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CITY OF LONG BEACH,  
  
Plaintiff,  
  
v.  
  
LIVE BAIT, aka GILLIAM and WALES  
of DUBLIN, INC., dba THE PIER (AKA  
LIVE BAIT) 6251 East Pacific Coast  
Highway (District 3).  
  
Defendant.

Hugh R. Burns, Hearing Officer

FINDINGS AFTER ADMINISTRATIVE  
HEARING PURSUANT TO LONG BEACH  
MUNICIPAL CODE CHAPTERS 2.93, 3.80,  
5.06 AND 5.72

Hearing Dates: December 11, 2003, January  
27, 2004, February 10, 2004, February 11,  
2004, March 1, 2004, March 10, 2004 and  
March 11, 2004

This matter was heard on December 11, 2003, January 27, 2004, February 10, 2004,  
February 11, 2004, March 1, 2004, March 10, 2004 and March 11, 2004 and City Hall, located at  
333 West Ocean Boulevard, Long Beach, California, before Administrative Hearing Officer,  
Hugh R. Burns, appointed pursuant to Chapter 2.93 of the Long Beach Municipal Code  
(hereinafter referred to as "LBMC.")

///

**PARTIES AND REPRESENTATIONS**

1  
2 City of Long Beach

Michelle Gardener, Esq.  
Deputy City Attorney

3  
4 Live Bait, aka Gilliam and Wales  
of Dublin, Inc., dba The Pier  
5 (Aka Live Bait)

Robert L. Kennedy, Esq.  
J. Kelso Lindsay, Esq.  
Law Offices of Robert L. Kennedy & Assoc.

6  
7 **STATEMENT OF ISSUES**

8 Whether the business license (BU86026130)(herein referred to as the "Business  
9 License") and Entertainment Permit (BU86020290) (herein referred to as the "Entertainment  
10 Permit") for Gilliam & Wales of Dublin, Inc., dba The Pier (aka Live Bait)(hereinafter referred  
11 to as "Respondent" or "Live Bait"), located at 6251 East Pacific Coast Highway, Long Beach,  
12 California, should be revoked.

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14 **DOCUMENTARY EVIDENCE**

15 **For the City of Long Beach:**

- 16 1. Color aerial photo of Live Bait taken from internet on 7/7/03.
- 17 2. Video tape of Live Bait, July 3<sup>rd</sup> through 4<sup>th</sup>, 2003, taken by Detective Eaton.
- 18 3. LBPB Police Report #03-53949, incident of urinating in public on 7/3/03, by  
19 Detective Eaton.
- 20 4. LBPB Poilce Report #03-54445, incident of live entertainment without permit on  
21 7/5/03, by Detective Eaton.
- 22 5. Certified Docket of Case #3LM04239, plea of no contest by Philip Reynolds,  
23 incident of loud/unreasonable noise on 3/23/03.
- 24 6. Certified Docket of Case #3LM08177, plea of no contets by Philip Reynolds,  
25 incident of loud/unreasonable noise on 7/5/03.
- 26 7. Certified Docket of Case #3LM06228, plea of no contest by Philip Reynolds,  
27 incident of loud/unreasonable noise 9/6/03.  
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1           8.     Memo and Letter Requesting Revocation of Business License and Entertainment  
2 by City, dated 09/11/03 and 10/14/03.

3           9.     Six color photos of trash/debris at Live Bait parking lot, taken by Officer  
4 Solomita in late August/September 2003.

5           10.    Several colored small flyers/advertisements found in Live Bait parking lot,  
6 collected by Officer Solomita in late August/September 2003.

7           11.    Binder of police data collected and analyzed by Detective Anderson regarding  
8 investigation into revocation of business licenses (i.e., Calls for Service, Arrest Reports, License  
9 Applications, ABC documents, Correspondence between City, Live Bait and neighbors).

10          12.    Second binder of police data collected and analyzed by Detective Anderson  
11 regarding investigation into revocation of business licenses (i.e., Calls for Service, Arrest  
12 Reports, License Applications, ABC documents, Correspondence between City, Live Bait and  
13 neighbors).

14          13.    Partial Entertainment Permit information (duplicated from originals in binders  
15 (Exhibits 12 and 13).

16          14.    Updated Calls for Service information from 8/19/03 to 2/10/04 (partially  
17 duplicated from originals in binders (Exhibits 12 and 13).

18          15.    LBPD Police Report #03-68536, incident of public intoxication 8/23/03, by  
19 Officer Ashabi.

20          16.    LBPD Police Report, #03-72871, incident of loud/unreasonable noise 9/5/03, by  
21 Officer Ashabi.

22          17.    LBPD Police Report #03-75021, incident of public intoxication 9/12/03, by  
23 Officer Ashabi.

24          18.    LBPD Police Report #04-884, incident of fight/large crowd 1/31/04, by Officer  
25 Ashabi.  
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- 1           19.    LBPDPolice Report #03-26549, incident of possession of alcohol by minor  
2           4/4/03, by Sgt. Colbert.
- 3           20.    LBPDPolice Report #03-26522, incident of public intoxication 4/4/03, by Sgt.  
4           Colbert.
- 5           21.    LBPDPolice Report #03-30587, incident of disabled placard violation 4/17/03,  
6           by Sgt. Colbert.
- 7           22.    LBPDPolice Report #03-30592, incident of false/fake I.D. by minor 4/18/03, by  
8           Sgt. Colbert.
- 9           23.    LBPDPolice Report #03-53970, incident of fight in public place 7/4/03, by Sgt.  
10          Colbert.
- 11          24.    LBPDPolice Report #03-23140, incident of loud/unreasonable noise 3/23/03, by  
12          Officer Tom.
- 13          25.    LBPDPolice Report #03-24888, incident of loud/unreasonable noise 3/29/03, by  
14          Officer Tom.
- 15          26.    LBPDPolice Report #03-25140, incident of loud/unreasonable noise 3/30/03, by  
16          Officer Tom.
- 17          27.    LBPDPolice Report #03-27099, incident of robbery 4/6/03, by Officer Tom.
- 18          28.    LBPDPolice Report #03-30907, incident of urinating in public 4/19/03, by  
19          Officer Tom.
- 20          29.    LBPDPolice Report #03-35196, incident of possession of illegal paraphernalia  
21          5/3/03, by Officer Tom.
- 22          30.    LBPDPolice Report #03-37122, incident of urinating in public 5/10/03, by  
23          Officer Tom.
- 24          31.    LBPDPolice Report #03-37407, incident of large crowd/public intoxication  
25          5/11/03, by Officer Tom.
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- 1           32.    LBPB Police Report #03-39460, incident of public intoxication 5/18/03, by  
2 Officer Tom.
- 3           33.    LBPB Police Report #03-41349, incident of public intoxication 5/24/03, by  
4 Officer Tom.
- 5           34.    LBPB Police Report, #03-56340, incident of vandalism 7/11/03, by Officer Tom.
- 6           35.    LBPB Police Report, #03-58736, incident of live entertainment without permit  
7 7/20/03, by Officer Tom.
- 8           36.    LBPB Police Report #03-62862, incident of live entertainment without permit  
9 8/3/03, by Officer Tom.
- 10          37.    LBPB Police Report #03-97679, incident of live entertainment without permit  
11 11/29/03, by Officer Tom.
- 12          38.    LBPB Police Report #03-99250, incident of dispute/possession of marijuana  
13 12/6/03, by Officer Tom.
- 14          39.    LBPB Police Report, #03-103354, incident of threaten to harm on another  
15 12/22/03, by Officer Tom.
- 16          40.    LBPB Police Report, #04-652, incident of live entertainment without permit  
17 1/4/04, by Officer Tom.
- 18          41.    LBPB Police Report, #02-99130, incident of indecent exposure 12/29/02, by  
19 Officer Deis.
- 20          42.    LBPB Police Report #03-100973, incident of live entertainment without permit  
21 12/1-2/03, by Officer Deis.
- 22          43.    LBPB Police Report #03-102871, incident of live entertainment without permit  
23 12/19/03, by Officer Deis.
- 24          44.    LBPB Police Report, #03-60539, incident of live entertainment without permit  
25 7/25/03, by Officer Bell.
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- 1           45.    LBPB Police Report #03-62828, incident of live entertainment without permit  
2 8/2/03, by Officer Bell.
- 3           46.    24 x 18 sample piece of foam insulation given to Rita Hooker by Live Bait  
4 managers (Phil Reynolds and Khai Lequang) on 9/14/02 nuisance meeting had with Detective  
5 Eaton and Officer Solomita.
- 6           47.    Letter from Phoenix Productions, LLC, dated 9/26/02, to employees regarding  
7 changes in management of Live Bait.
- 8           48.    Letter dated 5/29/03, from City Attorney to Graham Gilliam by certified receipt  
9 regarding LBMC 9.37 nuisance hearing.
- 10           49.    Email dated 2/21/03, from Khai Lequang to Rita Hooker regarding Live Bait.
- 11           50.    Letters dated 6/24/03, from Rita Hooker to Graham Gilliam and managers  
12 regarding LBMC 9.37 nuisance hearing.
- 13           51.    Letters dated in May, June and July 2003, from Graham Gilliam regarding LBMC  
14 9.37 nuisance notice.
- 15           52.    Letters from neighbors dated in September and October 2003 regarding LBMC  
16 9.37 nuisance hearing.
- 17           53.    Findings After Administrative Hearings (Pursuant to LBMC 9.37), dated  
18 November 24, 2003, by Lynn E. Moyer, Administrative Hearing Officer.
- 19           54.    Letter from Billy Nguyen dated 9/8/03, to City representatives regarding notice  
20 that he is new manager and of proposed changes.
- 21           55.    Color photo of Live Bait's door, showing "Medusa", taken by Rita Hooker a  
22 couple of months prior to this testimony.
- 23           56.    Email dated 10/17/03, from James Goodin to Jeannine Montoya regarding  
24 conversation with Billy Nguyen.
- 25           57.    Letter dated 10/6/03, from James Goodin to Gilliam & Wales of Dublin, Inc.  
26 regarding requested revocation by Chief of Police.
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1 58. Letter dated 10/22/03, from Attorney Mark Shoemaker indicating he represents  
2 Live Bait.

3 59. Letter dated 4/25/03, from Graham Gilliam to Philip Reynolds and Khai Lequang  
4 regarding parking by patrons at the Bahia Marina.

5 60. Letter dated March 9, 2004, from Michelle Gardner to Kelso Lindsay and Robert  
6 Kennedy objecting to some witnesses' testimony.

7 61. Request for Investigation and Application for Pool Hall License made by Gilliam  
8 & Wales of Dublin, Inc. on 4/19/90.

9 62. Secretary of State Articles of Incorporation for Gilliam & Wales of Dublin, Inc.

10 63. Four color photos of trash and debris in Bahia Marina parking lot, taken by Mike  
11 Lewis on 3/5/04.

12 64. Fountain Valley Police Department Crime Report #04-00193, insurance  
13 fraud/false info. report made by Billy Nguyen on 1/13/04.

14 65. Email from Dean Mike Hostetler, CSULB Student Services, regarding upcoming  
15 "Step Show" hip hop entertainment at Live Bait, 6251 E. Pacific Coast Highway, on 4/3/04.  
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18 For Respondent:

- 19 A. Submitted document.  
20 B. Building plans.  
21 C. Construction estimates dated February 2003.  
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24 WITNESSES

25 For the City of Long Beach:

- 26 1. Aaron Eaton, Detective, East Division, LBPB  
27 2. Anthony Batts, Chief of Police, LBPB  
28 3. Mike Solomita, Officer, East Division, LBPB

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4. Chris Anderson, Detective, Vice Detail, LBPD
5. Ebrahim Ashabi, Officer, East Division, LBPD
6. Rick Colbert, Sergeant, East Division, LBPD
7. Blayne Tom, Officer, East Division, LBPD
8. Brandon Deis, Officer, East Division, LBPD
9. Brian Bell, Officer, East Division, LBPD
10. Rita Hooker, Nuisance Abatement Officer, City Manager's Office
11. Jim Goodin, Business Services Officer, Financial Management
12. Jeannine Montoya, Supervisor, Business Licensing, Financial Management

For Respondent:

1. Billy Nguyen
2. Sean Fenison
3. Richard Gonzalez

Public comment was received both in support and against Respondent.

**NOTICE**

Pursuant to LBMC § 2.93.050 (B(1)), the City Clerk gave adequate notice of commencement of this hearing to counsel for Respondent. Testimony of Billy Nguyen.

**FACTUAL AND LEGAL FINDINGS**

The hearing officer makes the following findings:

1. On November 24, 2003, Administrative Hearing Officer, Lynn E. Moyer, found, by a preponderance of the evidence, that Respondent was a public nuisance pursuant to LBMC §§ 9.37.090(a), 9.37.090(g), 9.37.090(h), 9.37.090(m), 9.37.090(u).



1           2.       Despite the November 24, 2003 administrative decision, Respondent continued to  
2 be a public nuisance and Respondent has failed to adequately and reasonably abate the nuisance  
3 as required by the administrative decision. See City of Long Beach Documentary Evidence,  
4 Exhibits 2-7, 9, 12-13,15-46, 63-64 and 66; Witness Testimony from Chief of Police Anthony  
5 Batts Detective Aaron Eaton, Officer Mike Solomita, Detective Chris Anderson, Officer  
6 Ebrahim Ashabi, Sergeant Rick Colbert, Officer Blayne Tom, Officer Brandon Deis, Officer  
7 Brian Bell, and Nuisance Abatement Officer Rita Hooker; and Long Beach residents that  
8 provided public comment.

9           3.       An application for the Business License and Entertainment License (herein  
10 referred to as the "Application") was submitted by Gilliam & Wales of Dublin, Inc. to the City of  
11 Long Beach for an "Entertainment Cafe." Respondent's principal office was and is located in  
12 Houston, Texas. The Application was notarized and signed under penalty of perjury by Robert  
13 Gilliam, Respondent's president. The Application represented that the proposed Entertainment  
14 Café would be a bona fide eating establishment. Further, the Application represented that the  
15 Entertainment Café would offer no "[i]nstrumental [e]ntertainment by more than one [m]usician",  
16 no "[s]inging [e]ntertainment, no [v]audeville", "[f]loor show or [c]abaret [e]ntertainment", and  
17 no "[a]dult entertainment as defined in Sec. 9120.41" LBMC. However, the Application did  
18 state that the Entertainment Café would allow dancing by patrons, guests or customers. As part  
19 of the police investigation of the Application, Robert Gilliam advised police investigators that he  
20 did not intend to apply for a live entertainment permit and that the music would be provided by a  
21 disc jockey type set up. One of the conditions for issuance of the Business License and  
22 Entertainment License was that a "liaison be set up between the restaurant and the mobilehome  
23 park representatives." City of Long Beach Documentary Evidence, Exhibits 11-12

24           4.       Historically, Respondent has been an ongoing source of neighborhood and law  
25 enforcement complaints related to noise disturbances, loud music, public intoxication,  
26 disturbances to residential areas, criminal activity, lewd behavior, acts of violence, gang activity,  
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1 littering and state and municipal code violations. Substantial and disproportionate police  
2 department resources have been required to respond to the complaints at Live Bait. See City of  
3 Long Beach Documentary Evidence, Exhibits 2-7, 9, 12-13,15-46, 63-64 and 66; Witness  
4 Testimony from Chief of Police Anthony Batts, Detective Aaron Eaton, Officer Mike Solomita,  
5 Detective Chris Anderson, Officer Ebrahim Ashabi, Sergeant Rick Colbert, Officer Blayne Tom,  
6 Officer Brandon Deis, Officer Brian Bell, and Nuisance Abatement Officer Rita Hooker; and  
7 Long Beach residents that provided public comment.

8  
9 5. Respondent repeatedly violated the terms and conditions of its Entertainment  
10 Permit. Philip Reynolds, Respondent's manager, plead no contest to municipal code violations  
11 related to loud/unreasonable noise and live entertainment on March 23, 2003, July 5, 2003 and  
12 September 6, 2003. See City of Long Beach Documentary Evidence, Exhibits 5-7, 10-11. Billy  
13 Nguyen, a current manager for Respondent, admitted knowingly violating the terms and  
14 conditions of the Entertainment Permit by allowing a live band to play at Live Bait. The stated  
15 justification for the violation was to avoid potential contractual litigation that may have resulted  
16 from cancellation of the live band. See Hearing testimony of Billy Nguyen on March 10-11,  
17 2004. Respondent promoted, advertised and presented live bands (live entertainment) which  
18 included a singer and multiple musicians in express violation of the terms and conditions of the  
19 Entertainment Permit and the representations of Respondent's owner. City of Long Beach  
20 Documentary Evidence, Exhibits 10-12; 42-45. Inspections by law enforcement and the ABC  
21 determined that Live Bait did not have functioning refrigerators, stoves and other equipment to  
22 provide sufficient food for its patrons as a bona fide eating establishment. City of Long Beach  
23 Documentary Evidence, Exhibits 10-12. Respondent has made no effective effort to address  
24 long term, ongoing and repeated complaints by community members from the mobile home  
25 park, Whalers Cove and other surrounding neighborhoods.

26  
27 6. Though current management, Phoenix Productions, LLC., has recently taken  
28 marginal steps to address many of the law enforcement and community concerns these late and

1 inadequate efforts merely reflect short term fixes to a long term problem. See Witness testimony  
2 of Billy Nguyen, Richard Gonzalez and Sean Fenison; City of Long Beach Documentary  
3 Evidence, Exhibits 2-7, 9, 12-13,15-46, 63-64 and 66; Witness Testimony from Chief of Police  
4 Anthony Batts Detective Aaron Eaton, Officer Mike Solomita, Detective Chris Anderson,  
5 Officer Ebrahim Ashabi, Sergeant Rick Colbert, Officer Blayne Tom, Officer Brandon Deis,  
6 Officer Brian Bell, and Nuisance Abatement Officer Rita Hooker; and Long Beach residents that  
7 provided public comment.

8           7.       Respondent has effectively transferred the Entertainment Permit from Gilliam &  
9 Wales of Dublin, Inc. to current management, Phoenix Productions, in violation of LBMC §  
10 5.72.135. Respondent has ceded its non delegable duty to comply with the terms and conditions  
11 of the Business License and Entertainment License to Phoenix Productions. Phoenix  
12 Productions, has become the de facto, if not actual, owner and operator of Live Bait.  
13 Respondent's apparent abandonment of its duties has caused Phoenix Productions, LLC., to take  
14 half measures to respond to the findings of the nuisance hearing and more recent developments.  
15 See Witness testimony of Jim Goodin, Business Services Officer, Financial Management;  
16 Jeannine Montoya, Supervisor, Business Licensing, Financial Management; Billy Nguyen,  
17 Richard Gonzalez and Sean Fenison; Respondent's Exhibits B and C.  
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### 21 RECOMMENDATION

22           Based on the foregoing, the hearing officer finds that clear and convincing evidence  
23 supports the following recommendation:  
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25           Respondent violated LBMC §§ 5.06.020(A)(1), (2), (3), and (5). Further, the hearing  
26 officer finds that Respondent effectively transferred the Entertainment Permit to Phoenix  
27 Productions, LLC in violation of LBMC §5.72.135. Further, Respondent failed to limit its  
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1 “activity expressly indicated on the permit application and approved by the City Council,” as  
2 required by LBMC § 5.72.135.

3 The hearing officer hereby recommends that Respondent’s Business License and  
4 Entertainment License be revoked. The hearing officer acknowledges that LBMC § 5.06.020(B)  
5 provides suspension as a potential remedy. However, given the historical pattern of violations  
6 and community complaints over many years, nothing short of revocation will provide any  
7 meaningful solution to this long term problem.

8 DATED: April 5, 2004

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10 By:

  
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HUGH R. BURNS, Hearing Officer

**PROOF OF SERVICE BY MAIL**

1  
2 STATE OF CALIFORNIA )  
3 COUNTY OF LOS ANGELES )

4 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
5 and not a party to the within action; my business address is 330 Golden Shore, Suite 410, Long  
6 Beach, CA 90802.

7 On April 5, 2004, I served the foregoing document described as: FINDINGS AFTER  
8 ADMINISTRATIVE HEARING PURSUANT TO LONG BEACH MUNICIPAL CODE  
9 CHAPTERS 2.93, 3.80, 5.06 AND 5.72 on the interested parties in this action as follows:

10 **Via Facsimile Only (562) 570-5099**

11 Irma Heinrichs, City Clerk  
12 CITY OF LONG BEACH

13 **Via Facsimile (562) 436-1579**

14 Michele Gardner, Esq.  
15 Office of the City Attorney  
16 333 West Ocean Boulevard  
17 Long Beach, CA 90802-4664

18 **Via Facsimile (562) 595-9537**

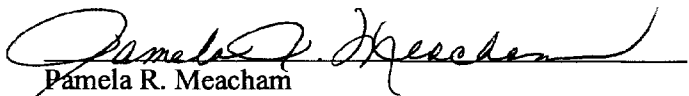
19 J. Kelso Lindsay, Esq.  
20 Law Offices of Robert L. Kennedy  
21 2201 Cherry Avenue, Suite 500  
22 Signal Hill CA 90755

23 **VIA MAIL.** A true and correct copy of the above-stated document was enclosed in a  
24 sealed envelope, addressed to each of the above, with postage thereon fully prepaid, and  
25 deposited in the United States Mail; and

26 **VIA FAX.**

27 I am "readily familiar" with the firm's practice of collection and processing  
28 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal  
Service on that same day with postage thereon fully prepaid at Long Beach, California, in the  
ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct and that this declaration was executed this 5<sup>th</sup> day of March 2004,  
at Long Beach, California.

  
Pamela R. Meacham