



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title:	Discussion Regarding Massage Establishment Citation and Hearing Notice for Lotus Spa, 1700 Lincoln Highway, St. Charles
Presenter:	Mayor Rogina

Please check appropriate box:

<input type="checkbox"/> Government Operations	<input type="checkbox"/> Government Services
<input type="checkbox"/> Planning & Development	<input type="checkbox"/> City Council
<input type="checkbox"/> Public Hearing	<input checked="" type="checkbox"/> Liquor Control Commission (4/4/16)

Estimated Cost:		Budgeted:	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
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If NO, please explain how item will be funded:

Executive Summary:

This is a complaint of violations being brought before the Liquor Control Commission to determine whether the St. Charles Local Liquor Control Commission, pursuant to this authority, shall revoke or suspend the local massage establishment license or impose a fine upon by reason of the Complaint of Violation filed by the Police Department of offenses happening on or about March 15, 2016 at the establishment of Lotus Spa, 1700 Lincoln Highway, St. Charles.

On March 28, 2016 Lotus Spa business establishment is closed. Owner came in and rescinded her massage establishment license and had a note from Shodeen stating that she turned in her keys. She also submitted an arraignment form pleading guilty – not requesting a hearing.

Attachments: *(please list)*

Citation and Notice of Hearing

Recommendation / Suggested Action *(briefly explain):*

Discussion regarding Massage Establishment Citation and Hearing Notice for Lotus Spa, 1700 Lincoln Highway, St. Charles.

<i>For office use only:</i>	<i>Agenda Item Number: 5</i>
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STATE OF ILLINOIS)
) SS
COUNTIES OF KANE AND DU PAGE)

**BEFORE THE LOCAL LIQUOR CONTROL COMMISSIONER OF
THE CITY OF ST. CHARLES, ILLINOIS**

IN THE MATTER OF THE MASSAGE)
ESTABLISHMENT LICENSE OF:)
) Case Number 2016-LC-04
LOTUS SPA)

CITATION AND NOTICE OF HEARING

TO: LOTUS SPA
1700 Lincoln Highway
St. Charles, IL 60174

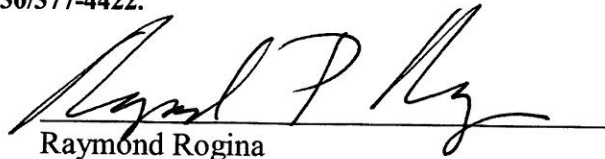
PLEASE TAKE NOTICE THAT on April 4, 2016 at the hour of 4:30 p.m., in the City Council Chambers at the St. Charles City Hall, 2 East Main Street, City of St. Charles, Illinois, the St. Charles Local Liquor Control Commission shall conduct a hearing pursuant to Chapter 5.20.150 of the Municipal Code of the City of St. Charles.

The purpose of said hearing shall be to determine whether the St. Charles Local Liquor Control Commissioner, pursuant to this authority, shall revoke or suspend the local massage establishment license issued to you or impose a fine upon you, or both, by reason, by reason of the Complaint of Violation filed by the Chief of Police, James Keegan, a copy of which is attached.

AT WHICH TIME AND PLACE YOU MAY APPEAR AND DEFEND. YOU MAY BE REPRESENTED BY AN ATTORNEY IF YOU SO CHOOSE. ATTACHED HERETO IS AN ARRAIGNMENT FORM, WHICH IS INCORPORATED HEREIN. THE ARRAIGNMENT FORM SHOULD BE COMPLETED AND FILED WITH THE CITY CLERK WITHIN THREE (3) CALENDAR DAYS PRIOR TO THE HEARING. IF YOU FAIL TO FILE THE ARRAIGNMENT FORM WITHIN THREE (3) CALENDAR DAYS PRIOR TO THE HEARING AND IF YOU FAIL TO APPEAR AT THE HEARING, YOU WILL BE FOUND GUILTY OF THE VIOLATION BY DEFAULT AND THE ST. CHARLES LOCAL LIQUOR CONTROL COMMISSIONER WILL DETERMINE THE APPROPRIATE PENALTY.

YOU ARE ADVISED THAT IF A HEARING IS HELD AND YOU ARE FOUND GUILTY AFTER THE HEARING, THEN, IN ACCORDANCE WITH SECTION 5.20.150(E) OF THE ST. CHARLES MUNICIPAL CODE, YOU WILL BE REQUIRED TO REIMBURSE THE CITY FOR ANY AND ALL OUT OF POCKET EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, COURT REPORTER APPEARANCE FEES AND THE COST OF HAVING POLICE OFFICERS AND WITNESSES PRESENT TO TESTIFY. ANY AND ALL QUESTIONS MUST BE DIRECTED TO THE CITY ATTORNEY, JOHN McGUIRK, AT 630/513-8700 OR TO THE DEPUTY CITY CLERK, TINA NILES, AT 630/377-4422.

DATED this 21 day of March, 2016.


Raymond Rogina
Local Liquor Control Commissioner
City of St. Charles

cc: Mark Koenen, City Administrator
Chief of Police, James Keegan

STATE OF ILLINOIS)
) SS
COUNTIES OF KANE AND DU PAGE)

CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath, deposes and states that he did service a copy of the Citation and Notice of Hearing upon the person to whom it is directed by leaving a copy with said individual as follows: Ferdinand SUTME at 10:40 am
_____ on the 22 day of March, 2016.

Al P. J. #340

SUBSCRIBED AND SWORN TO
before me this 22nd day of March, 2016.

Sara K. Cass
NOTARY PUBLIC



STATE OF ILLINOIS)
) SS
COUNTIES OF KANE AND DU PAGE)

**BEFORE THE LOCAL LIQUOR CONTROL COMMISSIONER OF
THE CITY OF ST. CHARLES, ILLINOIS**

IN THE MATTER OF THE MASSAGE)
ESTABLISHMENT LICENSE OF:)
) Case Number 2016-LC-04
Lotus Spa)
1700 Lincoln Highway)
St. Charles, IL 60174)

COMPLAINT OF VIOLATION

NOW COMES the Petitioner, James Keegan, Chief of Police of the City of St. Charles, Illinois and files this complaint before the Local Liquor Control Commission of the City of St. Charles, Illinois, and states as follows:

1. The Petitioner is the duly appointed Chief of Police of the City of St. Charles and as such is charged with the duty of enforcing the laws of the State of Illinois and the ordinances of the City of St. Charles.
2. That on or about March 15, 2016, at approximately 4:13 p.m., the Licensee, Lotus Spa, by and through its employees, officers and/or agents, committed the following violation of the St. Charles Massage Establishment Code:

OFFENSE

Violated Section 5.20.130(D) of the Massage Establishment Act which states:

“No person shall advertise, promote, or refer to himself or herself as a massage therapist as herein defined without being a massage therapist as provided in this chapter or Illinois statute.”

Violated Section 5.20.110(A) of the Massage Establishment Act which states:

“Supervision. A licensee of a licensed massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have at least one person who is a licensed massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the massage business license and shall not violate, or permit others to violate, any applicable provisions of the chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.”

3. On or about March 15, 2016, Lotus Spa was operating under a Massage License issued by the City of St. Charles.

4. That the act detailed in Section 2 of this Complaint of Violation is prohibited and is in violation of and contrary to Section 5.20.130(D) of the St. Charles Municipal Code.

5. That the Licensee, Lotus Spa, is responsible for the acts of its employees, officers and agents and is required to ensure that no violations of state law or ordinances of the City of St. Charles take place on said premises.

WHEREFORE, the Petitioner, James Keegan, Chief of Police requests pursuant to Section 5.20.150 of the St. Charles Municipal Code that the Local Liquor Control Commission, a/k/a the Massage Business Commission, hold a hearing on this matter and take such action against Lotus Spa as the Massage Business Commissioner shall deem appropriate under the circumstances.

James Keegan
Chief of Police
City of St. Charles, Illinois

John M. McGuirk
Attorney for the City of St. Charles
Hoscheit, McGuirk, McCracken
& Cuscaden, P.C.
1001 East Main Street, Suite G
St. Charles, IL 60174
630/513-8700

ARRAIGNMENT FORM

I, Fenylan z Smythe, as agent for Lotus Spa, being a licensee charged with a violation of Chapter 5.16 of the Municipal Code of the City of St. Charles at 1700 Lincoln Highway, St. Charles, Illinois 60174, do hereby enter a plea of:

- Guilty, but request a hearing in mitigation in which I will be given an opportunity to present evidence in support of my position to minimize any penalty.
- Guilty, I do not request a hearing.
- Not Guilty. I request a hearing.

Lotus Spa

Signature: By: Fenylan z Smythe

Date: 3/29/16

Subscribed and sworn to before me

This 29th day of March, 2016.

Christine Nilles
Notary Public



Form can be faxed to 630/377-4440
or e-mailed to the attention of Tina Nilles
at tnilles@stcharlesil.gov
Hard copy must follow by U.S. Mail



Lotus Spa

Case Report Summary



Print Date/Time: 03/22/2016 09:53
Login ID: kschult
Case Number: 2016-00005822

ST CHARLES POLICE DEPARTMENT
ORI Number: IL0451400

Case

Case Number: 2016-00005822
Location: 1700 LINCOLN HWY J
SAINT CHARLES, IL 60174
Reporting Officer ID: 0048 - Lamela
Incident Type: 5000 ALL OTHER CRIM OFFENSES
Occurred From: 03/15/2016 16:13
Occurred Thru: 03/15/2016 17:18
Disposition:
Disposition Date:
Reported Date: 03/15/2016 17:24 Tuesday

Offenses

No.	Group/ORI	Crime Code	Statute	Description	Counts
1	State	5000	225 ILCS 57.0/30-B	VIOLATE MASSAGE LICENSING ACT	1

Subjects

Type	No.	Name	Address	Phone	Race	Sex	DOB/Age
ARRESTEE	1	SMYTHE, FENGLAN Z	979 GOLF COURSE RD 1		ASIAN/PACIFIC ISLANDER	FEMALE	
COMPLAINANT	1		CRYSTAL LAKE, IL 60014 211 RIVERSIDE AVE SAINT CHARLES, IL 60174	(630)377-4435			51

Arrests

Arrest No.	Name	Address	Date/Time	Type	Age
20390 A	SMYTHE, FENGLAN Z	1700 LINCOLN HWY J SAINT CHARLES, IL 60174	03/15/2016 17:43		51

Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
03/16/2016	EVIDENCE	CURRENCY			1- \$20 Dollar bill, 1- \$20 Dollar bill, 1- \$20 Dollar bill	20020	1

Chain of Custody

Date	Transaction	From	From Role	To	To Role
03/16/2016 15:33	Type: Intake	0057-Dave Ketelsen	DETECTIVE	0131-Richard Sullivan	PROPERTY OFFICER
	Code: INITIAL				
	Tag Number:	20020			
	Remarks:				

Vehicles

No.	Role	Vehicle Type	Year Make	Model	Color	License Plate State
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OfficerID: alamela, Narrative

On 03/15/2016, the St. Charles Police Department conducted a Massage Establishment Compliance Check at Lotus Spa, located at 1700 Lincoln Highway "J" in St. Charles, Illinois. [redacted] agreed to be the U/C to conduct this compliance check. [redacted] assignment was to enter Lotus Spa and request a (1) hour massage and ensure / evaluate their legal compliance. [redacted] was given \$80.00 (USC), which was photographed and recorded. Prior to going to Lotus Spa, I informed that the owner of Lotus Spa, Fenglan Smythe was not a licensed Massage Therapist and that she should not be providing anyone with massages. I showed [redacted] a photograph of Fenglan Smythe that she provided to our agency during her Massage Establishment background investigation. I instructed [redacted] to let me know if she provides him with a massage. Detective Ketelsen, Detective Bauwens, Officer Tynan and I conducted surveillance in the area of Lotus Spa.

At 1613 hours, I observed [redacted] enter Lotus Spa. During this time, I observed (2) separate male white subjects park their vehicles in front of Lotus Spa. They entered the business and a couple of minutes later, they exited the business and left the area.

At 1718 hours, I observed [redacted] exit Lotus Spa and enter his vehicle. [redacted] informed me that he paid a female Asian employee \$60 (3 - \$20.00 bills) and received a massage. [redacted] stated that the subject who gave him the massage looked exactly like Fenglan Smythe's photograph. [redacted] stated that the female Asian employee was wearing a multi color sweater and she was the only employee inside of the business. (See [redacted] Supplementary Report)

At the point, Detective Ketelsen, Detective Bauwens, Officer Tynan and I entered the business. I made contact with the employee, Fenglan Smythe. I recognized Fenglan Smythe from conducting her background investigation for her Massage Establishment License. Fenglan Smythe was also wearing a multi color sweater. Fenglan Smythe was the only employee inside of the business. [redacted] entered the establishment and identified Fenglan Smythe as the employee who gave him a massage. I asked Fenglan if she gave a massage and she stated that she did. Fenglan stated that she was in the process of completing her Massage Therapist classes. I reminded Fenglan that because she did not possess a valid State of Illinois Massage Therapist License, she is prohibited from giving massages. Fenglan stated that she knew this and understood. I informed Fenglan that she was being placed under arrest for Violating the Massage License Act / License Required. Detective Ketelsen was able to retrieve the \$60.00 that [redacted] used to pay for the massage. (\$20.00 - S/N: JC 56799082 D, \$20.00 - IC 05269338 A, \$20.00 - S/N: MH 39420968 A)

Fenglan was transported to the St. Charles Police Department where she was processed. I logged onto the Illinois Department of Financial and Professional Regulations to confirm Fenglan did not possess a Massage Therapist License. I ran Fenglan and she came back "No Record". (See attached IDFPD Document) Fenglan was charged with Violating the Massage License Act. Fenglan was released on a Personal Recognizance and was unable to pay the processing fee. Fenglan was issued a court date of 04/21/2016 at 0900 hours at the Kane County Branch Court. This case is cleared by adult arrest.

Cleared by Adult Arrest
DL#340
JLG315