



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Blvd • Long Beach, California 90802

~~R-8~~

UB-12

December 13, 2011

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Refer to Hearing Officer the appeal of business license revocation by Donaciano Nunez and Nicanor Nunez, DBA El Sonora Bar, located at 1862 Santa Fe Avenue; or

Revoke business license number BU04048840 issued to Donaciano Nunez and Nicanor Nunez, DBA El Sonora Bar, located at 1862 Santa Fe Avenue, due to abandonment of appeal. (District 1)

DISCUSSION

On September 9, 2011, the Long Beach Chief of Police recommended that the Department of Financial Management revoke the business license issued to Donaciano Nunez and Nicanor Nunez, DBA El Sonora Bar, located at 1862 Santa Fe Avenue (Attachment A), due to violations of the Long Beach Municipal Code (LBMC) and state law.

On November 9, 2011, a business license revocation hearing was conducted, in compliance with LBMC Section 3.80.429.1. On November 11, 2011, the hearing officer recommended that the Director of Financial Management revoke business license number BU04048840 (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 an appeal on November 18, 2011 (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, in accordance with LBMC Section 2.93.050 (A).

This matter was reviewed by Deputy City Attorney Kendra Carney on December 1, 2011.

TIMING CONSIDERATIONS

If referred, upon selection of a hearing officer, the matter will be heard not less than thirty (30) days thereafter.

FISCAL IMPACT

There is no fiscal impact associated with this item.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

JG:ES:JR
K:\EXEC\COUNCIL LETTERS\BUSINESS RELATIONS\12-13-11 CCL - EL SONORA BAR - REFER TO HO OR BL REVOCATION.DOC

ATTACHMENTS

APPROVED:



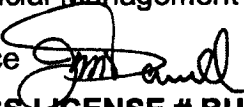
PATRICK H. WEST
CITY MANAGER



City of Long Beach
Working Together to Serve

Memorandum

Attachment A

Date: September 9, 2011
To: John Gross, Director of Financial Management
From: Jim McDonnell, Chief of Police 
Subject: REVOCAION OF BUSINESS LICENSE # BU04048840, Donaciano & Nicanor Nunez, DBA (El Sonora Bar, LOCATED AT 1862 Santa Fe Avenue)

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 **REVOKE** the business license (BU04048840), issued to Donaciano and Nicanor Nunez, DBA El Sonora Bar to operate a business at 1862 Santa Fe Avenue, for the following reasons.

In January of 2011, The Long Beach Police Department Narcotics Investigations Section conducted an investigation into narcotics trafficking activity at this location. Upon completion of the investigation the Police Department discovered that the business owner's son was operating the business on a day-to-day basis and was employed at the location as the manager. The business owner's son was trafficking and selling narcotics from the business and was also paying the employees to distribute and sell narcotics to customers of the business. Detectives conducted a search warrant at the location and confiscated several bindles of illegal narcotics on the premises. Long Beach Police Department report number 1100002368.

Based upon this investigation, I respectfully request that you **REVOKE** the business license (BU04048840) issued to Donaciano and Nicanor Nunez, DBA El Sonora Bar, to operate a business at 1862 Santa Fe Avenue.

If you have any questions or require additional information, please contact me, or my Chief of Staff, Commander Laura Farinella, at extension 87301.



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 W. Ocean Boulevard, 4th Floor • Long Beach, CA 90802 • (562) 570-6212 FAX (562) 570-6180

BUSINESS RELATIONS BUREAU
BUSINESS LICENSE SECTION

Attachment B

November 11, 2011

Donaciano Nunez and Nicanor Nunez
dba: El Sonora Bar
1862 Santa Fe Avenue
Long Beach, CA 90810

RE: Notice of Business License Revocation
Business License Number: BU04048840

Dear Sir (s):

Please be advised that **business license number BU04048840**, issued to Donaciano Nunez and Nicanor Nunez, dba: El Sonora Bar, located at 1862 Santa Fe Avenue **has been revoked**, pursuant to Long Beach Municipal Code Section 3.80.429.1, Subsection (b), **effective November 11, 2011**. Pursuant to LBMC Section 3.80.429.1, you have 10 calendar days to request an appeal, otherwise the revocation will be final.

Failure to cease operations at this location after November 20, 2011 shall constitute a criminal offense pursuant to Long Beach Municipal Code Sections 3.80.429.1, Subsection (a) and 3.80.210.

Pursuant to Long Beach Municipal Code Section 3.80.429.5, you may appeal the revocation to the Long Beach City Council within 10 calendar days from the date of this notice. The request must be in writing, must set forth the specific ground or grounds on which it is based, and must be accompanied by a non-refundable cashier's check or money order, made payable to the City of Long Beach, in the amount of \$1,205. The request for appeal must be submitted to the Office of the Long Beach City Clerk, located at 333 W. Ocean Boulevard, Long Beach, California, not later than 4:00 p.m. November 21, 2011, 2011. Should you have any questions, please contact me at (562) 570-6663.

Sincerely,

Erik Sund
Manager, Business Relations Bureau

I have received notification of the above:

Attachments

ES: smc

Name/Title

cc: Kendra Carney, Deputy City Attorney
Council District 1

3.80.429.1 - Suspension or revocation.

- A. Whenever any person fails to comply with any provision of this chapter pertaining to business license taxes or any rule or regulation adopted pursuant thereto or with any other provision or requirement of law, including, but not limited to, this municipal code and any grounds that would warrant the denial of initial issuance of a license hereunder, the director of financial management, upon hearing, after giving such person ten (10) days' notice in writing specifying the time and place of hearing and requiring him or her to show cause why his or her license should not be revoked, may revoke or suspend any one or more licenses held by such person. The notice shall be served in the same manner as notices of assessment are served under Section 3.80.444. The director shall not issue a new license after the revocation of a license unless he or she is satisfied that the registrant will thereafter comply with the business license tax provisions of this chapter and the rules and regulations adopted thereunder, and until the director collects a fee, the amount of which shall be determined by director in an amount to recover the actual costs of processing, in addition to any other taxes that may be required under the provisions of this chapter.
- B. Any person who engages in any business after the business license issued therefor has been suspended or revoked, and before such suspended license has been reinstated or a new license issued, shall be guilty of a misdemeanor.

(Ord. C-6259 § 1 (part), 1986).

3.80.429.5 - Appeal of license revocation.

Any licensee whose license is revoked under this chapter shall have the right, within ten (10) days after the date of mailing of the written notice of revocation, to file a written appeal to the city council. Such appeal shall set forth the specific ground or grounds on which it is based. The city council shall hold a hearing on the appeal within thirty (30) days after its receipt by the city, or at a time thereafter agreed upon, and shall cause the appellant to be given at least ten (10) days' written notice of such hearing. At the hearing, the appellant or its authorized representative shall have the right to present evidence and a written or oral argument, or both, in support of its appeal. The determination of the city council on the appeal shall be final.

(Ord. C-6259 § 1 (part), 1986).

3.80.210 - License and tax payment required.

There are hereby imposed upon the businesses, trades, professions, callings and occupations specified in this chapter license taxes in the amounts hereinafter prescribed. It shall be unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the city without first having procured a license from said city to do so and paying the tax hereinafter prescribed and without complying with any and all applicable provisions of this code, and every person conducting any such business in the city shall be required to obtain a business license hereunder.

This section shall not be construed to require any person to obtain a license prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or of the state of California.

Any person who engages in any business for which a business license is required, shall be liable for the amount of all taxes and penalties applicable from the date of commencement of the business, whether or not such person would have qualified for such business license; however, such payment shall not create any right for the person to remain in business.

All payments of business license tax received by the city, irrespective of any designation to the contrary by the taxpayer, shall be credited and applied first to any penalties and tax due for prior years in which the tax was due but unpaid.

(Ord. C-7783 § 2, 2002; Ord. C-6259 § 1 (part), 1986).

1 NICANOR NUNEZ
2 DBA: EL SONORA BAR
3 1862 SANTA FE AVE.
4 LONG BEACH, CA 90810

5
6 CITY OF LONG BEACH

) IN RE: LICENSE NO. BU04048840

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)
)
) APPEAL OF DECISION TO
) REVOKE BUSINESS LICENSE

7
8
9 v.

10 NICANOR NUNEZ
11 DBA EL SONORA BAR

12)
13)
14)
15)
16 PLEASE TAKE NOTICE that Nicanor Nunez (hereinafter Appellant) hereby appeals the
17 decision of the city of Long Beach to revoke business license number DU 04048840.

18 This appeal is based on all the files and records in the case, the attached memorandum of
19 points and authorities, declarations of Nicanor Nuñez and Ruben Nuñez ,and any and all such
20 arguments as may be heard on the hearing on this matter.

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22 Date: 11.18.11

Respectfully Submitted,

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Nicanor Nunez

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I

APPELLANT DID NOT CAUSE HIS BUSINESS, EL SONORA BAR, TO BE ENGAGED IN ANY ILLEGAL ACTIVITIES THAT WOULD JUSTIFY THE PERMANENT REVOCATION OF HIS BUSINESS LICENSE

Appellant did not engaged in any illegal business activity, and did not allow or consent to any illegal activities to be conducted in his business. Appellant has no history of being involved in any criminal activities and has no criminal record whatsoever. The city of Long Beach , (hereinafter " City") has made a decision to permanently revoke and prevent appellant from conducting his business on the basis of an event that occurred without his knowledge, and without his consent.

Appellant has not been charged with any criminal complaint and in fact was not even present on the premises when the arrest was made. As such, there has been no evidence whatsoever linking appellant to any criminal activities that may have occurred on his business premises. Appellant has not been investigated, nor has he ever been questioned about any illegal business activities on his premises.

II

APPELLANT CANNOT BE HELD LIABLE FOR THE CRIMINAL ACTIVITIES OF HIS EMPLOYEES

It is commonly held that a business owner cannot be held responsible for the unforeseeable acts of his agents, or employees. Appellant, on the other hand, is responsible for the reasonable and foreseeable consequences and activities that arise during the course, and within the scope, of

1 his business. El Sonora Bar is a restaurant and bar that sells food and beverages. For over 30
2 years Appellant has been a model citizen and has been engaged in a lawful business. EL. Sonora
3 bar has always been a lawful well-run business that respected all laws. Although appellant did
4 manage his business and ensure that the quality of food and service was excellent, appellant had
5 no evidence of illegal drug activity occurring at his business, and further had no reason to
6 suspect any such activities occurring. Certainly, for example, if the basis for appellant's
7 revocation was because of contaminated food items or illegal deficiencies in the food product
8 and beverage products that he was providing to the public, there would be a reasonable basis to
9 revoke his license. El Sonora bar is a business engaged in the provision of food and drink to the
10 public. It is not a dispensary for the sale of illegal drugs. As such, appellant should not be held
11 liable for this crime and his business license should not be revoked.

12 13 III

14 15 **APPELLANT WILL SUFFER AN EXTREME HARDSHIP IF HIS LICENSE IS** 16 **REVOKED AND HIS BUSINESS IS SHUT DOWN**

17
18 For over 30 years appellant has owned and operated El Sonora bar. El Sonora bar has been his
19 only source of income. Appellant has a family that consists of six children along with a good
20 his wife that needs medical attention, who is disabled, and has no other source of income other
21 than that those proceeds from his business. Due to appellant's personal and family hardship, the
22 closure of his business will leave him and his family destitute. As such, appellant should be
23 given special consideration for this undue hardship and be allowed to keep his business open and
24 is licensed to be reinstated.

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IV

**APPELLANT REQUESTS AN EMERGENCY STAY OF HIS SUSPENSION
PENDING THE OUTCOME OF THIS APPEAL**

Due to the pending severe economic hardship that appellant will experience as result of the closure of his business, Appellant respectfully requests that the City allow the order to close his business and revoke his licenese be postponed until the results of the decision on this appeal.

V

**APPELLANT IS WILLING TO TAKE MEASURES TO ENSURE THAT HIS BUSINESS
IS FUNCTIONING LEGALLY AND IN ACCORDANCE WITH MUNICIPAL AND
STATE LAWS**

Ruben Nuñez, Appellant's son and employee, was arrested and convicted for causing to be sold a small amount of cocaine from appellant's business. Appellant can ensure that his son is not on the premises and will never work from his bar again. In addition, it must be pointed out, however very importantly, that former employee Magana was actually caught selling the narcotics. When asked how long she worked for Appellant at El. Sonora bar she responded "four years." When questioned how long she sold the narcotics on the premises and she said for three months. Accordingly, this is something that has emerged quickly without the knowledge and consent of appellant, and has been eradicated quite quickly.

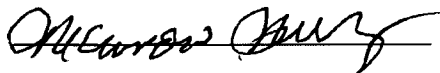
VI

APPELLANT'S SON, RUBEN NUNEZ, HAS ACCEPTED FULL AND COMPLETE RESPONSIBILITY FOR HIS ACTIONS AT EL SONORA BAR, ABSOLVING APPELLANT FROM ANY INVOLVEMENT OR COMPLICITY IN THIS CRIME

Ruben Nunez is willing to provide any information and comply with any requirements that the City may impose to absolve Appellant from any liability and responsibility in this matter. Mr. Nunez has provided a declaration, enclosed herein to support this affirmation.

Date: 1/18/11

Respectfully Submitted,



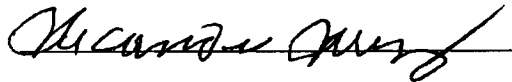
Nicanor Nunez

1 I will experience an extreme hardship if my business is closed. Proceeds from my business
2 are my only source of income to sustain my family. Without my business I will be destitute.

3 As such, I respectfully pray that the city of Long Beach will reinstate my business license,
4 and at a minimum stay the suspension of my license until the outcome of this appeal.

5
6 I declare that the foregoing is true and correct under penalty of perjury pursuant to the laws
7 of the state of California.

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9
10 Date: 1/4/8.11



11 Nicanor Nunez

1 This crime was an isolated occurrence and has not happened for any extended period of time.
2 I was placed on probation as result of this offense and did not have to serve any time in jail other
3 than two days. The amount of narcotics that were found was very small, and there was no
4 evidence that this activity was something that was ongoing and prevalent at El Sonora Bar.
5 I pray that the city Council will allow my father's license to be reinstated. I am willing to do
6 whatever the city requires of me to ensure that nothing like this will happen again. It was a big
7 mistake that I myself alone have made and I entirely regret.

8
9 Thank you for hearing my request.

10 I declare that the foregoing is true and correct under penalty of perjury pursuant to the laws
11 of the state of California.

12
13 Date; 11/18/2011

14 
15 Ruben Nunez