



THE CITY OF SAN DIEGO

February 4, 2011

John Metzger
O.E. Express, Inc.
2132 Avenida De La Playa
La Jolla, CA 92037

Dear Concessionaire:

Subject: Extension of Kayak Concession Permit – City of San Diego / O.E Express, Inc.
Avenida De La Playa, La Jolla

Your request of December 7, 2010, for an extension of the term of the above-referenced concession permit has been received.

In accordance with the Section 7, Extension of Term, of the concession permit, the term shall be extended for an additional year commencing on April 1, 2011 and expiring on March 31, 2012. The extension term is subject to all current agreements, considerations, covenants and conditions except the concession fees. The concession fees will be adjusted on April 1, 2011, to eighty percent (80%) of the annual average of actual fees paid in the first permit year plus any option terms exercised under the permit.

Should you have any questions, please contact Vladimir Balotsky, Supervising Property Agent, at (619) 235-5248.

Sincerely,

James F. Barwick, CCIM
Director, Real Estate Assets

cc: Stacey LoMedico, Director, Park and Recreation Department
Rick Wurts, Lifeguard Chief

Lease File O.E. Express, Inc.



Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199
Tel (619) 236-6020 Fax (619) 236-6706

Balotsky, Vladimir

From: johnmoex@gmail.com on behalf of John Metzger [john@oexcalifornia.com]
Sent: Tuesday, December 07, 2010 2:35 PM
To: Balotsky, Vladimir
Subject: Re: Kayak Permits - Extension of Term

This email confirms OE Express, Inc's (OEX) intentions of renewing its kayak concessions permit with the City of San Diego for the upcoming term.

Thank you very much, please let me know if there is anything further you require.

John Metzger

On 12/6/10, Balotsky, Vladimir <VBalotsky@sanidiego.gov> wrote:

> Dear Concessionaire,
> Pursuant to Section 7. Extension of Term, of your concession permit
> with the City of San Diego, the term of the permit may be extended for
> two (2) one-year terms at the consideration specified in Section 12 of
> the permit and subject to all original agreements and conditions.
>
> Concessionaire must notify City in writing ninety (90) days prior to
> the expiration of the current term of its intention to extend. Please
> notify me in writing by December 31, 2010, if you are interested to
> extend your permit. Any questions, I can be reached at (619) 235-5248.
>
> Thank you,
>
> Vladimir Balotsky, SR/WA | Supervising Property Agent | Asset
> Management City of San Diego | Real Estate Assets Department 1200
> Third Avenue, Suite 1700, San Diego, CA 92101
> (619) 235-5248 (office), (619) 236-6706 (fax) vbalotsky@sanidiego.gov
>
>

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Sent from my mobile device

Balotsky, Vladimir

From: johnmoex@gmail.com on behalf of John Metzger [john@oexc
Sent: Tuesday, February 01, 2011 6:59 AM
To: Balotsky, Vladimir
Subject: Re: OEX La Jolla, Inc.

*O.E. Express.
Inc.
Correspondence*

Hi Vladimir,

I hope this will suffice as our official statement:

Our agreement is not assigned and everything remains as in the original agreement, except the new location.

Also, in response to your questions:

1. We have several locations, two of which are in La Jolla Shores. 2132 Ave de la Playa is our main check in for customers, along with some storage. We have also recently signed a lease for a second location at La Jolla Shores for storage and office space. Further, we have a location in Mission Bay that is our repair facility and extra storage for our kayaks.
2. I suspect this question is a result of one of our competitor's overzealous and mentally unstable attitude towards OEX. She will continue to bend the truth to create a false sense that we are somehow not abiding by our permit obligations, I'm sure the City is savvy enough to recognize this. We store all of our kayaks within O.E. Express' storefronts.
3. The City seal has been removed from our web site.

As always, many thanks Vladimir,

John

On Mon, Jan 31, 2011 at 11:24 AM, Balotsky, Vladimir <VBalotsky@sanidiego.gov> wrote:

Hi John, I need your official notice stated that the agreement is not assigned and everything remains as in the original agreement (except new location). Also, I need your confirmation of the following:

1. New location at 2132 Avenida De La Playa has adequate on site space for provide customer service and for storage facilities (please be specific, numbers, spaces, etc);
2. Explain why do you bring kayak to La Jolla location from off-site locations daily?
3. Confirmation that the City seal is removed from your web site;

Thank you,

Vladimir Balotsky, SR/WA | Supervising Property Agent | Asset Management
City of San Diego | Real Estate Assets Department
1200 Third Avenue, Suite 1700, San Diego, CA 92101
(619) 235-5248 (office), (619) 236-6706 (fax)
vbalotsky@sanidiego.gov

-----Original Message-----

From: johnmoex@gmail.com [mailto:johnmoex@gmail.com] On Behalf Of John Metzger

Sent: Monday, January 31, 2011 10:49 AM
To: Balotsky, Vladimir
Subject: Re: OEX La Jolla, Inc.

Vladimir,

We decided to keep O.E. Express, Inc. as the permit holder shortly after my original email to you, we did not change names after all. Sorry, I thought I notified you of that, I guess I didn't.

Let me know if you require anything further on that subject.

Thanks!

John Metzger
O.E. Express. Inc.

On 1/31/11, Balotsky, Vladimir <VBalotsky@sanidiego.gov> wrote:
> Hi John, I reviewed your e-mail (see below) with the City Attorney. Since a
> new corporation is taking over the kayak operations this change is
> considered to be an assignment of the kayak concession permit with the City.
> According to Section 25 of your agreement, no assignment is allowed without
> City's prior written consent.
> Please call me at 619 235-5248, ASAP to discuss. Also, the new corporation
> OEX La Jolla, is not on the Secretary of State's register.
>
> Vladimir Balotsky, SR/WA | Supervising Property Agent | Asset Management
> City of San Diego | Real Estate Assets Department
> 1200 Third Avenue, Suite 1700, San Diego, CA 92101
> (619) 235-5248 (office), (619) 236-6706 (fax)
> vbalotsky@sanidiego.gov
>
> From: johnmoex@gmail.com [mailto:johnmoex@gmail.com] On Behalf Of John
> Metzger
> Sent: Wednesday, October 27, 2010 8:11 PM
> To: Balotsky, Vladimir
> Subject: Re: OEX La Jolla, Inc.
>
> Vladimir,
>
> The reason we would like to change the name from O.E. Express, Inc. to OEX
> La Jolla, Inc. on our kayak concession permit is for a couple of reasons.
>
> The first is that our La Jolla kayak rentals and tour operation has been
> known as OEX La Jolla for many years now and we would like to separate that
> part of our business from O.E. Express, which does more on the kayak retail
> sales side.
>
> Also, we have three kayak guides who have been with us for many years who
> would like to buy in as partners for the kayak tour business. They would be

> owners in OEX La Jolla and would help run daily operations.
>
> Myself and Brent Torgeson, the original O.E. Express, Inc. owners since 1995
> would still be the main point of contact for the City.
>
> Thanks Vladimir, please let me know if you need further explanation.
>
> Best regards,
>
> John Metzger
> On Wed, Mar 17, 2010 at 11:24 AM, Balotsky, Vladimir
> <VBalotsky@sandiego.gov<<mailto:VBalotsky@sandiego.gov>>> wrote:
> Hi John,
> Please send me a letter with the request and explanation at the address
> below.
>
> Thanks
>
> Vladimir Balotsky, SR/WA | Supervising Property Agent | Asset Management
> City of San Diego | Real Estate Assets Department
> 1200 Third Avenue, Suite 1700, San Diego, CA 92101
> (619) 235-5248 (office), (619) 236-6706 (fax)
> vbalotsky@sandiego.gov<<http://vbalotsky@sandiego.gov>>
>
> From: johnmoex@gmail.com<<mailto:johnmoex@gmail.com>>
> [<mailto:johnmoex@gmail.com><<mailto:johnmoex@gmail.com>>] On Behalf Of John
> Metzger
> Sent: Wednesday, March 17, 2010 11:04 AM
> To: Balotsky, Vladimir
> Subject: OEX La Jolla, Inc.
>
> Hello Vladimir,
>
> I'm writing to find out how we can officially change the name on our kayak
> concession permit from O.E. Express, Inc. to OEX La Jolla, Inc.
>
> Thank you very much, my cell phone # is below.
>
> John Metzger
> 619.985.7467
>
>

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Sent from my mobile device

Balotsky, Vladimir

From: Balotsky, Vladimir
Sent: Monday, February 07, 2011 9:13 AM
To: 'Bill Tayler'
Cc: Morse, Teresa; Everhart, John
Subject: RE: Public Records Act Request

Mr. Tayler, below is the response to your Public Records Act Request related to O.E. Express dated January 25, 2011.

Questions 1-2, no assignment – the concessionaire confirmed that he is operating as O.E. Express, Inc.;
Questions 3-4, no City approval is necessary, the concessionaire is conducting the business transactions from the storefront address (Exhibit C, Section 3);
Questions 5-6, visual inspection was conducted by the City Lifeguard Services staff on February 3, 2011, the site is adequate;
Questions 7-8, no City approval is required;
Questions 9-11, the seal is not approved by the City, it is removed by the concessionaire.

Let me know, if you have any questions.

Thank you,

Vladimir Balotsky, SR/WA | Supervising Property Agent | Asset Management
City of San Diego | Real Estate Assets Department
1200 Third Avenue, Suite 1700, San Diego, CA 92101
(619) 235-5248 (office), (619) 236-6706 (fax)
vbalotsky@sandiego.gov

From: Bill Tayler [<mailto:btayler@taylorlaw.com>]
Sent: Tuesday, January 25, 2011 10:17 AM
To: Balotsky, Vladimir
Cc: Morse, Teresa
Subject: Public Records Act Request

Mr. Balotsky, attached please find a Public Records Act Request. Please contact me if you have any questions.

William C. Tayler
The Tayler Law Firm, P.C.
1804 Garnet Avenue, No. 505
San Diego, CA 92109
Tel: 858.272.8574
Fax: 619.330.4599
btayler@taylorlaw.com

*OE. Express
Correspondence*

THE TAYLER LAW FIRM, P.C.

1804 GARNET AVENUE, NO. 505
SAN DIEGO, CALIFORNIA 92109
TEL 858 272 8574 FAX 619 330 4599

VIA EMAIL

January 25, 2011

Mr. Vladimir Balotsky
City of San Diego, Real Estate Assets
1200 Third Avenue, Suite 1700, MS 51A
San Diego, CA 92101

Re: Public Records Act Request

Dear Mr. Balotsky:

I represent San Diego Bike & Kayak Tours, Inc. ("SDBK"), which has asked me to make the following request for records pursuant to the Public Records Act, Government Code § 6250, *et seq.*

SDBK is requesting the City to provide the following:

1. All documents related to any request by O.E. Express, Inc. to sell, assign, or otherwise transfer its concession permit for kayak operations at La Jolla Shores to any other person or entity;
2. All documents related to any approval by the City for O.E. Express, Inc. to sell, assign, or otherwise transfer its concession permit for kayak operations at La Jolla Shores to any other person or entity;
3. All documents related to any request by O.E. Express, Inc. to operate its kayak operations at La Jolla Shores out of a different location, including but not limited to 2132 Avenida De La Playa;
4. All documents related to any approval by the City for O.E. Express, Inc. to operate its kayak operations at La Jolla Shores out of a different location, including but not limited to 2132 Avenida De La Playa;
5. All documents related to any request by O.E. Express, Inc. to operate its kayak operations at La Jolla Shores without adequate on-site customer service and kayak storage facilities;
6. All documents related to any approval by the City for O.E. Express, Inc. to operate its kayak operations at La Jolla Shores without adequate on-site customer service and kayak storage facilities;

7. All documents related to any request by O.E. Express, Inc. to bring kayaks into La Jolla Shores daily from an off-site location;
8. All documents related to any approval by the City for O.E. Express, Inc. to bring kayaks into La Jolla Shores daily from an off-site location;
9. All documents related to any request by O.E. Express, Inc. to continue to use the City seal on its web site (<http://oexcalifornia.com/lajolla/Contact.html>) despite previously being told by the City not to do so;
10. All documents related to any approval by the City for O.E. Express, Inc. to continue to use the City seal on its web site (<http://oexcalifornia.com/lajolla/Contact.html>) despite previously being told by the City not to do so;
11. All documents related to any action taken by the City in regard to O.E. Express, Inc. based on the continued use of the City seal on the OEX web site (<http://oexcalifornia.com/lajolla/Contact.html>) despite previously being told by the City not to do so.

SDBK is making this Public Records Act request because it appears that the kayak operations OEX have been transferred to a new person (Mike Samer), who is running the OEX kayak operation out of La Jolla Surf Systems, located at 2132 Avenida De La Playa. The OEX website (<http://oexcalifornia.com/lajolla/Contact.html>) directs customers to 2132 Avenida De La Playa and notates Mike as the contact for kayaking.

La Jolla Surf Systems is a retail store not a rental shop, and the OEX kayak customers have been getting fitted for PFDs outside. In addition, OEX appears to be bringing trailers and trucks full of kayaks down the street each day because La Jolla Surf Systems does not have adequate on-site space to accommodate kayak storage. These practices would be contrary to the original RFP condition stating that concessionaires must have appropriate space to accommodate kayak storage and customer needs such that all business is conducted inside.

We look forward to hearing from you regarding when and where these documents will be available.

Very truly yours,

/s/

William C. Tayler
of The Tayler Law Firm, P.C.