



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

C-10

333 West Ocean Blvd • Long Beach, California 90802

November 11, 2008

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Refer to Hearing Officer the consolidated appeal to business license and entertainment permit revocation by the Guadalupe Perez, DBA Mariscos Brite Spot, 1616 East Anaheim Street. (District 2)

DISCUSSION

On September 12, 2008, the Long Beach Chief of Police recommended that the Department of Financial Management revoke the business license (BU92006270) and entertainment permit (BU20345190) of Mr. Guadalupe Perez, DBA Mariscos Brite Spot, 1616 East Anaheim Street (Attachment A). The business violated the Long Beach Municipal Code (LBMC), State law, and conditions of its business license, entertainment permit and ABC license, all of which demonstrate a pattern of unabated criminal activity creating serious nuisance conditions.

Pursuant to the LBMC, a licensee may initially appeal a business license revocation to the Director of Financial Management. Subsequent appeals are made to the City Council. On October 9, 2008, the business owner/operator waived his initial business license appeal to Financial Management and agreed to consolidate the business license revocation appeal with the entertainment permit appeal to the City Council (Attachment B). Whenever it is provided that a hearing shall be conducted by the City Council, the City Council may, in its discretion, refer the matter to a hearing officer.

This matter was reviewed by Deputy City Attorney, Cristyl Meyers on October 13, 2008.

TIMING CONSIDERATIONS

If referred, upon selection of a hearing officer, the matter will be heard on November 20 and 21, 2008.

FISCAL IMPACT

There is no fiscal impact associated with this item.

SUGGESTED ACTION:

Approve recommendation.

APPROVED:

Respectfully submitted,

LORI ANN FARRELL
DIRECTOR OF FINANCIAL MANAGEMENT/CFO

ATTACHMENTS

PATRICK H. WEST
CITY MANAGER



City of Long Beach
Working Together to Serve

Date: September 12, 2008
To: Lori Ann Farrell, Director of Financial Management
From: *ADB*
Anthony W. Batts, Chief of Police
Subject: **REQUEST FOR REVOCATION OF BUSINESS LICENSE AND ENTERTAINMENT PERMIT FOR MARISCOS BRITE SPOT - 1616 EAST ANAHEIM STREET**

Mariscos Brite Spot, located at 1616 East Anaheim Street is owned by Guadalupe Perez and has been in business since 1992. The licensee holds a business license (BU92006270) for a restaurant with alcohol, a permit for Entertainment without Dancing (BU20345190), and a Type 41 Alcoholic Beverage Control license (41-317679) to operate as an On Sale Beer and Wine Eating Place.

For the past several years, violent incidents have increased to the point of having an adverse affect on patrol resources. Many of these incidents are related to the owner's non-compliance with conditions of operation, particularly their Alcoholic Beverage Control condition that permits sales, service, and consumption of alcohol between the hours of 6:00 a.m. and 12:00 midnight each day of the week.

Between January 1, 2006 and September 1, 2008, there were 27 calls-for-service, 11 incidents, and four arrests attributable to the business. Several of the most notable and violent incidents occurred well after midnight and some incidents were directly related to the service of alcohol after hours:

- On May 7, 2006, at approximately 0300 hours, an argument inside the Mariscos Brite Spot resulted in a fight where the victim was cut with a knife. For further details, see DR # 06-35843.
- On December 18, 2006, at approximately 0400 hours, a female victim leaving Mariscos Brite Spot was kicked and beaten by three female suspects. For further details, see DR # 06-96993.
- On March 14, 2007, at approximately 0400 hours, a female was shot with a BB-gun while standing in front of Mariscos Brite Spot. The report indicated that she was drinking beer inside the restaurant. For further details, see DR # 07-20138.
- On June 4, 2007, at approximately 0300 hours, two male victims were stabbed in the parking lot of Mariscos Brite Spot after they purchased tacos and beer. For further details, see DR # 07-42748.
- On March 14, 2008, at approximately 0100 hours, a male suspect was arrested for being drunk inside Mariscos Brite Spot. For further details, see DR# 08-19041.

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- On March 16, 2008, at approximately 0330 hours, Mariscos Brite Spot patrons were inside drinking beer when a fight ensued. The fight continued outside, at which time one of the patrons involved was shot and killed by another patron. For further details, see DR # 08-19582.
- On March 22, 2008, at approximately 0230 hours, a male suspect was arrested for being drunk inside Mariscos Brite Spot. The report indicated that he had been drinking inside the restaurant. For further details, see DR# 08-21160 Supp # 002.
- On June 21, 2008, at approximately 0320 hours, two male victims were beaten as they left Mariscos Brite Spot. The report indicated both victims appeared to be intoxicated. For further details, see DR # 08-45573.
- On August 30, 2008, at approximately 0200 hours, a male gang-member was arrested for being drunk inside Mariscos Brite Spot. For further details, see DR # 08-64609.

The owner has had many Alcohol Beverage Control accusations made against him, which have resulted in a total of 150 days of suspension. Most of these accusations were related to after-hours sales of alcohol:

- On October 15, 1993, Mariscos Brite Spot received a 20-day suspension for after-hours sales of beer.
- On May 7, 1994, Mariscos Brite Spot received a 25-day suspension for overcrowding.
- On February 17, 1996, Mariscos Brite Spot received a 40-day suspension for after-hours sales of beer.
- On March 29, 1999, Mariscos Brite Spot received a 30-day suspension for after-hours sales of beer.
- On May 4, 2002, Mariscos Brite Spot received a violation for after-hours sales of beer.
- On June 28, 2002, Mariscos Brite Spot received a violation for after-hours sales of beer.
- On June 29, 2002, Mariscos Brite Spot received a 20-day suspension for after-hours sales of beer, which also included the above two violations.
- On March 16, 2007, Mariscos Brite Spot received a 15-day suspension for sales of beer to a minor.

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Based on the Police Department's investigation, the Vice Investigations Section believes that the licensee has demonstrated a strong unwillingness to comply with City and State laws. Because of this substantial disregard for the law, and the licensee's unwillingness to address these problems, Mariscos Brite Spot has become a nuisance, and has created an undue burden on patrol resources. It is the Police Department's responsibility to maintain law and order within the City of Long Beach and to ensure the public peace, safety, and welfare is maintained.

The Director of Financial Management is the issuing authority for business licenses issued pursuant to Long Beach Municipal Code Chapter 3.80. The Director is also empowered to suspend or revoke business licenses, pursuant to LBMC §3.80.429.1(A), when a licensee has failed to comply with any applicable provision or requirement of law.

Pursuant to LBMC Chapter 5.06, an entertainment permit may be revoked on any grounds that would warrant the denial of the issuance of such permit if the application therefore was being made; the permittee or any other person under his/her control or supervision has maintained a nuisance caused by acts committed on the permitted premises or the area under the control of the permittee; or the permittee has failed to comply with any condition which may have been imposed as a condition of operation or for the issuance of the permit required under the provisions of this Code.

Based on this authority, the Police Department respectfully requests that the business license and entertainment permit held by Guadalupe Perez for Mariscos Brite Spot, located at 1616 East Anaheim Street in the City of Long Beach be **REVOKED**.

If I can be of any further assistance, please contact me, or my Chief of Staff, Commander Jorge Cisneros at extension 8-7301.

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1 amount of \$1,050.00 not later than close of business November 4, 2008, with the Office of the
2 Long Beach City Clerk. (See Attachment 3)

3 4. Guadalupe Perez as an individual and owner, manager, partner, representative and
4 business operator of the Mariscos Brite Spot, located at 1616 East Anaheim Street, Long Beach,
5 California 90813, knowingly, intelligently and voluntarily accepts this stipulation as written notice
6 of his right to appeal revocation of entertainment permit number BU20345190 pursuant to LBMC
7 Section 5.72.145 and LBMC Chapter 5.06 to the Long Beach City Council, and further agrees to
8 lodge appeal costs, separate and distinct from costs referenced above in paragraph "3," in the
9 amount of \$1,050.00 not later than close of business November 4, 2008, with the Office of the
10 Long Beach City Clerk.

11 5. Guadalupe Perez as an individual and owner, manager, partner, representative and
12 business operator of the Mariscos Brite Spot, located at 1616 East Anaheim Street, Long Beach,
13 California 90813, knowingly, intelligently and voluntarily agrees to consolidate the business
14 license number BU92006270 and entertainment permit number BU20345190 appeal hearings.

15 6. Guadalupe Perez as an individual and owner, manager, partner, representative and
16 business operator of the Mariscos Brite Spot, located at 1616 East Anaheim Street, Long Beach,
17 California 90813, knowingly, intelligently and voluntarily accepts this stipulation as written notice
18 that on November 4, 2008, the consolidated appeal will be placed on the Long Beach City Council
19 consent calendar requesting that the City Council refer the consolidated administrative appeal
20 proceedings to a hearing officer pursuant to LBMC Chapter 2.93.

21 7. In the event Long Beach City Council moves to refer the consolidated matters to an
22 independent hearing officer pursuant to LBMC Chapter 2.93, Guadalupe Perez as an individual
23 and owner, manager, partner, representative and business operator of the Mariscos Brite Spot,
24 located at 1616 East Anaheim Street, Long Beach, California 90813, knowingly, intelligently and
25 voluntarily agrees to have the consolidated appeal hearing be presided over by randomly selected
26 independent hearing officer, George Zugsmith, who was previously selected by lot from a list of
27 qualified candidates maintained by the Office of the Long Beach City Clerk to have presided over

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Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

1 the duly noticed October 7, 2008, LBMC Section 3.80.429.1 business license revocation hearing
2 which you requested be waived by entering into the herein agreement.

3 8. In the event Long Beach City Council moves to refer the consolidated matters to an
4 independent hearing officer pursuant to LBMC Chapter 2.93, Guadalupe Perez as an individual
5 and owner, manager, partner, representative and business operator of the Mariscos Brite Spot,
6 located at 1616 East Anaheim Street, Long Beach, California 90813, knowingly, intelligently and
7 voluntarily agrees to convene the consolidated appeal hearing on November 20, 2008, at City Hall,
8 333 West Ocean Boulevard, in the 6TH Floor conference room, from 9:00 a.m. to 5:00 p.m. and, if
9 necessary, shall continue the following day, November 21, 2008, at the same location with the
10 same hours. (Hearing dates, times, and venue may be subject to change based on a showing of
11 good cause.)

12 9. Guadalupe Perez as an individual and owner, manager, partner, representative and
13 business operator of the Mariscos Brite Spot, located at 1616 East Anaheim Street, Long Beach,
14 California 90813, knowingly, intelligently and voluntarily agrees to return the signed, dated and
15 fully executed stipulation to the City of Long Beach, Office of the Long Beach City Attorney,
16 marked to the attention of Deputy City Attorney Cristyl Meyers, not later than 4:30 p.m., Thursday
17 October 9, 2008, and that failure to timely submit the fully signed and executed stipulation will
18 result in rescheduling and reconvening the LBMC Section 3.80.429.1 business license revocation
19 hearing, wherein Guadalupe Perez as an individual and owner, manager, partner, representative
20 and business operator of the Mariscos Brite Spot, located at 1616 East Anaheim Street, Long
21 Beach, California 90813, knowingly, intelligently and voluntarily agrees to pay all associated
22 hearing officer fees rendered at an hourly rate of \$150, with a minimum payment of three hours,
23 as well as other associated costs and expenses.

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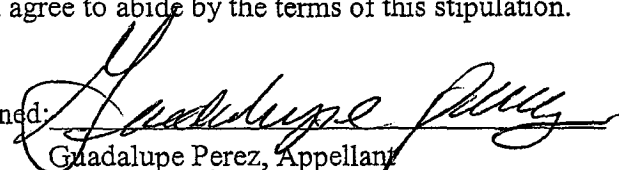
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1 WHEREAS, this stipulated agreement may be executed in one or more counterparts, all of
2 which, taken together, shall constitute the same instrument, and shall be governed in accordance
3 with the laws of the State of California. **THEREFORE**, the parties named below acknowledge
4 and agree to abide by the terms of this stipulation.


5
6 Signed:


Guadalupe Perez, Appellant

Dated:

10/9/08

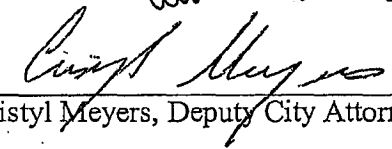
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8 Signed:


Armando Chavez, Attorney for Appellant

Dated:

Oct 9, 2008

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10 Signed:


Cristyl Meyers, Deputy City Attorney

Dated:

10-7-08

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