Not afraid to actually dig for those deep knots when you ask them to.



1 1



#### Tierra Slaton 16 reviews

a year ago

Amy is awsome best massage I've ever had And I'm a massage therapist!





### Noreen Green

Local Guide : 60 reviews : 6 photos

9 months ago

Great massages!



Like

# Mulan Massage Center

39809 Grand River Ave, Novi, MI

4.3

7 reviews

My think the depart

Sort by: Most helpful -



#### Tierra Slaton 16 reviews

WWW C N CO

a year ago Amy is awsome best massage I've ever had And I'm a massage therapist!





#### Noreen Green

Local Guide - 60 reviews - 6 photos

9 months ago

Great massages!





#### Tj Silver

Local Guide · 18 reviews · 6 photos

7 months ago



### swapnil salokhe

Local Guide · 6 photos

9 months ago



### Jonathan Christian

Local Guide+73 reviews+1 photo

a year ago

Find tacos, cheap dinner, Max's

Near San Francisco, CA

Restaurants

Mightlife

Home Services

Write a Review

EVENTS

Login

# yelp:

# Mulan Massage Center O Claimed



4 reviews & Details

Massage, Day Spas // Edit





Map data @2018 Google Ø Edii

- **Q** 39809 Grand River Ave Novi, MI 48375
- Get Directions
- **(**248) 686-3572
- mulanmassagecenter.com
- Send to your Phone



# Ask the Community

Yelp users haven't asked any questions yet about Mulan Massage Center.

# Recommended Reviews for Mulan Massage Center

Your trust is our top concern, so businesses can't pay to eller or remove their reviews. Learn more.

Search within the reviews

Sort by Yelp Sort - Language English (4) -







With so few reviews, your opinion of Mulan Massage Center could be huge. Start your review today.



Mandi t. Detroit, MI 39 friends

12/29/2017

I thought they did a nice job, you have to tell them soft medium or hard. It's clean and I like it here

3 reviews



Mila P. Los Angeles, CA \$ 9 friends

41 reviews

33 photos

4/20/2017

They massaged me with towel on, and the lady had no idea how to massage, I swear., no clue. A bit odd.



Today 10:00 am - 9:00 pm Open now



Services



# Only 6 days left to file your taxes.

Get expert help now.

Find Tax Page on Yelp

#### Hours

10:00 am - 9:00 pm Mon Tue 10:00 am - 9:00 pm

Wed 10:00 am - 9:00 pm Open now 10:00 am - 9:00 pm Thu

Fri 10:00 am - 9:00 pm 10:00 am - 9:00 pm Sat Sun 11:00 am - 7:00 pm

Edit business info

### Services

90 Minutes	6100.00
60 Minutes	\$70.00
Foot Massage	\$35.00

View all services



### You might also consider

### People also viewed



Asian Health Center



Ultimate Thai Massage
10 reviews
So great and the stretching was



Tomii Chinese Massage

### Other places nearby

awesome.

Find more Day Spas near Mulan Massage Center

Find more Massage near Mulan Massage Center

### Browse nearby

**Restaurants** 

Y Nìghtlife

Shopping

\*\*\* Show all

### People found Mulan Massage Center by searching for...

Reflexology Foot Massage Novi

#### Near Me

Couples Massage Near Me

Massage Near Me



6/27/2015

Place was clean and nice relaxing environment, however the massage was not good o left with same aches I came in with.





Very nice and clean place to relax and enjoy life and time. Service are supper! I will be come back again.



Page 1 of 1

### From the business

### **Specialties**

- \*\* Integrative massage
- \*\* Acupressure massage
- \*\* Deep tissue massage
- \*\* Swedish massage
- \*\* Essential oil massage
- \*\* Reflexology foot massage
- \*\* Hot stone
- \*\* Thai massage

Best of Yelp Novi - Massage

# Exhibit 3.

### **Public Survey on Mulan Massage Services**

In the current world, most of people are facing all kinds of stress, fatigue, body pain and so on from work, from family, or from other things. Many reports from different resources are stating that Full Body Massage has a significant effect on the following:

A massage reduces stress levels in most people. Massage may also help manage or reduce the symptoms of anxiety and depression. Associated Bodywork & Massage Professionals reports that massage offers other benefits for your well-being, such as better sleep, increased energy, better concentration and less fatigue.

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Associated Bodywork & Massage Professionals states that massage can increase circulation by assisting oxygen and nutrients to reach tissues and organs. A massage may help control blood pressure. While these benefits may offer positive medical benefits, you should continue regular medical care with your health care professional, particularly if you have a medical condition.

A full body massage may increase your immune system's functionality according to Associated Bodywork & Massage Professionals. The massage stimulates the lymphatic system, which assists the immune system protect the body.

A full body massage helps remove dead skin cells over the entire body for improved skin tone. The stimulated blood flow benefits the appearance and health of the skin. The massage can also encourage tissue regeneration, which may help reduce the appearance of scars and stretch marks.

We, Mulan Massage Center, have been opening the massage business for more than three years at West Bloomfield facility, Novi facility, Canton facility, Highland facility and Brighton facility. We have been trying our best to serve our customers with good skills and attitude based on the important statements from above.

Poor _ Fair _ Good _ Great	
Customer Name: Signature:	Date: MARCH 7
West Bloomfield facility Novi facility Canton facility Highland facility	Brighton facility _ ¬ O }
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### Mulan Massage ( 1R LLC

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West Bloomfield	facility_	Novi facility	Canton facility _	Highland facility _	Brighton facility	
Customer Nam	ie: Jam	es Kim	Signature:	(Je	Date: 09-05-	2017

### ALLE CAR SERVICE CONTRACTOR

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We really appreciate it if you could have some comments on our service. In order to improve our service, please mark the following Full Body Massage Service Rank:

Poor \_ Fair \_ Good \_ Great \\_ Date: \\_ Date: \\_ Date: \\_ Date: \\_ Brighton facility \_ Brighton facility \_

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Poor _	Fair	Good G	reat 🗶		
Customer Name: <u>Bra</u>	ndon	Signature:	-M	Date: Murch 7	2016
West Bloomfield facility_	Novi facility 📉	Canton facility _	Highland facility	Brighton facility_	

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	Poor _	Fair	Good	Great 1	
Customer l	Name: Jer 1	Scaueli	Signatur	e: ff the	Date: 3-7-17
West Bloom	field facility	Novi facility 🗸	Canton facility	/Highland facility_	Brighton facility

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West Bloomfield facility	Novi facility_	Canton facility	Highland facility	Brighton facility

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	Poor _	Fair	Good _	Great 🔀	
West Bloom	field facility_	Novi facility 1	Canton facility	Highland facility	Brighton facility
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Customer Name	THOUND	Signature: _	WIVI	Date: 3-7-17
West Bloomfield facility	Novi facility Ca	nton facility_	Highland facility	Brighton facility
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We really appreciate it if you please mark the following Fu			service. In order to imp	rove our service,
Poor _	Fair	Good _	Great _	
	Novi facility 🗸	Canton facility _	Highland facility	Brighton facility
Customer Name: 💆 U & Y	Gaines	Signature:	Helly	Date: 3-4-17

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Poor	Fair	Good G	Freat		
Customer Name: <u>Lilli</u>	an Wang	Signatures	Liller Tring	Date: 03-04-17	1
West Bloomfield facility	Novi facility	X Canton facility	Highland facility	Brighton facility	

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Customer Name:	BILL	GANTS	Signature:	account	Date: 3/5/07
West Bloomfield fa	cility	Novi facility	y <u> </u>	Highland facility	Brighton facility

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Poor _	Fair - √	Good	Great /	
West Bloomfield facility_	Novi facility	Canton facility _	_ Highland facility	Brighton facility_/
Customer Name:	247/	Signature:	Aff	Date: 3/4/17

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Poor	= Fair _ ,	Good	Great	
West Bloomfield fac	Novi facility	Canton facility_	_ Highland facility	Brighton facility
Customer Name:	or (12 hazel V.	Signature	····	Date:

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Poor \_\_\_\_ Fair \_\_ Good \_\_ Great-\\_\_\_ Date: 3-20-2017

Customer Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: 3-20-2017

West Bloomfield facility \_\_ Novi facility \_\_ Eanton facility \_\_ Highland facility \_\_ Brighton facility \_\_

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Poor	Fair_	Good _	Great 🖊	
West Bloomfield facility	Novi facility	Canton facility _	Highland facility	Brighton facility
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