

June 20, 2023

**C-22**

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Receive and file the application of Emmanuel Garduno Gomez, dba Blue Burro, for an original application of an Alcoholic Beverage Control (ABC) License, at 4240 Long Beach Boulevard, Suite SH3, submit a Public Notice of Protest to ABC, and direct the City Manager to withdraw the protest if a Conditional Use Permit Exemption (CUPEX) is granted. (District 8)

**DISCUSSION**

It is City Council policy to review applications for ABC licenses to determine if a basis for protest against the issuance of the license exists. The attached application lists the possible bases for protest.

**TIMING CONSIDERATIONS**

The Department of Alcoholic Beverage Control received the above application on May 4, 2023. The applicant is still in the planning stages and has not filed for a Conditional Use Permit Exemption (CUPEX). Provided the Planning Commission approves the CUPEX, the recommendation includes a request to direct the City Manager to withdraw the Public Notice of Protest. City Council action is requested on June 20, 2023, to respond to the Department of Alcoholic Beverage Control by the June 23, 2023, due date.

**LEVINE ACT**

This item is subject to the Levine Act. The Mayor, Councilmembers, and Commissioners who have received a contribution of more than \$250 within 12 months prior from a party, participant, or their representatives involved in this proceeding may do either of the following: (1) disclose the contribution on the record and recuse themselves from this proceeding; OR (2) return the portion of the contribution that exceeds \$250 within 30 days from the time the elected official knew or should have known about the contribution and participate in the proceeding.

All parties, participants, and their representatives must disclose on the record of this proceeding any contribution of more than \$250 made to the Mayor or any Councilmembers within 12 months prior to the date of the proceeding. The Mayor, Councilmembers, and Commissioners are prohibited from accepting, soliciting, or directing a contribution of more than \$250 from a party, participant, or their representatives, during a proceeding and for 12 months following the date a final decision is rendered.

HONORABLE MAYOR AND CITY COUNCIL

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FISCAL IMPACT

There is no fiscal impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



WALLY HEBEISH  
CHIEF OF POLICE

APPROVED:



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THOMAS B. MODICA  
CITY MANAGER

ATTACHMENTS

Date: June 20, 2023

To: File

From: Krizty Kiger, Detective, Vice Investigations Section

Subject: **BLUE BURRO - 4240 LONG BEACH BOULEVARD, SUITE SH3**

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**CALLS FOR SERVICE/ARRESTS AND INVESTIGATIONS (5/4/22 - 5/4/23)**

<u>Call Type</u>	<u>Call Type Description</u>	<u>Disposition</u>
459A	Audible Burglar Alarm	Checks Okay
459A	Audible Burglar Alarm	Bad Order Alarm
459	Burglary	Checks Okay

**ABC INSPECTIONS (Past three years)**

None.

**RESIDENCES WITHIN 100 FEET**

4311 Elm Avenue  
4315 Elm Avenue  
4321 Elm Avenue

**CHURCHES, SCHOOLS, PARKS, HOSPITALS AND PLAYGROUNDS WITHIN 600 FEET**

Faith Presbyterian Church                      500 E. San Antonio Drive

HONORABLE MAYOR AND CITY COUNCIL  
June 20, 2023

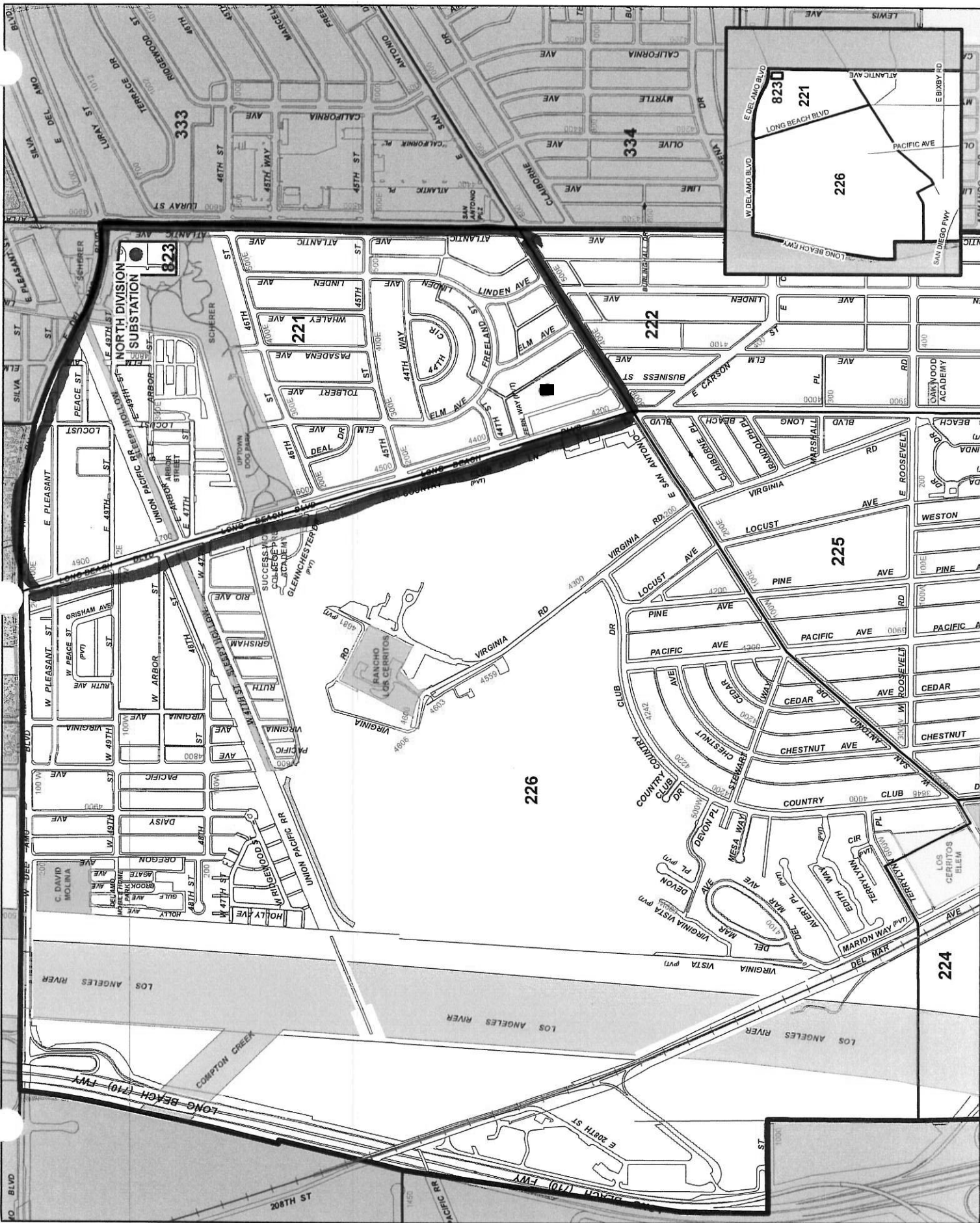
Council District: 8  
Applicant: Emmanuel Garduno Gomez  
DBA: Blue Burro  
Address: 4240 Long Beach Boulevard, Suite SH3  
Type of Application: Type 41 - An Original Application for an On-Sale Beer and Wine for a Bona Fide Public Eating Place License  
Bases for possible protest: Residences within 100 feet  
Church within 600 Feet  
High crime

**PUBLIC CONVENIENCE DETERMINATION:** A determination of Public Convenience and Necessity **is not** required for this application.

Census Tract: 5715.02  
Boundaries: 44<sup>th</sup> Street to the North  
San Antonio Drive to the South  
Elm Avenue to the East  
Long Beach Boulevard to the West  
Number of licenses allowed: 5  
Number of licenses existing: 1  
Police Reporting District: 221  
Boundaries: Del Amo Boulevard to the North  
San Antonio Drive to the South  
Atlantic Avenue to the East  
Long Beach Boulevard to the West

Reported crimes in this district for ABC purposes are 88. Crime in a reporting district must be at least **66** to qualify for a high crime protest.

Type of business: Restaurant  
Last day to request conditions and protest: June 23, 2023



**NORTH DIVISION  
SUBSTATION**

**RANCHO  
LOS CERRITOS**



## **LEVINE ACT DISCLOSURE STATEMENT**

California Government Code Section 84308, commonly referred to as the "Levine Act," prohibits any Long Beach City Councilmember, the Mayor, and Commissioner ("City Officer") from participating in any action related to a proceeding if they receive any political contributions totaling more than \$250 within the previous twelve months, while a proceeding is pending, and for 12 months following the date a final decision in a proceeding concerning a license, permit, entitlement, franchise or, contract (collectively "license, permit, or contract") has been made, from the person or company awarded the said license or contract. The Levine Act also requires a City Officer that has received such a contribution to disclose the contribution on the record of the proceeding.

City Officers are listed at the following sites:

- The Mayor and Councilmembers - <https://www.longbeach.gov/officials/>
- Harbor Commissioners - <https://polb.com/commission>
- Water Commissioners - <https://lbwater.org/about-us/current-water-commissioners/>
- Planning Commissioners - <https://www.longbeach.gov/mayor/action/commissions/>
- Parks and Recreation Commissioners - <https://www.longbeach.gov/mayor/action/commissions/>
- Board of Examiners, Appeals, and Condemnation - <https://www.longbeach.gov/mayor/action/commissions/>
- Cultural Heritage Commission - <https://www.longbeach.gov/mayor/action/commissions/>
- Long Beach Community Investment Company - <https://www.longbeach.gov/lbds/hn/lbcic/>

**Proposers are responsible for accessing these links to review the names prior to answering the following questions.**

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any City Officer in the 12 months preceding the date of the submission of your proposals or the anticipated date of any City Council, Board, or Commission action related to this license, permit, or contract?

YES

NO

If yes, please identify the City Officer(s):

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to any City Officer in the 12 months following any City Council, Board, or Commission action related to this license, permit, or contract?


YES

NO

If yes, please identify the City Officer(s):

Answering yes to either of the two questions above does not preclude the City of Long Beach from awarding a license, permit, or contract to your firm or any taking any subsequent action related to the said license, permit, or contract. It does, however, preclude the identified City Officers from participating in any actions related to this license, permit, or contract.

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature of authorized individual

\_\_\_\_\_  
Type or write name of authorized individual

\_\_\_\_\_  
Type or write name of company

June 20, 2023

Hani Abuershaid  
Supervising Agent In Charge  
Department of Alcoholic Beverage Control  
3950 Paramount Boulevard, Suite No. 250  
Lakewood, California 90712

Re: Receive and file the application of Emmanuel Garduno Gomez, dba Blue Burro, for an original application of an Alcoholic Beverage Control (ABC) License, at 4240 Long Beach Boulevard, Suite SH3, submit a Public Notice of Protest to ABC, and direct the City Manager to withdraw the protest if a Conditional Use Permit Exemption (CUPEX) is granted. (District 8)

Dear Hani Abuershaid:

Please be advised that the Long Beach City Council, at its meeting held Tuesday, June 20, 2023 approved the request to file a protest regarding the subject application based on the fact that licensing the premises would be contrary to City of Long Beach zoning ordinances, since a Conditional Use Permit (CUP) is required.

The City Council also approved the City Manager to withdraw the protest if the City's Planning Commission approves a Conditional Use Permit Exception (CUPEX) and if no appeal is made during the 10-day appeal period for the CUPEX. It is anticipated that the CUPEX will be acted upon by the Planning Commission, and once the appeal period has elapsed, a letter will be transmitted to ABC withdrawing the City's protest.

Enclosed is a copy of the City Council documentation and a certified excerpt of the minutes for your file. The City of Long Beach thanks you for your assistance in this matter.

Respectfully submitted,



MONIQUE DE LA GARZA  
CITY CLERK

Prepared by:  
Tamela Austin

Attachment

cc: Al Austin, Councilman, Eighth District  
Mayor  
City Prosecutor  
Police Department (2) Chief & Vice  
Referral File



**AN EXCERPT FROM THE MINUTES OF  
THE LONG BEACH CITY COUNCIL MEETING  
HELD TUESDAY, JUNE 20, 2023**

22. (23-0656) Recommendation to receive and file the application of Emmanuel Garduno Gomez, dba Blue Burro, for an original application of an Alcoholic Beverage Control (ABC) License, at 4240 Long Beach Boulevard, Suite SH3, submit a Public Notice of Protest to ABC, and direct City Manager to withdraw the protest if a Conditional Use Permit Exemption (CUPEX) is granted. (District 8)

**Motion:** Approve Consent Calendar Items 1 – 25, except for Item 18. Moved by Councilwoman Kerr, Seconded by Councilmember Uranga.

**Vote:** Approve Consent Calendar Items 1 – 25, except for Item 18. (Carried 9-0)  
Yes: Councilwoman Zendejas, Vice Mayor Allen, Councilmember Duggan, Councilman Supernaw, Councilwoman Kerr, Councilwoman Saro, Councilmember Uranga, Councilman Austin, and Councilmember Ricks-Oddie.

**CERTIFIED AS A TRUE AND CORRECT COPY**



\_\_\_\_\_  
CITY CLERK OF THE CITY OF LONG BEACH

DATE: June 28, 2023

By: Tamela Austin, City Clerk Specialist