

CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

H-2

333 West Ocean Blvd • Long Beach, California 90802

May 19, 2009

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record, conclude the hearing and adopt the recommendation to revoke business license numbers BU20408690, BU20408700 and BU20406050 for 2706 South Street, LLC, DBA Ajas, located at 2706 South Street. (District 9)

DISCUSSION

The Long Beach Municipal Code (LBMC) requires a hearing be held before the City Council whenever a revocation of a business license and/or entertainment permit is appealed.

The LBMC also requires the City Council to review and consider a hearing officer's written report when the City Council appoints a hearing officer to conduct the appeal proceedings. The City Council may adopt, reject or modify the recommended decision. In its discretion, the City Council may take additional evidence at the hearing or refer the case back to the hearing officer with instructions to consider additional evidence.

Attached for your review is Hearing Officer Elizabeth A. Moreno's April 9, 2009 written report. Hearing Officer Moreno recommends that the business licenses issued to 2706 South Street, LLC, DBA Ajas, numbers BU20408690 for a bar, BU20408700 for pool tables and BU20406050 for amusement machines, be revoked. The Hearing Officer's findings determined that:

- Ms. Mannery misrepresented on the initial applications of the business licenses dated January 29, 2004.
- 2706 South Street, LLC, DBA Ajas, attempted to seek an entertainment permit in July 2004. Following a Police investigation to determine if an entertainment permit would be approved, the City Council voted to deny 2706 South Street, LLC, DBA Ajas' entertainment permit in October 2004.
- In March and May of 2006, the Fire Department noted several violations of the law and LBMC. The violations included: Overcrowding, fire extinguishers, doubled key locks on exit gates and doors, substituted extension cords for wiring and the non-posting of the occupancy load sign. The Fire Marshall testified that overcrowding jeopardizes the patrons' safety if an emergency occurred.

- On November 2, 2007, Police cited Ms. Mannery for providing entertainment without a City-issued permit. On February 2008, the owner pleaded no contest and was convicted of a misdemeanor.
- February to April 2008, Police responded to 2706 South Street, LLC, DBA Ajas, seven times to various violations ranging from fights or disputes between patrons, to loud music.
- A criminal complaint was filed against Ms. Mannery on May 21, 2008. In August 2008, Ms. Mannery pleaded no contest and was convicted of misdemeanors of unlawfully selling alcohol beverages to patrons after hours on April 25, 2008, overcrowding and failure to keep count of occupants on January 26, 2008.
- Katia Mannery, the sole owner of 2706 South Street, LLC, DBA Ajas, testified and confirmed that she needed a separate permit for entertainment and that she continued to provide entertainment, even after her permit was denied and she knew she could not have entertainment.

This matter was reviewed by Deputy City Attorney Cristyl Meyers on April 17, 2009.

TIMING CONSIDERATIONS

City Council action on this matter is not time critical.

FISCAL IMPACT

There is no fiscal impact associated with this item.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

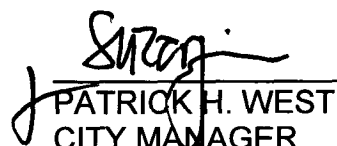


LORI ANN FARRELL
DIRECTOR OF FINANCIAL MANAGEMENT/CFO

LAF: ES: JM
K:\EXEC\COUNCIL LETTERS\COMMERCIAL SERVICES\HEARING LETTERS\05-05-09 CCL - AJAS - HEARING OFFICER FINDINGS.DOC

ATTACHMENTS

APPROVED:



PATRICK H. WEST
CITY MANAGER

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Elizabeth A. Moreno, Esq. SBN: 120044
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Telephone: 310.444.3804
Facsimile: 310.526.6859

**In the Administrative Hearing
For the City of Long Beach- Business License Division**

In Re Appeal Of Business License
Revocation:

**2706 SOUTH STREET, LLC
DBA AJAS BAR**

**Statement of Decision and
Recommendation re Business License
Revocation**

Hrng Offcr: Elizabeth A. Moreno
Hearing Dates: March 4, 5 and 18, 2009

The above entitled appeal of the Business license revocation, came regularly for hearing, after proper written notice, on March 4, March 5 and 18, 2009, Elizabeth A. Moreno, hearing officer, presiding. Cristyl Meyers, Esq. appeared as counsel for the City of Long Beach (hereinafter 'City') and appearing in pro per on behalf of 2706 South Street LLC dba Ajas Bar (hereinafter 'Ajas') was Katia Mannery, sole owner and member of 2706 South Street, LLC and Michael Magallanes, manager of Ajas Bar. This administrative hearing was conducted pursuant to the City of Long Beach Municipal Code, Chapter 2.93, et. seq.

1 **Recommendation**

2 The hearing officer after hearing testimony of the witnesses, reviewing the
3 documents admitted into evidence and hearing and reading the arguments of the
4 parties, recommend the following decision to the City Council:

5 That the business licenses issued to Ajas, number BU20408690 for a bar,
6 BU20408700 for pool tables and BU20406050 for amusement machines are
7 hereby revoked pursuant to Long Beach Municipal Code (hereinafter "LBMC")
8 section 5.06.020 because Ms. Mannery, sole owner of Ajas has been convicted
9 in violation of State law and the LBMC and Ms. Mannery has maintained a
10 nuisance as defined in 21.15.1870 of the LBMC.

11
12 **Issues on Appeal**

13 The issue on appeal is whether Ajas business licenses numbers BU20408690 for
14 a bar, BU20408700 for pool tables and BU20406050 for amusement machines should
15 be revoked. The city's grounds for revoking the business licenses are based on
16 LBMC 5.06.020 which provides that any permit to do business in the city may be
17 revoked on the following grounds: 1. The permittee has been convicted of violation of
18 any provision of this Code, State or Federal law arising out of ...with the operation of the
19 business for which the permit has been granted. A...conviction following a plea of non
20 contendere is deemed to be a conviction... or 3. The permittee ... has maintained a
21 nuisance as defined in 21.15.1870 of the Long Beach Municipal Code which was
22 caused by acts committed on the permitted premises or the area under control of the
23 permittee.

24 The city alleges that the following warranted revocation of the business license:
25 the maintenance of a nuisance as defined in 21.15.1870 LBMC, which included public
26 urination, disturbance of the peace, violation of occupancy laws and excessive loud
27 noise, and criminal convictions of owner Ms. Mannery stemming from the business
28

1 operations as a result of her failure to follow regulations of the sale of alcoholic
2 beverages, occupancy violations and providing entertainment without a business permit.
3

4 **Findings of Fact**

5 Oral and documentary evidence was introduced on behalf of the City and Ajas.
6 The hearing officer makes the following findings of facts:
7

8 **Business License Applications and Entertainment Permit**

9 The City presented the testimony of Richard Bartlett, business services officer
10 for the City, to support their allegations of Ms. Mannery's misrepresentation on the initial
11 applications of the business licenses dated January 29, 2004. Richard Bartlett testified
12 that the application stated that Ajas employed only three employees and would have
13 two amusement/video machines and two pool tables. In January 2004, Ajas did not
14 apply for an entertainment permit therefore, Ajas could not have entertainment, dancing
15 or a juke box. No information was provided to the City regarding the juke box in January
16 2004 or anytime thereafter. The business licenses were never amended after the
17 January 2004 date to reflect any changes in the number of employees or the acquisition
18 of a juke box.
19

20 Ajas attempted to seek an entertainment permit in July 2004. According to
21 Jeannine Montoya, business license director and overseer of the entertainment permits,
22 a crime analysis and an investigation of the various complaints from residents was
23 performed to determine if an entertainment permit would be approved. Following the
24 investigation, the City Council voted to deny Ajas entertainment permit in October 2004
25 and a letter was issued on November 3, 2004 to Ms. Mannery.

26 Ms. Mannery was warned that entertainment was not permitted at Ajas after the
27 denial of the entertainment permit. Chris Anderson, a police detective, who investigated
28 Ajas application for an entertainment permit and the various complaints from the
residents, corroborated Montoya's testimony that Ajas entertainment permit was denied

Statement of Decision and Recommendation

1 by the City Council in October 2004 and Ms. Mannery was sent a letter dated November
2 3, 2004 regarding the denial.

3 On March 3, 2005 Anderson spoke to Mike Maggallanes, manager of Ajas Bar,
4 and informed him that entertainment was not allowed at the bar without a permit. This
5 warning came after Anderson viewed an advertisement on the internet that Ajas was
6 providing live bands and Karaoke. The November 3, 2004 denial letter was given to
7 Magallanes again. Magallanes told Officer Anderson that the website advertisements
8 were prior to November 2004 and were outdated. Despite that, Anderson reinforced to
9 Magallanes that if there was any music it was not allowed to be amplified in any way,
10 and that karaoke, disc jockey, amplified music and dancing was a violation of the Long
11 Beach Municipal Code which could jeopardize Ajas business license.

12 Montoya testified that at no time from November 2005, the one year waiting
13 period after the denial of the entertainment permit, to the present has Ajas sought an
14 entertainment permit. Further Montoya corroborated Bartlett's testimony that the initial
15 business license did not list a juke box and there was not an amendment of the business
16 license after its issuance.

17 18 **Violations of the law and LBMC**

19 **January 14, 2005**

20 Testimony of Long Beach Fire inspector Bayudan of the Long Beach Fire
21 Department confirmed that Mannery was aware of the occupancy load because he gave
22 Mannery the occupancy load certificate on January 14, 2005, during an inspection and
23 explained to her that she needed to post the occupancy load sign. She signed the
24 Occupancy Load Certificate that she read and understood the requirement of the
25 posting of the Occupancy Load Sign and the number of persons allowed at Ajas. Ms.
26 Mannery testified that she denied receiving the occupancy load sign from Bayudan, but
27 she did confirm that she received the occupancy load certificate from Fire Inspector
28 Bradley Dotts on or about March 9, 2006.

Statement of Decision and Recommendation

1 **March 9, 2006**

2 Bradley Dotts, Fire Inspector inspected Ajas bar on March 9, 2006 after a report
3 of overcrowding at Ajas. He noted several violations involving fire extinguishers,
4 doubled key locks on exit gates and doors, and substituted extension cords for wiring
5 and the non posting of the occupancy load sign. On March 4, 2006 Inspect Dotts
6 reissued the occupancy load certificate of 86 persons to Ms. Mannery. Mannery signed
7 indicating that she read and understood the violations and that she would remedy the
8 violations and comply with the LBMC.

9
10 **May 4, 2006**

11 Lee Debrabander, a police sergeant, who was assigned to vice field
12 investigations, testified on behalf of the City. On May 4, 2006 Debrabander
13 investigated the complaints of overcrowding at Ajas. Debrabander arrived at Ajas
14 during business hours and observed security guards who were checking patrons'
15 identification and searching customers. He noticed that the security guards had a
16 counter which indicated 120. Once inside the bar, Debrabander saw two pool tables, a
17 stage, and the bar packed with people. He counted 180 patrons and stopped counting
18 patrons when he reached the bar area due to the intense overcrowding. Debrabander
19 located the owner of the bar, Katia Mannery, and had a meeting in the back room of
20 Ajas, also present was Long Beach Fire Marshall Bradley Dotts. Dotts corroborated
21 Debrabander testimony that the bar was overcrowded and that he estimated that there
22 were 200 people in the bar. Both witnesses stated that Mannery indicated that she
23 believed her capacity was 105 persons for Ajas. Fire Marshall Dotts again advised
24 Mannery that the capacity was 86 and gave Mannery another copy of the capacity sign
25 indicating the capacity of 86 persons. Dotts testified that overcrowding jeopardizes the
26 patron's safety because if an emergency occurred people would be trapped in the bar.

1 **June 2006**

2 In June 2006, the Office of City Prosecutor attempt to work with Ajas to remedy
3 the code violations and nuisance activity. Marlene Arrona, a police services specialist
4 testified that she attended a meeting with Mannery and representatives from Vice Detail
5 and the Fire Department. During this meeting the following were discussed: public
6 intoxication, traffic disputes, loitering, entertainment, overcrowding and violent crimes.
7 Ms. Arrona testified that she discussed 20 incident reports related to Ajas with Mannery.
8 Ms. Mannery agreed not to advertize special events, monitor the count, install a metal
9 detector, have security guards during the week and weekends, place video cameras on
10 the perimeter, and have appropriate bill boards to attract the non gangs. A follow up
11 meeting was held on July 16, 2007 and the owner provided up dates as to steps taken
12 to remedy the problems. Ms. Arrona testified that as a result of actions taken to
13 decrease the problems service calls had dropped but service calls had not been
14 eliminated and continued to be a problem.

15
16 **November 2, 2007**

17 On November 2, 2007, Office Debrabander testified about his continual
18 investigation of complaints of loud music coming from Ajas. As Debrabander
19 approached Ajas he heard loud music coming from inside. He entered Ajas and
20 observed a stage area, a DJ, speakers and 20 patrons. The DJ, Reggie Williams, was
21 not an employee of Ajas but the business hired him to play music. Officer Debrabander
22 took pictures of the DJ equipment that was at Ajas which included stereo speakers, a
23 staging area, cabling and DJ set up. Debrabander advised Mannery that she could
24 have music, but it had to be background and ambient music coming from a CD or an
25 iPod system and could not be amplified. Ms. Mannery was cited for providing
26 entertainment without a city issued permit and was advised that she needed an
27 entertainment permit. Subsequently, in February 2008, Mannery plead no contest to
28

1 conducting entertainment in the City of Long Beach without a permit on November 2,
2 2007 and was convicted of a misdemeanor.

3
4 **January 26, 2008**

5 Officer Debrabander continued his investigation of complaints of loud noise and
6 returned to Ajas on January 26, 2008. For an hour, he observed from his vehicle, about
7 120 feet from the location, patrons entering and heard very loud music, despite the fact
8 that his windows were rolled up.

9 Mike Castellanos is a detective with the Long Beach City Police Department and
10 was assigned to license investigation for 5 years. On January 26, 2008, Castellanos,
11 along with Detective Hubbard, went undercover to Ajas bar. The investigation was
12 prompted because of various resident complaints about fights and intoxication. Officer
13 Castellanos testified that he was at Ajas for two hours and observed and heard a disc
14 jockey playing amplified music, acting as an MC and urging patrons to dance. Of the
15 110 people present in the bar, 50 people were dancing.

16
17 **February to April 2008**

18 Officer Demtrio Alonzo, a police officer for the Long Beach, North division,
19 testified that he was dispatched many times to Ajas. Officer Alonzo testified that from
20 February 2008 to April 2008 he responded 7 times for various violations ranging from
21 fights or disputes between patrons to loud music.

22
23 **February 9, 2008**

24 Castellanos was at Ajas bar again on February 9, 2008, undercover with two
25 other detectives. This was an event via invitation only because it was Mannery's
26 birthday. Outside of the bar, Castellanos heard loud music coming from inside. Once
27 inside, he observed 3 dancers in Mardi gras costumes at the bar, a disc jockey, audio
28 equipment and large speakers. A money bag was being passed around for the

1 dancers. Ms. Mannery or no one else at the bar attempted to stop the dancing or the
2 music. There was a photo studio set up to take pictures of the patrons with dancers.
3 There were an estimated 100 persons in the bar.
4

5 **April 24, 2008**

6 On April 24, 2008, detective Castellanos again went to the bar undercover.
7 When he approached the bar, he heard loud music. Once inside, detective Castellanos
8 observed entertainment consisting of a DJ with a microphone acting as an MC and
9 dancing. There were approximately 120 persons in the bar. During his investigation.
10 Castellanos remained at the bar after 2:00 a.m. and ordered an alcoholic beverage. He
11 was served the drink, after the bartender obtained Mannery's permission.
12

13 **May 15, 2008**

14 Detective Castellanos went to Ajas undercover on May 15, 2008. As on previous
15 occasions, Castellanos heard loud amplified music and observed large DJ type
16 speakers, a DJ with a cordless microphone, an IPOD system set up to an amplifier and
17 dancing. That night Castellanos counted 70 persons, which was under the occupancy
18 limit.
19

20 A criminal complaint was filed against Mannery on May 21, 2008. In August
21 2008, Mannery pleaded no contest and was convicted of misdemeanors of unlawfully
22 selling alcohol beverages to patrons after hours on April 25, 2008 and overcrowding and
23 failure to keep count of occupants on January 26, 2008.
24

25 Dana Smith, police officer with vice investigation, testified that he worked with
26 Ajas bar from to bring them within compliance of the Long Beach Municipal Code.
27 However, he found that there were continuous excessive violations from 2004 to 2008
28 which consisted of overcrowding, public safety, complaints from residents, health and

1 safety of individuals. He did a cost analysis and he estimates Long Beach spent at
2 least \$20,000 in police services to Ajas. Anderson confirmed that he did see a
3 decrease in service calls but there were still service calls.

4 **October 2008**

5 Ajas was inspected by the Department of Health and Human Services in October
6 2008. The purpose was to inspect Ajas food handling and food storage issues. Daniel
7 Phillips, an environmental health specialist and inspector conducted the inspection and
8 found that Ajas needed to take corrective action regarding food source and labeling,
9 equipment maintenance, facility maintenance and employee practices of food
10 preparation. According to Phillips corrective action has been made at Ajas.

11
12 Katia Mannery, the sole owner of Ajas, testified on behalf of Ajas. She did not
13 recall supplying the information on the initial business license applications but did
14 confirm that her signature appeared on the application. Her business began to expand
15 and she became busy and failed to notify the city that the numbers of employees
16 increased. Mannery confirmed that she needed a separate permit for entertainment
17 and that she continued to provide entertainment, even after her permit was denied.
18 When she initially applied for her permit, she was allowed to have entertainment during
19 the time the application was pending, approximately 4 months. After the denial of the
20 entertainment permit, she could not reapply for a permit and she knew she could not
21 have entertainment. Mannery testified that she did not have entertainment that required
22 a permit. The music she had was provided by singers who wanted to promote their
23 newly released CD. The singer would sing a song from their CD and use a microphone
24 to sing. If dancers performed at Ajas, they were not hired directly by her. She assumed
25 that the person providing the dancers had an entertainment license or business license
26 and she did not need one. Mannery testified that she was serving free food to the
27 public consisting of salsa and chips and did not need a permit to serve food. If patrons
28 were having a Birthday party, they would bring their own cake and eat it at Ajas.

1 Mannery testified that she complied with the police department concerns in 2006 and
2 installed video cameras and was careful about her advertisements. As a result police
3 service calls declined. Many of the persons who were urinating or causing disturbances
4 were not her patrons but residents from the neighborhood. Mannery had no control of
5 persons who engaged in fights or disputes outside of her bar, which caused the police
6 to respond.

7
8 There was no conflicting testimony. Ms. Mannery is under the mistaken belief
9 that complying with the law most of the time is not a violation. If there was a violation,
10 she was not to blame. She took the position that if she attempted to correct the
11 violations and there was some improvement she was in compliance with the law.

12
13 **Recommendation**

14 LBMC 5.06.020 provides that any permit to do business in the city may be
15 revoked on the following grounds:

16 1. The permittee has been convicted of violation of any provision of this
17 Code, State or Federal law arising out of ...with the operation of the business for which
18 the permit has been granted. A...conviction following a plea of non contendere is
19 deemed to be a conviction...

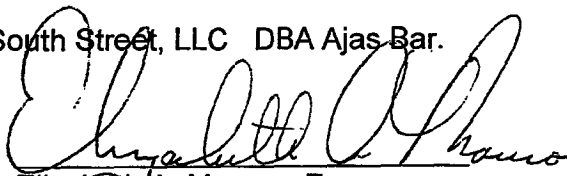
20 3. The permittee ... has maintained a nuisance as defined in 21.15.1870 of
21 the Long Beach Municipal Code which was caused by acts committed on the permitted
22 premises or the area under control of the permittee. Ms. Mannery, sole owner of Ajas,
23 plead no contest to conducting entertainment in the City of Long Beach without a permit
24 on November 2, 2007, plead no contest and was convicted of misdemeanors of
25 unlawfully selling alcohol beverages to patrons after hours on April 25, 2008 and
26 overcrowding and failure to keep count of occupants on January 26, 2008. The
27 entertainment violation without a permit in November 2007 occurred one year after she
28 met with the police and city officials on two occasions about the complaints of loud

1 music and entertainment at Ajas. Ms. Mannery was well aware of the law, when the
2 violation occurred in November 2007. However, the problems at Ajas did not stop after
3 Ms. Mannery's first conviction. She again continued to engage in the same behavior.
4 Two years after she had met with fire inspectors on three separate occasions, the City
5 officials and police on two separate occasions about the overcrowding and the violation
6 of the occupancy load and was well aware of the occupancy limit, she violated the code
7 in January 2008. Ms. Mannery admits that she received the occupancy certificate and
8 was aware of the 86 person occupancy load years before this January 26, 2008
9 violation that lead to a misdemeanor conviction. Ms. Mannery, as the permittee,
10 exhibited intentional disregard for the law in operating her business.

11 The hearing officer finds that the revocation of the business licenses for Ajas is
12 based not only on Ms. Mannery's misdemeanor convictions but her continued disregard
13 for the occupancy loads, the loud noise and entertainment, fights and disputes which
14 constitutes a nuisance under LBMC 21.15.1870. As set forth in detail above, from 2005
15 there have been continued problems with noise, overcrowding, and fights. The City on
16 many occasions has met with Ms. Mannery in an attempt to remedy the problems. The
17 hearing officer acknowledges that the number of police service calls may have
18 decreased at certain points in time, but a decrease in service calls did not eliminate the
19 continued nuisance.

20 Accordingly, the Hearing Officer recommends that the Long Beach City Council
21 revoke the business licenses for 2706 South Street, LLC DBA Ajas-Bar.

22
23 Date: April 9, 2009


Elizabeth A. Moreno, Esq.
Administrative Hearing Officer

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Statement of Decision and Recommendation

1 **PROOF OF SERVICE**

2 COUNTY OF LOS ANGELES)
3 STATE OF CALIFORNIA) ss.

4 I am employed in the County of Los Angeles, State of California. I am over the
5 age of eighteen years and not a party to the within action. My business address is 6080 Center
6 Drive, Ste. 600, Los Angeles, California 90045.

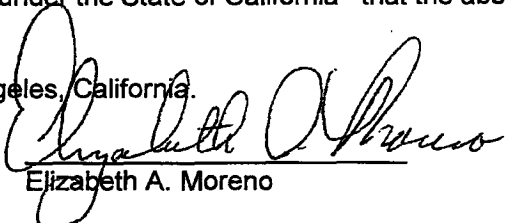
7 On April 10, 2009 I served the foregoing document described as Statement of
8 Decision and Recommendation on the interested parties in this action by serving the following
addressee(s):

9 Cristyl Meyers, Esq.
10 City Hall, Eleventh Floor
11 333 West Ocean Blvd.
12 Long Beach, CA 90802-4664

13 Katia Mannery
14 Ajas Sports Bar
15 2706 South Street
16 Long Beach, CA 90805

- 17 (X) **By Envelope** - by placing () the original () or a true copy thereof enclosed in a sealed
18 envelopes addressed as above and delivering such envelopes as follows:
- 19 (X) **By Mail** - I am "readily familiar" with the firm's practice of collection and processing
20 correspondence for mailing. Under that practice it would be deposited with U. S.
21 postal service on that same day with postage thereon fully prepaid at Los
22 Angeles, California in the ordinary course of business. I am aware that on
23 motion of the party served, service is presumed invalid if postal cancellation
24 date or postage meter date is more than one day after date of deposit for
25 mailing in affidavit.
- 26 () **By Facsimile Transmission** - On _____ at _____ m., I
27 caused the above-named document to be transmitted by facsimile transmission,
28 from fax number 310- 390-8757, to the offices of the addressee(s) at the
facsimile number(s) so indicated above. The transmission was reported as
complete and without error. A copy of the transmission report properly issued
by the transmitting facsimile machine is attached hereto.
- () **State** I declare under penalty of perjury under the State of California that the above is
true and correct.

Executed April 10, 2009 at Los Angeles, California.


Elizabeth A. Moreno

Statement of Decision and Recommendation

1 RICHARD C. BRIZENDINE (BAR NO. 101597)
EVANS, BRIZENDINE & SILVER
2 5826 E. NAPLES PLAZA
LONG BEACH, CA 90803
3 TELEPHONE: 562/439-9001
FAX: 562/439-9002
4

5 Attorneys for 2706 South St, LLC
6

7 **IN THE ADMINISTRATIVE HEARING**
8 **FOR THE CITY OF LONG BEACH-BUSINESS LICENSE DIVISION**
9

10 In re) CASE NO.
11 2706 SOUTH STREET, LLC) NOTICE OF APPEAL FOR RESPONDENT
12) 2706 SOUTH ST., LLC

13 Comes now 2706 SOUTH ST., LLC, doing business as "Aja's Sports Bar", hereinafter
14 "Respondent", and Appeals the HEARING OFFICER'S REPORT AND RECOMMENDATION
15 ("Ruling").
16

17 The appeal is made on the following grounds:

- 18 1. Respondent was denied due process of law as afforded by the Constitution of the State
19 of California and the Constitution of the United States of American in that the Administrative Process
20 is prejudiced in favor of the City of Long Beach due to the hearing officer being chosen by the City of
21 Long Beach and being paid by the City of Long Beach.
- 22 2. Respondent was denied due process of law as afforded by the Constitution of the State
23 of California and the Constitution of the United States of American in that the Administrative Process
24 places the burden of proof upon Respondent where the City of Long Beach, as the charging entity,
25 should hold the burden of proof.
- 26 3. The Hearing Officer committed prejudicial error in that the Ruling is not supported
27 by the findings since there is not a sufficient statement of the factual and legal basis for the Ruling
28 instead the Ruling merely reiterates the content of the Chief of Police's Request for Revocation of the

1 Respondent's licenses.

2 4. The Hearing Officer committed prejudicial error in that the Ruling is not supported
3 by the evidence in that the criteria for revoking the Respondent's licenses were not sufficiently
4 presented to the Hearing Officer.

5 5. The Hearing Officer abused her discretion due to the lack of evidence supporting the
6 Ruling.

7 6. The Hearing Officer abused her discretion since the Ruling violates the equal
8 protection clause of the Constitution of the United States of America in that it was motivated by
9 prejudice against a protected class.

10 7. The Hearing Officer committed prejudicial error since the Ruling violates the equal
11 protection clause of the Constitution of the United States of America in that it was motivated by
12 prejudice against a protected class.

13 Dated: December 19, 2008

EVANS, BRIZENDINE & SILVER

14
15 By 
16 RICHARD C. BRIZENDINE
Attorneys for 2706 South St., LLC

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PROOF OF SERVICE

I, Amber Jensen, am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 5826 E. Naples Plaza, Long Beach, CA 90803.

On December 19, 2008, I served the foregoing NOTICE OF APPEAL FOR RESPONDENT by placing a true copy thereof enclosed in a sealed envelope, as follows:

Crystal Meyers
333 West Ocean Blvd., 11th Floor
Long Beach, CA 90802-4664

(BY MAIL): I caused such envelopes to be deposited in the mail at Long Beach, California or placed for collection and mailing on the date and at the place shown above following our ordinary business practices. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States postal service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing affidavit. The envelopes were mailed with postage thereon fully prepaid.

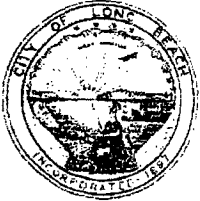
(BY PERSONAL SERVICE): I caused the said envelope to be delivered by hand to the parties noted above.

(BY FACSIMILE TRANSMISSION): I caused a true and complete copy of the document described above to be transmitted by facsimile transmission to the telephone number(s) set forth below the aforesaid name(s).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19th day of December, 2008, at Long Beach, California.


Amber Jensen



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT
COMMERCIAL SERVICES BUREAU

333 West Ocean Boulevard Lobby Level • Long Beach, CA 90802 • (562) 570-6211

December 11, 2008

2706 South St., LLC, DBA Ajas Bar
Katia Maria Mannery, Member/Manager
c/o Law Offices of Evans, Brizendine & Silver
Richard C. Brizendine , Esq.
5826 East Naples Plaza
Long Beach, CA 90803

Dear Ms. Mannery:

This letter is to inform you that business license numbers BU20408690, BU20408700 and BU20406050 issued to 2706 South St., LLC, located at 2706 South Street, Long Beach, California 90805, have been revoked, pursuant to Long Beach Municipal Code section 3.80.429.1. This decision was based on an administrative hearing conducted on the dates of September 10 and 16, 2008, and October 30, 2008, regarding the revocation of business license numbers BU20408690 bar/tavern/lounge, BU20408700 pool tables, and BU20406050 amusement machines.

Based on the evidence presented, on December 1, 2008, Hearing Officer Michelle Jalali issued a written recommendation to the Director of Financial Management to revoke these licenses issued to 2706 South St., LLC, DBA Ajas Bar, located at 2706 South Street, Long Beach, CA 90805. A copy of this report is attached.

Based on Ms. Jalali's findings, I have been authorized to process the revocation of your business licenses **effective December 12, 2008**. Pursuant to Long Beach Municipal Code Section 3.80.429.5 (a copy of which is also attached), the time within which you may appeal the revocations is 10 calendar days after the date of mailing of this notice, which was December 11, 2008. The request for appeal must be in writing and must set forth the specific ground or grounds on which it is based. The request for appeal must be submitted to the Office of the Long Beach City Clerk, located at 333 West Ocean Boulevard, Long Beach California 90802, not later than December 22, 2008.

Should you have any questions, please feel free to contact me at (562) 570-7073.

Sincerely,

RICHARD I. BARTLETT
Business Services Officer
Dept. of Financial Management

I have received notification of the above.

Name/Title ATTORNEY Date 12/12/08

Enclosures

PROOF OF SERVICE
(Cal. Code Civ. Proc. §§ 1011, 1013, 1013a, 2015.5)

I, certify and declare as follows:


At all times relevant herein, I was over the age of eighteen years and not a party to the within action. I am employed in Los Angeles County and my business address is 333 West Ocean Boulevard, ground Floor, Long Beach, California 90802.

On DECEMBER 12, 2008, I served the within **Notice of Business License Revocation and Appeal Process** on the following business owner by depositing a true and correct copy thereof in a sealed envelope addressed as follows:

2706 SOUTH ST., LLC
KATIA MANNERY, MEMBER/MANAGER
C/O Law Offices of Evans, Brizendine & Silver
Richard C. Brizendine , Esq.
5826 East Naples Plaza
Long Beach, CA 90803

- OFFICE MAIL:** On the above-referenced date, I placed the above-referenced envelope(s) for collection and mailing with the United States Postal Service in Long Beach, California following ordinary business practices. I am readily familiar with our business practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice and in the ordinary course of business, correspondence is deposited with the United States Postal Service in Long Beach, California, with postage thereon fully prepaid, on the same day it is collected.
- PERSONAL SERVICE**
- U.S. MAIL:** On the above-referenced date, I deposited the above-referenced envelope(s), with postage thereon fully prepaid, in a mail collection facility maintained and operated by the United States Postal Service.

I certify and/or declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on DECEMBER 12, 2008, in Long Beach, California.

 12-12-08

WILLIAM R. GEHRING

Date: June 17, 2008
To: Lori Ann Farrell, Director of Financial Management
From: ^{AJB} Anthony W. Batts, Chief of Police
Subject: **REQUEST FOR REVOCATION OF BUSINESS LICENSE FOR AJAS BAR – 2706 EAST SOUTH STREET**

The 2706 South Street LLC, dba Ajas Bar, has been in business at 2706 East South Street since November of 2004. The Corporate Officer is listed as, Katia Maria Mannery. The business license (BU20408690) is for a Bar/Tavern/Lounge. The licensee holds a business license (BU20408700) that authorizes the business to operate two pool tables upon the premises. The business has an Alcoholic Beverage Control license (48-390415) to operate as a Type 48 On Sale General Public Premise.

On July 12, 2004, Ajas applied for an entertainment permit. The Police Department recommended **DENIAL** of the application for Entertainment without Dancing permit. At the October 12, 2004 City Council meeting, their entertainment permit was denied. The business was sent a letter of denial dated November 3, 2004.

On February 22, 2005, Vice Detectives looked at the web site for the business, (www.ajasbrazil.com), and noticed they were advertising live music, and karaoke. There were also pictures posted of the inside of the business that depicted a disc jockey and dancing.

On March 3, 2005, Vice Detectives Jeff Alexen and Chris Anderson responded to the business and contacted the manager, Mike Magallanes, regarding the advertised entertainment. Detective Anderson advised Mr. Magallanes that they are not allowed to provide entertainment without a permit. Mr. Magallanes was advised that any live amplified music, karaoke, disc jockey, and dancing by guests or performers was a violation of LBMC 5.72.110 (A). He was also given a copy of the Long Beach Municipal Code section, and told they could be in jeopardy of a suspension or revocation of their business license.

On May 31, 2006, the Long Beach City Prosecutors Office sent a letter to Katia Maria Mannery, requesting to meet with her regarding various code violations and reported nuisance activity that was occurring at or near the business she owns. This meeting was an effort to abate such issues without criminal proceedings. On June 14, 2006, a meeting in the City Prosecutors Office was held with the owner, Katia Maria Mannery. Representatives from the North Patrol Division, Vice Investigations Section, and Fire Department also attended the meeting in an effort to educate the owner about what was occurring at or related to the business. Specifically, the behavior of their patrons leaving the establishment was discussed (combative subjects, public intoxication, traffic disputes, violent crimes etc.).

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In May of 2007, after several more incidents had occurred at Ajas Bar, the location was referred to Nuisance Abatement Officer Rita Hooker. Another meeting was held with owners, Katia Maria Mannery and Mike Magallanes. The meeting was held on July 16, 2007 at the North Police Station. Patrol Officers Maria Clay and Harry Hampton, PSS Marlene Arrona, and Rita Hooker attended this meeting. This meeting was requested to provide information to the owners of Ajas Bar regarding the Nuisance Abatement Overview and was a follow-up to a prior meeting with the City Prosecutors Office. The follow-up topics included dress code, metal detectors, increased security, security cameras, ABC training with employees of Ajas, and Police Calls for Service.

On October 15, 2007, a meeting was held at the Police Department with Ajas owner and management to discuss on-going concerns associated with the bar. The meeting primarily centered on the number of violent incidents occurring at the location, and the possible solutions to mitigate these problems. In an effort to address these concerns, Vice Detectives and Ajas owner and management discussed many issues involving the bar, including security, dress code and the type of music played on the jukebox inside of the bar.

On November 2, 2007, Vice Detectives responded to Ajas for a compliance inspection regarding past complaints. Upon arrival at the bar, detectives discovered the business was playing amplified music from disk jockey equipment. The disk jockey equipment included an amplifier, large speakers and numerous compact discs. Detectives contacted the owner, Katia Maria Mannery, and confirmed the business did not have an entertainment permit to allow amplified music or a disc jockey. Detectives also determined the disk jockey, Reggie David Williams, was not an employee of the business and did not have a business license in the City of Long Beach. The owner, Katia Maria Mannery, was issued a citation for providing entertainment without a City issued entertainment permit. Mannery was issued citation # A930001. The disc jockey was issued a citation for operating a disk jockey business without a City issued business license. Williams was issued citation # A930002. Refer to DR # 070086957.

On November 15, 2007, the Department of Alcoholic Beverage Control (ABC) sent a warning letter to the licensee of Ajas. The letter was sent in response to numerous complaints that ABC received about the licensed premises. The complaints consistently report the licensed premise was allowing the following types of activity: Patrons causing disturbances, fights, assaults, unpermitted entertainment and public urination. The warning letter was sent to inform the licensee that the premise is permitting "Objectionable Conditions" and is operating in a disorderly fashion. The licensee was being notified about the following section of ABC law, §24200 (e)(f) BP (Grounds that constitute a basis for the suspension or revocation of ABC licenses).

On November 20, 2007, Detective Dana Smith presented the above incident report to the City Prosecutors Office for filing of criminal charges. City Prosecutor Raymond George filed one misdemeanor count of 5.72.110 (A) LBMC (Entertainment Permit Required) on Katia Maria Mannery. Mr. George

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filed two misdemeanor counts on Reggie David Williams. The criminal charges filed on Williams included 3.80.210 LBMC (License and Tax Payment Required) and 5.72.110 (A) LBMC (Entertainment Permit Required). The case number issued for this complaint is 7LG12664.

On January 26, 2008, Vice Detectives again responded to Ajas for a compliance inspection. On this occasion, detectives discovered the business was again providing entertainment without an entertainment permit. Detectives also noted there were approximately 110 persons inside of the location. The total amount of persons permitted inside of Ajas is 86. Detective Armand Castellanos filed an incident report for Entertainment Permit Required. Refer to DR # 08-6656.

On February 9, 2008, Vice Detectives again responded to Ajas for a compliance inspection. On this occasion, detectives again discovered the business was providing entertainment without an entertainment permit. Detectives also noted there were approximately 100 persons inside the location. The count of 100 persons inside the location did not include the 6 security staff members, 6 bartenders or 4 waitresses, who were working that evening. Detective Castellanos filed another incident report for Entertainment Permit Required. Refer to DR # 08-10216.

On February 27, 2008, Katia Maria Mannery pled no contest to 5.72.110 (A) LBMC. On February 4, 2008, Reggie David Williams pled no contest to 5.72.110 (A) LBMC and count two 3.80.210 LBMC was dismissed. Both defendants were placed on probation and ordered to pay a fine.

On April 24, 2008, Vice Detectives responded to Ajas for a compliance inspection. On this occasion, detectives discovered the business was providing entertainment without an entertainment permit. Detectives again noted there were approximately 120 persons inside the location. At approximately 1:45 A.M., an announcement was made for last call. Detectives were allowed to stay at the location after the majority of the patrons had vacated the premises. There was one additional patron seated at the bar, along with the detectives. The rest of the persons inside the business were employees, who were cleaning the premises.

At 2:39 A.M., Detective Eric Hubbard ordered a bottle of Heineken beer. Detective Hubbard was served the beer by a bartender identified as Subira Khalfani. Detective Castellanos ordered the same type of beer from the same bartender. Detective Castellanos watched as Khalfani approached Katia Maria Mannery and asked her permission to serve him. Mannery gave Khalfani permission and was served the bottle of beer. The other patron inside of the business was served a Corona bottled beer by the same bartender, shortly before the detectives received their beers.

Detective Jesus Hernandez and assisting uniformed patrol officers entered the location at this time. Mannery was identified, and was issued a citation for 25631 BP (Sales of Alcohol After Hours). Mannery was issued citation # A956572. The bartender who served the detectives the beer was identified at the location, but was not issued a citation. Detective Castellanos filed an incident report for

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Permitting Alcohol Consumption After Hours. Refer to DR # 08-29986. ABC is recommending a 30-day suspension of Ajas ABC license for the sale of alcohol after hours.

On May 15, 2008, Vice Detectives again responded to Ajas for a compliance inspection. On this occasion, detectives once again discovered the business was providing entertainment without an entertainment permit. Detectives issued Katia Maria Mannery a misdemeanor citation for providing entertainment without a permit. She was issued citation # B027201. Detectives contacted the disc jockey, Reggie David Williams, who was attempting to leave the location and was stopped outside of the business by assisting officers. It was discovered that Williams had an arrest warrant. Williams was arrested for the warrant and also for 5.72.110 (A) LBMC (Entertainment Permit Required) and 3.80.210 LBMC (License and Tax Payment Required). Williams was transported to LBPB where he was booked on the above charges. Detectives photographed the disc jockey equipment and recovered the items and later placed them into evidence. Refer to DR # 08-35783.

On May 19, 2008, Detective Dana Smith presented the above incident reports to the City Prosecutors Office for filing of criminal charges. City Prosecutor Sandra Stolpe filed nine misdemeanor counts on the owner of Ajas, Katia Maria Mannery. Ms. Stolpe filed six misdemeanor counts on the disc jockey, Reggie David Williams. The case number issued for this complaint is 8LG02156. Ms. Stolpe also filed probation violations on Mannery and Williams, based on the fact that both Mannery and Williams were placed on probation due to their no contest pleas in the previous case (7LG12664).

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, deny, or revoke business licenses, pursuant to §3.80.429.1(A) LBMC, when a licensee has failed to comply with any applicable provision or requirement of law.

Pursuant to this authority, the Police Department respectfully requests that you examine these violations of law committed by 2706 South Street LLC, dba Ajas Bar, and request for revocation of the business license for Ajas Bar.

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