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August 19, 2015

Director of City Planning (A)
City of Los Angeles
Department of City Planning
200 North Spring Street, Room 763
Los Angeles, CA 90012

Edwin Monterosa, Jr. (O)
7020 South Broadway
Los Angeles, CA 90003

Juan Barrales Amador (Operator)
El Arroyo Bar
7026 South Broadway
Los Angeles, CA 90003

CASE NO. DIR 2008-3094(RV)(PA3)
REVOCATION OF USE
7026 South Broadway
Southeast Los Angeles Planning Area
Zone : C2-1VL
D. M. : 102B201
C. D. : 9
CEQA : ENV 2015-1627-CE
Legal Description: Lots 71-74, Tract 4791

Pursuant to the provisions of Section 12.27.1 of the Los Angeles Municipal Code, I hereby REQUIRE:

the discontinuance of the operation of a bar with alcohol sales at the establishment known as El Arroyo Bar, located at 7026 South Broadway.

FINDINGS OF FACT

After thorough consideration of the statements, letters and correspondence contained in the file, the report of the Staff Investigator thereon, and the statements made at the public hearing on June 30, 2015, all of which are by reference made a part hereof, as well as knowledge of the property and surrounding district, I find as follows:

BACKGROUND

On June 16, 1994, the Zoning Administrator (Case No. ZA 94-0284(PAB)) approved a Zoning Administrator's determination of conditional use status and approval of plans in conjunction with the on-site sale of beer only in a 3,380 square-foot bar formerly known as Los Amigos Bar and now known as El Arroyo Bar. There were subsequent applications for requests to sell beer and wine for on-site consumption, ZA 2002-4048(CUB)(CUX) and ZA 2003-2234(CUB), that were dismissed as the bar was determined to have deemed-to-be-approved conditional use status. The business conducted at the subject property generated community complaints and allegations which were reported to the Police. Call



and arrest report documentation associated with the use included employee solicitation of alcoholic beverages, unpermitted and illegal dance floor/dance hall use, loitering, assault, threats of assault, illegal gun possession, gunfire, and vandalism. These reports resulted in the initiation of a nuisance abatement action by the City regarding this location.

On March 6, 2009, the Zoning Administrator (Case No. ZA 2008-3094(RV)) determined that the operation of the Los Amigos Bar constituted a public nuisance and imposed corrective conditions. The applicant filed an appeal to the City Council (C.F. No. 09-0920). The City Council sustained the decision of the Zoning Administrator, adopted the findings, and imposed conditions. The effectiveness of compliance with conditions has been reviewed two times by a Zoning Administrator, with hearings held on September 8, 2011 (ZA 2008-3094(RV)(PA1)) and on April 11, 2013 (ZA 2008-3094(RV)(PA2)) on the operation now known as El Arroyo Bar.

On June 27, 2013, the Zoning Administrator (Case No. DIR 2008-3094(RV)(PA2)) denied the applicant's requests to delete all Conditions of Case No. DIR 2008-3094(RV)(PA1), to restore original hours of operation, and to include pool tables and live entertainment. The Zoning Administrator determined that the operation had operated in partial but not full compliance with the terms and conditions set forth in the previous determination. The Owner/Operator filed an appeal that the City Council denied (C.F. No. 13-0919), effective September 23, 2013, sustaining the decision of the Zoning Administrator and retaining corrective conditions on the operation of the El Arroyo Bar.

Condition No. 35 of the determination (Case No. DIR 2008-3094(RV)(PA2)) effective September 23, 2013 states in relevant part:

35. **MODIFIED** - No earlier ~~later~~ than 9 months and ~~no later than 11 months~~ from the effective date of this action, the owner/operator of the subject premises and/or the property owner of the land shall file a Plan Approval with the Office of Zoning Administration together with a filing fee and a mailing list of owners and occupants within 500 feet of the premises to determine the effectiveness of compliance with the conditions herein, and to determine whether additional and more restrictive conditions or, fewer conditions need to be considered for the operation of the facility or whether revocation is appropriate. The matter shall be set for a public hearing.

A letter of Communication – Plan Approval Due/Overdue Covenant and Agreement dated May 2, 2014 was mailed to the Owner/Operator. The Plan Approval application was due by June 23, 2014. As the application was not submitted by the Owner/Operator, the City of Los Angeles submitted an application for Plan Approval on April 29, 2015. This is the third review for Condition Compliance.

Property Description

The property, consisting of four level, rectangular-shaped contiguous lots, has dimensions of 110 feet along the east side of Broadway, 100 feet along the north side of 71st Street and a total area of 11,000 square feet or 0.25 acres in the C2-1VL Zone. The site is

improved with a one-story 2,600 square-foot bar with approximately 24 tables (two to three chairs per table) and 22 bar stools. The bar formerly known as "Los Amigos" is now known as the "El Arroyo Bar". The bar shares the property with an auto stereo and alarm business, which has two buildings attached to the bar and one freestanding building in the northeast corner of the property, along with five striped parking spaces. The parking is accessed off Broadway from a driveway near the northern edge of the property.

Properties to the north are zoned C2-1VL and improved with Xtreme Sounds and Alarms, a single-family home, and the King's Castle Motel. Xtreme Sounds and Alarms is adjacent to the El Arroyo Bar and is located on property under the same ownership.

Properties to the south across 71st Street are zoned C2-1VL and improved with a car wash, a Vida Saludable health store, and a Jack-in-the-Box fast food restaurant.

The property to the east across the alley is zoned R2-1 and is improved with a courtyard-style multiple-family housing property.

Properties to the west across Broadway are zoned C2-1VL and improved with auto repair, auto parts sales, and tire sales uses.

Broadway, adjoining the property to the west is a Major Highway Class II with a width of 100 feet and is fully improved.

71st Street, adjoining the property to the north is a Local Street with a width of 60 feet and is fully improved.

The alley, adjoining the property to the east is improved with asphalt pavement within a 15-foot wide dedication.

Previous zoning related actions on the site/in the area include:

Subject Property

Case No. DIR 2008-3094(RV)(PA2)-1A; Council File No. 13-0919 – On September 10, 2013, the City Council considered an appeal of the corrective conditions imposed on the operation of the El Arroyo Bar located at 7026 South Broadway. Effective September 23, 2013, the City Council sustained the decision of the Zoning Administrator, adopted the findings of the Zoning Administrator as Findings of Council, and retained the imposed conditions. Additionally, the City Council instructed the Zoning Administrator to submit documentation to support findings that the El Arroyo Bar continues to be a public nuisance and to discontinue the use of the property as a bar selling alcoholic beverages.

Case No. DIR 2008-3094(RV)(PA2) – Effective July 13, 2013, the Zoning Administrator, pursuant Condition No. 35 of Case no. DIR 2008-3094(RV)(PA1) dated October 25, 2011, determined that the operation of the El Arroyo Bar (formerly known as Los Amigos Bar) located at 7026 South Broadway, has operated in partial but not full compliance with the terms and conditions set forth in the last

determination. The Zoning Administrator denied a request to delete All Conditions of Case No. DIR 2008-3094(RV)(PA1) and restore original hours of operation from 10 a.m. to 2 a.m. daily in lieu of 10 a.m. to 12 midnight Sunday through Thursday and 10 a.m. to 2 a.m. Friday and Saturday; and a request to restore original operation to include pool tables and live entertainment from 7 p.m. to 11:30 p.m. Sunday through Thursday and 7 p.m. to 1:30 a.m. Friday and Saturday.

Case No. DIR 2008-3094(RV)(PA1) – On October 25, 2011, the Zoning Administrator, pursuant Condition No. 35 of Case No. DIR 2008-3094(RV) dated March 6, 2009, and the Council action effective as of June 29, 2009, determined that the operation of the El Arroyo Bar (formerly known as Los Amigos Bar) located at 7026-South Broadway, had operated in partial but not full compliance with the terms and conditions. The Zoning Administrator retained, added and modified the existing conditions.

Council File No. 09-0920 – On June 16, 2009, the City Council denied the appeal from the entire decision of the Zoning Administrator in imposing conditions with respect to the operation of a bar known as Los Amigos. The City Council sustained the decision of the Zoning Administrator and adopted the findings and imposed conditions.

Case No. DIR 2008-3094(RV) – On March 6, 2009, the Zoning Administrator pursuant to Case No. ZA 2003-2234(CUB), dated July 14, 2003, dismissed the requirement for plan approval for review as thought to have been required under Condition No. 3 of the Zoning Administrator's determination of June 16, 1994 (Case No. ZA 94-0284(PAB)) for a review of compliance with conditions inasmuch as said case subsequently determined that the subject site has deemed-to-be-approved conditional use status. Therefore, the Zoning Administrator imposed the modification of the operation of a bar, known as the Los Amigos Bar, located at 7026 South Broadway, in order to mitigate adverse impacts caused by said operation and to insure that no public nuisance shall be caused by the operation of the use.

Building Permit No. 2003LA43909 (03016-10000-11345) – Issued on June 17, 2003, to comply with an order dated September 6, 2002, to enlarge existing men's restroom in bar/retail use.

Case No. ZA 2003-2234(CUB) – On June 14, 2003, the Zoning Administrator dismissed a conditional use permit and to allow the on-site sale of beer and wine having hours in a 3,380 square-foot bar (Los Amigos Bar) of 7 p.m. to 2 a.m. daily, inasmuch as the bar had been determined to have deemed-to-be-approved conditional use status for the continued sale of alcoholic beverages inasmuch as the bar was in operation and had a beer and wine license being issued prior to March 1, 1977, which is the date used to establish such deemed-to-be-approved status per ZA Memorandum No. 60 (revised March 28, 1996).

Building and Safety Board File No. 020138 – On October 18, 2002, the Board of Building and Safety Commissioners denied the appeal request for an extension of

time for six months, in which to comply with an LADBS' OTC, dated June 28, 2002, regarding the sale of beer and wine for on-site consumption without conditional use approval from the Zoning Administrator.

Order to Comply - Effective June 28, 2002, for violation of Case No. ZA 94-0284(PAB) Condition No. 20, authorizing a grant of two years from effective date of July 1, 1994. The approval expired on July 1, 1996.

Communication – Dated June 21, 2002, the Office of Zoning Administration requested an inspection of the Los Amigos Bar, located at 7026 South Broadway due to expiration of PAB. "Order to Comply", issued for violation of Condition No. 20 of Case No. ZA 94-0284(PAB), which authorizes a grant of two years from the effective date of July 1, 1994.

Case No. ZA 94-0284(PAB) – On June 16, 1994, the Zoning Administrator approved the on-site sale and consumption of beer only in a 3,380 square-foot bar (Los Amigos Bar) with hours of operation from 7 p.m. to 2 a.m., daily due to the applicant's failure to file an application for the above by February 2, 2003.

Permit No. 89LA25449 – Issued in 1989, for building permit for change of use from beer bar only (on-site consumption) to beer bar with one pool table.

Surrounding Properties

Case No. ZA 91-1010(CUZ) – On July 24 1992, the Zoning Administrator denied public dancing in an existing restaurant and bar located in a 2,400 square-foot commercial building in the C2-1 Zone having hours of operation from 4:30 p.m. to 1:30 a.m. daily and serving a full line of alcoholic beverages.

Case No. ZA 89-0848(CUB) – On January 25, 1990, the Zoning Administrator denied the sale of beer and wine for on-site consumption in a 1,467 square-foot restaurant, located at 7212 South Broadway.

Case No. ZA 87-0198(CUX) – On May 12, 1987, the Zoning Administrator approved a conditional use at 7208 South Broadway to permit a dance floor in conjunction with an existing bar.

The Southeast Los Angeles Community Plan Map designates the property for General Commercial land uses with corresponding zones of C1.5, C2, C4, and P.

The property is within the South Los Angeles Alcohol Sales Specific Plan area, the Los Angeles State Enterprise Zone, Council District 9 Redevelopment Project area, the area restricting Stand alone Fast Food Establishments, and subject to the Freeway Adjacent Advisory Notice for Sensitive Uses. The case is not affected.

CORRESPONDENCE AND REPORTS RECEIVED FROM THE LOS ANGELES POLICE DEPARTMENT PRIOR TO THE PUBLIC HEARING

Arrest and Investigative Reports: There were 27 arrest and investigative reports submitted for the property location between December 15, 2011 and May 23, 2015:

1. May 23, 2015, 2:00 a.m. to 3:00 a.m. – Violation of Conditions and Solicitation of Alcoholic Beverages Multiple (4) Arrest Reports – Arrest of operator for employing persons known as “bar girls” or “ficheras” to encourage purchase of alcoholic beverages, and arrest of four suspects charged with solicitation of alcoholic beverages. Officer observed violations of Conditions 8a (only two of three required security guards present), 8b (guard did not check identification), 13 (employee was not wearing a name tag), 16 (dancing took place), 19 (music was played over loud speakers), and 33 (absence of complaint hot line).
2. May 23, 2015, 12:40 a.m. – Violation of Conditions Arrest Report – Arrest of operator for violation of conditions. Officer observed violation of Conditions 8a (only two of three required security guards present), 8c (operator said no security log was kept; one security guard was not keeping a log), 10 (guards did not have radio communication with one another), 12 (security guards had not received STAR training and no documentation was provided for waitresses and bartender who reported STAR training two to three years ago), 13 (business owner was not providing uniforms or name tags to employees, outfit of bartender not consistent with other employees), 16 (dancing occurs at bar), 17 (dance floor was not adequately covered), 19 (operator, security guard, and waitress reported music is played from a laptop over speakers in the wall), 21 (operator does not track number of persons present in bar; security guards did not use counter at the door), 22 (business in operation past 12 midnight on Friday and Saturday; operator, security guard, and waitress reported that bar closes daily at 1:45 a.m. to 2 a.m.), 30 (two exterior lights were non-operational), 31 (operator could not provide a copy of the lease agreement), 33 (lack of complaint hotline), 34 (operator did not know where conditions were; security guards had not been shown operating conditions), 38 (no participation in business or neighborhood watch programs), 39 (area behind the bar was open with door propped open with a garbage can).
3. May 22, 2015, 10:15 p.m. – Solicitation of Alcoholic Beverages Multiple (2) Arrest Reports – Arrest of bartender for employing person to solicit alcoholic beverages and one suspect for solicitation of alcoholic beverages. These are additional arrests to the others arrested later in the evening.
4. May 8, 2015, 9:00 p.m. – Violation of Conditions and Solicitation of Alcoholic Beverages Complaint Application – Complaint against operator and one person observed soliciting alcoholic beverages. Officer observed violations of Conditions 8a (only two of three required security guards present), 8b (guard did not check identification), 16 (dancing took place), 19 (music was played over loud speakers, karaoke took place), and 33 (absence of complaint hot line).
5. May 1, 2015, 9:00 p.m. – Violation of Conditions and Solicitation of Alcoholic Beverages Complaint Application – Complaint against operator and one person observed soliciting alcoholic beverages. Officer observed violations of Conditions 8a

- (only two of three required security guards present), 8b (guard did not check identification), 13 (bartender was not wearing a name tag), 16 (dancing took place), 19 (music was played over loud speakers), and 33 (absence of complaint hot line).
6. August 17, 2014, 1:15 a.m. – Violation of Conditions Complaint Application – Officers observed violations of Conditions 20 (music was audible outside of the premises) and 22 (bar was open illegally at 1:15 a.m.).
 7. August 16, 2014, 12:45 a.m. – Violation of Conditions Complaint Application – Officers observed violations of Conditions 20 (music was audible outside of the premises) and 22 (bar was open illegally at 12:45 a.m.).
 8. August 8, 2014, 10:00 p.m. – Violation of Conditions and Solicitation of Alcoholic Beverages Complaint Application – Complaint against operator for allowing solicitation of alcoholic beverages. Officers observed violations of Conditions 13 (waitress was not wearing a name tag), 16 (dancing took place), 17 (dance floor was not adequately covered), 19 (music was played over loud speakers), 20 (music was audible outside of the premises), and 22 (patrons were not asked to leave at 12:00 a.m.).
 9. October 18, 2013, 9:30 p.m. – Operating Business without Worker's Compensation Insurance Arrest Report – The operator was unable to produce evidence of possessing worker's compensation insurance.
 10. October 18, 2013, 9:00 p.m. – Violation of Conditions and Solicitation of Alcoholic Beverages Complaint Application – Complaint against operator for allowing solicitation of alcoholic beverages. Officer observed violations of Conditions 8c (operator could not produce security log), 12 (security guards had not received STAR training and no documentation was provided for the operator, waitresses, and bartender who reportedly attended STAR training), 19 (music was played over loud speakers), 20 (music was audible outside of the premises), 33 (lack of operational hotline), 34 (operator could not produce copy of the conditions).
 11. September 20, 2013, 11:00 p.m. to 11:22 p.m. – Solicitation of Alcoholic Beverages Arrest Reports (5) – Arrest of two employees for allowing persons to solicit alcoholic beverages and three suspects for solicitation of alcoholic beverages.
 12. September 20, 2013, 11:15 p.m. – Absence of Café Entertainment and Dance Hall Permits Arrest Report – After observation of DJ activity, singing into a microphone, and dancing at the premises, the operator of the business was arrested for a lack of café entertainment and dance hall permits.
 13. September 20, 2013, 11:00 p.m. – Carrying a Baton without a Valid Permit Arrest Reports (2) – Two security guards were arrested for carrying batons without valid permits.

14. September 6, 2013, 10:00 p.m. – Solicitation of Alcoholic Beverages Employee Report – Officers observed solicitation of alcoholic beverages at the location and allowance of solicitation of alcoholic beverages by an employee.
15. August 30, 2013, 10:30 p.m. – Solicitation of Alcoholic Beverages Employee Report – Officers observed solicitation of alcoholic beverages at the location and allowance of solicitation of alcoholic beverages by an employee.
16. August 16, 2013, 9:30 p.m. – Solicitation of Alcoholic Beverages Employee Report – Officers observed solicitation of alcoholic beverages at the location and allowance of solicitation of alcoholic beverages by an employee. Officers also observed dancing on the dance floor.
17. December 15, 2011 to June 2, 2012 – Extortion Investigative Report – Operator received threats from 18th Street gang members that if they were not allowed to sell drugs on the premises, the operator would have to pay a monthly “rent.”

Calls for Service Report: There were 18 calls for service submitted for the property location between June 7, 2012 and June 8, 2015:

- | | | | |
|-----|------------|-------|------------------------------|
| 1. | 5/22/2015 | 21:40 | OFFICER REPORTING LOCATION |
| 2. | 5/21/2015 | 22:31 | OFFICER REPORTING LOCATION |
| 3. | 5/11/2015 | 10:57 | OFFICER REPORTING LOCATION |
| 4. | 5/8/2015 | 21:30 | OFFICER REPORTING LOCATION |
| 5. | 5/1/2015 | 20:32 | OFFICER REPORTING LOCATION |
| 6. | 3/10/2015 | 22:49 | BATTERY JUST OCURRED |
| 7. | 8/8/2014 | 21:50 | OFFICER REPORTING LOCATION |
| 8. | 4/11/2014 | 21:20 | OFFICER REPORTING LOCATION |
| 9. | 2/26/2014 | 18:53 | OFFICER REPORTING LOCATION |
| 10. | 10/18/2013 | 20:29 | OFFICER REPORTING LOCATION |
| 11. | 9/20/2013 | 20:27 | OFFICER REPORTING LOCATION |
| 12. | 8/2/2013 | 22:03 | OFFICER REPORTING LOCATION |
| 13. | 1/6/2013 | 2:02 | BATTERY SUSPECT NOW |
| 14. | 12/23/2012 | 21:09 | INTOXICATED MAN IN VEHICLE |
| 15. | 12/9/2012 | 0:25 | ASSAULT WITH A DEADLY WEAPON |
| 16. | 8/25/2012 | 21:52 | OFFICER REPORTING LOCATION |
| 17. | 8/13/2012 | 2:24 | INTOXICATED MAN IN VEHICLE |
| 18. | 6/8/2012 | 14:44 | OTHER |

COMMENTS OR INFORMATION FROM OTHER AGENCIES

The California Department of Alcoholic Beverage Control submitted the following accusations and decisions:

1. December 2, 2014 – Revocation of License Decision and Certificate of Decision – License revoked for On-Sale Beer and Wine Public Premises, with revocation stayed for a period of three years until December 2, 2017 upon the conditions listed on the stipulation and waiver.

2. November 14, 2014 – Solicitation of Alcoholic Beverages Accusation under Alcoholic Beverage Control Act and State Constitution – Accusation includes 34 counts relating to bar girl activity at the location, the solicitation of alcoholic beverages, and the allowance of the solicitation of alcoholic beverages.
3. November 10, 2014 – Revocation/Suspension of License Stipulation and Waiver for Prehearing Settlement – Should no cause for disciplinary action occur during the stayed period, the stay shall become permanent. If there is cause for disciplinary action during the stayed period, the Director may vacate the stay and revoke the license without further hearing. Additionally, the license was suspended for On-Sale Beer and Wine Public Premises for 40 days.

PUBLIC HEARING

A public hearing was conducted by the Zoning Administrator on June 30, 2015, scheduled for 10:00 a.m. at City Hall located at 200 North Spring Street. In attendance and testifying were the operator's legal representative, representatives of the Los Angeles Police Department, a stakeholder and a representative of the Office of the Ninth Council District.

Prior to opening the hearing to public testimony, the Department of City Planning's staff investigator presented a summary of background information and other pertinent information regarding this location. The presentation was a summary of the investigator's staff report, which is attached to the case file, and of past investigative operations conducted jointly with the Police Department

Correspondence which included citizen declarations identifying impacts associated with the bar use were also received prior to the hearing.

The following is a summary of the points made in public hearing testimony:

Los Angeles Police Department Newton Vice Division– Officer Ercolano

- Have been 4-1/2 years in Vice.
- This is a problem site.
- Conditions were imposed in 2009.
- Problems associated with bar patrons included loitering, defecating parking illegally, vandalism and more.
- Location was opened until 4 a.m. or 5 a.m.
- Bar attracted gang members.
- There were incidents of solicitation of alcoholic beverages.
- In 2013, there is record of violations as follows:
 - 8/17/13 – Solicitation of alcoholic beverages. A “document declaration” created which does not result in arrest.
 - 8/24/13 – Conducted upfront investigation. Violations regarding noise and hours.

- 8/30/13 – Conducted undercover investigation which resulted in three violations including solicitation and (25657) loitering
- 9/6/13 – Conducted undercover operation.
- 9/20/13 – Task force operation with Labor Department, Insurance and Employment Department. Found violations related to security guards who had no permits for carrying batons, solicitation, live entertainment, no dance hall permit, workers' compensation lack of insurance.
- 10/18/13 – Conducted upfront inspection. No proof of workers' compensation. Cited for Labor Code violations.
- In 2014 and 2015, there is record of violations as follows:
 - 8/8/14 – Solicitation by females of alcoholic beverages.
 - 8/16/14 – Violations of noise and hours.
 - 8/17/14 – Violation of hours.
 - 5/1/15 – Undercover operation, violations of security conditions, uniforms for workers, dancing, solicitation and bar girls.
 - 5/7/15 – Newton patrol responded to loud music that neighborhood could hear.
 - 5/8/15 – Undercover operation, included solicitation violations.
 - 5/20/15 – Patrol unit observed that bar was open after midnight, no complaint submitted but documented in log.
 - 5/22/15 to 5/23/15 – Undercover and enforcement operation. Violation of various conditions and Municipal Code regulations, including allowing solicitation, B girls working.
 - 5/22/15 – Operation which also had Planning Department participation. Numerous violations were identified.
 - 6/26/15 – Last week violations were identified regarding security, no name tag, and music audible 50 feet away.
- Operators don't care.
- There is no attempt to follow conditions despite meeting with Newton.
- City had to file plan approval because operator did not follow through.
- Citizen declarations have been submitted which identify excessive noise, graffiti, etc.
- This has been going on for years and it continues.
- There are hard-working people who live in the area.
- Info provided is only for the last two years.
- Request that the alcohol sales be revoked.

Los Angeles Police Department Detective Support Division– Officer Fuller

- 11 years as Police officer.
- 6 years on this case.
- Have worked as patrol officer and in Vice in Newton, also as Senior Lead Officer for area and now in Nuisance Abatement group.
- There have been numerous complaints from neighbors, school and churches.
- Patrons block parking.
- Patrons drink in yards and break glass.
- People are at work and cannot attend today's hearing.

- There are 39 conditions.
- There are 16 ongoing violations of the conditions.
- Newton Division has been excessively lenient with operators
- They have failed to do bare minimum.
- Original plan approval required was not filed within 6 months.
- PA2 resulted in 9 months additional time before hearing.
- PA3 resulted in 14 months additional time before hearing.
- Operators have had 35 extra months of time.
- By now, we should have been at PA5 or PA6 and now would be revocation.
- City Attorney has classified this as a nuisance for six years.
- Operators do not comply with Penal Code or Municipal Code.
- No confidence in operation, it is a B-girl bar.
- There are no more suggested improvements to be made.
- Police have sent package to ABC regarding this issue with the bar.
- ABC can choose not to reissue a license.

Los Angeles Police Department Newton Vice Division– Officer Ercolano

- Do not rely on ABC's action to not issue a license.
- ABC can force operator to sell license and then it is sold to a relative.

Stakeholder – 77th Street

- Member of Neighborhood Council but speaking as community member.
- Raised in the community.
- Kids see trash and walk in area.
- Revoke and shut down bar.
- Working class neighborhood and people take care of families.
- Bar is open during the week.
- It is “disrespectful” to the community and the families and school children.
- Any entity conducting illegal activity needs to leave.

Bar Operator’s Representative – Joshua Kaplan

- Premises have had difficult history.
- There are operational difficulties in complying with the 39 conditions.
- Last 30-60 day period shows that there is substantial compliance
- Use does not constitute public nuisance
- Permittee is here and can answer questions.
- Community members here with no problems noted.
- Submitting photos and other papers to show compliance with conditions:
 - Photo of dance floor showing bolted tables (Cond. No. 17)
 - Speakers are only in premises and connected to juke box (Cond. Nos. 19 and 20)
 - Swinging doors limiting patron access (Cond. No. 39)
 - Signs (Cond. No. 16)

- Sound mitigation, there is vestibule and interior door, recently done. (**ZA Note**: Per the operator, this improvement was done one year ago in 2014)
- Photo of side door provided.
- Signage regarding hot line (Cond. No. 33)
- Signature page of current list of waitresses signed June 28, 2015 (Cond. No. 34)
- Submitting reports of Eureka Security which are maintained by staff. Sampling of only three month period between March, 2015 and June 25, 2015.
- Copies of I.D. cards submitted (Cond. Nos. 8, 9 and 12)
- There are no serious criminal convictions of operator.
- No nexus for community disruption that it is from operators.
- Are those causing problems, proven patrons of the bar?
- Use has had difficult history and made effort and not succeeded in adhering with sufficient compliance.
- Hope to provide one "... last shot opportunity". Give one last chance
- Representative indicated that he was hired two weeks prior to subject hearing.

Office of the Ninth Council District – Paloma Perez-McEvoy

- Thank Police Department for its work over 6 years.
- Operation has failed security, lighting, training, maintaining proper records.
- This hearing had to be initiated by City.
- Operator only fights decision when not in favor but not willing to come in to work at other times.
- Need responsible operators.
- These operators show a lack of respect, there is noise, no hotline, etc.
- Not sure that the operator's representative has seen the site.
- Jukebox use represents a sound violation as speakers are required to be those which come with jukebox.
- There are only two tables bolted which do not impede dancing.
- Hotline – LAPD said hotline number had been taken down contrary to representative's testimony.
- Logs – security unfamiliar with any requirements to keep logs.
- Not sure if any log kept.
- Lack of nexus with violent acts, relieving in public arguments – there is no other establishment which sells liquor within a 500-foot radius

REBUTTAL

Los Angeles Police Department Newton Vice Division– Officer Ercolano

- Operation has not been better within the last 60 to 90 days as asserted.
- Police were there as late as last week.
- There was also a major investigative operation on May 22, 2015 at the site.
- Any effort to change has only happened within the last 1-1/2 weeks

At the end of the public hearing, the record on the matter was maintained open until July 7, 2015 to allow the operator to review and comment further on information in the file and for any other interested party to submit additional information.

There was no information or other correspondence submitted by the operator or his legal representative subsequent to the public hearing.

WRITTEN COMMUNICATION RECEIVED SUBSEQUENT TO PUBLIC HEARING

July 2, 2015 – E-mail from Office Fuller with an attached Officer's Declaration regarding a June 26, 2015 undercover operation referenced at the public hearing. Officer indicates that the following violations were observed: only one security guard when three were required (Cond. No. 8a); no name tag on bartender (Cond. No. 13); jukebox was connected to external speakers (Cond. No. 19); jukebox music audible from s/e corner of 71st Street, approximately 50 feet away from entrance (Cond. No. 20).

July 9, 2015 – Two Citizen declarations of neighbors in support of revocation, citing bar as attracting criminal activity and its ongoing noncompliance with conditions and disregard for community.

REVIEW OF COMPLIANCE WITH THE NUISANCE ABATEMENT CONDITIONS OF CASE NO. DIR 2008-3094(RV)(PA2) EFFECTIVE SEPTEMBER 23, 2013

The following is a review of compliance with conditions based upon testimony at the public hearing, investigative staff visit and staff report and documentation in the file, including Police reports.

Investigative staff conducted a field analysis as part of the condition compliance investigation on May 23, 2015 between 12:30 a.m. and 4:00 a.m., accompanied by approximately 20 Los Angeles Police Department officers. All photos included in the staff report were taken on said date and time. At the time of the investigation, the bar was open to the public, operating in violation of Condition 22. The staff investigator met with the operator on site, as well as with two security guards and one waitress employed by the bar and staff's observations are also included in the compliance review.

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.

STATUS: There is no evidence of any outstanding orders to comply issued by the City for any violation of use, height or area regulations.

2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.

STATUS: Not in compliance. Exhibit A specifically indicated that no dance floor was to be maintained but the bar's layout retains an area where dancing can occur and where the floor is tiled in a manner which can be called out as a dance floor apart from the rest of the floor. Two tables which have been bolted down to prevent dancing do not cover the entire area or prevent the use of the floor for dancing, which has been allowed despite a prohibition.

3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

STATUS: While listed as a condition, this is literally a statement of the Director of Planning's authority, as carried forth by the Zoning Administrator, rather than an obligation or limitation imposed on either the operator and/or property owner. The Zoning Administrator has in the past had the opportunity to amend the conditions, if necessary. At this time, there are no new conditions which can be imposed and there is no reasonable expectation that any new corrective conditions would be any more effective than those imposed to date. The Zoning Administrator has required the revocation of the use as the only remaining course of action given the absence of compliance and of any significant improvement attributable to the bar's operation

4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.

STATUS: Not in compliance. At the time of the site visit, there were six instances of graffiti, five in the alley and one on the side door facing south onto 71st Street.

5. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

STATUS: Administrative condition which has not had to be implemented at this time.

6. The property owner and/or operator of the subject bar shall immediately inform the Los Angeles Police Department (LAPD) if any person is observed or suspected of being engaged in vice or alcohol related criminal activity at the bar.

STATUS: During the site visit, the operator said that there has been no criminal activity at the bar for the past three years. He reported that he last met with LAPD in 2012. Existing arrest reports have been made part of record.

7. The business owners/operators shall obtain all licenses and permits necessary for operating the business at the property, including a liquor license. The property owners shall ensure that their lessee maintains such licenses or permits.

STATUS: The operator has an active State of California ABC liquor license, Code 42 for On-Sale Beer and Wine for Public Premises. The license is set to expire on October 31, 2015. The license was revoked for On-Sale Beer and Wine for Public Premises in December 2014, with revocation stayed for a period of three years until December 2, 2017 due to the solicitation of alcoholic beverages and the allowance of the solicitation of alcoholic beverages. Should no cause for disciplinary action occur during the stayed period, the stay shall become permanent. If there is cause for disciplinary action during the stayed period, the ABC Director may vacate the stay and revoke the license without further hearing. In conjunction with this action, the license was suspended in December 2014 for 40 days for the solicitation of alcoholic beverages at the location. This activity of alcohol solicitation continues as records show.

The site also has an active police commission permit for a pool room, valid through December 31, 2015.

Public dancing is not permitted on the premises and therefore there is no Dance Hall permit which can be legally issued.

8. **MODIFIED** - ~~The property owner and/or operator of the subject bar shall provide at least one (1) security guard on duty at the bar beginning at 7 p.m. until closing. The guard shall monitor the front door of the bar and all patrons as well as check valid identification at the door and patrol the perimeter as necessary.~~

Security guards shall be provided by the property owner and/or operator of the subject bar as follow:

- a. The State licensed guards shall be on duty at the bar beginning at 7 p.m. until 30 minutes after closing as follow:

Sunday through Thursday: two guards
Friday and Saturday: three guards

STATUS: Not in compliance. Initially on the site visit, the operator reported that one security guard was on duty on Sundays through Thursdays and that two security guards were on duty Fridays and Saturdays. He then changed his response to say that there were two guards on Sundays through Thursdays and three guards on Fridays and Saturdays. When asked why there was no third guard present, the operator said that a guard called in sick and that he had tried to get another to come in. Security Guard 1

corroborated the initial reply of the operator that there were only two guards present on Fridays and Saturdays. The waitress, however, stated that there were three security guards on Fridays and Saturdays.

The guards were on duty from 7 p.m. to 2 a.m. every day, according to the operator. He reported that last call is at 1:50 a.m. and that the bar closes at 2 a.m. Security Guard 1 said that one guard arrives at 7 p.m. and that the other guard arrives at 9 p.m. He agreed that they leave at 2 a.m. In contrast, Security Guard 2 stated that the bar closed at 1 a.m. on Sundays through Thursdays although he agreed that the bar closed at 2 a.m. on Fridays and Saturdays. (**ZA Note:** The bar's required closing hour per the City's most recent action is 11 p.m. and 12 midnight depending on the day of the week)

- b. At least one guard shall be located at the front entrance door between 7 p.m. and 30 minutes after closing. The guard shall monitor the front door and all patrons as well as check valid identification and patrol the perimeter as necessary.

STATUS: On the site visit, Security Guard 1 said that normally one guard was stationed at the door to check identification and that the other guard was inside circulating. Security Guard 2 said that identification was checked using a flashlight. No card readers were used. The operator reported the guards do patrol the outside. Security Guard 2, however, said that the outside security guard remains at the door and does not patrol the perimeter.

- c. Security guards shall log status of the patrol area including nuisance activities inside and outside the bar including a parking lot. At a minimum, the log shall include date and time/hours of security patrol, names of the guards and their respective patrol area, incidents occurred and actions taken. The security log shall be kept on the premises, made available to the responsible agencies upon request, and shall be submitted with the required plan approval application.

STATUS: Not in compliance. On the site visit, the operator said that he has no knowledge of security logs being kept. Security Guard 1 reported that no security logs were kept and that they were not keeping track of guard arrivals or departures. Security Guard 2 said that he keeps a personal notebook at home and that there have not been any incidents since March 11, 2015. He then produced a single sheet of paper with an entry for March 11, 2015 indicating his name, a start time of 7 p.m., a closing time of 2 a.m., and that there were no security issues on that day. At the public hearing, the operator's representative submitted eight entries for eight days between March 22, 2015 and June 19, 2015 with notes from the security guards. At least on four of days, the entry logs prepared by the security indicate a closing hour between 1:45 a.m. and 2 a.m., which is a violation of the required 11 p.m. and 12 midnight closing hour for respective days of the week.

- d. The guard shall not conduct any other activities while employed at the premises other than those of a security guard, which includes checking identification and escorting undesirable patrons off the premises. The security guards shall maintain order and prevent activity that would interfere with the quiet enjoyment of the surrounding properties and the owners, tenants and visitors of those properties. The guard shall be responsible for preventing loitering and any criminal activity on and around the restaurant including public drinking, littering, trespassing, transactions involving controlled substances, and other illegal and public nuisance activities. If unlawful activity on the property or on the sidewalk relative to loitering, drinking alcoholic beverages, or for solicitation of sex or drugs is observed or reasonably assumed, then the guard(s) shall verbally request such persons to leave the area. The guard shall request the assistance of the Los Angeles Police Department if, based upon the guard's training, the situation so warrants.

STATUS: On the site visit, the operator said that the guard at the door searches male patrons but not female patrons. He also reported that the inside guard checks for intoxication and cuts patrons off if they appear to have had too much to drink.

Within 30 days of the effective date of this determination, the business operator shall provide a copy of the executed contracts for security guards to the Zoning Administrator. The contracts shall include the minimum security service requirements as required by this condition. The contract shall include the names of the security firm and guards, their working hours and copies of their State guard licenses.

STATUS: Not in compliance. There is no record of contracts submitted for the file. On the site visit, when asked to provide security guard contracts, the operator replied that contracts were available but not on site. Staff was not presented with copies of executed contracts, but the operator did provide a copy of an invoice for services from Eureka Private Security Patrol Inc. dated September 28, 2014. The invoice shows billing for 50 hours apparently for the time period between September 21, 2014 and September 28, 2014.

9. All security guards working at the bar shall be licensed by the California Bureau of Security and Investigative Services and shall be employed by a licensed private patrol operator (i.e., not an employee or family member of the property owner or the bar).

STATUS: Each of the two guards provided a copy of an active State of California Guard Registration Card.

10. The security guards working at the bar shall comply with the requirements of the California Business and Professions Code Section 7582.26(f) which requires that guards wear a distinctive uniform, with a patch on each shoulder reading "private security", containing the name of the private security company for which the guards

are employed. The guard shall possess his or her guard permit at all times with photographic identification and present them to law enforcement personnel upon request. Guards shall have radio communication with each other.

STATUS: During the site visit, the security guards wore distinctive uniforms with a patch on each shoulder that read "Eureka Private Security, Inc. Patrol." Each guard provided a copy of his guard card along with photographic identification when asked. Guards did not have communication with one another by radio.

11. The security guards working at the bar shall be given adequate training and clear instructions to enforce applicable conditions and uphold the law.

STATUS: No information was available on the type of training and instructions received.

12. **MODIFIED** - Within ~~60~~ 30 days of the effective date of this action, the property owners, business owners/operators, security guards and bar employees shall attend Standardized Training for Alcohol Retailers (STAR) session sponsored by the Los Angeles Police Department [LAPD] to be conducted in Spanish. The property owners and business owners/operators shall maintain proof of each employee's attendance and have it available on the premise for inspection by the Los Angeles Police Department or Alcoholic Beverage Control. The property owner and/or operator of the subject bar shall require subsequent hires to attend the STAR training program within ~~60~~ 30 days of their date of hire. ~~A copy of proof of STAR training attendance shall be submitted to the Zoning Administrator.~~

All employees shall attend follow-up STAR classes every 24 months.

Within 30 days after the effective date of the subject determination, a list of employees and security guards, their hire date and written confirmation of their STAR training shall be submitted to the Zoning Administrator and shall be retained on the premises at all times and be immediately made available upon request of any Los Angeles Police officer or Department of Alcoholic Beverage Control investigator.

STATUS: Not in compliance. The operator replied that he has complied with the requirement for STAR training for all seven employees, including security guards, but that he did not have the documentation available at the time of the site visit. He said that he normally would have the documentation, but due to a recent cleaning, the documents had been moved elsewhere.

Security Guard 1 said that he had been working at the location for two months and that he had not received any STAR training. Security Guard 2 replied that he had been working at the location for 13 months. He was aware of STAR training, but said that he did not go through it. The waitress said that she had been employed at the location for over two years. She said that she went through STAR training approximately two years ago.

No proof of STAR training was submitted at the hearing or after the hearing by the operator or his representative. At the hearing, the representative submitted a certificate of completion of alcohol training (California Responsible Beverage Service Training) issued to one security guard. The training was completed on June 25, 2015, **five days before the hearing on this matter** and it consists of training by an entity which is not the one required by this condition which requires the Police Department sponsored program.

13. The property owner and/or operator of the subject bar shall require all employees working in the capacity of a waitress or bartender to wear a uniform and a name tag. The business owner/operator shall provide uniforms and name tags for all bar employees.

STATUS: The operator said that the employees are in charge of their uniform and decide every two days what it is going to be, usually alternating between black/red and black/white. All employees appeared to be dressed in black and white at the time of the site visit and all employees appeared to be wearing name tags. The waitress said that the employees buy their own uniforms and buy their own name tags.

14. Signs shall be prominently posted in English and Spanish stating that California State Law prohibits sales of alcoholic beverages to persons who are under 21 years of age. Said signs shall be posted by the business owner/operator. The signs should state in at least 2-inch letters: "No Loitering or Public Drinking"; signs shall be posted outside of the location. The said signs shall be in English and Spanish.

STATUS: Signs are prominently displayed in English and Spanish that alcoholic beverages will not be sold to persons under 21 years of age. A sign that says "No Loitering or Public Drinking" in English and Spanish is posted on the exterior of the building facing to the south.

15. Signs shall be prominently posted in English and Spanish stating that California State Law prohibits the soliciting of alcoholic beverages 303(b) PC. Said signs shall be posted in the owner/operator facility and visible to patrons.

STATUS: On an interior wall of the bar near the jukebox, a sign was posted in Spanish prohibiting the solicitation of alcoholic beverages. There were no similar signs in English.

16. The bar shall prohibit dancing at the bar.

STATUS: Not in compliance. The operator reported that there has been no dancing at the bar since 2012 when two of the tables were bolted down to the dance floor area of the bar. Both security guards said that there was no dancing in the bar and that it was not allowed. The waitress, in contrast, said that there was dancing on occasion. Police records show that the location has been cited for dancing on many occasions and as recent as May, 2015. The two bolted tables do not impede

dancing due a large part of the floor remaining open which can be still used for dancing

17. **MODIFIED** - The "dance floor" area of the bar shall be covered up (~~e.g., tables added~~) by tables, chairs and other items affixed to floor to discourage non-permitted dancing.

Within 30 days from the effective date of the subject determination, evidence of compliance with this condition shall be submitted to the Zoning Administrator.

STATUS: Two tables have been bolted down in the dance floor area. Three other tables were located along the wall of the dance floor but were not bolted down. Each table had two to three chairs around it but none of these were bolted to the ground. If all non-affixed tables and chairs were removed from the dance floor area, leaving the two affixed tables, there would be adequate space for dancing. The operator stated that the State of California Alcoholic Beverage Control only required two tables to be bolted down.

18. Signs in English and Spanish shall be posted indicating "No Dancing Allowed." The signage shall have lettering of at least 2 inches in height.

STATUS: A sign was posted prominently above the bar prohibiting dancing in English and Spanish.

19. **MODIFIED** - ~~Amplified music shall not be audible outside of the bar or property.~~ No amplified music, No no live entertainment, including any band, musicians, karaoke or DJ, is permitted. No speakers shall be attached to the jukebox/stereo equipment other than what was provided by the manufacturer.

Within 30 days from the effective date of the subject determination, evidence of compliance with this condition such as removal of existing speakers, etc., shall be submitted to the Zoning Administrator.

STATUS: Not in compliance. The operator and the waitress both said that there was no karaoke at the bar. There were two speakers that had been on stands along the western interior wall of the bar that had been moved one year and eight months prior to May 23, 2015 into the eastern interior wall, according to the operator. There is an additional speaker underneath a television along the eastern interior wall. The external speakers are not those provided by the manufacturer for a jukebox.

The operator, waitress, and Security Guard 1 each said that patrons usually play the jukebox during the first part of the evening. Sometimes the jukebox alone is used all night, according to the operator. The waitress reported that usually around 11 p.m. patrons stopped using the jukebox. At that point the operator plays music over a laptop that is connected to the two speakers in the eastern interior wall. In contrast, Security Guard 2 said that there was only music from the jukebox and that there were no external speakers.

20. A single jukebox or stereo may be maintained at the bar. However, the music shall not be audible outside of the premises.

STATUS: Not in compliance. At the time of the site visit, the music had been turned off. It was not possible to ascertain whether the music would have been audible outside of the premises under normal operating conditions. However, the Police indicated that on an undercover visit to the bar on June 26, 2015, the music was clearly audible approximately 50 feet away from the bar entrance.

21. The business owner/operator shall ensure adherence to the maximum occupancy for the premises (security shall use a counter at the door).

STATUS: The operator said that the occupancy limit was 98 but that usually there are approximately 50 people at any given time. He said that the security guards keep track of how many people have entered by making a notation on a piece of paper. According to both security guards, they do not use a counter at the door. Security Guard 1 said that they have no way of tracking how many people enter the premises.

22. **MODIFIED** - The hours of operation shall be limited to 10 a.m. to 42 ~~midnight~~ 11 p.m., Sunday through Thursday and 10 a.m. to 2 ~~12 midnight~~ 12 midnight Friday and Saturday.

STATUS: Not in compliance. The site visit occurred at 12:30 a.m. while the business was in operation. According to the operator, the business opens its doors at 6:50 p.m. He said that last call for alcohol is 1:45 a.m. and the bar is cleared out at 1:55 a.m. every day. In contrast, Security Guard 2 said that the business closes at 1 a.m. on Sundays through Thursdays. Both security guards said that the business closes at 2 a.m. on Fridays and Saturdays.

23. There shall only be one "public" entrance to the location. Other doors shall be designated as "employee only" entrances and used by bar patrons only to evacuate the building in case of emergency.

STATUS: There is only one public entrance to the bar. The other doors are marked "No Public Entry, Employees Only" on the outside.

24. Loitering is strictly prohibited on or around these premises or the area under the control of the business owner/operator. The property owner and/or operator of the subject bar shall not permit any person, including bar occupants, to loiter (i.e., standing idly about or lingering aimlessly) in the areas adjacent to the bar. Bar patrons shall be asked to leave the area after the bar closes. Individuals loitering on the sidewalk directly in front of the bar's main entrance shall be instructed to move away from the area.

STATUS: The operator said that the security officers tell people to leave the premises if they are loitering.

25. The property owner and/or operator of the subject bar shall post and maintain the following signs at each entry point or approach to the property; the signs should say, in English and Spanish:

"NO TRESPASSING, NO LOITERING, NO DRUGS, NO DRUG DEALERS, NO PROSTITUTION, NO WEAPONS, NO DRINKING OF ALCOHOLIC BEVERAGES IN PUBLIC. THE LOS ANGELES POLICE DEPARTMENT MAKES REGULAR AND FREQUENT PATROLS OF THIS PROPERTY."

The signage shall have lettering of at least 2 inches in height.

STATUS: The signs are posted.

26. Persons shall not allow anyone to trespass on the property. The property owner and/or the operator of the subject bar shall post and maintain signs in English and Spanish at each entry point or approach to the property warning against trespassing. The signage shall have lettering of at least 2 inches in height.

STATUS: The signs related to Condition 25 prohibit trespassing.

27. The property owner and/or operator of the subject bar shall install and maintain a video surveillance system to capture and record images on the property and the sidewalk surrounding the property. The property shall be posted with signs in English and Spanish indicating use of a surveillance system. The property owner and/or operator of the subject bar shall routinely monitor the cameras and keep tapes for at least three weeks before re-recording. These tapes shall be kept and made available tapes to LAPD officers upon request.

STATUS: A posted sign in English and Spanish indicates that the property is under surveillance. There are eight operational security cameras, six on the inside and one on each side along Broadway and 71st Street. Security footage is recorded digitally and kept for 15 days, according to the operator.

28. No pay phones shall be maintained on the interior or exterior of the property.

STATUS: No pay phones were apparent on the site.

29. No food vendor shall be allowed to sell, give away or operate on the premises under the control of the property owner or business owner/operator.

STATUS: The operator said that there is a gentleman who stops by the bar to sell peanuts. He reportedly had come to the bar on the evening of the site visit. The operator then changed his response to say that the gentleman gives out the peanuts for free. The waitress said that no food was served. Staff observed one-ounce containers of peanuts on the tables.

30. The property owner and/or operator of the subject bar shall install lights to illuminate the front of the bar and any adjacent parking lot area of the bar for crime prevention. Any damaged or worn out lighting shall be immediately replaced. All lighting shall be directed on-site. All exterior lighting shall be to the satisfaction of the Los Angeles Police Department and the Department of Building and Safety.

STATUS: Not in compliance. There was one operational light along the west side of the property along Broadway and one operational light facing 71st Street along the south side of the property on the eastern end. There was a nonfunctioning light along the south side of the property near the entry to the bar on the west, creating dark conditions immediately around the nonfunctioning light. When asked if he was aware one of the lights not working, the operator said that he believed they were all functioning normally.

31. The property owners and/or operator of the subject bar shall provide a copy of any and all lease agreements to the City Attorney's Office or to law enforcement personnel upon request.

STATUS: Not in compliance. When asked to provide a copy of the lease agreement, the operator responded that it was located in his car which was not on site.

32. The property owner and/or operator of the bar shall install a mechanical ventilation or air conditioning system, to the satisfaction of the Department of Building and Safety. This system shall be of sufficient power to cool the inside of the premises to such a degree that it will not be necessary to open the entrance and exit doors to achieve ventilation of the establishment.

STATUS: In compliance. Air conditioning was functioning at the time of site visit. A thermostat indicated that it was set to 75 degrees.

Procedure Conditions

33. **MODIFIED** - A "hot line" phone number available during hours of operation for the receipt of complaints from the community regarding the subject facility shall be posted at the entry of the bar with lettering at least 2 inches in height. The "hot line" number shall be available for callers to report to the management of the subject premises any nuisance activities originating from the premises. The phone number shall be distributed to all abutting property owners and tenants and to any other interested parties including homeowner groups who request such information.

The hot line shall be responded to within 24 hours of any complaints/inquiries received on this hot line, and documented in a log and available for review by the Los Angeles Police Department and the Zoning Administrator upon request on when the calls were received, returned and the action taken at a minimum.

Within 30 days from the effective date of this determination, the hot line number, and evidence, showing that such a number was distributed to all abutting property

owners, tenants and interested parties, shall be submitted to the Zoning Administrator (e.g., addresses and owners/tenants' signatures of the abutting properties indicating that the hot line number was provided to them etc.).

STATUS: Not in compliance. At the site visit, the operator reported that there had been a sign on the door for a hotline that had his personal cell phone number. He said that he had received no complaints and that he had been receiving calls asking if the bar was open for business after it had closed for the evening. He took the sign down approximately four months prior to May 23, 2015. The operator said he had business cards printed with the hotline number and passed them out to neighboring properties. When asked if he could provide an example of the cards, he could not do so, saying that he had distributed all the cards.

34. **MODIFIED** - The operator shall make available a copy of these conditions to all employees of the bar and shall train them to insure that compliance with the conditions is monitored and enforced.

Within 30 days from the effective date of this determination, a statement signed by the employees and security guards stating that they reviewed and agree to comply with the conditions shall be submitted to the Zoning Administrator.

STATUS: Not in compliance. When asked at the site visit if he could provide a copy of the conditions, at first the operator stated that he had never received them. When pointed out that the previous Letter of Determination had been appealed, the operator said that the conditions are usually kept in the office or by the register. He didn't know where the conditions were at the time of the site visit, however, because of a cleaning that had occurred in which documents such as these had been moved. He said that all employees had seen the conditions and that he had not hired new employees recently. There was no statement provided that employees and security guards agreed to comply with the conditions.

At the public hearing on June 30, 2015, the operator's representative submitted a form indicating that the undersigned had read and would comply with all operating conditions imposed by the City of Los Angeles. It was signed by five individuals with one identified as a waitress and another as a security guard. The form had been signed June 28, 2015, two days before the public hearing on this matter.

35. **MODIFIED** - No earlier later than 9 months ~~and no later than 11 months~~ from the effective date of this action, the owner/operator of the subject premises and/or the property owner of the land shall file a Plan Approval with the Office of Zoning Administration together with a filing fee and a mailing list of owners and occupants within 500 feet of the premises to determine the effectiveness of compliance with the conditions herein, and to determine whether additional and more restrictive conditions or, fewer conditions need to be considered for the operation of the facility or whether revocation is appropriate. The matter shall be set for a public hearing.

STATUS: Not in compliance. A letter of Communication – Plan Approval Due/Overdue Covenant and Agreement dated May 2, 2014 was mailed to the

Owner/Operator. The Plan Approval application was due by June 23, 2014. As the application was not submitted by the Owner/Operator, the City of Los Angeles initiated an application for Plan Approval on April 29, 2015.

~~36. Within 30 days of the effective date of this action, the business owner and/or the property owner shall reimburse the City for the costs required to conduct and process the subject nuisance abatement action pursuant to Section 19.01 P of the Los Angeles Municipal Code. A check in the amount of \$2000 shall be paid to the City of Los Angeles with confirmation of payment made to the Zoning Administrator within this same time period. [DELETED BY PA1]~~

37. **Within 30 days of the effective date of this determination**, the owner of the subject property shall record a covenant and agreement with the County Recorder, in a manner suitable to the Zoning Administrator, containing all of these conditions. This Covenant and Agreement shall be maintained in full force and effect at all times that the subject bar is in business and shall not be terminated unless approved by the Zoning Administrator. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file. The City will record the covenant if the property owner does not comply with this condition as required.

STATUS: Not in compliance. A covenant, which should have been recorded by the property owner, was instead recorded by the City of Los Angeles on June 18, 2014 with the Los Angeles County Recorder and attached to the DIR 2008-3094(RV)(PA2) case file.

38. **ADDED** - The operator shall join and actively participate in the efforts of any local business neighborhood watch and shall meet with Newton Area Vice Unit representatives of the LAPD on an as-needed basis to receive appropriate training and information regarding ABC laws and procedures.

STATUS: Not in compliance. The operator stated that he went to the Newton station on April 27, 2015 to meet with LAPD. He said that he did not participate in any local business neighborhood watch programs.

39. **ADDED** - The bar floor area shall be enclosed for controlled access by employees only. No patrons shall be permitted inside the bar area.

Within 30 days from effective date of this action, evidence of compliance with this condition shall be submitted to the Zoning Administrator.

STATUS: There was a set of swinging 2-foot high doors that could be used to enclose the bar area and separate it from patrons. At the time of the site visit, however, one side was propped open with a garbage can. At the public hearing, the operator's representative submitted a photo of the closed swinging doors.

AUTHORITY

On October 27, 1997, under Ordinance No. 171,740, Section 12.21-A, 15 was repealed and superseded by Section 12.27.1 which continued the established procedures for the modification, discontinuance or removal of a use, building or structure that constitutes a public nuisance or endangers the public health or safety or violates any provision of City, State or Federal statutes or ordinance.

FINDINGS

The Director may require the discontinuance or revocation of any use or discretionary zoning approval if it is found that the use or discretionary approval as operated or maintained:

1. **Jeopardizes or adversely affects the health, peace or safety of persons working or residing in the surrounding area.**

The record, including arrest reports, correspondence and testimony at the public hearing, indicates that there have been continuous documented, repeated violations of the conditions imposed by the Office of Zoning Administration and the City Council as part of its most recent review of conditions under DIR 2003-3094(RV)(PA2). Numerous investigations by the Police Department have provided a record of activities which have taken place at the site after the imposition of conditions which constitute violations of conditions imposed by the latest City action as well as violations of State provisions related to the alcohol license which have even led the State to revoke the alcohol license but stay its enforcement. The use has continued to impact the surrounding area and has resulted in the continuation of nuisance activities that affect residents and that have placed a heavy demand on limited Police resources.

There has been an absence of diligent oversight regarding the effective monitoring of activities and compliance with conditions. The operators have consistently shown a disregard for adherence to the most critical conditions. This includes ongoing noncompliance with the operating hours which causes additional impacts on surrounding uses when extended hours are maintained. Additionally, noise impacts have been documented as these relate to conditions associated with the use of a jukebox and its non-permitted use of external speakers. A vestibule which was noted at the hearing to have been recently improved to mitigate noise was in fact remodeled a year ago. Records show noise violations as recently as June, 2015, so claims that such changes addressed the noise are not evident. There have also been complaints about patrons' activities in the area and particularly on neighbors. Security has not been provided as required, which if effectively conducted could have been purposed to mitigate impacts on the community. Such conduct deprives residents and other community members of their rightful ability to enjoy their neighborhood.

At the most recent hearing, Police officers testified as to the impacts as further attested by arrest reports and investigations. The absence of any aggressive and responsible management has resulted in the continuing demand for Police activity and investigations. A review of the arrests and investigations demonstrates that there has not been a significant improvement since the prior review. Police resources have been consumed by investigations and monitoring of the location. Investigations and arrests have repeatedly involved employees which does not establish a level of confidence that any adherence to conditions and improvement in oversight of the bar's operations will be forthcoming from management or the ownership.

Dancing continues to be conducted despite conditions prohibiting it and a minimal attempt to bolt down to tables to the floor which does not preclude the use of the area for dancing. Prior Planning action, outside of the revocation process, dating back to 1994 (ZA 94-0284 PAB), determined that the bar had no status or "grandfather rights" to conduct any dancing without a conditional use. This has been reaffirmed subsequently in a condition of the revocation and the activities continue without any effort to curtail or control by the operator.

The use of B-girls has also been a regular activity associated with the bar operation, which continues with the evident full cooperation of the operator, despite conditions and posted signs prohibiting such activities in the bar. Investigations and past records, including an action brought forth by the State's Department of Alcoholic Beverage Control regarding the use of B-girls, have been ongoing for years without any evidence that B-girls have been prohibited on the premises.

Based upon this volume of record and testimony, the operation of the bar and its alcohol sales continues to adversely affect the public health, peace and safety of persons residing and working in the surrounding area.

2. **Constitutes a public nuisance**

Members of the Los Angeles Police Department as well as the Office of the Ninth Council District have indicated that the use has generated a need for continued investigations which is a drain particularly on the Police Department's resources. The substantial allocation of resources to this one location impacts the ability of the Police Department to effectively allocate the remaining available resources to the rest of the community. The representative of the Council district also indicated that the Office has received complaints regarding the use and submitted additional Citizen Declarations.

There are spillover impacts which affect the neighborhood at large. The bar's lack of oversight has contributed directly and indirectly to the nuisance impacts in the vicinity. The consistent violation of operating hours places an additional burden on the surrounding vicinity which absorbs late night departures and associated nuisance activities that may be created by patrons. The use of security guards, as required by conditions, has been inconsistent with that required by the condition of the recent Plan Approvals. On many occasions, the Police have observed the

absence of the required number of guards, which limits effectiveness in deterring nuisance activities, assuming that the guards would be proactive. No effort has been made to curb impacts by the business and the property owner. Recent attempts to show compliance by submitting "evidence" at the public hearing are last-minute attempts which are not in the spirit of the original intent of establishing and complying with conditions.

The establishment continues to be a public nuisance with no indication that its operators, who have had so many opportunities in the past, would in good faith be able to manage the bar in a manner that complies with all previously-imposed conditions of operation.

3. **Has resulted in repeated nuisance activities.**

The Police investigations have revealed ongoing violations of the conditions imposed by the City, including non-compliance associated with hours of operation, security, solicitation of alcohol, employment of B-girls, noise impacts, dancing, graffiti, maintenance of records and required STAR training. No evident attempt by the property owner, operator and employees has been made to abide by all the conditions despite repeated warnings, visits and arrests made by the Police as well as formal proceedings related to prior Plan Approval reviews. The weight of the evidence, both written and oral, as well as the number of arrests and calls for service, clearly demonstrates the ongoing nuisance activities of the location and a lack of action by the operator and property owner to discourage nuisance activity. The operator has not conducted the business in a manner which is responsive to the imposed conditions and has shown no attempt at a genuine committed effort to improve the operation of the bar.

4. **Violates any provision of this chapter, or any other city, state or federal regulations, ordinance or statute**

The record includes a detailed account of Police investigations and arrests as well as the repeated documented violations of conditions imposed by the City. There are also documented violations of the State provisions regarding the alcohol sales license.

Further, as noted in testimony and documents submitted to the file, the State's Department of Alcoholic Beverage Control (ABC) filed an "Accusation Under Alcoholic Beverage Control Act and State Constitution" on December 2, 2014 against the operator and bar. The filing asserts that there is cause for suspension or revocation of the alcohol license and alleges that the continuance of the license would be contrary to public welfare and/or morals. The filing generally cites licensee as hiring females for purposes of procuring or encouraging the purchase or sale of alcoholic beverages or paid such person a percentage of the purchase sale price and of allowing said females to loiter for these purposes. The filing cites at least ten different incidents of this occurring between August 16, 2013 and September 30, 2013. In certain of the incidents it also names the bar employee who permitted such activities to occur. A follow-up Decision and Certificate of Decision was issued

which indicates that the State revoked the alcohol license but that it stayed the revocation for a period of three years until December 2, 2017 upon certain conditions and waivers agreed to by the operator.

5. **Prior governmental efforts to cause the owner or operator to eliminate the problems associated with the use or discretionary zoning approval have failed (examples include formal action, such as citations, order or hearings by the Police Department, Department of Building and Safety, the Director, Zoning Administrator or City Planning Commission, or any other governmental agency)**

The City has conducted at least five public hearings, including the appeal hearings to the City Council, regarding the public nuisance problems associated with the bar. The first revocation hearing was conducted on September 4, 2008 by a Zoning Administrator. The decision issued pursuant to said hearing resulted in the imposition of a number of conditions. At the time, there was a different operator but the same property owner as today. Said case was appealed to the City Council by the operator and property owner. The appeal was denied by the City Council. Subsequently, the Zoning Administrator conducted a follow-up public hearing for the review of conditions on September 8, 2011 by which time the current operator had acquired the business. There was no appeal of the action issued by the Zoning Administrator pursuant to said hearing. A required subsequent hearing was conducted by the Zoning Administrator on April 11, 2013. The decision issued pursuant to said review was appealed to the City Council which denied the appeal. Both reviews found that there had been partial but not full compliance with the conditions of operation.

The current business operator and his legal representative attended the most recent hearing. No other constructive measures were proposed by the operator or property owner. All parties were given an opportunity to review the file and comment subsequent to the hearing with a deadline for comments announced at the hearing. No further information was provided on behalf of the operator or property owner after the hearing.

There has been no discernible improvement of the operation, even after the repeated actions of the Police Department with respect to its investigation and arrests. There has also been no demonstrable effort to correct or address any of the violations identified. Therefore, the Zoning Administrator concludes that the business owner and the property owner have failed to comply with the most significant conditions imposed and have further violated other State regulations as these pertain to the alcohol license which has led to a stayed revocation of said license. There have been numerous opportunities given the owner and the operator to show that an attempt to comply was attempted with no positive results. There is no evidence indicating any substantial improvement in the operation of the bar. There has also been no reduction of City resources needed to respond to or to monitor the operation.

6. **The owner or operator has failed to demonstrate to the satisfaction of the Director, the willingness or ability to eliminate the problems associated with the use or discretionary zoning approval.**

There has been no demonstrable effort shown by the operator or owner to comply or try to understand more thoroughly the significance of the terms and conditions of the nuisance abatement actions issued by the City. This action does not prevent the location from operating other commercial use permitted by the underlying zone. The bar operation has created ongoing problems for the community and for the limited Police and City resources. The track record of compliance remains unchanged. No effort was made by the operator or the property owner to pursue compliance or insure that the most significant conditions were observed. Therefore, revocation of the bar use with alcohol sales is warranted and necessary.

The Zoning Administrator hereby finds, on behalf of the Director of Planning, that the record and the repeated administrative attempts made to improve the operation of the bar, with its alcohol sales, have not resulted in the elimination of the problems associated with the use. The use of the property as a bar with the sale of alcohol is hereby ordered discontinued.

It is the purpose of these proceedings, under Ordinance No. 171,740, to provide a just and equitable method to be cumulative with and in addition to any other remedy available for the abatement of public nuisance activities.

It is further determined that the instant action by the Zoning Administrator is in compliance with Section 12.27.1 of the Municipal Code and has been conducted so as not to impair the constitutional right of any person. All of the procedures followed as a part of this action conform to the Municipal Code. The property owner and the operator of the premises have been provided notice of these proceedings and have been afforded the opportunity to review the file in advance of the hearing which was duly noticed and to testify at the hearing and respond to the allegations concerning the impacts of the operation of The Arroyo Bar.

APPEAL PERIOD - EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after SEPTEMBER 3, 2015, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,

Marvin Braude San Fernando
Valley Constituent Service Center


4th Floor
Los Angeles, CA 90012
(213) 482-7077

6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Inquiries regarding this matter shall be directed to Tim Fargo, Planning Staff for the Office of Zoning Administration at (213) 978-1458.

MICHAEL LOGRANDE
Director of Planning



LOURDES GREEN
Associate Zoning Administrator

LG:TF:lmc

cc: Councilmember Curren D. Price, Jr.
Ninth District
Adjoining Property Owners