



Gandhi India's Cuisine
Hearing Officer Administrative Hearing
MEETING MINUTES

Southern Nevada Health District
280 South Decatur Boulevard, Las Vegas, Nevada 89107
Red Rock Conference Room
9:00 A.M. – Thursday, March 9, 2017

SNHD STAFF PRESENT:

Larry Rogers, Environmental Health (EH) Manager 
Tanja Baldwin, Senior Environmental Health Specialist
Larry Navarrete, Environmental Health Specialist (EHS)
Heather Anderson-Fintak, Associate Attorney
Brenda Welch, Senior Environmental Health Specialist
Annette Bradley, General Counsel

Christine Sylvis, EH Supervisor
Heather Hanoff, Recording Secretary *HA*
Jacob Billings, EHS
Kendra Lett, EHS

FACILITY OWNERS/REPRESENTATIVES:

Chris Rasmussen, Attorney
Harjit Dhillon, Owner
Rajendra Saun, New Manager
Richard Swiney, New Consultant
Richard Robinson, Handyman

PUBLIC:

Darcy Spears, KTNV
Ozkar Palomo, KTNV

I. CALL TO ORDER:

The Hearing Officer, Henry Melton, called the meeting to order at 9:02 a.m.

II. PUBLIC COMMENT:

None

III. MATTERS REQUIRING HEARING OFFICER ACTION:

Gandhi India's Cuisine (PR0006381 and PR0006382), 4080 South Paradise Road, Suite #9, Las Vegas, NV 89169: Proposed Revocation of Permits

Announcement:

Heather Anderson-Fintak noted for the record that there is a zero missing from the first permit number on the agenda. It should be PR0006381. This doesn't affect the actual number; our staff just normally put three zeros before the number.

Opening Statement:

Heather Anderson-Fintak announced that the hearing is recorded and it is the Health District's responsibility to prove the case. This will be Gandhi India's Cuisine's last opportunity to present any evidence or testimony. After this, any appeal is to District Court on a Petition for Judicial Review, which means that the Court will only review a transcript of this hearing and the documents that are presented today to decide if the Hearing Officer had substantial evidence to make his decision. Recording Secretary, Ms. Hanoff, can provide appeal information; appeal requests can only be made within thirty days from today's date. The Hearing Officer is a paid third-party individual that is impartial

and not an employee of the Health District. Each party will present their cases through witnesses and will have an opportunity to cross examine opposing witnesses. Each party will also have an opportunity to give a closing statement at the end of the hearing.

The following people were sworn in for testimony by the Hearing Officer: Christine Sylvis, Jacob Billings, Richard Swiney, Richard Robinson, Rajendra Saun, and Harjit Dhillon.

Christine Sylvis's Testimony:

Christine Sylvis is the supervisor for Training and Compliance. She helps train new staff members to do restaurant inspections. The laws governing food establishments are Nevada Revised Statute (NRS) 446 and Southern Nevada uses NRS 439 to write our own regulations so we enforce the Southern Nevada Health District Regulations Governing the Sanitation of Food Establishments that was approved in 2010. She explained risk based inspections including the grading system. She explained the Administrative process used for facilities with a history of non-compliance. The Administrative process includes the first supervisory conference, increased inspection frequency, and requiring the person in charge (PIC) to be a certified food protection manager. If they continue to get less than an A grade, a second supervisory conference is required. Then the facility must also hire a food safety consultant. The next step is a managerial conference. If a C grade is received after the managerial conference, the permit is suspended pending revocation. Additional requirements such as logs can be placed on the facility at any conference depending on the situation. Three consecutive inspections with A grades are required to be removed from the Administrative process. There are approximately 19-20K permitted establishments. Ninety percent of these facilities are receiving A grade inspections. This is the second revocation hearing in the last year.

Chris Rasmussen asked Ms. Sylvis if it was possible that many restaurants closed by the Health District just give up. Ms. Sylvis agreed that it was a possibility. Chris Rasmussen asked how many restaurants Ms. Sylvis has inspected herself in the Las Vegas Valley. Ms. Sylvis didn't want to guess that number. She has worked for the Health District for approximately 17.5 years. She was a field inspector until approximately nine years ago when she started training staff. The number must be many thousands. Chris Rasmussen asked Ms. Sylvis why she thinks restaurants struggle to get A grade inspections. Ms. Sylvis said that lack of active managerial control is a large reason why facilities aren't successful. She does encounter facilities with no managerial control. She has no knowledge of being at Gandhi and is not familiar with the violations against this facility.

Jacob Billings' Testimony:

Jacob Billings is an EHS II for the Health District. He started inspecting Gandhi in 2015; he did multiple inspections there before Kenda Lett took over. He described the inspection report violations and photographs from May 15, 2015.

Chris Rasmussen said that his clients are not here to fight the past. They understand there were failures. They came with an intensive plan to fix these problems to show the Health District how they will move forward and not have these issues anymore. They had no objections to the entire Hearing Office book being entered into evidence. The Hearing Officer book includes inspection reports and photographs from May 15, 2015 through February 16, 2017, supervisor and managerial conferences, revocation letter, the notice of hearing, and the agenda. Then the Health District turned the hearing over to the respondents to present their case.

Richard Swiney's Testimony:

Richard Swiney owns a consulting company called Proactive Food Service that he started in 2003. He went over his background in food. Gandhi contacted him to help them resolve their issues. He has created a very aggressive plan for the facility. He believes restaurants fail because of disengaged ownership and poor management. There has been a lot of renovation and remediation done on the property. To remediate the pest issue, a pest control company called Steritech used foam before the walls were replaced. A lot of previous demerits were for basic kitchen operation problems. Gandhi has changed the management and released all the previous employees.

Normally, he recommends that his company come in two times a week to do the same things a health inspector would do and review all corrective actions that need to be taken. Gandhi is agreeing to five days a week. He's created a workbook for management to give them guidance on what they should be looking for every time they walk the kitchen. He went over the plan details for this facility.

Heather Anderson-Fintak asked if Facility Exhibit 1 was a specific plan for Gandhi that Mr. Swiney created. Mr. Swiney said it was a plan used for a lot of facilities. It's a good guideline to help management have structure daily. It's a universal plan from Proactive Food Service. It has been submitted to the Health District for other properties and Health District staff has said that it's a good plan to use. If it is used, you get very good results. Mr. Swiney said that he has a 70% success rate for facilities remaining in good standing with the Health District. Any issues are related to facilities not following the plan. Mr. Swiney said the enforcement mechanism is that he insists on having the ability to discipline the staff, up to and including, termination. Gandhi has agreed to that. The timeline on discipline is teach, coach, verbal warning, written warning, one day suspension, three day suspension, and then termination. With observation five days a week, the timeline could be as quick as two weeks with the suspensions.

Heather Anderson-Fintak noted for the record that the Steritech Book (Facility Exhibit 2) is essentially their plan, but we should focus on the pest prevention service agreement at the back. It was signed on March 6, 2017. It is an initial one year contract, renewable on a month to month basis thereafter.

Heather Anderson-Fintak asked Mr. Swiney if he has a contract with Gandhi. Mr. Swiney has an agreement with Gandhi to enter into a contract pending the outcome of this hearing. The initial term will be one year at five days a week. He was initially contacted by Gandhi on March 6, which was Monday. He could put together an aggressive plan this quickly because he has been doing this for 14 years. Larry Navarrete is also going to do Food Safety Training with them. Gandhi has agreed to that and the fee has been paid. After the training is done, Mr. Swiney's company will be there. Logs on the refrigeration unit are one month long at twice a day. If the Health District needs a photograph of these before a new month is started, that can be done.

Richard Robinson's Testimony:

Richard Robinson retired from Metro after 27 years. Now he manages his own properties and does miscellaneous repair work. He has known Gandhi's owner for 10-12 years through his previous career. He did a lot of extensive repairs at the facility, starting approximately three weeks ago. He relevelled the flooring to eliminate the draining problems. He described repair photographs.

Heather Anderson-Fintak asked if Mr. Robinson was paid for his work. Mr. Robinson was not paid for the work; he is just helping a friend out. Heather Anderson-Fintak asked who paid for the repair materials. Mr. Robinson paid for the materials and assumes he will be reimbursed. The stainless steel itself was in the \$2,700 range. All the materials were probably about \$5,500. Heather Anderson-Fintak asked if Mr. Robinson has a contractor's license. He does not have a license. He worked for his family that had licenses. Heather Anderson-Fintak asked if the Building Department has inspected and approved the changes. Mr. Robinson said there were not enough modifications to require Building Department approval. There were no structural changes to the building.

Rajendra Saun's Testimony:

Rajendra Saun has been in the food and beverage industry for approximately 28 years. He is very familiar with the Health District's Regulations. He was contacted by Gandhi about becoming the new manager on March 1. His requirement to become the manager at Gandhi is that he gets all new staff so they can be trained properly. He will be there from opening until closing. He will be hiring the new employees. He does not have a corrective plan for training yet but he does have previous training programs. He will be using corrective action forms that list the Health Department violation, the root cause, and how to fix the issue. He is confident that he can fix all the problems.

Heather Anderson-Fintak asked if the hours were going to be changed to close the facility from 2:30-5:00 p.m. each day? Mr. Saun said they do not serve up until 2:30 p.m. The last seating is at 2:30 p.m. for the buffet. Then the restaurant closes for 2 hours. Heather Anderson-Fintak asked if Mr. Saun was a Certified Food Protection Manager. He's not; he has been HACCP certified but needs to renew that. He will become a Certified Food Protection Manager. Heather Anderson-Fintak asked if there was going to be another manager at the facility because Mr. Saun cannot sustain 12 hour days, 7 days a week. The goal going forward is to hire two supervisors. One will be specifically the kitchen supervisor which Gandhi hasn't had before. Heather Anderson-Fintak asked if the additional supervisors will be ServSafe certified and Mr. Saun confirmed that. Heather Anderson-Fintak asked if new staff has already been hired. Mr. Saun has placed some calls looking for new staff but nobody has been hired yet. Heather Anderson-Fintak asked how quickly Gandhi could get new staff and be ready to serve food to the public. Mr. Saun would need approximately 10 days to get everything together and would like to be ready to open by March 20. Heather Anderson-Fintak asked if Mr. Saun's food safety card was current. It is not but he has an appointment for renewal right after the hearing.

The Hearing Officer asked if Mr. Saun was under contract with Gandhi now. He is not but he has known the owner for years.

Harjit Dhillon's Testimony:

Harjit Dhillon owns Gandhi and one 7-11 at 4510 Vegas Valley Drive. He's owned the 7-11 for 12 years in March. He has owned Gandhi for five years in October. Gandhi has been there since 1993. Gandhi was the first Indian restaurant opened in Las Vegas and lots of Indian actors go there. Mr. Dhillon had a restaurant manager but she didn't do a good job. He was in charge of everything but he failed; he should have done better. He described the steps he has taken to remediate the property. He has spent 27-30K on remediation so far. Mr. Dhillon will stay out of the kitchen until he is trained properly and he requests one more chance.

Heather Anderson-Fintak asked if Mr. Dhillon knew there were managerial control issues a year ago at the February 22, 2016 supervisory conference and why it has taken a year to make changes. He did know. He was trying to fix little things since money was tight; he should have done what is being done now. Mr. Dhillon will help the consultant and new manager if needed but he is going to let them handle training and operations. Heather Anderson-Fintak asked if Mr. Dhillon has contacted the Health District's Plan Review program to see if an application for modification was required. He has not but will do whatever the Health District requires. Mr. Dhillon is ServSafe certified and Heather Anderson-Fintak asked what other steps he has personally taken to learn more about appropriate food handling. Mr. Dhillon has taken Chef Linda's class and will be at the SNHD training session that has been scheduled. Heather Anderson-Fintak asked why the two previous consultants haven't made Gandhi successful? He believed the previous managers and staff when they said they were doing the correct procedures. The temperature problems were because repaired equipment did not work. He was paying for pest control monthly but they stopped coming to the facility and he didn't notice. If allowed another chance, what type of contract will the new manager receive? One year with Richard and more if needed. Mr. Saun can stay as long as he wants.

The Hearing Officer asked if Crystal Harris was still involved with the managerial operations. Mr. Dhillon said that she is gone and will not be returning. Geetiha Duggal will not be returning either. Aman Singh is a partner with Mr. Dhillon. He'll be a backup. The Hearing Officer asked if Mr. Singh would be able to terminate the contracts with Mr. Swiney and Mr. Saun. Mr. Dhillon said that Mr. Singh would not be able to do that. Mr. Dhillon is embarrassed to be here and will be checking Mr. Swiney and Mr. Saun's work so this doesn't happen again.

The Hearing Officer granted a recess so SNHD and Gandhi could discuss a settlement prior to a decision being rendered.

IV. CLOSING STATEMENTS:

None

V. EVIDENCE:

SNHD Exhibit 1 – Complete Hearing Officer Book

Facility Exhibit 1 – Proactive Plan/Universal Plan

Facility Exhibit 2 – Steritech Book

Facility Exhibit 3 – Invoice for Training

Facility Exhibit 4 – Stainless Steel Invoice

Facility Exhibit 5 – Photos

Facility Exhibit 6 – Invoices for Improvement

VI. PUBLIC COMMENT:

None

VII. DECISION:

Gandhi India's Cuisine (PR0006381 and PR0006382): SETTLEMENT AGREEMENT

SNHD and Gandhi reached an agreement acceptable to both parties. The Hearing Officer ordered permits PR0006381 and PR0006382 lifted from suspension with the following conditions:

1. Facility will contact the Southern Nevada Health District's Facility Design, Assessment, and Permitting (FDAP) section to process any required remodel paperwork/procedures.
2. Facility will have visits from a Food Safety Consultant five days a week for the next eighteen (18) months.
3. Food Safety Consultant contract will notate that the Food Safety Consultant has the ability to hire and fire any employees.
4. Facility will have a certified Food Protection Manager onsite at all operating times.
5. No prior Food Safety Managers can be employed in the facility.
6. All logs, including but not limited to opening checklist, cooling, and refrigeration, must be kept onsite and be available for inspection for the next eighteen (18) months.
7. Facility will have unannounced quarterly inspections for the next eighteen (18) months. All inspections must pass with an A grade. No repeat critical or major violations on consecutive inspections will be allowed.
8. Facility staff will schedule a reinspection prior to reopening. The reinspection must pass with an A grade.
9. Facility will have monthly pest control visits from a Certified Pest Control Operator for the next eighteen (18) months.
10. Facility will be deep cleaned once a month for the next eighteen (18) months.
11. Facility will have quarterly visits from a licensed plumber for the next eighteen (18) months.
12. Facility will pay all applicable fees.
13. If any inspection within the next eighteen (18) months results in a grade other than an A grade, all permits will be revoked without further administrative process or hearing.

VIII. ADJOURNMENT:

The hearing was adjourned by the Hearing Officer, Henry Melton, at 11:58 a.m.