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VIA EMAIL AND HAND DELIVERY:
Zina.cheng@lacity.org

Los Angeles City Council
Planning Land Use Management Committee
200 N. Spring Street
Room 395
Los Angeles, CA 90012
Attn: Zina H. Cheng

Re: Council File 10—0130; Case No. DIR-2009-1885-RV-PA2

Dear Honorable Councilmembers:

This firm represents WB & M, Inc., (“Appellant”)¹, the owner and operator of a business known as *The Liquor Bank* (the “Business”), a neighborhood store located at 3600 Stocker Street (the “Property”) in the City of Los Angeles (“City”) in the above referenced case set to be heard before you on November 21, 2017. The record before you does not support revocation of the land use.

I. BUSINESS MUST NOT HAVE BEEN RESPONSIVE TO RPIOR GOVERNMENTAL EFFORTS AND APPELLANT MUST HAVE FAILED TO DEMONSTRATE WILLINGNESS OR ABILITY TO ELIMINATE PROBLEM FOR REVOCATION TO BE PROPER

Once a use permit has been properly issued or deemed approved, the power of a municipality to revoke it is limited.² Revocation of a vested fundamental right requires substantial evidence that the continued operation of the Business constitutes a public nuisance and the Director must find that: a) prior governmental efforts to cause the owner to eliminate the problems associated

¹ WBM is a California Corporation wholly owned by Mr. Steve Oh.

² Goat Hill Tavern v. City of Costa Mesa, 6 Cal. App. 4th 1519, 1525, 8 Cal. Rptr. 2d 385, 388 (1992)

with the land use have failed, and b) the owner has failed to demonstrate the willingness or ability to eliminate the problems associated with the land use.³

The Business's surrounding area is problematic. The Business is surrounded by a vacant lot, a Jack in the Box, a restaurant, a parking lot, and a nightlife venue. These uses do not stimulate pedestrian activity but encourage loitering. Loitering from the surrounding area contributes to the high crime rate. Appellant has repeatedly worked to address these issues as they relate to the Business. Los Angeles Police Department ("LAPD") representatives have ratified reports that the Business's conditions have been improving.⁴

The recent determination's findings concluded that "substantial compliance has been achieved in the operation of the liquor store".⁵ The findings also state the nuisance activity has significantly decreased since the initiation of the corrective conditions.⁶ Evidence supports the fact that Appellant has substantially complied with the conditions of approval. Minor deviations from the conditions of approval do not merit revocation. Appellant has complied with the conditions in a satisfactory manner and with some minor changes will be fully compliant. Over time, the problems associated with the surrounding area will be reduced or eliminated.

Appellant has demonstrated a willingness to follow all conditions. LAPD's testimony proves area is improving, and most of the conditions of approval are being followed.⁷ Appellant has also substantially invested in satisfying conditions of approval. The recent determination states that none of the deviations from the conditions can be viewed as directly contributing to the nuisance activity.⁸ Appellant is willing and able to eliminate problems.

II. OPERATION OF THE BUSINESS IS A FUNDAMENTAL VESTED RIGHT

The ability to continue operating an established business may be a fundamental vested right if the stakes are not purely economic.⁹ In deciding whether a right is 'fundamental' and 'vested,' the issue is whether the 'affected right is deemed to be of sufficient significance to preclude its extinction or abridgment by a body lacking judicial power.'¹⁰ Prior courts have ruled that when revocation of a right stops a business from functioning, and the Business completely relies on the right, then continued operation of the business is a fundamental vested right.¹¹

The Business has been in operation for decades. Substantial investments have been made in furtherance of the Business. Since purchasing the Business in July 2013, Appellant has made

³ LAMC 12.27.1

⁴ Case No. DIR-2009-1885(RV)(PA2) at 42.

⁵ *Id.* at 60.

⁶ *Id.*

⁷ *Id.* at 42, 58.

⁸ *Id.* at 58.

⁹ *Goat Hill Tavern v. City of Costa Mesa*, 6 Cal. App. 4th 1519, 1525, 8 Cal. Rptr. 2d 385, 388 (1992)

¹⁰ *E.W.A.P., Inc. v. City of Los Angeles*, 56 Cal. App. 4th 310, 325, 65 Cal. Rptr. 2d 325, 334-35 (1997)

¹¹ *Goat Hill Tavern* at 1529.

investments to improve the Business as well as to satisfy the conditions of approval. The parking lot has been restriped, security guards have been hired, and surveillance equipment has been purchased to keep the property under constant surveillance. There have been substantial improvements to the Business in reliance on the use.¹²

Without the right for the off-site sale of alcohol, the Business would cease to exist. If the right is revoked, the Business would close immediately.

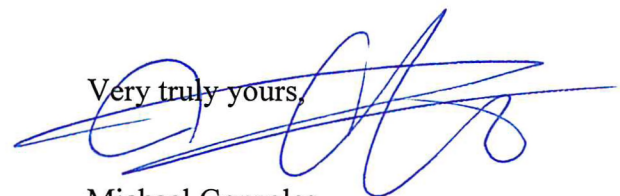
III. SUBSTANTIAL EVIDENCE IS REQUIRED TO PROVE A NUISANCE AND REVOKE THE USE RIGHT

A vested right may be revoked when the *conduct* of that business constitutes a nuisance.¹³ The Council must have substantial evidence that the Business conduct is the cause of the public nuisance to justify revocation. The evidence presented does not provide substantial evidence that the Business creates the area's problems.

The evidence presented tells a story of a problematic area. The recent determination states that none of the "semi-compliant issues can be viewed as directly contributing to the increased nuisance activity".¹⁴ The Business is surrounded by businesses that encourage loitering, as well as a bus stop that an LAPD representative has testified is the biggest problem in the area.¹⁵ Very little of the evidence presented is site specific to the Business. By the ZA's own admission, the evidence does not support that the level of nuisance warrants revocation.¹⁶

For these reasons, revocation of the permit remains unsupported. Appellant will continue to follow all applicable conditions of approval.

Very truly yours,



Michael Gonzales
Gonzales Law Group APC

¹² Case No. DIR-2009-1885(RV)(PA2) at 58.

¹³ *Goat Hill Tavern* at 1530.

¹⁴ Case No. DIR-2009-1885(RV)(PA2) at 58.

¹⁵ *Id.* at 41-42.

¹⁶ *Id.*