



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

C-8

333 West Ocean Blvd • Long Beach, California 90802

January 6, 2009

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Refer to Hearing Officer the appeal of business license revocations by 2706 South Street, LLC, DBA Ajas, located at 2706 South Street. (District 9)

DISCUSSION

On June 17, 2008, the Long Beach Chief of Police recommended that the Department of Financial Management revoke the business licenses issued to the 2706 South Street, LLC, DBA Ajas, located at 2706 South Street (Attachment A). The business violated the Long Beach Municipal Code (LBMC), state law, conditions attendant to the licenses, and demonstrated a pattern of unabated activity creating serious nuisance conditions.

A business license revocation hearing was conducted in compliance with LBMC Section 3.80.429.1 on September 10th, 16th and October 30, 2008. On December 1, 2008, the hearing officer recommended the Director of Financial Management revoke business license numbers BU20408690, BU20408700 and BU20406050 (Attachment B).

Pursuant to LBMC Section 3.80.429.5, a licensee can appeal the revocation of a business license to the City Council. The licensee lodged its written request for appeal on December 19, 2008 (Attachment C). Whenever it is provided that a hearing shall be heard by the City Council, the City Council may, in its discretion, conduct the hearing itself or refer it to a hearing officer.

This matter was reviewed by Deputy City Attorney, Cristyl Meyers on December 22, 2008.

TIMING CONSIDERATIONS

If referred, upon selection of a hearing officer, the matter will be heard not less than 20 days thereafter.

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

APPROVED:


PATRICK H. WEST
CITY MANAGER

ATTACHMENTS



City of Long Beach
Working Together to Serve

Memorandum

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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2706 EAST SOUTH STREET**

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

REQUEST FOR REVOCATION OF BUSINESS LICENSE FOR AJAS BAR -
2706 EAST SOUTH STREET

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.

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ADMINISTRATIVE HEARING
CITY OF LONG BEACH

IN THE ADMINISTRATIVE HEARING ON) HEARING OFFICER'S REPORT AND
8 REVOCATION OF BUSINESS LICENSES) RECOMMENDATION
9 BU20408690I, BU20408700, AND)
10 BU20406050 ISSUED TO 2706 SOUTH ST,) Hearing Officer: Michelle Jalali, Esq.
11 LLC, DBA AJAS, AJAS SPORTS BAR, AND)
12 THE ALIBI, LOCATED AT 2706 SOUTH)
13 STREET, LONG BEACH CA 90805)
Hearing Dates: September 10, 2008
September 16, 2008
October 30, 2008

14
15 This Administrative Hearing was held on September 10, 16 and October 30, 2008,
17 pursuant to Long Beach Municipal Code § 3.80.429.1, regarding revocation of the business
18 licenses issued to 2706 South St. LLC, dba Ajas, Ajas Sports Bar, and the Alibi (hereinafter
19 "Ajas"), located at 2706 South Street, Long Beach, California 90805. The business license
20 numbers are: BU20408690 (bar, tavern, lounge), BU20408700 (pool tables), and BU20406050
21 (amusement machines) (hereinafter "Ajas Business Licenses"). Hearing Officer, Michelle Jalali,
22 Esq., presided the hearing. Deputy City Attorney Cristyl Meyers, Esq., was present on behalf of
23 the City of Long Beach (hereinafter the "City"). Attorney Richard Brizendine, Esq., was present
24 on behalf of Ajas and Ajas' sole member/ owner, Katia Maria Mannery (hereinafter "Mannery").

25 Ajas' witnesses, Mike Magallanes, Ajas' Manager, and Katia Maria Mannery, Ajas' sole member/ owner, testified at the hearing.

1 The following witnesses testified on behalf of the City at the hearing: Armand
2 Castellanos, Long Beach Police Department (“LBPD”) Detective, DiMetrio Alonzo, LBPD
3 Officer, Lee Debrabander, LBPD sergeant, Jenny O’Connor, COLB Health Inspector, Jeannine
4 Montoya, COLB Business Services Supervisor, Chris Anderson, LBPD Detective, Dana Smith,
5 LBPD Detective.

6 Exhibits A through Z, and AA through HH, which were marked for identification by
7 Ajas’ Counsel, were introduced into evidence. Additionally, Exhibits 1 through 48, which were
8 marked for identification by City’s counsel, were introduced into evidence.

9 The hearing officer, having heard and reviewed the evidence, the testimony, and
10 arguments presented on behalf of Ajas, as well as various departments of the City, including its
11 police department, now presents her report pursuant to Long Beach Municipal Code (hereinafter
12 “LBMC”) § 2.93.050.

13 **STATEMENT OF THE ISSUES**

14 Whether the evidence established that the business licenses issued to Ajas, license
15 number BU20408690 for bar, tavern, lounge, BU20408700 for pool tables, and BU20406050 for
16 amusement machines, should be suspended or revoked pursuant to applicable provisions of
17 LBMC.

18 **FINDINGS OF FACTS**

19 On January 29, 2004, Ms. Mannery submitted three applications to the City to obtain
20 business licenses for cocktail lounge, two pool tables, and amusement machines for Ajas. Ajas’
21 applications stated that there would be no “dancing” and no “music (live or amplified).” (Ex. 14,
22 15, 16). The City issued license number BU20408690 for bar, tavern, lounge, BU20408700 for
23 pool tables, and BU20406050 for amusement machines (hereinafter “Ajas’ Business
24 Licenses”). Ajas also submitted an application to California Department of Alcoholic Beverage
25

1 Control (hereinafter "ABC") to obtain a license for serving alcohol at Ajas. ABC issued to Ajas
2 a license for serving alcoholic beverages. Ajas has been operating as a bar since 2004.

3 On July 12, 2004, Ms. Mannery applied for an entertainment permit without dancing by
4 patrons for Ajas. At the City Council meeting on October 12, 2004, the City denied the
5 entertainment permit for Ajas based in part on a recommendation by the City's Chief of Police
6 dated September 16, 2004. The City's Chief of Police recommended denial of the permit based
7 on information discovered during an investigation conducted by the vice investigations section,
8 objections of the residents who lived within 100 feet of the location, and a recommendation from
9 North Division Patrol. The investigation by vice investigations section revealed that Ajas had
10 many police calls involving combative subjects, intoxication, fights, and other disturbances.
11 Additionally, the residents complained about loud music, loud people drinking in the parking lot,
12 fighting, excessive trash, and cars blocking the alleys. The residents in the area did not want the
13 situation to get worse. (Ex. 41.)

14 On November 3, 2004, the City notified Ajas that its application for entertainment permit
15 was denied. The City further notified Ajas that its temporary permit for entertainment without
16 dancing by patrons expired when the City Council denied Ajas regular permit. (Ex. 42).

17 On January 14, 2005, the City's Fire Department issued a Maximum Occupancy Load
18 Certificate to Ajas. (Ex.23). It is noted on the Certificate that the maximum number of occupants
19 shall not exceed "86" in accordance with Long Beach Fire Department, Uniform Fire Code. The
20 Certificate stated: "post in a conspicuous place near the main entrance/ exit." Ms. Mannery
21 signed for receipt and acknowledgement of the maximum occupancy and posting requirement.
22 (Ex.23).

23 On February 22, 2005, City's vice detectives noticed that Ajas was advertising live bands
24 and karaoke on its website (www.ajasbrazil.com). On March 3, 2005, City's detectives met with
25

1 Mike Magallanes (hereinafter "Magallanes"), Ajas' manager, and advised him of the
2 entertainment prohibition due to the denial of Ajas' entertainment permit. (Ex. 11).

3 On April 14, 2006, LBPD responded to Ajas due to complaints regarding large number of
4 patrons gathering inside and outside Ajas. Also, Fire Marshal responded to the location due to
5 the building being overcrowded. Approximately 180-200 were inside the bar. Ms. Mannery was
6 cited for over capacity in violation of LBMC §18.48.010, and Long Beach Fire Code ("LBFC")
7 §2501.16.3. (Ex. E)

8 On May 4, 2006, LBPD responded to Ajas due to complaints of overcrowding.
9 Approximately 180-200 people were inside Ajas. Ms. Mannery was cited again for
10 overcrowding. (Ex. F).

11 On June 14, 2006, representatives of North Divisions patrol, vice detail, and Fire
12 Department met with Magallanes and Mannery in City's Prosecutor Office due to many
13 complaints regarding multiple violations by Ajas' patrons. At the meeting, the behavior of Ajas'
14 patrons, in particular, public intoxication, traffic disputes, and violent crimes were discussed.
15 Additionally, an action plan was developed and Ms. Mannery agreed to implement the plan. (Ex.
16 13a,b).

17 On July 16, 2007, another meeting was held with Ms. Mannery and Magallanes at the
18 North Police Station as a follow up to June meeting, and to provide information to the owners
19 regarding nuisance abatement. The action plan from June meeting was discussed and Ms.
20 Mannery provided update regarding implementing the action plan. (Ex. 13c,d)

21 On October 15, 2007, City's detectives met with Mr. Magallanes and Ms. Mannery to
22 discuss the on-going violent incidents occurring at Ajas in order to prevent them from
23 happening. The detectives suggested several ideas for management to consider regarding their
24 security, responsibilities, and procedures. Ms. Mannery was advised that the violent incidents
25 would probably prevent Ajas from obtaining an entertainment permit in the future. (Ex. Z.)

1 On November 2, 2007, LBPD vice detectives responded to Ajas for a compliance
2 inspection. Detectives discovered that Ajas was playing loud amplified music from disc jockey
3 equipment. Ms. Mannery was issued a citation for providing entertainment without a permit and
4 the disc jockey, Reggie Williams (hereinafter "Williams") was issued a citation for operating a
5 DJ business without a license. (Ex. P).

6 Subsequently, City prosecutor's office filed criminal charges against Mannery for
7 providing entertainment without permit and against Williams for conducting DJ business without
8 a permit. (Ex. 30, Case No. 7LG12664). Mannery and Williams pled no contest to providing
9 entertainment without permit. They were convicted of the charge and were placed on probation.
10 (Ex.6, 7).

11 On November 15, 2007, ABC sent an official notice of objectionable conditions and
12 disorderly activity to Ajas. ABC stated that it has received numerous complaints that Ajas is
13 allowing the following types of activities: "patrons causing or being responsible for disturbances,
14 fights, assaults, no entertainment permit and public urination." ABC warned Ajas that failure to
15 take reasonable steps to correct the objectionable conditions and the disorderly activity within 20
16 days could result in formal disciplinary action taken against its alcoholic beverage license,
17 including a suspension and/or revocation. (Ex. 31).

18 On January 26, 2008, vice detectives responded to Ajas for a compliance inspection.
19 They discovered amplified music was played at Ajas and patrons were dancing on the dance
20 floor. Detective Castellanos reported overcrowding, approximately 110 people, in violation of
21 maximum occupancy capacity. He filed an incident report for overcrowding and providing
22 entertainment without permit. (Ex. T)

23 On February 9, 2008, vice detectives discovered again that Ajas was playing amplified
24 music and the place was overcrowded with approximately 100 individuals inside the bar.
25 Detective Castellanos observed approximately 20 people dancing on the dance floor to the

1 amplified music. He also observed Brazilian dancers dancing wearing feathered headpieces and
2 bikini top with g-string bottoms. Ms. Mannery was also dancing with the Brazilian dancers that
3 night. Detective Castellanos filed an incident report for overcrowding and providing
4 entertainment without permit. (Ex. U).

5 On April 24, 2008, vice detectives responded again to Ajas and discovered Ajas was
6 providing amplified music without an entertainment permit. They observed approximately 120
7 individuals inside the location. Additionally, undercover detectives and one patron were allowed
8 to stay after 1:45 a.m., and were served alcohol by bartenders after hours. Vice detectives
9 entered the location at that time and issued citation to Ms. Mannery for selling alcohol after
10 hours. (Ex. 8).

11 On May 15, 2008, vice detectives conducted another undercover investigation at Ajas.
12 They discovered amplified music being played at Ajas and patrons were dancing on the dance
13 floor. Detectives entered the location and issued proper citation. Williams was arrested and
14 transported for booking since he had an outstanding arrest warrant. Ms. Mannery was cited for
15 providing entertainment without permit in violation of LBMC 5.70.110(A). (Ex. 9).

16 Subsequently, City's prosecutor office filed criminal charges against Mannery and
17 Williams. (Ex. GG, Case No. 8LG02156). Ms. Mannery pled no contest to overcrowding and
18 selling alcohol after hours. She was convicted of two counts and was placed on probation. (Ex.
19 5).

20 In addition to the above incidents that led to issuance of citations to Ms. Mannery for
21 providing entertainment without permit, overcrowding and serving alcohol after hours, several
22 other nuisance activities occurred at Ajas, from 2004 through 2008. The nuisances included
23 combative subjects, fighting, public intoxication, cars blocking alleys, violent crimes, and public
24 urination, which were reported at or near Ajas. *See*, incident reports, Exhibits B through W, 24,
25 and calls for service, Exhibits 33 through 36, and 45 through 48.

1 Additionally, Ajas hosted album release live performances. The video footage of these
2 parties was retrieved from the Internet. (Ex. 26, 27). Ms. Mannery admitted at the hearing that
3 the album release entertainment had occurred at Ajas in April of 2007.

4 On June 17, 2008, LBPD requested that City's Financial Management Department
5 revoke Ajas' business licenses pursuant to LBMC § 3.80.429(A). (Ex. 39). On August 6, 2008,
6 Financial Management Department notified Ajas regarding the hearing for revocation of
7 business license pursuant to LBMC 3.8.429.1 (A).

8 At the hearing, Ms, Mannery testified that Ajas served food for its customers. Notably,
9 Ajas' application for business license stated that food would not be served. (Ex 14, 15, 16).
10 Following Mannery's testimony regarding serving food without requisite permits, City's health
11 representatives inspected Ajas on September 17, 2008. The inspection by City's health
12 department revealed various violations in connection with food preparation and serving food for
13 customers. *See*, Ex. 37, 38. Ms. O'Connor, the City's health inspector, testified that a permit
14 with the health department is required for offering food to customers. She stated that Ms.
15 Mannery 's certificate of food management is not sufficient for serving food to public.

16 **SUMMARY OF RELEVANT EVIDENCE**

17 **Testimony in the Order Provided at the Hearing:**

18 **Mike Maggallanes:**

19 He testified that he is the manager of Ajas and is in charge of the operation of the bar. He
20 testified referring to Exhibits A through Z, Exhibits AA through FF, and Exhibits 1 through 28.
21 He stated that Ajas obtained a temporary public assembly permit on May 10, 2004, for Ajas'
22 grand opening on May 22, 2004. *See*, Ex. DD. He testified regarding his personal knowledge of
23 the incidents stated in the reports prepared by LBPD, which were marked as Exhibits B through
24 W. He stated that the reports were generally accurate. However, he contended that some of the
25 fights occurred outside Ajas after closing, and some of the people involved in the incidents were

1 not Ajas' patrons. He testified regarding his meetings with LBPB and North Division, and the
2 action plan to remedy the violations and the incidents occurring in and outside Ajas.

3 **Katia Maria Mannery:**

4 She testified that she was the sole member of 270 South St, LLC. She testified that on
5 average Ajas has nine (9) employees. She testified that they provided entertainment at Ajas on
6 special occasions. She admitted that the entertainment/ album release party depicted on the
7 video clips from the Internet, which were marked as Exhibits 26 and 27, had occurred in Ajas in
8 April of 2007 (Ex. 25). She testified regarding her meetings with the LBPB and North Division
9 in an attempt to stop the violations. She stated she pled no contest to misdemeanors of providing
10 entertainment without a license, overcrowding, and serving alcohol after hours filed against her.
11 See, Exhibits GG, 30. Exhibits 5 and 6 are certified record of the conviction based on plea of
12 nolo contendere. ABC closed Ajas for 20 days and assessed fines because of the violation. She
13 stated that they serve food at Ajas in disposable containers on Friday nights or birthdays. They
14 do not prepare or sell the food. She testified that she took courses in food management and
15 received a certificate of professional food manager marked as Exhibit HH.

16 **Detective Armand Castellanos:**

17 He is an undercover LBPB detective. He testified that he conducted undercover
18 investigation at Ajas due to numerous complaints from people and officers regarding intoxicated
19 patrons, public urination, and after hours drinking.

20 On January 26, 2008, he conducted an undercover investigation of Ajas and prepared the
21 report marked as Exhibit T. He stated that amplified music was played at Ajas and
22 approximately 50 patrons were dancing on the dance floor that night. He reported overcrowding
23 in excess of maximum occupancy load, approximately 110 people inside Ajas.

24 He conducted his second undercover investigation at Ajas on February 9, 2008, and
25 prepared the report marked as Exhibit U. He observed approximately 20 people dancing on the

1 dance floor to the amplified music. He also observed Brazilian dancers dancing wearing
2 feathered headpieces and bikini top with g-string bottoms. Ms. Mannery was also dancing with
3 the Brazilian dancers that night. He also reported overcrowding in excess of maximum
4 occupancy load, approximately 100 people inside Ajas.

5 He conducted another undercover investigation at Ajas on April 24, 2008, and prepared
6 the report marked as Exhibit 8. He observed patrons dancing to the amplified music on the
7 dance floor. He also reported overcrowding in excess of maximum occupancy load of "86." He
8 and undercover detective Hubbard stayed at Ajas after 1:45 a.m., when an announcement was
9 made for last call. At approximately 2:39 a.m. Ajas' bartenders served alcoholic beverages to
10 detective Castellanos, Hubbard and another patron. LBPD officers entered the location at this
11 time and cited Ms. Mannery for serving alcohol after hours.

12 On May 15, 2008, he conducted another undercover investigation at Ajas. He testified
13 that amplified music was played at Ajas and patrons were dancing on the dance floor. He
14 observed Reggie Williams with cordless microphone advertising drink specials. He notified
15 officer Hernandez to enter the location and issue proper citation. Williams was arrested and
16 transported for booking since he had an outstanding arrest warrant. Mannery was cited for
17 providing entertainment without permit in violation of LBMC 5.70.110(A). *See* Ex. 9.

18 **Officer DiMetrio Alonzo:**

19 He testified that he was dispatched to Ajas location many times due to complaints of
20 large crowds, music disturbance, combative subjects, fights, loitering, and disturbance of peace.
21 Exhibits 33, 34, 35 and 36 are records of calls for service.

22 **Sergeant Lee Debrabander:**

23 He is assigned to night field investigation in the vice unit. He testified that he received
24 numerous complaints in the past four years regarding increased crime and shooting by customers
25 coming out of Ajas. On May 4, 2006, he observed overcrowding at Ajas. The occupants were

1 counted 180 at that time. Mannery was cited for overcrowding. *See*, Ex. F. On November 2,
2 2007, he received a complaint regarding fight outside Ajas. There was a DJ and amplified music
3 at Ajas. Ms. Mannery was cited for providing entertainment without permit. Reggie Williams
4 was cited for operating a disk jockey business without a City license. *See*, Ex. P. On January 26,
5 2008, he could hear the amplified music in his car parked 120 feet away from Ajas with windows
6 up. *See*, Ex. T.

7 **Jenny O'Connor:**

8 She is City of Long Beach Health Inspector. City's Department of Health and Human
9 Services, Bureau of Environmental Health inspected Ajas on September 17, 2008. They
10 prepared a report noting various violations in connection with food preparation and serving food
11 for customers. *See*, Ex. 37. They took several photographs depicting the food preparation
12 equipment. *See*, Ex. 38. She stated a permit with the health department is required for offering
13 food to customers, and Ms. Mannery's certificate of food management is not sufficient for
14 serving food to public.

15 **Jeannine Montoya:**

16 She is City of Long Beach Business Services Supervisor. She is in charge of reviewing
17 and processing business license applications. She testified the business license taxes are based
18 on the number of employees reported on the application for license. Three employees were
19 reported on Ajas' application. *See*, Ex. 14. Upon renewal the applicant must notify the City of
20 the changes. She stated serving food for to the customers would be a violation because the
21 application noted that no food would be served. Additionally, providing entertainment and
22 amplified music would be a violation and required a separate permit. She testified regarding the
23 temporary public assembly permit issued by Fire Department for Ajas' grand opening on May
24 22, 2004. *See*, Ex. DD. She stated that this permit was for the location and a separate permit was
25 required for D.J. entertainment.

1 **Detective Chris Anderson:**

2 Detective Anderson was in charge of the investigation regarding Ajas' application for
3 entertainment permit. He contacted the residents within 100 feet of Ajas. They complained
4 about loud music, loud people drinking in the parking lot, fighting, excessive trash, and cars
5 blocking the alleys, and did not want the situation to get worse. He prepared the memorandum
6 signed by Anthony Batts, chief of police, recommending denial of Ajas' entertainment permit.
7 *See*, Ex. 41. He testified that in February 2005, he saw materials on Ajas' Internet site
8 advertising entertainment at Ajas. He printed the advertisement off the Internet on February 22,
9 2005. *See*, Ex. 12. He met with Magallanes in March 2005, and took a copy of the denial of
10 Ajas' entertainment permit (Ex. 42) to the meeting. He advised Magallanes that any live
11 amplified music, karaoke, disc jockey, and dancing by guest or performers was prohibited. *See*,
12 Ex. 11. He testified that Ms. Mannery was involved in unlicensed activity in 2001 as well, and
13 was cited on October 21, 2001. *See*, Ex. 43.

14 **Detective Dana Smith:**

15 Detective Smith was in charge of vice investigation of Ajas. He testified that he met with
16 Mr. Magallanes and Ms. Mannery on October 15, 2007, to discuss the violent incidents occurring
17 at Ajas, in order to prevent them from happening again. *See*, Ex. Z. He stated that he included in
18 the package, requesting revocation of Ajas' business license, various documents evidencing
19 multiple violations by Ajas. He included a copy of the notice of violation by ABC (Ex. 31), and
20 the worksheet indicating the penalty for solicitation and sale of alcohol after hours (Ex. 44). He
21 also included the memorandum regarding North Division's meeting with Mr. Magallanes and
22 Ms. Mannery on June 14, 2006 (Ex. 13). Additionally, he included copies of several calls for
23 service at Ajas (Ex. 33, 34, 35, 36, 45, 46, 47, 48), and the incident reports involving Ajas (Ex. 8,
24 9, and B through W). He testified that they had met with Ajas' owner and manager many times
25 to prevent the violations and to get them in compliance. However, Ajas' violations and the

1 violent incidents never stopped. As a result, LBPB requested revocation of Ajas' business
2 licenses. He stated if Ajas continued its operation someone was going to get killed.

3 **Stipulations:**

4 Ajas' counsel stipulated regarding the authenticity of Exhibits 26 and 27. He agreed that
5 in light of this stipulation, the testimony of City's technology service representative, who
6 downloaded these videos clips from the Internet, was not required.

7 Ajas' counsel also stipulated to the authenticity of Exhibit 40, which was the notice of
8 hearing regarding revocation of Ajas' business license dated August 6, 2008. He stipulated that
9 pages bearing bates stamps 6 through 8 were accurate, and the signature on page 7 was Ms.
10 Mannery's signature. He agreed that in light of this stipulation, the testimony of Richard Bartlett
11 was not required.

12 **Exhibits Introduced by Ajas' Counsel:**

13 **A Photo pool tables:** Depicts inside of Ajas and shows current condition of the bar.

14 **B to W Incident Reports dated 3/14/2004 to 4/18/2008:** LBPB Reports of incidents that
15 occurred at Ajas, in Ajas' parking lot, or the close proximity of Ajas, involving fights, combative
16 subjects, public intoxication, loud music, loud patrons, public urination, and overcrowding.

17 **X Photo south facing parking lot & alley:** Depicts exterior of Ajas' building.

18 **Y Photo west facing block wall & canopy entrance:** Depicts exterior of Ajas' building.

19 **Z 10-15-07 Owner Meeting Memo:** Memorandum regarding October 15, 2007 meeting of
20 City's detectives with Mr. Magallanes and Ms. Mannery to discuss the on-going violent
21 incidents occurring at Ajas.

22 **AA Photo maximum occupancy certificate:** Photograph depicting Maximum Occupancy
23 certificate posted on the wall.

24 **BB Photo pool tables and stage area:** Depicts inside of Ajas

25 **CC Close up photo of BB:** Close-up inside of Ajas

1 **DD 5-10-08 temporary public assembly permit:** For Ajas' grand opening on May 22, 2004

2 **EE IPOD purchase DJ Warehouse:** Credit card statement showing purchase of IPOD
3 music system in November of 2007.

4 **FF George Lakey business license BU05029680:** Business license of Ajas' former owner

5 **GG Criminal complaint 8LG02156:** Criminal complaint filed by City's prosecutors against
6 Mannery and Williams for providing entertainment without permit, overcrowding, and selling
7 alcohol after hours.

8 **HH Certified professional food manager certificate:** Mannery's Certificate dated 5/2/04

9 **Exhibits Introduced by City's Counsel:**

10 **1 Photo south facing bar/parking/alley:** Depicts Ajas' exterior and the adjacent street

11 **2 Photo Touch Tunes Digital Jukebox:** Depicts Ajas' jukebox

12 **3 Photo disc jockey equipment (e-g):** Depicts Disc Jockey equipment used by DJ Reggie
13 Williams at Ajas.

14 **4 LASC 8LG02156 certified record of Mannery's plea regarding 1/26/08 incident:**

15 Mannery's pleas regarding nine counts, including providing entertainment without
16 permit, selling alcohol after hours, and failure to keep count of occupants at Ajas.

17 **5 (a) LASC 8LG02156 certified minute order of Mannery's conviction re 1/26/08**

18 **incident:** Mannery was convicted based on plea of nolo contendere to count 5 for selling
19 alcohol after hours, and count 6 for failure to keep count of occupants. She paid fines
20 and was placed on probation. **(b) Minute orders LASC 8LG 02156:** Court's Minutes
21 orders regarding Mannery's pleas, convictions, and probation.

22 **6 LASC 7LG12664 certified conviction Mannery 11/2/07 incident:** Mannery's

23 conviction record based on plea of nolo contendere to count 1 for providing
24 entertainment without permit. She paid fines and was placed on probation.

25

- 1 **7 LASC 7LG12664 certified conviction Reggie Williams 11/2/07 incident:** Williams’
2 conviction based on plea of nolo contendere to count 2 for conducting DJ business
3 without a license. He paid fines and was placed on probation.
- 4 **8 LBPB Incident Report dated 4-24-08:** Incident report prepared by Detective
5 Castellanos regarding undercover investigation at Ajas, reporting overcrowding,
6 amplified music without an entertainment, and selling alcohol after hours.
- 7 **9 LBPB Incident Report dated 5-15-08:** Incident report prepared by Detective
8 Castellanos regarding undercover investigation at Ajas, reporting amplified music and
9 patrons dancing on the dance floor at Ajas.
- 10 **10 ABC accusations dated May 21, 2008:** ABC filed 6 counts of accusations against Ajas
11 for sale of alcohol after hours in violation of California Business and Professions Code,
12 and soliciting alcohol from customers in violation of California Code of Regulations on
13 April 25, 2008.
- 14 **11 3-3-05 LBPB owner meeting memo:** On March 3, 2005, City’s detectives met with
15 Magallanes and advised him of the entertainment prohibition, when they discovered that
16 Ajas was advertising live bands and karaoke on its website (www.ajasbrazil.com).
- 17 **12 Photos dancers:** Advertisement downloaded from Ajas website on Internet on February
18 22, 2005, depicting Brazilian dancers and live bands, and advertising live entertainment.
- 19 **13 (a, b) 6-14-06 LBPB owner meeting memo:** Memorandum regarding meeting of
20 representatives of North Divisions patrol, vice detail, and Fire Department with
21 Magallanes and Mannery in City’s Prosecutor Office regarding violent crimes, public
22 intoxication and traffic disputes by patrons leaving Ajas.
- 23 **(c, d, e) 7-16-07 LBPB North Division’s meeting:** Memorandum regarding meeting of
24 North Division with Mannery and Magallanes as a follow up on June meeting, and to
25 provide information to the owners regarding nuisance abatement.

- 1 **14 1-29-04 Bar application:** Ajas' application for cocktail lounge
- 2 **15 1-29-04 Pool table application:** Ajas' application for pool table
- 3 **16 1-29-04 Amusement machine application:** Ajas' application for amusement machines
- 4 **17 Bar/tavern/lounge BU20408690 license:** Ajas' license for cocktail lounge
- 5 **18 Pool table BU20408700 license:** Ajas' license for pool table
- 6 **19 Amusement machine BU20406050 license:** Ajas' license for amusement machines
- 7 **20 Review notes – M. Magallanes:** Magallanes' notes regarding LBPD incident reports
- 8 **21 IPOD mixing information:** Information regarding Ajas' Gemini DJ Itrax IPOD mixing
- 9 console with amplifiers and wireless microphone.
- 10 **22 Photos IPOD console/amp:** Depicts IPOD console with amplifiers.
- 11 **23 5-4-06 occupancy load certificate:** It is noted on the Certificate that the maximum
- 12 number of occupants shall not exceed "86" in accordance with Long Beach Fire
- 13 Department, Uniform Fire Code. The Certificate stated: "post in a conspicuous place
- 14 near the main entrance/exit." Ms. Mannery signed an acknowledgement stating in capital
- 15 letters: " I, THE UNDERSIGNED, HAVE READ COMPLETELY AND FULLY
- 16 UNDERSTAND THE REQUIREMENTS OF THIS FORM WHICH APPLY TO THIS
- 17 FIRE DEPARTMENT REGULATION."
- 18 **24 Incident Report:** Reporting public urination behind Ajas on 3-3-06
- 19 **25 Internet ad for album release party:** Internet advertisement for the album release
- 20 parties depicted on video clips marked as Exhibits 26 and 27.
- 21 **26 –27 Internet videos:** video clips from Internet depicting album release parties with live
- 22 amplified music and dance at Ajas.
- 23 **28 Photo Ajas marquis:** Depicts Ajas' sign/ billboard advertising birthday parties
- 24 **29 ABC License application:** Ajas' application for selling alcohol
- 25

1 **30 Criminal complaint 7LG612664:** Criminal complaint filed by City’s prosecutors against
2 Mannery and Williams for providing entertainment without permit.

3 **31 11-15-07 ABC official notice of violations:** ABC’s official notice of objectionable
4 conditions and disorderly activity sent to Ajas, stating that it has received numerous
5 complaints that Ajas was allowing the following types of activities: “patrons causing or
6 being responsible for disturbances, fights, assaults, no entertainment permit and public
7 urination.”

8 **32 Internet video URL:** URL for the two video clips depicting album release parties with
9 live amplified music and dance at Ajas, marked as Exhibits 26 and 27.

10 **33 –36 Calls for service dated 1-11-08, 3-1-08, 3-16-08, 4/13/08:** Record of LBPD’s
11 response to calls regarding various complaints involving Ajas.

12 **37 9-17-08 Health inspection Report:** Official Report of Ajas’ Inspection

13 **38 9-17-08 Health Inspection photos:** Photographs taken by City’s Health Department of
14 Ajas’ food preparation equipment and food serving dishes.

15 **39 6-17-08 LBPD Revocation Request:** LBPD’s request for revocation of Ajas’ business
16 licenses pursuant to LBMC § 3.80.429.1(A).

17 **40 8-6-08 Financial Management Notice of Revocation Proceedings:** City’s Financial
18 Management Department’s notice sent to Ajas regarding the hearing for revocation of
19 business license pursuant to LBMC 3.8.429.1 (A).

20 **41 9-16-04 LBPD Denial Request:** LBPD’s request for denial of Ajas’ application for
21 entertainment permit.

22 **42 11-3-04 Financial Management Notice of Denial:** City’s notice of denial of Ajas’
23 application for entertainment permit.

24 **43 10-27-01 Criminal Citation:** Citation issued to Mannery for failure to obtain a business
25 license required for her business in 2001.

1 **44 4-24-08 LBPB after hours sales:** Report of sale of alcohol after hours and the penalty.

2 **45 –48 Calls for service dated 12-23-07, 3-7-08, and 4-27-8:** Record of LBPB’s response
3 to calls regarding various complaints involving Ajas, including fights, public
4 intoxication, loud patrons, loud music, and public urination.

5 **ANALYSIS**

6 The issue is whether the evidence established that the business licenses issued to Ajas,
7 which are license number BU20408690 for bar, tavern, lounge, BU20408700 for pool tables, and
8 BU20406050 for amusement machines, should be suspended or revoked pursuant to applicable
9 provisions of LBMC.

10 LBMC § 3.80.429.1 “Suspension or Revocation” provides:

11 “A. Whenever any person fails to comply with any provision of this chapter
12 pertaining to business license taxes or any rule or regulation adopted pursuant
13 thereto or with any other provision or requirement of law, including, but not
14 limited to, this municipal code and any grounds that would warrant the denial of
15 initial issuance of a license hereunder, the director of financial management, upon
16 hearing, after giving such person ten (10) days’ notice in writing specifying the
17 time and place of hearing and requiring him or her to show cause why his or her
18 license should not be revoked, may revoke or suspend any one or more licenses
19 held by such person. The notice shall be served in the same manner as notices of
20 assessment are served under Section 3.80.444. The director shall not issue a new
21 license after the revocation of a license unless he or she is satisfied that the
22 registrant will thereafter comply with the business license tax provisions of this
23 chapter and the rules and regulations adopted thereunder, and until the director
24 collects a fee, the amount of which shall be determined by director in an amount
25 to recover the actual costs of processing, in addition to any other taxes that may
be required under the provisions of this chapter.”

LBMC § 5.06.020 “Suspension/ Revocation/ Denial” provides:

“A. Any permit to do business in the City issued pursuant to this Title 5 may be
suspended, revoked or denied in the manner provided in this Section upon the
following grounds:

1. The permittee or any other person authorized by the permittee has been
convicted of violation of any provision of this Code, State or Federal law arising
out of or in connection with the practice and/or operation of the business for
which the permit has been granted. A plea or verdict of guilty, or a conviction
following a plea of nolo contendere is deemed to be a conviction within the
meaning of this Section. The City Council may order a permit suspended or

1 revoked, following such conviction, when the time for appeal has elapsed, or the
2 judgment of conviction has been affirmed on appeal, or an order granting
3 probation is made suspending the imposition of sentence, irrespective of a
4 subsequent order under the provisions of Section 1203.4 of the California Penal
Code allowing such a person to withdraw his/her plea of guilty and to enter a plea
of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information or indictment;

5 2. For any grounds that would warrant the denial of the issuance of such permit if
application therefore was being made;

6 3. The permittee or any other person under his/her control or supervision has
7 maintained a nuisance as defined in 21.15.1870 of the Long Beach Municipal
Code which was caused by acts committed on the permitted premises or the area
under the control of the permittee;

8 4. The permittee, his/her employee, agent or any person connected or associated
9 with permittee as partner, director, officer, stockholder or manager has knowingly
10 made any false, misleading or fraudulent statement of material fact in the
application for the permit required under the provisions of this Code;

11 5. The permittee has failed to comply with any condition which may have been
12 imposed as a condition of operation or for the issuance of the permit required
under the provisions of this Code; . . .”

13 **Ms. Mannery 's conviction of several provisions of L BMC and State Law**

14 In the present matter, Ms. Mannery was convicted of violation of several provisions of
15 this Code and State law as discussed in findings of facts and summery of relevant evidence. Ms.
16 Mannery was convicted of providing entertainment without permit after the City denied its
17 application for the permit, overcrowding in violation of maximum occupancy load, and serving
18 alcohol after hours.

19 Ajas' counsel argues "Ms. Mannery has pled no contest to misdemeanors of serving
20 alcohol after hours, failing to count the number of patrons, and providing entertainment without
21 an entertainment license." Ajas' counsel contends that "these pleas have resulted in several
22 thousands of dollars indirect fines as well as several thousands dollars more in lost revenues for
23 closing the business for 20 days. . . . Ms. Mannery has already been deeply punished monetarily."
24 Ajas' Closing Brief, p. 4, ll. 22-27. However, Ms. Mannery 's plea of nolo contendere is the
25 very basis of revocation of Ajas' license. L BMC § 5.06.020 states that a conviction following a
plea of nolo contendere is deemed to be a conviction within the meaning of this Section.

1 Conviction of violation of any provision of this Code, State or Federal law in connection with the
2 operation of the business for which the permit has been granted is grounds for revocation of the
3 permit. LBMC § 5.06.020.

4 Thus, Ajas' business licenses should be revoked pursuant to LBMC § 5.06.020, because
5 Ms. Mannery was convicted of provisions of this Code and State law following a plea of nolo
6 contendere.

7 **Entertainment Without Permit**

8 LBMC § 5.72.110(A), provides that, "No person shall carry on, maintain or conduct any
9 entertainment activity in the city without first obtaining a permit therefor from the city."

10 LBMC § 5.72.115 "Definitions," provides:

11 A. "Entertainment activity" means any activity conducted for the primary
12 purpose of diverting or entertaining a clientele in a premises open to the general
13 public. Such activity shall include, but shall not be limited to, dancing, whether by
14 performers or patrons of the establishment, live musical performances,
15 instrumental or vocal, when carried on by more than two persons or whenever
16 amplified; musical entertainment provided by a disc jockey or karaoke, or any
17 similar entertainment activity involving amplified, reproduced music.

18 As discussed in Findings of Facts and Summary of Relevant Evidence, Ajas provided
19 entertainment without permit systematically after its application for entertainment permit was
20 denied. Significantly, Ajas continued to provide entertainment without permit despite several
21 meetings with City's detectives and multiple citations. From March 3, 2005 meeting of City's
22 detectives with Magallanes advising him of the entertainment prohibition through May 15, 2008
23 vice investigation leading to Mannery's conviction for providing entertainment without permit,
24 Ajas systematically provided entertainment by disc jockey, amplified music, Brazilian dancers,
25 and album release parties. Under LBMC §§ 5.72.110 and 5.72.115 providing entertainment such
as dancing, whether by performers or patrons, amplified music, album release performance and
entertainment by a disc jockey, requires a permit. However, Ajas continued to provide
entertainment for nearly four years after its application for entertainment permit was denied.

1 Therefore, Ajas' Business licenses should be revoked pursuant to LMBC §§ 5.06.020,
2 3.80.429.1, because Ajas systematically provided entertainment without permit in violation of
3 Long Beach Municipal Code.

4 **Serving Alcohol After Hours**

5 California Business and Professions Code § 25631 entitled "Sales during closing hours,"
6 provides:

7 "Any on- or off-sale licenses, or agent or employee of that licensee, who sells,
8 gives, or delivers to any persons any alcoholic beverage or any person who
9 knowingly purchases any alcoholic beverage between the hours of 2 O'clock a.m.
and 6 o'clock a.m. of the same day, is guilty of a misdemeanor."

10 As discussed in findings of facts and summary of relevant evidence, Ajas sold alcohol to
11 its patrons after 2:00 a.m. Ms. Mannery was cited on April 24, 2004 for selling alcohol after
12 hours and was subsequently convicted of the charges after a plea of nolo contendere.

13 Therefore, Ajas' Business licenses should be revoked pursuant to LMBC §§ 5.06.020,
14 3.80.429.1, because Ajas sold alcohol to its patrons in violation of California Business and
15 Professions Code § 25631.

16 **Overcrowding**

17 LBMC § 18.48.580 "Overcrowding" provides:

18 The supervisor of each place of assembly shall have an effective system to keep
19 count of the number of occupants present in the assembly area. If at any time, the
20 Chief determines that an accurate count of occupants is not being maintained, the
occupancy shall be cleared until an accurate count can be made.

21 Maximum occupancy loads are determined to ensure public safety. The City's Fire
22 Department issued to Ajas a Maximum Occupancy Load of "86" on January 14, 2005. (Ex.23).
23 As discussed in findings of facts and summary of relevant evidence, Ajas violated the maximum
24 occupancy capacity several times. Ajas' owner, Ms. Mannery was cited multiple times for
25 overcrowding in excess of the maximum allowable capacity, and was later convicted of the
charges filed against her after a plea of nolo contendere.

1 Therefore, pursuant to LBMC §§ 5.06.020, 3.80.429.1, Ajas' business licenses should be
2 revoked because Ajas has failed to comply with the overcrowding provisions of Long Beach
3 Municipal Code.

4 **Nuisance**

5 LBMC 21.15.1870 provides that, "Nuisance means anything that interferes with the use
6 or enjoyment of property, endangers personal health or safety or is offensive to the senses."

7 As pointed out in findings of facts and summery of relevant evidence, numerous
8 incidents, including patrons causing or being responsible for disturbance, fights, assaults, and
9 public urination have occurred in Ajas, or caused by Ajas' patrons. (Ex. B through W, Ex. 33
10 through 36, and 45 through 48). These incidents have endangered personal health and safety. In
11 fact, many of the residents, living within 100 feet of Ajas, complained of loud music in Ajas,
12 loud patrons drinking in Ajas' parking lot, fighting, excessive trash, and cars blocking the alley.
13 (Ex. 41).

14 The evidence establishes that Ajas has maintained a nuisance as defined in LBMC
15 21.15.1870, in violation of provisions and requirements of law, including Long Beach Municipal
16 Code.

17 Additionally, Ajas has been in violation of the following provisions of California
18 Business and Professions Code: § 24200, which provides:

19 f) Failure to take reasonable steps to correct objectionable conditions that occur
20 during business hours on any public sidewalk abutting a licensed premises and
21 constitute a nuisance, within a reasonable time after receipt of notice to correct
22 those conditions from the department. . . .

23 (2) "Objectionable conditions that constitute a nuisance" means disturbance of the
24 peace, public drunkenness, drinking in public, harassment of passersby, gambling,
25 prostitution, loitering, public urination, lewd conduct, drug trafficking, or
26 excessive loud noise.

27 California Business and Professions Code § 25601 provides:

28 "Every licensee, or agent or employee of a licensee, who keeps, permits to be
29 used, or suffers to be used, in conjunction with a licensed premises, any disorderly

1 house or place in which people abide or to which people resort, to the disturbance
2 of the neighborhood, or in which people abide or to which people resort for
3 purposes which are injurious to the public morals, health, convenience, or safety,
is guilty of a misdemeanor.”

4 Department of Alcoholic Beverage Control officially notified Ajas of objectionable
5 conditions and operating in a disorderly fashion on November 15, 2007. The evidence shows
6 that Ajas or Ms. Mannery did not take reasonable steps to correct the objectionable conditions,
7 and the disorderly activities continued for nearly four years. *See*, Ex. B through W, 8, 9, 33-36,
8 and 45-48.

9 Therefore, pursuant to LBMC §§ 5.06.020, 3.80.429.1, Ajas’ business licenses should
10 be revoked because the permittee has maintained a nuisance as defined in 21.15.1870 of the
11 Long Beach Municipal Code, caused by acts committed on the permitted premises and the area
12 under the control of the permittee.

13 **False and Misleading Statements of Material Facts in Ajas’ Application**

14 Ms. Mannery has knowingly made false and misleading statements of material facts in
15 Ajas’ applications for permit. Ajas’ application for license to operate a cocktail lounge stated
16 Ajas had three (3) employees. Also, it noted that food would not be sold or served at the
17 premises. Additionally, the application stated there would not be any “dancing,” or “music (live
18 or amplified)” at the premises. (Ex. 14, 15, 16). However, Ms. Mannery testified that Ajas had
19 nine (9) employees on average. Ms. Montoya, City’s Business Services Supervisor, testified the
20 business license taxes are based on the number of employees reported on the application for the
21 license, and the licensees must update the information if it changes. However, Ajas never
22 updated this information. Additionally, as discussed in findings of facts and summery of the
23 relevant evidence, Ajas provided amplified music, and dancing from 2004 through 2008 without
24 the required permit.

25 Moreover, Ms. Mannery testified that Ajas served food to its customers on Friday nights
and special occasions. An inspection by the City’s health department revealed various violations

1 in connection with food preparation and serving food for customers. (Ex. 37, 38). Ms.
2 O'Connor, the City's health inspector, testified that a permit with the health department was
3 required for offering food to customers. She stated that Ms. Mannery's certificate of food
4 management was not sufficient for serving food to the public.

5 Therefore, pursuant to LBMC §§ 5.06.020, 3.80.429.1, Ajas' business licenses should
6 be revoked because the permittee has knowingly made false, misleading and fraudulent
7 statements of material facts in its application for the permit.

8 **CONCLUSION AND RECOMMENDATION**

9 Ajas' business licenses should be revoked pursuant to LBMC §§ 3.80.429.1, 5.06.020,
10 because Ajas has violated several provisions of Long Beach Municipal Code, Fire Code, and
11 California Business and Professions Code. As discussed above, Ajas provided entertainment
12 without permit, ignored the maximum occupancy, and served alcohol after hours. Ajas has been
13 a source of nuisance to the community. Ajas' business licenses were issued based on
14 applications containing false and misleading information. Ajas' sole owner was convicted of
15 providing entertainment without permit, selling alcohol after hours, and overcrowding.

16 Based on the above, this hearing officer recommends that the business licenses issued to
17 2706 South St. LLC, dba Ajas, Ajas Sports Bar, and the Alibi, license numbers BU20408690 for
18 bar, tavern, lounge, BU20408700 for pool tables, and BU20406050 for amusement machines, be
19 revoked.

20 Sent by U.S. Mail this date to City Clerk Larry G. Herrera, City of Long Beach.

21 Dated: December 1, 2008

22 Respectfully Submitted

23 
24 MICHELLE JALALI
25 ATTORNEY AT LAW

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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

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By 
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:

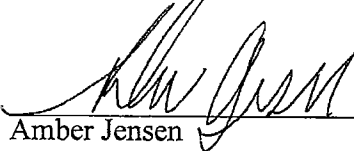
Crystal Meyers
333 West Ocean Blvd., 11th Floor
Long Beach, CA 90802-4664

(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