

VILLAGE OF OAK PARK, COOK COUNTY, ILLINOIS

In re:)
)
AUSTIN PANTRY,) No. 2017-09
)
Respondent.)

ORDER

This cause coming to be heard on September 14, 2017 pursuant to the Order of Closure and Notice of Hearing against Austin Pantry ("Respondent"), it is hereby ordered as follows:

1. A Village of Oak Park ("Village") business license is required to operate a convenience store establishment at 1 Chicago Avenue, Oak Park, Illinois ("Subject Property"). Hearing Transcript of September 14, 2017 at page 8, lines 7-10.

2. Respondent was issued a Village business license (License No. 201701960) on June 12, 2017 ("License") to operate a convenience store establishment by the name of Austin Pantry. Hearing Transcript of September 14, 2017 at page 8, lines 11-13; Village Exhibit 1.

3. An "Order of Closure of Business, Suspension of Business License and Setting of Hearing" was issued on August 31, 2017, which originally set this matter for hearing on September 7, 2017. A hearing was convened on September 7, 2017 and a continuance was granted to September 14, 2017 at the request of Respondent.

4. At the September 14, 2017 hearing, Respondent's business owners, Mr. Azzam ("Sam") Mohammad and Mr. Maher ("Mike") Haw, Respondent's employee, Temell Jackson, and the building owner of 1 Chicago Avenue, Mr. Ali EISaffar were in attendance and testified at the hearing. Respondent was represented at the hearing by its attorney Mr. Scott Frankel.

5. Beginning in June of 2017, Respondent's business was the subject of an investigation by the Oak Park Police Department pursuant to complaints received regarding the business. Hearing Transcript of September 14, 2017 at page 10, lines 17-19. The investigation entailed the use of undercover police officers to purchase illegal narcotics at Respondent's business. Hearing Transcript of September 14, 2017 at page 10, lines 20-23.

6. On August 30, 2017, the Oak Park Police Department executed a search warrant that revealed heroin, drug paraphernalia, box of ammunition and fireworks inside the Subject Property. Hearing Transcript of September 14, 2017 at page 11, lines 5-8.

7. The narcotics were field tested and the test results determined the narcotics to be heroin. Hearing Transcript of September 14, 2017 at page 17, lines 1-4.

8. As a result of the investigation, on August 30, 2017, Respondent's employee, Edgar Lucas, was arrested by the Oak Park Police Department on seventeen (17) felony counts pursuant to the Illinois Controlled Substances Act, 720 ILCS 570/401, 720 ILCS 570/402, and 720 ILCS 570/407. Hearing Transcript of September 14, 2017 at page 17, lines 14-17; pursuant to Village Group Exhibit 5.

9. Edgar Lucas has been charged with said offenses and those charges are pending in the Circuit Court of Cook County. Hearing Transcript of September 14, 2017 at page 17, lines 21-23; Village Exhibit Group 5.

10. On July 11, 2017, Respondent's employee, Edgar Lucas, sold heroin to an undercover Oak Park Police Department Officer in exchange for U.S. currency while inside Respondent's business. Village Exhibit 3; Hearing Transcript of September 14, 2017 at page 16, lines 14-17.

11. On August 7, 2017, Respondent's employee, Edgar Lucas, sold heroin to an undercover Oak Park Police Department Officer in exchange for U.S. currency while inside Respondent's business. Village Exhibit 3; Hearing Transcript of September 14, 2017 at page 16, lines 14-17.

12. On August 17, 2017, Respondent's employee, Edgar Lucas, sold heroin to an undercover Oak Park Police Department Officer in exchange for U.S. currency while inside Respondent's business. Village Exhibit 3; Hearing Transcript of September 14, 2017 at page 16, lines 14-17.

13. On August 22, 2017, Respondent's employee, Edgar Lucas sold heroin to an undercover Oak Park Police Department Officer in exchange for U.S. currency and a State LINK card while inside Respondent's business. Village Exhibit 3; Hearing Transcript of September 14, 2017 at page 16, lines 14-17.

14. On August 29, 2017, Respondent's employee, Edgar Lucas sold heroin to an undercover Oak Park Police Department Officer in exchange for U.S. currency while inside Respondent's business. Village Exhibit 3; Hearing Transcript of September 14, 2017 at page 16, lines 14-17.

15. On August 30, 2017, Respondent's employee, Edgar Lucas sold heroin to an undercover Oak Park Police Department Officer in exchange for U.S. currency while inside Respondent's business. Village Exhibit 3; Hearing Transcript of September 14, 2017 at page 16, lines 14-17.

16. Edgar Lucas operated and managed the convenience store during certain mornings while Respondent's owners worked as long haul truckers, including on the above dates. Hearing Transcript of September 14, 2017 at pages 48-50.

17. Both of Respondent's owners, Sam Mohammad and Mike Haw, testified that they knew Lucas has a drug problem. Hearing Transcript of September 14, 2017 at page 50, lines 23-24 and at page 61, lines 4-12

18. The distribution of heroin endangers public safety and health by increasing drug supply and use, spreading crime and gun violence and creating fear in the community.

19. Section 16-1-1 of the Village Code defines "nuisance" as follows:

16-1-1: NUISANCE DEFINED:

It shall constitute a nuisance to commit any offense which is in fact a nuisance or which is a nuisance according to the common law, or which is made such by any ordinance of the Village or the Statutes of this State, and shall include any act, occupation or use of property or premises or equipment, or structure of any kind which:

A. Shall annoy, injure or endanger the safety or health of the public.

20. The operation of Respondent's business at the Subject Property is a nuisance as defined by Section 16-1-1 of the Village Code as it endangers the safety or health of the public in that Respondent employed a person with a drug problem to manage the business and this employee sold illegal narcotics at the Premises in violation of State law.

21. Respondent's owners were negligent, reckless and careless at a minimum in allowing their business to be operated as a place for the sale of illegal narcotics on the numerous dates set forth herein. Therefore, the operation of the business is a nuisance under Section 16-1-6 of the Village Code.

22. Section 16-1-6 of the Village Code provides as follows:

16-1-6: REPEATED VIOLATIONS OF THE LAW:

The repeated violation of any of the provisions of the ordinances of the Village of Oak Park, the statutes of the state of Illinois or the United States Code or regulations adopted thereunder, is declared a nuisance and subject to abatement as provided herein.

23. There were repeated violations of the Illinois Controlled Substances Act which prohibits the delivery or possession of illegal narcotics (heroin) as set forth above. Thus, Respondent was in violation of Section 16-1-6 of the Village Code for an extended period of time beginning on July 11, 2017 through August 30, 2017.

24. In light of the admissions from Respondent's owners that they knew their employee had a drug problem but still allowed him to operate and manage the store, Respondent made the building available for delivering a controlled substance in violation of State law. 720 ILCS 570/406.1; Hearing Transcript of September 14, 2017 at page 50, lines 23-24 and at page 61, lines 4-12.

25. Section 8-1-14(C)(2) of the Village Code, which provides that a license may be revoked due to, "any violation by the licensee or permittee of the ordinance provisions relating to the license or permit, the subject matter of the license or permit, or the premises occupied."

26. Respondent's License is hereby revoked pursuant to the violations of law set forth above and Respondent's business is ordered permanently closed.

DATED this 18th day of September, 2017.

ENTERED:

By: 
Cara Pavlicek, Village Manager