



TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** June 25, 2013

From: Lana Tomlin, Captain **Item No:** 10
Apple Valley Sheriff's Department

Subject: APPEAL OF THE INTENT TO REVOKE BUSINESS LICENSE
#00010824 ISSUED TO METAL RECOVERY RECYCLING CENTER

Owner: Mr. Arsenio Alcantar

Location: The business is located at 22506 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 June 25, 2013 including the information provided by the Apple Valley Sheriff's Department and the record as a whole as discussed by the Council, support the recommendation to revoke Business License #00010824; and
2. **Deny** the appeal of Mr. Arsenio Alcantar, Metal Recovery Recycling Center and uphold the recommendation of the Town of Apple Valley.

SUMMARY:

On April 16, 2013, the Town of Apple Valley was presented with information from the Apple Valley Sheriff's Department regarding the conduct of business at 22506 Bear Valley Road. At that time a recommendation was made to revoke the business license due to continued criminal violations regarding license regulation. A letter was sent to the owner of the business on May 7, 2013 informing him of our intent to revoke his business license. The owner filed an appeal within the time allotted requesting a hearing by the Town Council.

BACKGROUND:

In mid-summer of 2010, Arsenio Alcantar set up an appointment with Deputy Culbertson at the Apple Valley Police Department in reference to requirements for opening a Metal Recycling

business within the town limits of Apple Valley. Deputy Culbertson asked High Desert Rural Crimes Deputy Danny Ritchea to sit in on the meeting which he did.

During the meeting, Mr. Alcantar was told he would have to comply with all the provisions of the California Business and Professions Code as it applied to Second Hand and Junk Dealers (sections 21600- 21610), Department of Weights and Measure and any and all requirements of the Town of Apple Valley including a Town of Apple Valley business license.

Mr. Alcantar applied for and received his Town of Apple Valley business license on 08/30/2010. Mr. Alcantar opened his business, Metal Recovery and Recycling, at 22506 Bear Valley Road in Apple Valley shortly thereafter.

Over the next year, Deputy Culbertson made several trips to Metal Recovery and Recycling in reference to follow up investigations of metal theft within the Town limits of Apple Valley. On each occasion, Deputy Culbertson made contact with Mr. Alcantar and advised him of the investigations. On each occasion, Deputy Culbertson saw suspicious non ferrous metal unrelated to the investigations he was working. Deputy Culbertson asked Mr. Alcantar when the material came in and who brought the material in. Mr. Alcantar never gave him a definitive answer.

In approximately August of 2011, Mr. Alcantar asked for a second meeting with Deputy Culbertson and Sergeant Todd Newton. Deputies Culbertson and Ritchea and Sergeant Newton met with Mr. Alcantar and his wife at their business just after closing time. Deputy Culbertson provided Mr. Alcantar with a copy of the California Business and Professions Code Sections 21600 through 21610. The process was again explained to the Alcantar's and the copy of the B&P Code left with them for their review.

During the time frame of August 2011 through August 2012, Deputy Culbertson made several more trips to Metal Recovery and Recycling on follow up investigations. Deputy Culbertson made contact with Mr. Alcantar on each visit and informed Mr. Alcantar of the ongoing investigations. On each occasion, Mr. Alcantar was unable to provide Deputy Culbertson with the information he requested. Per the Business and Professions Code Section 21607 every junk dealer shall preserve the written record of any purchase or sale of junk or scrap metal for at least two years after the transaction.

On August 14, 2012, a recycle compliance program was conducted by the Apple Valley Detective Division. During the compliance check at Metal Recovery and Recycling numerous violations of the California Business and Professions Code sections 21600-21610 were found. A criminal complaint was prepared and filed by the Victorville District Attorney's office.

On January 18, 2013, Mr. Alcantar pled guilty to one count of failing to keep or show records.

Revocation of Mr. Alcantar's business license for his Metal Recovery and Recycling business located at 22506 Bear Valley Road in the Town of Apple Valley is recommended due to continued criminal violations."

On May 14, 2013, the owner of the business formally requested a hearing to present information to the Town Council regarding this matter.

ATTACHMENTS:

1. Letter to Metal Recovery Recycling Center dated May 7, 2013
2. Request for Appeal dated May 13, 2013
3. Letter to Metal Recovery Recycling Center dated May 21, 2013



A Better Way of Life

Town of Apple Valley

14955 Dale Evans Parkway • Apple Valley, California 92307

May 7, 2013

Metal Recovery Recycling Center
Arsenio Alcantar
22675 Lone Eagle Rd
Apple Valley, CA 92308

Certified Mail No. – 7011 1570 0002 9391 7456

Re: Business license 00010824

Located: 22506 Bear Valley Rd.

Dear Mr. Alcantar:

Please be advised that the revocation process has been initiated as of May 7, 2013, for license #00010824 issued to Metal Recovery Recycling Center, owned by Arsenio Alacantar, and operating from 22506 Bear Valley Rd. in Apple Valley.

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

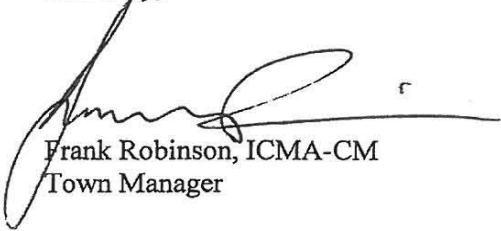
Arsenio Alcantar
May 7, 2013
Page Two

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

xc: Finance Department
File


Metal Recovery Recycling Center

RC 64482.001

22506 Bear Valley Rd

Apple Valley, CA 92308

(760) 524-3383

Received By	
Town Clerk	
Date	5-14-13
Time	11:05 am
Town of Apple Valley	

Town of Apple Valley

14955 Dale Evans Parkway

Apple Valley, CA 92307

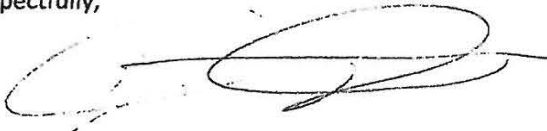
May 13, 2013

To whom it may concern,

I have been informed that the Town of Apple Valley is wanting to revoke my current business license.

I am requesting a detailed reason for cause so that I am informed before requesting a meeting with the Town Council. Your prompt attention would be greatly appreciated. Please schedule me to come before The Apple Valley Council so that I can address this matter

Respectfully,



Arsenio Alcantar

Owner



A Better Way of Life

Town of Apple Valley

14955 Dale Evans Parkway • Apple Valley, California 92307

May 21, 2013

Mr. Arsenio Alcantar
Metal Recovery Recycling Center
22506 Bear Valley Road
Apple Valley CA 92308

Dear Mr. Alcantar,

On May 14, 2013, you presented a letter to the Town of Apple Valley in response to our initiation of the revocation process for Business License #00010824 issued to Metal Recovery Recycling Center. As the owner of this business, Apple Valley Municipal Code Section 5.02.230(b) allows the license holder fifteen (15) days to file a written request with the Town Clerk to appear before the Town Council and show cause as to why such license should not be revoked. Your letter satisfies that requirement.

In order that you are fully prepared to make your presentation before the Town Council, I have listed the cause of action for your review as provided by the Apple Valley Police Department:

"In mid-summer of 2010, Arsenio Alcantar set up an appointment with Deputy Culbertson at the Apple Valley Police Department in reference to requirements for opening a Metal Recycling business within the town limits of Apple Valley. Deputy Culbertson asked High Desert Rural Crimes Deputy Danny Ritchea to sit in on the meeting which he did.

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Your hearing before the Apple Valley Town Council has been scheduled for Tuesday, June 25 at 6:30 p.m. in the Town Council Chambers located at 14955 Dale Evans Parkway, Apple Valley. If after the hearing, the Town Council finds good and sufficient cause of revocation, or if you choose not to attend the hearing as scheduled, your license shall be revoked.

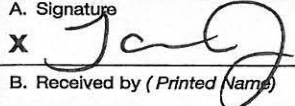
If you have any questions or concerns regarding this action, please contact the undersigned at (760) 240-7000, ext. 7800.

Sincerely,

**TOWN OF APPLE VALLEY
OFFICE OF THE TOWN CLERK**



La Vonda M-Pearson
Town Clerk

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X  <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery 5/24/13</p>
<p>1. Article Addressed to:</p> <p>MR. Arsenio Alcantar Metal Recovery Recycling 22506 Bear Valley Road Apple Valley CA 92308</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7010 0780 0000 4248 5082</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	