

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE METRO GANG STRIKE FORCE

In the Matter of Cal (a/k/a Kao) Xiong

**NOTICE OF
HEARING**

TO: Cal Xiong, 952 Duchess Street, St. Paul, MN 55106

YOU ARE HEREBY NOTIFIED that a hearing on this matter will be held on **June 16, 2010 at 9:30 a.m. in a courtroom** of the Office of Administrative Hearings, 600 Robert Street North, St. Paul, MN 55164.

The Chief Administrative Law Judge, Office of Administrative Hearings, has assigned this matter to Manuel J. Cervantes, Administrative Law Judge, Office of Administrative Hearings, telephone (651) 361-7945.

All mail sent to the Administrative Law Judge should be directed to P.O. Box 64620, St. Paul, Minnesota 55164-0620.

The hearing will be conducted pursuant to the contested case procedures set out in Chapter 14 of Minnesota Statutes, and the Rules of the Office of Administrative Hearings, Minn. R. 1400.8505-8612. After the hearing is completed, the Administrative Law Judge will prepare a written decision.

A copy of the statutes and rules that govern how the hearing will be conducted may be purchased from the Minnesota Book Store, telephone (651) 297-3000, and is also available from the Minnesota Revisor of Statutes at www.revisor.leg.state.mn.us. Copies of the rules of the Office of Administrative Hearings may also be found at www.oah.state.mn.us

The League of Minnesota Cities Insurance Trust (LMCIT) will represent the Metro Gang Strike Force at the hearing and intends to call the following witness(es) to testify:

Derek Krause, LMCIT Claims Adjuster

ALLEGATIONS

Claimant alleges that \$4,798.00 in cash and personal property were seized from him when Metro Gang Strike Force (MGSF) officers arrested the Claimant and executed search warrants related to criminal sexual conduct investigations. There were two separate seizures at two separate locations. Seizures occurred on May 27, 2004 at 584 Jessamine Avenue and on June 8, 2004 at 952 Duchess Avenue both in the City of St. Paul. Claimant was charged with two counts of criminal sexual conduct. The seized cash and personal property were not returned. The Claimant was acquitted on one count and the second count was dismissed. A representative of LMCIT (herein after "LMCIT") and Claimant entered into discussions in an attempt to resolve the cash and property issues. After exclusion of items as contraband and property depreciation, LMCIT offered the Claimant \$1,800 in settlement of the cash and property issues. Claimant brings this appeal for the remaining amount in dispute, or \$2998.00.

The LMCIT will submit the following documents as evidence:

1. Exhibit 1 LMCIT Copy of Check for \$1,800;
2. Exhibit 2 LMCIT 2nd Report; dated April 1, 2010, including an Itemized List of Seized Property Loss;
3. Exhibit 3 LMCIT 1st Report; dated April 1, 2010;
4. Exhibit 3 Cover Letter to Judge, dated December 3, 2009;
5. Exhibit 4 MGSF Report of Investigation, dated July 12, 2004;
6. Exhibit 5 MGSF Report of Investigation, dated June 8, 2004, computer analysis; CSC 3rd Complaint, dated June 11, 2004; Application for Search Warrant, dated June 4, 2004;
7. Exhibit 6 Krause emails to MGSF Officers, dated February 4, 2010;
8. Exhibit 7 Register of Actions, dated June 9, 2004;
9. Exhibit 8 Minn. Stat. § 626.04;
10. Exhibit 9 Krause letter, dated November 19, 2009;
11. Exhibit 10 Public Claim Report, filed November 3, 2009; Petition for Name Change, Name Change Granted, July 15, 2009.

ISSUES

1. Did the Metro Gang Strike Force improperly seize cash and personal property from Claimant?

2. If so, what is the appropriate amount or value of the property and cash which should be returned to the Claimant?

ADDITIONAL INFORMATION

1. Claimant's failure to appear for the hearing will result in cancellation of the hearing and the Administrative Law Judge will make a decision based on the record. A written copy of the Judge's order will be sent to you.

2. If any party has good cause for requesting a continuance of the hearing, the request must be made in writing to the Administrative Law Judge at least five days prior to the scheduled date. A copy of the request must be served on the Metro Gang Strike Force c/o LMCIT, 145 University Avenue, St. Paul, MN 55103-2044.

3. If you decide you do not want to appear at the hearing and want the Judge to decide your claim based on the record, please notify the LMCIT in writing before the hearing date. The Judge will send you a written copy of his order within 30 days after he receives notice that you will not be appearing.

4. At the hearing, all parties have the right to be represented by an attorney or represent themselves. The parties will have the opportunity to be heard orally, to present evidence, cross-examine witnesses, and to submit evidence and argument. A digital recording will be made of the hearing, a copy of which may be obtained for a charge of \$10.00. Parties may also request that a court reporter prepare a written transcript of the testimony at their own expense.

5. Enclosed you will find the following information provided by the Office of Administrative Hearings' website to assist you in preparing for the hearing: *Contested Case Hearing Preparation* and *Witness Guide*. If you need more information, *A Guide to Participating in Contested Case Proceedings* is available at the Office of Administrative Hearings' website www.oah.state.mn.us or by calling 651-361-7900.

6. Persons attending the hearing should bring all evidence bearing on the case, including any photographs, records, other documents, and witness(es).

7. The parties are entitled to the issuance of subpoenas to compel witnesses to attend the hearing. Requests for subpoenas for the attendance of witnesses or the production of documents at the hearing must be made in writing to the Administrative Law Judge. A copy of the subpoena must be served on the other party(ies). A subpoena request form is available at www.oah.state.mn.us or by calling 651-341-7600.

8. The Office of Administrative Hearings conducts proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court.

9. Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print

materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange for an accommodation or an interpreter, contact the Office of Administrative Hearings at P.O. Box 64620, St. Paul, Minnesota 55164-0620, or call (651) 361-7900 (voice) or (651) 361-7878 (TTY).

Dated: May 11, 2010

s/Manuel J. Cervantes
MANUEL J. CERVANTES
Administrative Law Judge