

FROM THE COURTS

Harvard Off Hook for Convicted Professor's Legal Fees



CHARLES KRUPA/ASSOCIATED PRESS

Charles Lieber, right, sued Harvard to cover his legal expenses against charges he misled federal agencies about being involved in a China's Thousand Talents Plan.

by Avalon Zoppo

Massachusetts' top court shot down a Harvard professor's bid to force the university to cover his legal defense fees after he was convicted recently of concealing ties to a Chinese talent recruitment program.

Charles Lieber, 62, sued the school to cover his legal expenses against allegations he misled federal agencies about being involved in a China's Thousand Talents Plan while his research group at Harvard received more than \$15 million in grant funding from the U.S. government. The grants require the disclosure of financial support from foreign governments or foreign entities.

Lieber contended Harvard must cover his counsel fees under its indemnification policy and said exceptions the school cited as precluding him from compensation are too ambiguous. The court rejected Lieber's arguments Monday in upholding a lower court's decision denying a preliminary injunction.

"Lieber argues that the second sentence of the advancement provision is 'confusing' and ambiguous. The sentence to which he refers, however, is entirely straightforward. It provides for the advancement of indemnifiable fees and expenses unless 'it is reasonably likely that the person seeking indemnification will not be entitled to [it],' the opinion reads.

The university said it was "reasonably likely" Lieber wouldn't be eligible for payments under its indemnification policy because he violated other internal Harvard policies by not disclosing his ties to Chinese institutions in financial reports submitted to the school between 2012 and 2019.

Joan A. Lukey of Choate Hall & Stewart, who represented the school, did not immediately return messages seeking comment.

Lieber's attorney, David R. Suny of McCormack Suny, said in an email, "We disagree with the Court's decision, and are assessing options as to next steps."

During oral arguments, Justice Serge Georges took issue with Suny's assertion that Harvard violated a public policy that favors advancement of defense costs to people holding "significant positions of public import." Georges called the argument "really arrogant [and] very elitist."

In its opinion Monday, the court said Harvard's indemnification policy doesn't defy public policy, and instead gives the school broad discretion when deciding whether to cover its employees' legal fees.

"That may or may not be in Harvard's best interest, but Lieber has failed altogether to establish that it violates public policy, such that we could impose mandatory advancement on the school against its clearly stated will," the opinion reads.

During his trial last month, prosecutors said the nanotechnologist signed a Thousand Talents contract in 2012 and Wuhan University of Technology awarded him \$50,000 a month plus \$1.5 million to create a research lab at the school. He didn't report the money to the Internal Revenue Service or disclose it to the Department of Defense and the National Institutes of Health in federal grant applications or in interviews, prosecutors said.

Prosecutors also detailed a post-arrest interview between Lieber and FBI agents in 2020 in which Lieber said "probably I did" sign a TTP contract and that he "shouldn't have had an agreement and accepted money."

The trial was seen as a win for the U.S. Department of Justice's "China Initiative," which began in 2018 under the Trump administration to prevent the perceived theft of taxpayer-funded research by China.

Critics of the initiative worry it could chill scientific collaboration and that it unfairly targets Asian American academics. The strength of the DOJ's "China Initiative" cases have been brought into question, especially after the DOJ last summer dropped charges against five foreign researchers accused of hiding their ties to China's military.

But Lieber's guilty verdict bolsters one view that the government's "China Initiative" cases are strong even when outright economic espionage or intellectual property transfer allegations are absent, some experts said. Lieber was convicted of making false statements, filing false federal income tax returns and failure to report foreign bank and financial accounts.

Avalon Zoppo is an appellate courts reporter for The National Law Journal, an ALM affiliate of the Daily Business Review. Contact her at azoppo@alm.com. On Twitter: @AvalonZoppo.



CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **COUNCIL ZONING MEETING** on **January 26, 2022 beginning at 6:00 PM** to consider an amendment to the City's Land Development Code, Chapter 74, "Miscellaneous and Supplementary Regulations," to revise alcoholic beverage regulations. The City Council will consider this item for **FIRST READING**. The meeting will be held at the **City of Doral, Government Center, Council Chambers located at 8401 NW 53rd Terrace, Doral, Florida, 33166**.

The City of Doral proposes to adopt the following Ordinance:

ORDINANCE No. 2022-04

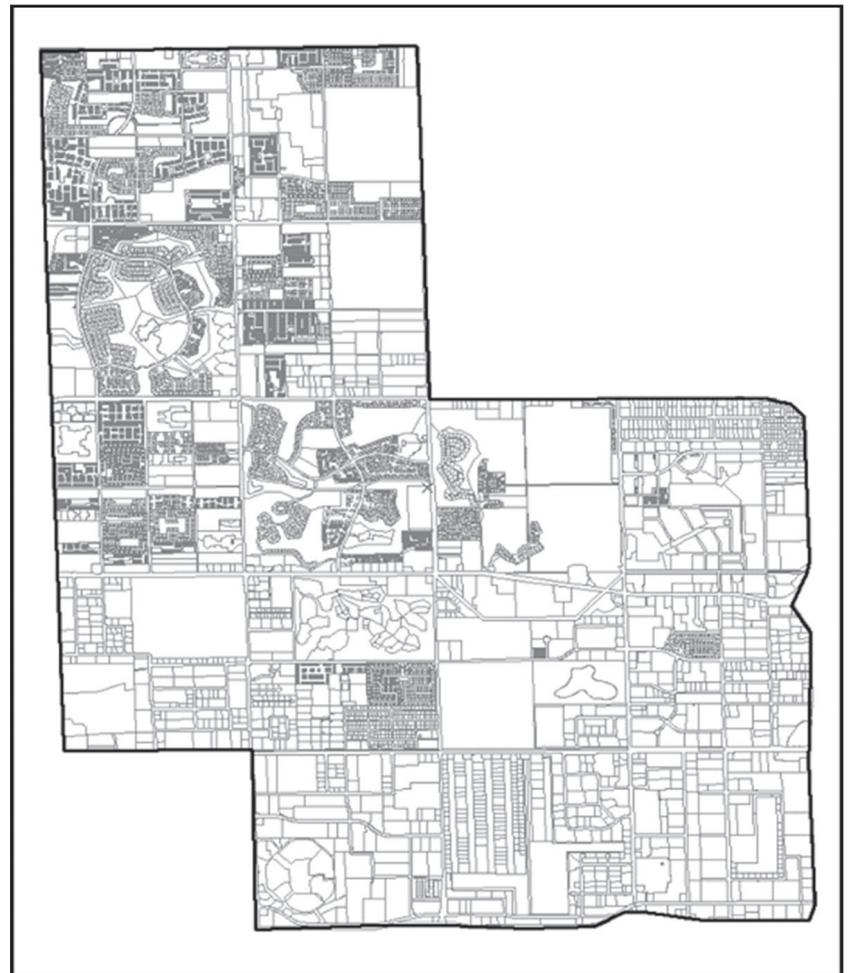
AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING/DENYING A TEXT AMENDMENT TO THE CITY OF DORAL LAND DEVELOPMENT CODE, CHAPTER 74, "MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS," ARTICLE IV, "ALCOHOLIC BEVERAGES," TO REVISE ALCOHOLIC BEVERAGE REGULATIONS; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE

HEARING NO.: 22-01-DOR-09

APPLICANT: City of Doral

REQUEST: The City Manager's Office respectfully recommends that the Mayor and City Councilmembers approve an amendment to the City's Land Development Code modifying Chapter 74, "Miscellaneous and Supplementary Regulations," Article IV, "Alcoholic Beverages," to revise alcoholic beverage regulations.

Location Map



Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

Pursuant to Section 286.0105, Florida Statutes If a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, any person who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

Connie Diaz, MMC
City Clerk
City of Doral