

# **ILLICIT MASSAGE BUSINESSES**

**AN ORDINANCE APPROACH TO  
ENFORCEMENT (A CASE STUDY)**

# THE ISSUE

- Red light abatement legislation (Penal Code Sections 11225-11235) is perceived by many jurisdictions to be too cumbersome and resource intensive

# SIGNIFICANT ORDINANCE COMPONENTS (LICENSE)

- Business License for all massage businesses
- Massage Business Revocable Registration (2 year registration)
- CAMTC Certification for all employees
- Background checks of non-CAMTC Certified owners
- Broad definition of massage
- Employee lists that need to be regularly updated
- Prohibition on massage establishments at locations where action has been taken or is pending
- [https://library.municode.com/ca/san\\_mateo\\_county/codes/code\\_of\\_ordinances?nodeId=TIT5BURE\\_CH5.44MABU](https://library.municode.com/ca/san_mateo_county/codes/code_of_ordinances?nodeId=TIT5BURE_CH5.44MABU)

# SIGNIFICANT ORDINANCE COMPONENTS (REGULATION)

- 26 provisions, including:
  - Wearing certification ID card and certificates on the wall
  - Hours of operation and being in the facility after hours/living in facility
  - Recording services provided
  - Health and safety requirements (towels, instruments, lighting, ventilation)
  - Appropriate attire
  - Covering or touching genitals
  - Unlocked and unobscured lobby, unless sole provider with no receptionist
  - Nicknames

# **SIGNIFICANT ORDINANCE COMPONENTS (ENFORCEMENT)**

- Notifications of arrests
- Misrepresentations in application
- Administrative fine of up to \$500 per violation
  - Failure to pay fine prevents new registration
- Administrative suspension between 5 days and end of registration term (up to two years)
- Administrative revocation (with one or more year bar)
- Public nuisance and unfair business practice to operate without registration and business license

# **SIGNIFICANT ORDINANCE COMPONENTS (FINE APPEALS)**

- Fines are appealable to the Environmental Health Director
  - Appeals are solely in writing
  - Sheriff's Office can respond to appellant submission
  - Director may request additional evidence

# **SIGNIFICANT ORDINANCE COMPONENTS (SUSPENSION & REVOCATION APPEALS)**

- Suspensions and revocations are appealable to the License Board
  - Made up of designees from Sheriff's Office, Environmental Health and Building/Planning
- Appeal is due in 10 days
- Appeal should be set in less than a month
- Case presented by Deputy County Counsel and License Board represented by Deputy County Counsel with appropriate ethical walls
- Adversarial hearing with witnesses
- Formal rules of evidence do not apply

# RESULTS: A CASE STUDY

- In a 3 year period between 2012–2015 San Mateo County shut down 11 of 11 illicit massage businesses located in the unincorporated area
- Except for one that opened up without a license in 2016 (and was also subsequently closed), to our knowledge no additional illicit massage businesses have opened since 2015 and none currently exist in the unincorporated area



# NUTS & BOLTS OF A REVOCATION PROCEEDING

- Identify illicit massage business (usually by community complaint or use of websites dedicated to illicit businesses (Rubmaps, Erotic MP); can be through annual inspections
- Law enforcement performs a sting operation
  - Investigation reveals evidence of knowledge/ongoing activity, e.g.,
    - Clothing worn by employees is risqué
    - Manager has unusual amount of money
    - Advertisements/reviews on dedicated websites, Backpage, Craigslist
    - Employees from business closed for illicit activity
    - Cameras or other behavior common of illicit businesses
    - Prophylactics in a common area

# NUTS & BOLTS OF A REVOCATION PROCEEDING (CONT.)

- County Counsel drafts a letter revoking license, see, e.g.:

COUNTY COUNSEL  
JOHN C. BEIERS

CHIEF DEPUTIES  
KATHRYN E. MUELA  
JOHN D. NIBBELIN  
PAULA OKADA

LEAD DEPUTIES  
CLAIRE A. GUNNINGHAM  
JUSTITHA HOLBERT  
DAVID A. SILBERMAN



COUNTY COUNSEL  
COUNTY OF SAN MATEO  
HALL OF JUSTICE AND RECORDS - 8TH FLOOR  
400 COUNTY CENTER • REDWOOD CITY, CA 94063-1662  
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## DEPUTIES

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REBECCA M. ARCHER  
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NIRVI S. ERKSSON  
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TIMOTHY SHAMZU  
JENNIFER A. STALZER  
DANIEL J. WALSH

Ferenc Pataki  
October 31, 2014  
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## Facts Supporting Revocation and Fine

On October 1, 2014, one of your employees [REDACTED] solicited a sexual act from an under-cover officer which is prohibited by Penal Code Section § 647(b) (Prostitution), in violation of Section 5.44.110 of the San Mateo County Ordinance Code, which provides for suspension or revocation of a County Massage Registration Certificate as follows:

...

Certificates of registration may be suspended or revoked upon any of the following grounds:...

(4) Violations of any of the following occurred on the premises of a massage business or were committed by a practitioner: California Business and Professions Code Section § 4600 *et seq.*; any local, state, or federal law; or the provisions of this chapter.

It is the Sheriff Office's opinion based on the evidence it has gathered that, this act of solicitation was likely not an isolated incident.

...

Further, it was observed that at least one of your "masseuses" was not wearing her CAMTC-certification [REDACTED] in violation of Section 5.44.050 of the San Mateo County Ordinance Code, which provides:

...

(a) CAMTC-certification shall be worn by and clearly visible on the massage practitioner's person during working hours and at all times when the massage practitioner is inside a massage business or providing outcall massage.

...

It is of note that Siesta Massage was suspended and fined for this same violation in May 2013.

...

Further, the employee [REDACTED] exposed and touched the officer's genitals, in violation of Section 5.44.050 of the San Mateo County Ordinance Code, which provides:

...

(m) No massage shall be given unless the client's genitals are, at all times, fully covered. A practitioner shall not, in the course of administering any massage, make physical contact with the genitals or private parts of any other person regardless whether the contact is over or under the persons clothing.

...

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October 31, 2014  
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Further, your employee was arrested and you failed to timely notify the Director of Environmental Health, in violation of Section 5.44.070 of the San Mateo County Ordinance Code, which provides:

...

(b) A registrant shall report to the Director of Environmental Health any of the following within 96 hours of the occurrence: (1) Arrests of any employees or owners of the registrant's massage business for an offense other than a misdemeanor traffic offense;... the occurrence of any event involving the registrant's massage business or the massage practitioners employed therein that constitutes a violation of this ordinance or state or federal law.

...

It is of note that you were cited for this same violation last year.

Each of these violations independently and collectively supports REVOCATION of your County Massage Registration Certificate and the violations support a FINE of TWO THOUSAND DOLLARS. The fine shall be paid by remitting cash or a check made out to the County of San Mateo to my (David Silberman) attention at the address appearing on the letterhead.

## Procedure for Appealing the Fine

You are advised of your right to file an appeal with the Director of Environmental Health. Appeals are governed by Section 5.44.100 of the Ordinance Code. An appeal of the fine must be requested in writing, shall provide facts disputing the violation and may be supported by declarations and exhibits. The appeal must be addressed to the Director of Environmental Health, and must be received within ten (10) days of the date appearing on this notice of the fine. It should be sent in care of Heather Forshey, 2000 Alameda de Las Pulgas, Suite 100, San Mateo, CA 94403 and a copy of the appeal and any supporting materials must be sent to the Sheriff's Office in the care of David Silberman at the address appearing on this letterhead. The decision of the Director of Environmental Health shall be provided by certified mail. The decision will constitute a final administrative order with no additional administrative right of appeal.

## Procedure for Appealing the Revocation

You are advised of your right to file an appeal of the decision of the Sheriff on the Revocation with the License Board. An appeal must be in writing, and be hand-delivered or mailed to the License Board. An appeal must be received by the License Board on or before the effective date of revocation. It should be sent in care of the Chair of the License Board, Lisa Aozasa, 455 County Center, 2nd Floor, Redwood City, CA 94063 with a copy to the Sheriff's Office in the care of David Silberman at the address appearing on this letterhead. The filing of a timely appeal will stay a suspension or revocation pending a decision on the appeal by the License Board.

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A hearing shall be scheduled within thirty (30) days unless an extension is authorized. In this case, if you were to appeal, you should expect the hearing to be scheduled on November 19, 2014 at 9:00 a.m. (the date of the next License Board Meeting). The decision of the License Board shall be a final administrative order, with no further administrative right of appeal.

Very truly yours,

JOHN C. BEIERS, COUNTY COUNSEL

By:   
David A. Silberman, Lead Deputy

JCB:DAS/das

October 31, 2014

Via Certified U.S. Mail

Ferenc Pataki  
Siesta Massage  
Business address:  
2769 El Camino Real  
Redwood City, CA 94063  
Home address:  
1839 Woodside Road # 5  
Redwood City, CA 94061

Please respond to: (650) 363-4749

Re: NOTICE OF ORDER OF REVOCATION OF COUNTY MESSAGE  
REGISTRATION CERTIFICATE AND NOTICE OF ISSUANCE OF FINE

Dear Mr. Pataki:

I write on the behalf of Sheriff Greg Munks, who has designated me as his representative. You are hereby given NOTICE that Sheriff Greg Munks hereby ORDERS your County Massage Registration Certificate REVOKED and further ISSUES a FINE in the amount of \$2,000. Absent appeals, the procedures for which are described below, the REVOCATION and FINE are effective November 10, 2014. Be aware that Siesta Massage MAY NOT OPERATE without a valid County Massage Registration Certificate. The Sheriff's authority to REVOKE your County Massage Registration Certificate is derived from Section 5.44.110 of the San Mateo County Ordinance Code; the authority to fine is derived from Section 5.44.100 of the San Mateo County Ordinance Code. In making this decision, the Sheriff considered as an aggravating factor that in May 2013, the Sheriff suspended your Certificate and issued you a fine for multiple violations of the Ordinance Code.

# NUTS & BOLTS OF A REVOCATION PROCEEDING (CONT.)

- The licensee appeals and appeal is scheduled for next License Board hearing
  - Often argues for more time
  - More information/discovery
  - It is an isolated incident

# NUTS & BOLTS OF A REVOCATION PROCEEDING (CONT.)

- Written materials are submitted to License Board on behalf of the Sheriff

1 JOHN C. BEIERS, COUNTY COUNSEL (SBN 144282)  
2 By: David A. Silberman, Lead Deputy (SBN 211708)  
3 Hall of Justice and Records  
4 400 County Center, 6<sup>th</sup> Floor  
5 Redwood City, CA 94063  
6 Telephone: (650) 363-4749  
7 Facsimile: (650) 363-4034

8 Attorneys for Appellee  
9 San Mateo County Sheriff's Office

## 10 IN THE MATTER OF THE APPEAL OF COUNTY MESSAGE 11 REGISTRATION CERTIFICATE REVOCATION

12 IN RE SIESTA MESSAGE

## 13 DECLARATION OF SERGEANT AL ELZEY 14 IN SUPPORT OF REVOCATION

15 I, AL ELZEY, declare:

16 1. I am a San Mateo County Sheriff's Sergeant assigned to the Street Crime Suppression  
17 Unit and Detective Bureau. I have served as a Deputy Sheriff since 1997 and have been assigned to the  
18 Street Crime Suppression Unit and Detective Bureau since October 2012. I make this declaration of my  
19 own personal knowledge, except as to those matters that I indicate are based on information and belief,  
20 and if called to testify to the matters set forth herein, I would and could competently do so.

21 2. It is my opinion, based on my training and experience and having conferred with other  
22 law enforcement personnel with significant experience investigating prostitution, that Siesta Massage,  
23 located at 2769 El Camino Real, Redwood City, was knowingly operated as a house of prostitution.  
24 That opinion is based on a number of factors, including those described below.

25 3. I participated in an undercover prostitution operation of Siesta Massage on October 1,  
26 2014. A true and correct copy of the law enforcement reports describing that operation is attached  
27 hereto as Exhibit A. While I do not have personal knowledge of every event described in those reports,  
28 I understand from speaking with my colleagues that the contents are accurate. Further, such reports are  
created in the regular course of the Sheriff's Office's business and we are required to complete such  
reports as near to the events described therein as reasonably possible. We are also required to make

DECLARATION OF SERGEANT AL ELZEY IN SUPPORT OF REVOCATION

1 such reports as accurate as possible.

2 4. I understand that our Siesta Massage operation was in direct response to credible  
3 concerns of prostitution activity at Siesta Massage. Further, this summer I participated in a training  
4 focusing on prostitution. As part of that training, an officer was sent into Siesta Massage and that officer  
5 was solicited for a sex act. In addition, there are a number of internet sites that cater to customers of  
6 prostitutes. Three such sites are MyRedbook, Erotic MP and Rubmaps.com. In my training and  
7 experience, massage parlors listed on these sites are often houses of prostitution. Siesta Massage is  
8 listed in all three.

9 5. Rubmaps.com allows only paid members to read recent reviews, but allows the general  
10 public to read massage parlor comments and older reviews. The comments with respect to Siesta  
11 Massage are consistent with Siesta Massage being a house of prostitution:

12 tencha 08/23 2014 :

13 El gato Hide location you have to use stair and if u go in the mid day u get and hour fee \$60. Fs  
14 \$100 really good massage.

15 Foothillxpressway 02/17 2014 :

16 Don't understand the "reported as non-crotic" flag. I've been getting everything from HJ to FS  
17 here for the last 3 years.

18 ds2000g 02/7 2013 :

19 Ok place, once you know the system and skip the nicety and go straight to FS.

20 "FS" is an abbreviation for "Full Service", which is slang for sexual intercourse. "HJ" is an  
21 abbreviation for "Hand Job", which is slang for manual stimulation of a penis. A sampling of Siesta  
22 Massage reviews evidence prostitution as well. They contain detailed descriptions of the prostitutes'  
23 physical features and disclose sex acts performed. I have also included a print-out from eccie.net, which  
24 is a prostitution advertisement site and print-outs from Eroticmp.com. Finally, I have included print-  
25 outs from MyRedbook. MyRedbook also contains reviews of massage parlors that serve as fronts for  
26 prostitution as well as "independent" prostitutes. It was shut down by the Department of Justice this  
27 summer for that reason. A sampling of Siesta's Massage's reviews include descriptions of the  
28 prostitute's breasts and "kitty", which is slang for pubic area and describe sex acts by Siesta Massage

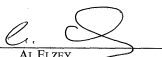
2  
DECLARATION OF SERGEANT AL ELZEY IN SUPPORT OF REVOCATION

1 employees. They contain slang like "rub-n-tug", which means a massage followed by a "hand job" and  
2 "BBBJ", which is an abbreviation for "bare back blow job", which is slang for fellatio performed  
3 without a condom. True and correct copies of Siesta Massage's listings, comments and reviews are  
4 attached hereto as Exhibit B. I noted that someone using the username "foothillxpressway", whose  
5 Rubmaps.com recent comment is described above, also reviewed a Siesta Massage prostitute on  
6 MyRedbook more than a year earlier and described sex acts.

7 6. As referenced above, I participated in a prostitution operation on October 1, 2014.  
8 During that operation, Probation Officer [REDACTED] paid \$45 for a massage to a Siesta Massage  
9 employee later identified as [REDACTED]. During the massage [REDACTED] offered to perform a sex act with [REDACTED]  
10 for \$40 using signals that are commonly used by prostitutes. Additional violations of the Ordinance  
11 were found and documented in Exhibit A. This same location was found to be in violation of the  
12 ordinance during a prior administrative inspection on April 25. A fine and suspension was issued. True  
13 and correct copies of the report from the prior inspection and Notice of Suspension and Fine are attached  
14 as Exhibit C.

15 7. Again, based on the totality of the circumstances and my training and experience,  
16 including those facts described above and the fact that Department of Justice Special Agent Rey Diaz  
17 informed the Sheriff's Office on October 11, 2014 that on October 10, 2014 a confidential informant  
18 was also offered sexual services for \$140 by a Siesta Massage employee, I am confident that Siesta  
19 Massage is being actively operated as a house of prostitution. I understand that the Sheriff has revoked  
20 Siesta Massage's massage certificate. A true and correct copy of the revocation letter is attached hereto  
21 as Exhibit D.

22 I declare that the foregoing is true and correct of my own knowledge under penalty of perjury  
23 under the law of the State of California, and that this declaration was executed on November 26, 2014 at  
24 Redwood City, California.

25   
26 AL ELZEY  
27  
28

3  
DECLARATION OF SERGEANT AL ELZEY IN SUPPORT OF REVOCATION

# NUTS & BOLTS OF A REVOCATION PROCEEDING (CONT.)

- Hearing is held where owner and/or “employee” or both testify. Decoy and lead detective are also available for cross-examination
- Hearings generally take less than a morning
- License Board makes oral decision at the end-of-hearing
- Letter to landlord notifying him/her of prohibition against leasing to another massage business during revocation period

# OTHER CONSIDERATIONS

- “Employees” treated as victims (although arrests are often made)
- Consider having community based organizations focused on human trafficking available to respond