



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** December 9, 2014

From: Marc Puckett, Assistant Town Manager **Item No:** 15

Subject: **APPEAL OF THE INTENT TO REVOKE BUSINESS LICENSE #00004615 ISSUED TO APPLE VALLEY RECYCLING**

Owner(s): Mr. Salome Vidana
Mrs. Elida Vidana

Location: The business is located at 20947 Bear Valley Road,
Apple Valley, CA 92308

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

1. **Find** the Facts presented within the staff report for the Council hearing of December 9, 2014 and the record as a whole as discussed by the Council, support the recommendation to revoke Business License #00004615; and
2. **Deny** the appeal of Apple Valley Recycling (Salome and Elida Vidana), and uphold the recommendation of the Town of Apple Valley.

SUMMARY:

On August 28, 2014, the Town of Apple Valley Code Enforcement Division witnessed illegal dumping taking place in the high desert area near Bear Valley Road and Itoya Vista Road. The driver of the vehicle was identified as Mr. Salome Vidana. An attorney representing Mr. Vidana appeared in court and pleaded guilty on his behalf. At that time a recommendation was made to revoke the business license due to being in violation of statutes and/or ordinances under Apple Valley Municipal Code 5.02.230. A letter was sent to the owner of the business on November 3, 2014 informing them of our intent to revoke the business license. The owner(s) filed an appeal within the time allotted requesting a hearing by the Town Council.

BACKGROUND:

On August 28th, Code Officer Lee Weast observed a pick-up truck with the bed full of trash bags heading out into the desert. When Weast finished what he was doing, he followed the vehicle into the desert and as he found the vehicle, it was pulling away from the bags that were now on the ground. He stopped the vehicle and asked the subject why he was dumping the trash in the desert. The subject apologized and stated he made a mistake and he was dumping items from a large oven he picked up. The location of this dump was near Bear Valley Rd and Itoya Vista in the desert. The vehicle was towed and stored for 30 days and the subject was issued a citation for illegal dumping.

Further investigation revealed the illegal dumping suspect Salome Vidana owns Apple Valley Recycling on Bear Valley and Kiowa Roads. The dumped items appeared to be non-recyclable trash related to the business such as insulation removed from ovens, etc. On October 15th, Mr. Vidana's attorney appeared in court on his behalf. The attorney pleaded guilty on behalf of the subject and was ordered to pay a court fine and cost recovery to the Town.

The Apple Valley Municipal Code provides that a business license may be revoked under special circumstances, as provided below:

5.02.230 Revocation

(a) All licenses issued under the provisions of this Chapter shall be in compliance with all applicable laws of the State of California and the United States of America. Any license granted through the provisions of this Chapter may be revoked by the Town Manager if he determines either (1) that it was fraudulently or wrongfully issued or obtained, or (2) that the information provided in the application was misleading or false in any material respect, or (3) that the business is operating in violation of any statute, ordinance or law, or (4) that the revocation is necessary to health, safety or welfare of the community, subject to the provisions of Subsection (b) below.

The Apple Valley Municipal Code also provides that prior to revocation a business owner may file an appeal as provided below in 5.02.230 (b).

(b) Prior to any revocation of license, the Town Manager shall give the license holder fifteen days notice of intent to revoke such license. Within fifteen days of such notice, the license holder may file a written request with the Town Clerk to appear before the Town Council, and when a hearing is thereafter scheduled by the Town Clerk, the license holder may appear and show cause before the Town Council why such license should not be revoked. Upon the failure of the license holder to file a written request to appear within fifteen days, or if after the hearing of the Council, the Council finds good and sufficient cause of revocation, the

license shall be revoked. No refund of any license shall be made following revocation.

On November 3, 2014, the Town of Apple Valley, by certified mail, notified Apple Valley Recycling of its intent to revoke Business License Number 00004615 per the Town of Apple Valley Municipal Code 5.02.230 (a) "All licenses issued under their provisions of this Chapter shall be in compliance with all applicable laws of the State of California and the United States of America."

On November 10, 2014, the owner of the business filed an appeal within the time allotted requesting a hearing by the Town Council. At this time the owners of Apple Valley Recycling and/or it's representatives will have the opportunity to formally present information to the Town Council regarding this matter.

ATTACHMENTS:

1. Letter to Apple Valley Recycling dated November 3, 2014
2. Request for Appeal dated November 10, 2014



Town of Apple Valley

A Better Way of Life

November 3, 2014

Apple Valley Recycling
Salome and/or Elida Vidana
20947 Bear Valley Rd.
Apple Valley, CA 92308

Certified Mail No. – 7014 0150 0001 6645 1858

Re: Business license No. 00004615

Located: 20947 Bear Valley Rd.

Dear Mr./Mrs.Vidana:

Please be advised that the revocation process has been initiated as of November 3, 2014 for Business License No. 00004615 issued to Apple Valley Recycling owned by Salome and Elida Vidana and operating from 20947 Bear Valley Rd., in Apple Valley CA. This Business License Revocation process has been initiated due to your business being found to be operating in violation of statutes and/or ordinances recent conviction for illegal dumping. Details related to your violation(s) are listed below;

On August 28th, Code Officer Lee Weast observed a pick-up truck with the bed full of trash bags heading out into the desert. When Weast finished what he was doing, he followed the vehicle into the desert and as he found the vehicle, it was pulling away from the bags that were now on the ground. He stopped the vehicle and asked the subject why he was dumping the trash in the desert. The subject apologized and stated he made a mistake and he was dumping items from a large oven he picked up. The location of this dump was near Bear Valley Rd and Itoya Vista in the desert. The vehicle was towed and stored for 30 days and the subject was issued a citation for illegal dumping.

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- (a) All licenses issued under the provisions of this Chapter shall be in compliance with all applicable laws of the State of California and the United States of America. Any license granted through the provisions of this Chapter may be revoked by the Town Manager if he determines either (1) that it was fraudulently or wrongfully issued or obtained, or (2) that the information provided in the application was misleading or false in any material respect, or (3) that the business is operating in violation of any statute, ordinance or law, or (4) that the revocation is necessary to health, safety or welfare of the community, subject to the provisions of Subsection (b) below.

The Apple Valley Municipal Code also provides that prior to revocation a business owner may file an appeal as provided below in 5.02.230 (b).

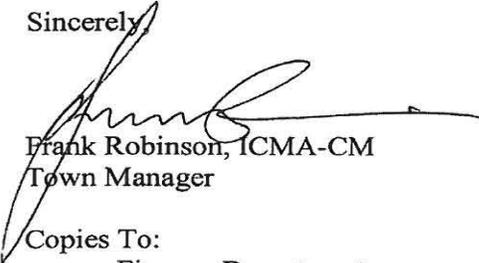
- (b) Prior to any revocation of license, the Town Manager shall give the license holder fifteen days notice of intent to revoke such license. Within fifteen days of such notice, the license holder may file a written request with the Town Clerk to appear before the Town Council, and when a hearing is thereafter scheduled by the Town Clerk, the license holder may appear and show cause before the Town Council why such license should not be revoked. Upon the failure of the license

holder to file a written request to appear within fifteen days, or if after the hearing of the Council, the Council finds good and sufficient cause of revocation, the license shall be revoked. No refund of any license shall be made following revocation.

Please be advised that you cannot conduct business in the Town of Apple Valley without a valid Town of Apple Valley Business License.

For further questions, please contact Dawn Simmons at (760) 240-7000 ext. 7707.

Sincerely,



Frank Robinson, ICMA-CM
Town Manager

Copies To:

Finance Department
Police Department
Town Attorney
File

November 10, 2014

Sent via overnight, certified U.S. mail and facsimile (760) 961-6241

Town of Apple Valley
ATTN: Town Clerk
14955 Dale Evans Pkwy.
Apple Valley, CA 92308

Re: Business License No. 00004615

To Whom It May Concern:

In accordance with Apple Valley Municipal Code 5.02.230(b), Apple Valley Recycling respectfully requests an opportunity to appear before the members of the Town Council of the Town of Apple Valley in order to formally appeal the decision to begin the revocation of the business license referenced above.

Please advise as to the date of the hearing before the Town Council, and if we may assist with any documentation before said date. Thank you in advance for your cooperation in this matter, it is much appreciated.

Very Respectfully,
Apple Valley Recycling