

1 HANSON BRIDGETT LLP
2 JOAN L. CASSMAN, City Attorney, SBN 76024
jcassman@hansonbridgett.com
3 MICHAEL N. CONNERAN, Assistant City Attorney, SBN 135978
mconneran@hansonbridgett.com
4 BRENDAN G. ADAMS, SBN 334535
badams@hansonbridgett.com
5 425 Market Street, 26th Floor
San Francisco, California 94105
6 Telephone: (415) 777-3200
Facsimile: (415) 541-9366
7

Attorneys for the City of Millbrae

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNTY OF SAN MATEO
BUSINESS LICENSE BOARD

Xia Qiang, Owner
No. 9 Foot Spa
9A El Camino Real
Millbrae CA 94030
(650) 777-9095
acex7211@gmail.com

Appellant,

v.

City of Millbrae,

Appellee.

Case No.

**Appeal Brief in Support of the City of
Millbrae's Revocation of No. 9 Foot Spa
Massage Certificate Revocation**

Hearing Officer: San Mateo County
Business License Board

INTRODUCTION

This appeal brief is submitted in support of the City of Millbrae's (City) revocation of the City of Millbrae Massage Certificate for No. 9 Foot Spa located at 9A El Camino Real, Millbrae CA 94030 (No. 9 Foot Spa) (Massage Certificate). Based on the facts and argument contained herein, the City respectfully requests the San Mateo County Licensing Board (Board) to uphold the City's revocation of No. 9 Foot Spa's Massage Certificate.

1 **FACTUAL BACKGROUND**

2 On May 26, 2022, pursuant to Millbrae Municipal Code (MMC) Section 5.60.110,
3 the City gave notice that it intended to revoke No. 9 Foot Spa’s Massage Certificate,
4 effective June 5, 2022 (Certificate Revocation).¹ On June 1, 2022, No. 9 Foot Spa’s
5 registered owner, Xia Qiang, submitted a timely appeal to the City, requesting an appeal
6 of the City’s Certificate Revocation. Consistent with MMC 5.60.110(E), the City
7 submitted the appeal to the San Mateo County Licensing Board, who subsequently
8 granted a continuance of the appeal to August 20, 2022.
9

10 The basis for the City’s revocation is a 2022 law enforcement investigation and
11 undercover operation at No. 9 Foot Spa. In March 2022, the San Mateo Crimes
12 Suppression Unit was informed of several citizen complaints that No. 9 Foot Spa was
13 soliciting prostitution at their establishment. On or about April 6, 2022, the Millbrae Patrol
14 Deputies Crime Suppression Unit conducted an investigation into prostitution being
15 solicited at No. 9 Foot Spa. A Millbrae Patrol Undercover Detective entered No. 9 Foot
16 Spa and paid for a walk-in massage. During the massage, the Undercover Detective was
17 solicited for sexual services by an employee of No 9. Foot Spa, which resulted in the
18 employee being issue a citation for violations of Penal Code Section 647(b) - solicitation
19 of prostitution. During the undercover operation, the Detectives found the following
20 violations:
21

- 22
- 23 1. No. 9 Foot Spa employee, Meiqiong Zhong, was recommended to the San
24 Mateo’s District Attorney’s Office for prosecution for violating Penal Code
25 Section 647(b). The District Attorney’s Office is currently prosecuting
26 Meiqiong Zhong for solicitation of prostitution.²
 - 27 2. No massage therapist was wearing or in possession of their Massage

28 ¹ See Exhibit A – City’s Notice.

² The People of the State of California v. Meiqiong Zhong, Case No.: 22-NM-004917-A.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Therapy Council Card.

- 3. Copies of all massage therapy council certificates were not all posted in view of the public.
- 4. Failure to maintain a ledger for No. 9 Foot Spa.

This is not the first time an employee of No. 9 Foot Spa has been cited for solicitation of prostitution. On or about October 23, 2018, the San Mateo Sheriff's Office conducted an undercover operation at No. 9 Foot Spa, after receiving several anonymous complaints that prostitution was occurring at No. 9 Foot Spa. Similar to the 2022 undercover operation, an undercover San Mateo Sheriff's Detective entered No. 9 Foot Spa and requested a massage. During the massage, the Detective was solicited for sexual services from a No. 9 Foot Spa employee. As a result of the operation, the massage practitioner was cited for violating Penal Code Section 647(b) - solicitation of prostitution, and that employee later entered into a plea agreement with the San Mateo District Attorney's Office to a lesser charge of violating Penal Code Section 653.22(a) - loitering to commit prostitution.³ In addition to the solicitation of prostitution violation, during the investigation the Sheriff detectives also found the following violations:

- 1. No massage therapist was wearing or in possession of their Massage Therapy Council Card.
- 2. Failure to maintain a ledger for No. 9 Foot Spa.
- 3. Massage Therapists wearing garments that revealed chest cleavage.
- 4. Exterior windows were tinted to obstruct view inside the establishment.

In its appeal notice, No. 9 Foot Spa stated that the City was not allowed to revoke its Massage Certificate until the criminal prosecution of Meiqiong Zhong was completed,

³ The People of the State of California v. Maina Tong, Case No.: 18-SM-014-665-A.

1 since there was no verdict issued and the factual basis for the pending case were only
2 “allegations.”⁴ Additionally, No. 9 Foot Spa provided a different account of events that
3 transpired during the undercover operation on April 6, 2022, stating that that Meiqiong
4 Zhong was scared for her safety did not agree to undertake any act of prostitution.
5

6 **ARGUMENT**

7 No. 9 Foot Spa has not met its burden in supporting its appeal

8 MMC Section 5.60.110(G) states that the registrant (business owner) has the
9 burden of proof in the appeal hearing. No. 9 Foot Spa has only provided the statements
10 contained in its Appeal, with no additional documentation to support its statements.
11 Accordingly, No. 9 Foot Spa has not met its burden as required under MMC Section
12 5.60.110(G).
13

14 The City met its burden in initially revoking No. 9 Foot Spa’s massage certificate.

15 The business practices of No. 9 Foot Spa have been found to be in violation of
16 Business and Professions Code sections 4600 *et seq.* and MMC Section 5.60.110(A)(4).
17 Under MMC Section 5.60.110(A)(4), the Millbrae Bureau Police Chief (“Police Chief”)
18 may revoke a massage certificate if they find violations of the following occurred on the
19 “premises of a massage business or were committed by a massage practitioner:
20 California Business and Professions Code Section 4600 *et seq.*; any local, state, or
21 federal law; or the provisions of [MMC Chapter 5.60]. Importantly, criminal conviction is
22 not a requirement, only a finding by the Police Chief that a “violation” of any of the
23 aforementioned legal standards has occurred.
24
25

26 In the present case, the Police Chief found violations the Business and
27

28 _____
⁴ See Exhibit B – Appeal from No. 9 Foot Spa.

1 Professions Code Sections 4609(a)(1)(B) - Engaging in any form of sexual activity on the
2 premises of a massage establishment where massage is provided for compensation,
3 excluding a residence; and 4609(a)(1)(C) - Engaging in sexual activity while providing
4 massage services for compensation; 4609(a)(1)(E) - Providing massage of the genitals or
5 anal region. All of these violations are based upon the undercover operation and the
6 accompanying narrative and sworn statements resulting from the April 6, 2022
7 undercover operation (Operation). From the Operation, the Police Chief found that
8 Meiqiong Zhong, a No. 9 Foot Spa massage practitioner engaged in sexual activity on
9 the premises of No. 9 Foot Spa while conducting a massage on the undercover detective,
10 by starting to provide a massage on the genitals of the undercover detective and by also
11 undressing and instructing the undercover detective to grab parts of her unclothed body.
12
13

14 In further support of the Police Chief's determination, the San Mateo District
15 Attorney's office has found there is sufficient evidence to pursue criminal charges against
16 Meiqiong Zhong based upon the Operation, for violating Penal Code Section 647(b) –
17 solicitation of prostitution. The fact that this criminal case has not resulted in a verdict, is
18 not a dispositive fact in the present case, since MMC 5.60.110(A)(4) only requires the
19 Police Chief to make a finding that a "violation" occurred on the massage business
20 premises or by massage practitioner, which the Police Chief has done in this case.
21

22 Lastly, the Operation is not the first instance that No. 9 Foot Spa has been found
23 by law enforcement to have massage practitioners engaging in prostitution within the
24 establishment, in violation of the Business and Professions Code, Penal Code, and
25 MMC. While the 2018 undercover operation was not the basis for the current massage
26 certificate revocation, it clearly shows a pattern of illegal activities by No. 9 Foot Spa, that
27 should not be allowed to continue.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONCLUSION

Massage businesses that provide illicit sexual services in their routine course of activities cast a stain on an entire industry of massage therapy professionals that provide legitimate and palliative services. They also threaten the public safety and peace of our communities by creating public nuisances that attract individuals who are seeking illicit sexual services. This is why the City, based upon the foregoing findings made by the Police Chief, has revoked No. 9 Foot Spa’s massage certificate and respectfully requests the Business License Board to sustain its revocation.