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REC'D @ HEARING
12/18/06

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SHANNON MICHAUD

OF COUNSEL

JAMES W. MURPHY
WAYNE H. SCOTT

December 18, 2006

Via Hand Delivery

Board of Selectmen
Town of Acton
472 Main Street
Acton, MA 01720

Re: 60 Powder Mill Road; Order to Show Cause

Dear Members of the Board of Selectmen and Mr. Johnson:

This office represents Autoplex II, LLC and Acton Suzuki, Inc. ("Suzuki"), the holder of a License to sell new cars at 60 Powder Mill Road, Acton, Massachusetts (the "Property"). We are in receipt of an Order to Show Cause presented by the Selectmen acting as the licensing authority for the above-referenced automobile dealership license through the Town Manager. The License should be renewed and not revoked.

We respond to the Order to Show Cause as follows:

1. **19 Cars On Site.** There are more than 19 cars on site including employees' automobiles. To the extent that the term "19 cars on site" refers to the number of cars for sale, additional cars were shipped to the Property. Once the restriction on the number of cars on the Property was brought to the owner's attention, Suzuki addressed the matter and reduced the number immediately.
2. **Licensed Premises.** Cars are not sold at any other locations by this Dealership.
3. **Occupancy.** Occupancy of the Dealership did not occur until Autoplex II, LLC ("Autoplex II") had complied with all of the requirements within its control required by the Special Permit and the License and had secured the sign off from the Fire Department. Subsequent to the issuance of the Special Permit amendment in August 2006, Autoplex II performed all of the site work within its control, including striping, signage, landscaping and posting a bond. At the time of occupancy, the only two matters of dispute were items outside of Autoplex II's control, namely, the removal of several lights installed by NStar and the execution of a Subordination Agreement by a third-party

Board of Selectmen
Town of Acton
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bank relating to a conservation restriction. Autoplex II informed the Building Inspector personally, and through this office, that NStar does not remove lights without considerable lead time and a work order. From the time NStar was asked to remove the allegedly noncompliant lights until the lights were removed took several months.

4. **Compliance with M.G.L., c. 140, §58.** Suzuki engages in business in accordance with M.G.L., C. 140, §58. Suzuki is not aware of alleged violations of this statute.
5. **Compliance with M.G.L., c. 140, §§57-69.** Suzuki is in compliance with M.G.L., C. 140, §§57-69. Suzuki is not aware of alleged violations of this statute.

Please note that the construction of the building and commencement of the operation of the Dealership on the Property has required considerable time and effort. Suzuki management and employees have experience with other dealerships in Acton and after initial issues with the site and parking, Suzuki believes that it is in compliance with its license. In addition, as stated in my prior correspondence, we seek an amendment to the parking limits set forth in the Special Permit. We trust this information answers your questions.

Please contact me if you have any questions.

Thank you.

Sincerely, *

Richard A. Nylan, Jr.

RAN/kad

cc: Mr. Leo Bertolami
Stephen D. Anderson, Esq. (via email)
Mr. Mark Donohoe



TOWN OF ACTON
Town Manager's Office
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9612
Fax (978) 264-9630
E-mail djohnson@acton-ma.gov

December 13, 2006

HAND DELIVERED BY POLICE DEPARTMENT

Mr. Leo Bertolami, President
Acton Suzuki, Inc.
60 Powder Mill Road
Acton, MA 01720

Subject: License Revocation or Non-Renewal Hearing under Massachusetts
General Laws, Chapter 140, §§ 58-69

DATE: December 12, 2006

Pursuant to the provisions of Massachusetts General Laws, Chapter 140, §§ 58-69, the Acton Board of Selectmen has ordered that you appear at a hearing before the Board at 9:00 p.m. on December 18, 2006, in the Hearing Room on the lower level of the Acton Memorial Library, 486 Main Street, Acton MA 01720, and **show cause** as to why the Board should not order that the Class 1 Agent's or Seller's License for the Sale of New and Second Hand Motor Vehicles for the property at 60 Powder Mill Road, Acton (the "License") should either (a) be revoked or (b) not be renewed when the current License expires on or about January 1, 2007.

You have the right to be present at the hearing, to have a counsel or a representative of your own choosing present for the purpose of advising you, and to speak in your own behalf.

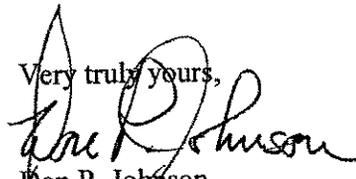
The Board intends to inquire into facts pertaining to the following events:

1. Whether you have knowingly and repeatedly violated the condition in the existing License that the License is limited "to 19 Cars on site."
2. Whether, by parking, storing, or otherwise keeping motor vehicles associated with the licensed business at nearby properties not constituting part of the licensed premises, you have knowingly and repeatedly violated the condition that the licensed premises is limited to 60 Powder Mill Road, Acton.
3. Whether you have occupied the building on the licensed premises in connection with the licensed business prior to the issuance of an occupancy permit by the Acton Building Commissioner.

4. Whether, based on an investigation of the facts stated in the application and other information which the Board may require of you at the public hearing as set forth above, you have failed to demonstrate that you are a proper person to engage in the business specified in General Laws, Chapter 140, §§ 58 in the classification for which you applied, and/or that the premises actually occupied by you for the purpose of carrying on the licensed business in fact is limited to the licensed premises.
5. Whether you have not been and are not complying with General Laws, Chapter 140, §§ 57-69, inclusive, or the rules and regulations made thereunder, in the conduct of the licensed business.

The Board will investigate whether these circumstances warrant a finding that either (a) the License should be revoked or (b) the License should not be renewed when the current License expires on or about January 1, 2007.

A copy of the existing License is attached.

Very truly yours,

Don P. Johnson,
Town Manager

Received: _____
Signature

Date

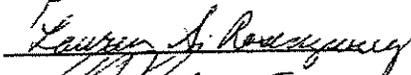
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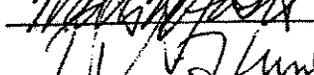
Fee
\$100.00

THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF ACTON
AGENT'S OR SELLER'S LICENSE - CLASS 1.
FOR THE SALE OF NEW AND SECOND HAND MOTOR
VEHICLES

In accordance with the provisions of Chapter 140 of the General Laws with amendments thereto Acton Suzuki, Inc. whose principal business is the sale of new motor vehicles as a recognized agent of Suzuki (or who has a signed contract as required by Section 58, Class 1), is hereby licensed to purchase and sell, as incidental or secondary thereto, second-hand motor vehicles at 60 Powder Mill Road on premises described as follows: Land and Building located at 60 Powder Mill Road with automotive sales, service, offices and showroom and all other items to complete a vehicle dealership. Limited to 19 Cars on Site.

December 23, 2005




THIS LICENSE EXPIRES JANUARY 1, 2007

**THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE UPON THE
PREMISE**