



MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. 314-2006

LETTER TO COMMISSION

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: December 18, 2006

SUBJECT: Complaint about a City Employee - Tourism and Cultural Development

The purpose of this Letter to Commission (LTC) is to provide you with information relating to a complaint received by several members of the Commission from Mr. Johann Verheem, CEO of Active Media, which was referred to my office on Friday, December 15, 2006.

This production company originally contacted the City on Tuesday, December 12, 2006. A representative of the company spoke with Silvia Royer, Film Production Assistant in the Tourism and Cultural Development Department's Office of Film and Event Production. At that time, the production request was for a simple, City-wide ENG (handheld video camera) team to perform man-on-the-street interviews. This is a typical request received by the department, and Ms. Royer provided the information necessary to obtain a permit, including insurance and indemnity requirements and directions to submit this application online.

On Thursday, December 14, 2006 shortly after noon, a representative from Active Media came to the Tourism and Cultural Development Office to pick up their permit. Graham Winick, Film/Event Production Manager, attempted to assist her and inquired about the nature of her activity to understand whether it was a film or special event permit she sought. She explained that she wished to erect a stage on Lincoln Road this Sunday to allow the public to use a new abdominal workout machine and that they would film the public using it for a future infomercial.

Mr. Winick explained that this presents itself as promotional use which is not permitted as a film permit and that we could not allow as described. It is important to note that our Special Event Guidelines restrict purely promotional events. She became upset and asked how the production, as they envisioned, could be permitted. Mr. Winick explained that a casted – or pre-screened and predicted user group – would be necessary; a general public on-the-spot recruitment as they envisioned could not be permitted. He also pointed out to the applicant that a great deal of coordination would be required to effectuate the production as they envisioned, which was unlikely at such a late date.

Mr. Winick later received an email from Mr. Verheem questioning why the City would not issue a permit and asking for a return call. Both Graham and Silvia spoke with Mr. Verheem on the phone that day. He was upset, explained that he had already invested money on the production, and insisted that we allow the use. Mr. Winick explained that there was no approved permit and that the scope of what was requested (ENG/ man-on-the-street interviews) did not match in any way what the production representative described when she personally visited the Film/Events office. Mr. Verheem asked for and was provided with an explanation of the difference between casted participants and recruiting people off the street for immediate use in the production. It was also explained to Mr. Verheem that due to the limited time constraints, it would be difficult to obtain approval from Lincoln Road Marketing and the Market Company to place a raised platform there that particular Sunday, even if the production were changed to involve a casted group.

Staff further explained the need for City coordination in regards to police and parking, which he did not wish to entertain. Finally, he was presented with the following options:

1. Return to the original request of a City-wide permit for man-on-the-street interviews without promotional use or demonstration for the public;
2. Find a suitable public location to perform the activity with a casted group and not involving on-the-spot recruitment of the public; or
3. Perform the activity as desired in a private venue or outside of Miami Beach.

Mr. Verheem agreed to consider the options and call back.

It did come to staff's attention that the permit application submitted Tuesday (after the initial phone call) included in the description of the proposed production a reference to a platform. However, the use of a platform was not discussed in the initial conversation with staff, nor was the concept of a promotional use for the public presented. More importantly, the use of a platform would not be permitted for the reasons previously described, regardless of the inclusion of a platform in the permit application.

Mr. Winick returned after a series of meetings to a phone message from Mr. Verheem making certain assertions and personally offensive comments. He insisted that his representative accurately described the production in the permit request, regardless of the conversation suggesting City-wide simplified use prior to the application being submitted. He also sent an email, which was included in his email to the Commission, stating similar points. Due to the nature of Mr. Verheem's phone message, Mr. Winick responded that he would not communicate with him further.

I acknowledge that this type of response was inappropriate for a City official and the Department Director has addressed this with the employee and, in particular, the need to provide a more professional response in the future.

That said, I believe the request was handled appropriately. The application submitted to staff did not reflect the production as described to staff, and the changes included in the application are not permitted under existing guidelines. Staff discussed the issues and concerns with the applicant as soon as the production company's intent was made clear. At that time we clarified our position on the matter and presented options. Unfortunately, those options were not considered by the production company.

As always, please feel free to contact me if you have any questions.

C: Hilda M. Fernandez, Assistant City Manager
Max Sklar, Director Tourism and Cultural Development

Attachments

JMG/HF/DM

RECEIVED
2006 DEC 19 PM 3:56
CITY CLERK'S OFFICE

From: Johann Verheem [mailto:johannv@eqmedia.com]

Sent: Thursday, December 14, 2006 7:32 PM

To: Dermer, David; Bower, Matti H.; Cruz, Simon; Gongora, Michael; Gross, Saul; Libbin, Jerry; Steinberg, Richard

Subject: Complaint Against City Official

Dear Mayor and Commissioners,

I would like to file a formal complaint against Graham Winick, Film and Event Manager for failing to provide my company with either a permit or an explanation as to why a permit for production of a commercial has been declined.

Mr. Winick behaved in an extremely rude and unprofessional manner and refuses to return calls, denies receipt of a permit application submitted in accordance with City regulations (see below) and refuses to provide an explanation for declining to issue a permit.

My company, EQMedia Partners have invested several million dollars in productions in Miami and Miami Beach and have a clean record of compliance when using City property. We are based in California and New York and to date has found Miami Beach a positive and productive environment to do our productions. Unfortunately, this individual has behaved in a manner inconsistent with what this City and its elected officials are all about.

Please find the details surrounding this incident and Mr. Winick's response below. I am happy to answer any questions in this regards.

Sincerely,

Johann Verheem

CEO

Direct Line: 760-473-7418

From: Winick, Graham [mailto:GrahamWinick@miamibeachfl.gov]

Sent: Thursday, December 14, 2006 1:49 PM

To: Johann Verheem

Subject: RE: permit application

I do not answer to lies and innuendo.

MIAMI BEACH

Graham Winick, *Film and Event Production Manager*

TOURISM AND CULTURAL DEVELOPMENT

1700 Convention Center Drive, Miami Beach, FL 33139

Tel: 305-673-7577 or 305-673-7070/ Fax: 305-673-7063 / Cel: 786-402-1115 www.miamibeachfl.gov

We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.

From: Johann Verheem [mailto:johannv@eqmedia.com]

Sent: Thursday, December 14, 2006 4:13 PM

To: Winick, Graham
Subject: FW: permit application

Graham,

I did not receive a call back after talking to your assistant at 1:25 pm today on this very urgent matter. It is now 4pm.

I spoke to Karina from Active Media, our producer after our conversation this morning. Apparently your office could not locate our permit application while she was there this morning. Below please find a copy of the application that was electronically submitted to your office on December 12th. We also have the copy of insurance with the city named as co-insured as well as the notarized indemnity agreement.

Our application, as spelled out below, clearly states that we would be using a 80 inch podium as well as a crew of 5. Based on our conversation, your office was not aware of this detail till today. However, Karina received a call from Sylvia, in your office, screaming at Karina telling her that our permit does not match what she discussed with her. Sylvia was clearly looking at the permit at this point in time. I fail to understand why there is confusion, but it is uncalled for to treat anyone in this manner.

I also understand from our conversation that we are not allowed to ask people walking by if they are interested in being casted as a testimonial, subject to being compensated, signing an agreement and signing a release. I would like to clarify your position that asking people to appear as a testimonial when properly and legally casted would be a violation of City Code. Could you please provide me with the specifics of this code? As you can appreciate I have to cancel an entire production because of this opinion.

Lastly, I am offended by the tone your office has taken with us. Not only did you have no record of our application, not only did you treat Ms. Pena in a very rude manner, but you also insinuated that my company is intending to operate without proper permits. Apart from the fact that I have invested over \$ 3 million dollars in production in the city in the last 18 months, I have had prior permits with the City of Miami to use public property and have done so without any complaints or citations. Your comment that you do not care what kind of money is invested by an out of state company is also offensive. I believe the purpose of your office is to work with production companies and assist them in being compliant during the permitting process. Our intention and efforts has been a good faith effort to do exactly that, but we have been treated in a very unprofessional and rude manner.

I am forwarding this correspondence to the Mayor's office and also to Mrs. Lourdes Diaz, former wife of the Mayor of Miami, who is on the advisory board of our company.

Sincerely,

Johann Verheem

From: KP [mailto:activemediadist@gmail.com]
Sent: Thursday, December 14, 2006 11:54 AM
To: activemedia@msn.com; Johann Verheem
Subject: Fwd: permit application

----- Forwarded message -----

From: **KP** <activemediadist@gmail.com>
Date: Dec 12, 2006 12:37 PM
Subject: permit application
To: "activemedia@msn.com" <activemedia@msn.com>, Johann Verheem <johannv@eqmedia.com>

FILMING PERMIT APPLICATION INFORMATION

General Information Update
Company: Eq Media (Active Media Dist)
132 Avenida Miramar
Sanclencate, California 92672
USA
Confirmation Number: 7627
Permit Status: Pending
Application Date: 12/12/2006

Insurance Information

Pending.

No insurance policies are found or selected, you must submit liability insurance in the amount of \$1,000,000 naming Miami-Dade County, and/or the appropriate municipality in which filming is to take place, as additionally insured. Insurance policies may be faxed to the Miami-Dade Office of Film and Entertainment at 305-375-3266.

Production Company Contact Information Update
Name: Johann Verheem
Title: President

Production Contact Information Update
Same as above.

Production Information Update
Title: Total Core Man on street
Production Type: Non Entertainment Teleproduction
Extras: 0
Cast: 0
Crew: 5
Dollars Spent Locally: \$25,000.00
No. of Production Days: 1
Hotel Name:
Location of Hotel:
No. of Room Night:
Production Language: English
Country of Origin: USA

Location(s) Requested Update
Location Name: Miami Beach City-Wide
Permit Status: Pending
Address: 1700 Convention Center Drive
 Miami Beach, FL 33139

Conditions: Miami Beach City-wide permit allows for small teams with minimal equipment (must be easily and quickly transported) to film from Miami Beach streets, sidewalks, City beaches and parks that do not require rental fees, assuming the production does not block

Start Date: 12/17/2006 11:00:00 AM

End Date: 12/17/2006 7:00:00 PM

Permit Fee Amount Due: \$0.00

Permit Fee Amount Paid: \$0.00

Description of Scene:

There will be an 80 inch podium which we will display or product on and a canopy

Film Office's Comments:

None