

RESOLUTION R-2009-074

*Authorizing execution of the Written Decision by Columbia City Council  
Concerning the Business License Appeal of Matrix Scientific*

ORIGINAL  
STAMPED IN RED

BE IT RESOLVED by the Mayor and City Council this 2nd day of December, 2009,  
that the Mayor is authorized to execute the attached Written Decision by Columbia City  
Council Concerning the Business License Appeal of Matrix Scientific.

Requested by:

Mayor and City Council



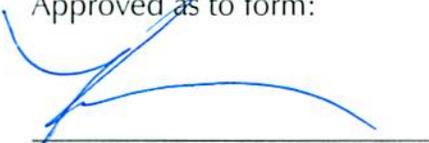
Mayor

Approved by:



Interim City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 12/2/2009

Final Reading: 12/2/2009

STATE OF SOUTH CAROLINA	)	<b>WRITTEN DECISION BY COLUMBIA</b>
	)	<b>CITY COUNCIL CONCERNING</b>
COUNTY OF RICHLAND	)	<b>BUSINESS LICENSE APPEAL</b>
	)	<b>BY MATRIX SCIENTIFIC</b>
CITY OF COLUMBIA	)	

Matrix Scientific filed a business license appeal on July 20, 2009. Matrix asserts it did not receive notice for the payment of 2009 business license fees and appeals the assessment of a penalty for the late payment of business license fees. The appeal was heard by Columbia City Council on September 2, 2009.

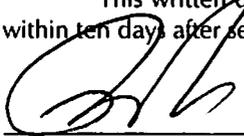
After hearing the appeal, City Council makes the following findings of fact: 1) Matrix Scientific paid its 2009 business license fee and the assessed penalty on July 8, 2009; 2) Matrix Scientific filed its appeal on July 20, 2009; 3) on or about December 31, 2008, the Business License Division mailed business license applications to each active business within its database; 4) the Business License Division published public notices in The State newspaper on three consecutive Wednesdays leading up to the April 15 deadline for the payment of business license fees; and, 5) on or about April 13, 2009, the Business License Division utilized automated dialer software to contact all unpaid accounts.

Initially, we question whether Matrix Scientific's appeal was timely. Section 11-41 of the Columbia City Code states that a "final assessment may be appealed to city council only by payment in full of the assessment under protest within five days and the filing of a written notice of appeal within ten days after payment . . . ." Likewise, section 11-46 states that "[a]ny person aggrieved by a final assessment . . . may appeal the decision to the city council by written request stating the reasons therefore . . . within ten days after the payment of the assessment under protest . . . ." Matrix Scientific filed its appeal more than ten days after paying the protested amount. Therefore, Matrix Scientific's appeal is untimely and is hereby dismissed.

However, even reaching the merits, Matrix Scientific's appeal is denied. Matrix Scientific did not register the business and make application for a business license on or before April 15, 2009. Section 11-33 of the Columbia City Code states that "[e]ach license shall be issued for one calendar year and shall expire on December 31." Further, the license fee shall be paid for each business on or before April 15 in each year. Columbia City Code, §§ 11-34(a) and -35. Matrix Scientific asserts it did not receive any notice that business license fees were coming due. While we acknowledge that Matrix Scientific may not have received the notice mailed by the Business License Division, such notice was not required. By publishing notices in The State newspaper, the Business License Division provided the proper notice as required by ordinance. See Columbia City Code, § 11-43 (stating the license inspector shall "publish a notice of the due date in a newspaper of general circulation within the city three times prior to the due date in each year."). Therefore, any additional notices or phone calls made by the Business License Division were made as a courtesy and were not required by law.

Finally, Matrix Scientific asserts the penalty imposed is unfair and exorbitant. See Columbia City Code, § 11-42 (stating the license inspector shall levy and collect a late penalty of five percent of the unpaid fee for each month after the due date until paid); Mun. Ass'n of South Carolina v. AT&T, 361 S.C. 576, 606 S.E.2d 468 (2004) (holding that "South Carolina law allows municipalities to impose by ordinance a 5% per month penalty for the late payment of business license taxes"). There is no provision in the Columbia City Code which allows for adjustment or abatement of penalties.

This written decision will become final unless this decision is appealed to a court of competent jurisdiction within ten days after service.

  
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 Robert D. Coble, Mayor

12/04/09  
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 Date