

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, Bldg 68-2
CRANSTON, RHODE ISLAND 02920

IN THE MATTER OF:

ROBIN PEREZ/FIVE STAR
AUTO SALVAGE, INC,

RESPONDENT.

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DBR CASE NO. 09-I-0147

CONSENT ORDER

The Department of Business Regulation (the "Department"), the Town of Smithfield (the "Town") and Robin Perez/Five Star Auto Salvage, Inc. ("Respondent") ("the Department, Town and Respondent shall be referred together as the "parties") hereby agree that:

1. Respondent is the owner of the property located at 1348 Douglas Pike, Smithfield, listed as Lots 47 and 47C on Assessor's Plat 49, located in an R-80 Residential District (the "Property").

2. Respondent is the holder of an automobile wrecking and salvage yard license issued pursuant to R.I. Gen. Laws §42-14.2-1 *et seq.* ("License") that expired on June 30, 2009.

3. On June 15, 2009, the Town issued a letter to Respondent advising that it is in violation of R.I. Gen. Laws §42-14.2-8(2)(i), §42-14.2-8(2)(ii), and §42-14.2-8(2)(iv), and that the auto salvage business for which it sought a renewal license:
 - (a) is not a legal-nonconforming use;

- (b) cannot engage in automobile sales;
- (c) has expanded onto abutting properties without proper approvals from the Town Council and Zoning Board of Review;
- (d) has numerous zoning violations currently existing on the property;
- (e) has constructed an existing building without proper zoning permits.

4. On or about June 23, 2009, the Department received a renewal application from the Respondent, including submission of the letter noted in paragraph 3 above, for an auto wrecking and salvage yard license pursuant to R.I. Gen. Laws §42-14.2-5.2.
5. R.I. Gen. Laws §42-14.2-4 provides that the Department may require an applicant to provide information as to conformance to all local ordinances pertaining to and governing the operation of auto wrecking and salvage yards, and any other pertinent information which may be considered by the Department in determining whether the granting of the Application is in the public interest.
6. R.I. Gen. Laws §42-14.2-9 provides that the Department may deny an application or refuse to issue/renew a license on proof of willful failure of the applicant or licensee to comply with the provisions of R.I. Gen. Laws §42-14.2-1 *et seq.* or with any rule or regulation promulgated by the Department.

7. Based on the alleged violations set-forth by the Town in paragraph 3 above, on August 17, 2009 the Department issued to Respondent an Order to Show Cause Why Licensing Application Should Not Be Denied, Notice of Hearing and Appointment of Hearing Officer (“Notice”).
8. Pursuant to the Notice, a pre-hearing conference was held on January 20, 1010.
9. Subsequent to the pre-hearing conference noted above, the undersigned Hearing Officer approved an email agreement (“Agreement”) by the parties that Respondent shall:
 - (a) Remove all cars and other junkyard materials from abutting properties by March 1, 2010;
 - (b) Complete fencing the perimeter of Lot 47 of the Property by February 15, 2010; and
 - (c) File a zoning variance with the appropriate Town officials.
10. The parties have been providing the Hearing Officer with periodic updates since the Agreement was reached.
11. In May 2010, respondent requested that the Town Zoning Official determine that Lots 47 and 47C of the Property are legally nonconforming.

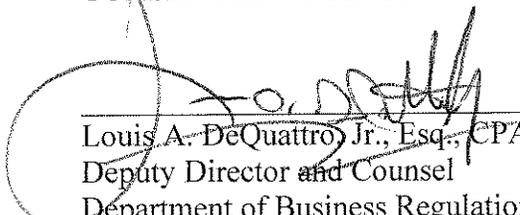
12. On June 4, 2010, the Town's Deputy Zoning Official issued a Determination Letter stating that Lot 47 of the Property is legally nonconforming but that Lot 47C of the Property is not legally nonconforming, and further that Respondent has violated the Town's Zoning Ordinance by unlawfully expanding the junkyard operation onto abutting residential lots 46 and 47D (the "Determination").
13. Respondent appealed the Determination.
14. On July 21, 2010, Town's Zoning Board of Review denied Respondent's appeal and affirmed the Determination.
15. In August 2010, Robin Perez was charged with operating a chop shop and felony possession of stolen vehicle parts, and Giron Wuidman, an employee of Respondent, was charged with felony possession of stolen vehicle parts (the "Charges").
16. Respondent voluntarily waives her/its right to complete the hearing process, voluntarily waives his right to appeal to Superior Court, admits that the allegations in paragraphs 1 through 15 are true, and that she/it is willing to remedy the violations and take all necessary action as delineated in this Consent Order to allow Respondent to maintain the License in good-standing.
17. Respondent hereby agrees to the following in order to renew its License:

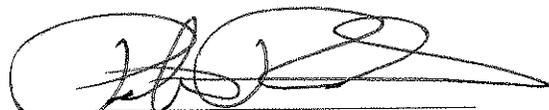
- A. Pay an administrative penalty of two thousand dollars (\$2,000) upon signing this Consent Order.
- B. Shall completely fence the perimeter of Lot 47 of the Property by November 30, 2010 to the satisfaction of the Town and Department.
- C. Shall remove all cars and junkyard materials from Lot 47C of the Property as well as all abutting lots, including Lots 46 and 47D by December 31, 2010.
- D. Maintain the Property in conformance with R.I. Gen. Laws § 42-14.2-1 *et seq.* and all relevant local and municipal requirements.
- E. Provide to the Director the Department of Business Regulation the a written report describing the final adjudication of the Charges within seven (7) days from the date of such final adjudication.

If Respondent fails to abide by any of the requirements of this Consent Order, the Department will initiate further administrative proceedings to impose penalties against Respondent including, but not limited to: i) suspension, ii) revocation, and/or iii) such additional administrative penalties as deemed appropriate by the Department.

Respondent shall be provided with notice and opportunity for hearing should the Department decide to take such further action.

CONSENTED TO AS TO FORM AND SUBSTANCE BY:


Louis A. DeQuattro Jr., Esq., CPA
Deputy Director and Counsel
Department of Business Regulation
Date 12/9/10


Peter Petrarca, Esq.
Counsel for Respondent
Date 12/6/10

CERTIFICATION

I hereby certify that on the 15th day of Dec., 2010 a copy of the within Consent Order was mailed via certified and regular mail, postage pre-paid, to:

Mr. Robin Perez
Fine Star Auto Salvage, Inc.
1348 Douglas Pike
Smithfield, RI 02917

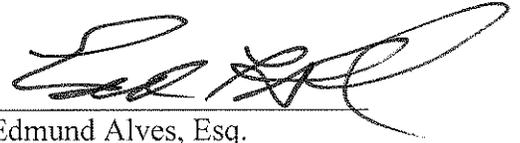
Peter Petrarca, Esq.
Petrarca & Petrarca Law Offices
330 Silver Spring Street
Providence, RI 02904

Edmund Alves
Blish & Cavanaugh, LLP
20 Exchange Street
Providence, RI 02903

e-mailed
and ~~hand-delivered~~ individual copies to:

Louis A. DeQuattro, Jr., Esq., CPA, Deputy Director and Counsel, Maria D'Allessandro, Deputy Director, Securities, Commercial Licensing and Racing & Athletics. Thomas Broderick, Chief Inspector and Kim Precious, Implementation Aide, at the Department of Business Regulation 1511 Pontiac Avenue, Bldg 68-2 Cranston, RI 02920

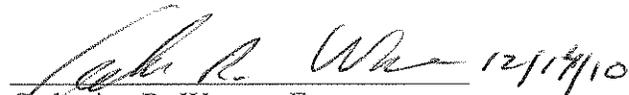
A B Ellison



Edmund Alves, Esq.
Smithfield Town Solicitor

Date 11/22/10

RECOMMENDED BY:



Catherine R. Warren, Esq.
Hearing Officer

ORDER

I have read the Hearing Officer's Recommendation in this matter, and I hereby take the following action with regard to the Recommendation:

ADOPT

REJECT

Dated: 12-14-2010



A. Michael Marques
Director

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS § 42-35-1 ET SEQ. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW IN SAID COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING HIS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED, RESPONDENT'S LICENSE IS SUBJECT TO REVOCATION.