

DIVISION OF LIQUOR CONTROL

REPORT OF HEARING

RE: Transfer of Ownership Application
Permit #3759195, Class C-1
Heng and Zhu, Inc.
dba China Garden
14867 Detroit Avenue
Lakewood, OH 44107

DATE APPLICATION FILED:

April 16, 2010

DATE OF HEARING:

September 24, 2010

OBJECTION FILED BY:

Lakewood City Council

DATE OF OBJECTION:

May 24, 2010

VIDEO CONFERENCE:

Yes

EXHIBITS:

Applicant's Exhibit(s)

1.

Objector's Exhibit(s)

1.

APPEARANCES FOR THE OBJECTOR(S):

<u>Name</u>	<u>Title/Office</u>	<u>Mailing or Residence Address</u>
Andrea Rocco	Assistant Law Director	Lakewood Law Department 12650 Detroit Avenue Lakewood, OH 44107
Anthony Ciresi	Lieutenant	Lakewood Police Department 12650 Detroit Avenue Lakewood, OH 44107

APPEARANCES FOR THE APPLICANT(S):

<u>Name</u>	<u>Title/Office</u>	<u>Mailing or Residence Address</u>
Zeng Chun Huang		14867 Detroit Avenue Lakewood, OH 44107

APPEARANCES FOR THE APPLICANT(S), cont'd.:

<u>Name</u>	<u>Title/Office</u>	<u>Mailing or Residence Address</u>
Yim Wah Kwok		1280 Bunts Road Lakewood, OH 44107

MEMORANDUM

TO: Ernie Davis, Acting Superintendent, Division of Liquor Control
FROM: James P. Bally, Hearing Officer, Legal Section
RE: Summary and Analysis Concerning Permit Hearing

RE: Transfer of Ownership Application
Permit #3759195, Class C-1
Heng and Zhu, Inc.
dba China Garden
14867 Detroit Avenue
Lakewood, OH 44107

Summary and Analysis

This hearing was held pursuant to Section 4303.26 of the Ohio Revised Code on September 24, 2010, upon the objection to the application for a transfer of ownership of a class C-1 liquor permit. The hearing was held at the Cleveland City Hall in Cleveland, Ohio at the request of the Lakewood City Council. The Lakewood City Council was represented by Andrea Rocco, Assistant Law Director for the City of Lakewood. Zeng Chun Huang, CEO and sole shareholder of shares of stock issued by Heng and Zhu, Inc., the applicant in this matter, was present. Zeng Chun Huang did not testify directly because he does not speak the English language. Zeng Chun Huang did make some remarks in testimony fashion in the Chinese language which was interpreted by Yim Wah Kwok, the niece of Zeng Chun Huan, the president and sole shareholder of corporation known as FLA Forever, Inc., dba China Garden, the transferor and issued permit holder in this matter. The hearing began after the purpose and procedure was explained to all in attendance and the witnesses were sworn.

Lieutenant Anthony Ciresi

Lieutenant Ciresi testified that he is employed by the Lakewood Police Department and has served with that police agency for 30 years. During the last 5 years, he has been the supervisor of the Narcotics and Vice Unit. There are 3 police officers in that unit.

He testified that he is very familiar with the China Garden, which is a restaurant located on Detroit Avenue. He testified that when the Lakewood City Council received information regarding this transfer of ownership application, he was asked to investigate any criminal activity that may have taken place at this permit premise.

He testified that the Lakewood City Council objected to this transfer based upon the activities of Angel Rossato, a man who was employed at this permit premise and who perhaps continues to be employed at this location. He testified that he investigated the background of Angel Rossato. It is clear that Angel Rossato was an employee of the China Garden in recent years. Because of this connection, Officer Angela Ortiz, was asked to investigate the background of Angel Rossato in this matter.

He then referred to Objector's Exhibit A, which is a summary of the criminal history of Angel Rossato. He testified that in 2004, Angel Rossato was found guilty of intoxication and convicted of both intoxication and the possession of marijuana. In 2005, Angel Rossato was convicted of the possession of drug paraphernalia. In 2006, Angel Rossato was convicted of intoxication. In 2007, Angel Rossato was convicted of the sale of tobacco products to underage persons. That sale took place while Angel Rossato was an employee of the China Garden. In 2008, Angel Rossato was sentenced to 1 year in prison for trafficking in cocaine.

He then referred to Objector's Exhibit B. In this exhibit, it is indicated that while employed at China Garden, Angel Rossato sold tobacco to a 16 year old female on July 17, 2007.

He then referred to Objector's Exhibit C, which is a document evidencing the conviction of Angel Rossato for the sale of tobacco to an underage undercover agent.

He then referred to Objector's Exhibit D, which is a document that indicates that Angel Rossato was arrested for the sale of cocaine in an amount less than 10 grams. That arrest took place in September 2007. In this matter, a confidential informant was used to make contact with Angel Rossato while he was employed at the China Garden and purchase 7 grams of cocaine. That sale took place inside of China Garden.

He stated that Angel Rossato was placed under arrest, convicted, and sentenced in March 2008 to 1 year in prison for these criminal acts. Angel Rossato is now out of prison and serving 3 years of probation until March 2011.

He then referred to a document known as a LEADS report produced by the Bureau of Motor Vehicles. In that document, the address of Angel Rossato is listed as 14867 Detroit Avenue, the same address as the business known as the China Garden. Earlier this summer, Officer Angela Ortiz spoke to Zeng Chun Huan, the new owner of this business, and it was revealed to her that Angel Rossato would continue to work for the new owners. Angel Rossato was taking orders at the China Garden in the spring of 2010.

He testified that the address known as 1355 Andrews Avenue is located north of Detroit Avenue, about 2 blocks west of China Garden. He testified that 1355 Andrews Avenue is believed to be the address of Zeng Chun Huan and also an address at which Angel Rossato appears to be living. He testified that he observed Angel Rossato working at the China Garden as recently as May 16, 2010.

He testified that Grant Elementary School, which houses grades kindergarten through five, is located just behind the China Garden, only 300 feet away. Children who live in Lakewood do not have bus service to take them to and from school. Therefore, elementary students will have to walk right past this restaurant on their way to Grant Elementary. There is also a library located nearby to which children must walk.

There were no questions of Lieutenant Ciresi on cross examination.

Yim Wah Kwok

Yim Wah Kwok testified that she is the president and sole shareholder of all of the shares of stock issued to FLA Forever, Inc., the issued permit holder in this matter and the transferor in this application process. In addition, Yim Wah Kwok testified that Zeng Chun Huan is her uncle and that she is transferring the ownership of this business to her uncle to operate. She then testified that Zeng Chun Huan does not speak or understand English.

She testified that neither she nor Zeng Chun Huan were aware of Angel Rossato's criminal record.

She testified that Angel Rossato only resided at 14867 Detroit Avenue for a couple of months during 2010 because his son was in high school at Lakewood High School. Angel Rossato's son is a very close friend of Zeng Chun Huan's grandson.

She testified that Angel Rossato is not related to either her or her uncle, and has no interest in the business known as China Garden. He is merely a former employee of China Garden. She testified that at the present time, only her family members are working at China Garden and that this application is to transfer the liquor permit from her to Zeng Chun Huan, her uncle.

She testified that she had no knowledge of Angel Rossato's character or his personal background. She knew nothing about him. She testified that when Angel Rossato was in jail, she was in China. When he got out of jail, she helped him find a place to live near China Garden because she wanted to help his son.

On cross examination, Yim Wah Kwok admitted that Angel Rossato was working at China Garden as recently as May 2010. However, he was not working there in June 2010. She admitted that he may have worked a couple of days in July to help out, but he did not work there during August or September 2010.

She stated that her uncle's grandson, the friend of Angel Rossato's son, graduated from Lakewood High School in June 2010.

She stated that she was not aware that Angel Rossato sold tobacco to underage persons in 2007 or that he was convicted of that crime. When she found out about it, she asked Angel Rossato about this alleged sale and he told her that he made a mistake by not checking the ID of the underage person.

She admitted that Angel Rossato worked for her occasionally since 2004. However she was not aware of his arrests for public intoxication or his arrest for the sale of cocaine until she was in China.

She admitted that she allowed Angel Rossato to live at 1355 Andrews Avenue, a house that she owns, out of sympathy for Angel Rossato and his son. However, she stated that Angel Rossato is no longer living at 1355 Andrews Avenue although some of his belongings are in the basement of this address. At this time, her aunt and uncle live at 1355 Andrews Avenue.

She repeated that Angel Rossato no longer works at China Garden. She stated that her uncle and aunt have been operating China Garden since March 2010. She admitted that Angel Rossato may have worked at China Garden for a couple of days in July 2010, but he has not worked there since that time. She stated, after conferring with her uncle in Chinese at this hearing, that her uncle, Zeng Chun Huan, did not know of Angel Rossato's convictions. She repeated that some of Angel Rossato's stuff is still in the basement of 1355 Andrews Avenue, Lakewood, Ohio.

At this time, Assistant Law Director Andrea Rocco, requested that Lieutenant Anthony Ciresi be allowed to testify in response to some of the remarks made by Yim Wah Kwok in her testimony.

Lieutenant Anthony Ciresi

Lieutenant Ciresi stated that Angel Rossato was observed working behind the count^{or} at the China Garden by Officer Angela Ortiz in the middle of August 2010. Therefore, he believes that Angel Rossato was working at China Garden after July 2010 and may still be working at China Garden.

James P. Bally 9/30/10

James P. Bally, Hearing Officer
Legal Section

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