

RESOLUTION NO. RES-23-0071

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH CONTAINING THE WRITTEN
FINDINGS REGARDING THE AUGUST 23, 2022 CITY
COUNCIL PUBLIC HEARING

WHEREAS, on August 23, 2022 the City Council, after considering the evidence and testimony, including the presentation and analysis by Best, Best & Krieger LLP (BB&K), unanimously voted to reject the Hearing Officer’s recommendation to reverse the denial of JP23’s business license application, and not issue a business license; and

WHEREAS, JP23 filed its appeal with the Los Angeles Superior Court on September 19, 2022 and the hearing on JP23’s appeal occurred on March 16, 2023; and

WHEREAS, the Court adopted its tentative ruling, subject to certain modifications, in favor of the City of Long Beach (City); and

WHEREAS, As part of its judgment granting an Alternative Writ, the Court ordered this case remanded back to the Long Beach City Council so that it can make “written findings to provide an analytical bridge between the evidence and its decision or order on August 23, 2022 to reject the Hearing Officer’s recommendation, and uphold the Director’s denial of JP23’s business license application for 110 E. Broadway Avenue and not issue a business license to JP23;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as follows:

Section 1. Based on the evidence considered at the August 23, 2022 hearing of the City Council, the relevant provisions of the Long Beach Municipal Code (“LBMC”), the Administrative Record (“AR”) in the writ action, and the Court’s Judgment, the written findings below are intended to bridge what the Court identified as an analytic

1 divide between the evidence and the City Council’s underlying determination:
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3 A. The LBMC’s plain language vests discretion with the City of
4 Long Beach (“City”) to determine whether the business or the location will
5 comply with applicable health and safety and other laws and regulations.
6 (LBMC §§ 3.80.421.1(A); 3.80.421.1(B); 3.80.421.5.)
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8 B. JP23 Hospitality Company’s violations of the LBMC started on
9 or about Labor Day Weekend 2021. Before JP23 Hospitality Company
10 (“JP23”) had even applied for necessary permits, JP23 started marketing its
11 “grand opening” Labor Day event “three months in advance.” (AR 6-
12 22:1943.) It sold tickets online for live music performances and advertised
13 on Instagram. (AR 4-15:1389; 6AR-22-1943; 1AR-6-368.) The City’s
14 Police Department confirmed JP23 had no entertainment permit or
15 business license at the time. (AR 4-15:1390-92.) JP23 was informed by
16 the City’s Police Department not to hold the event because it did not have
17 the necessary approvals from the City. (AR 6-22:1944; AR 4-15:1394.) On
18 September 4, 2021, Sgt. Ernest responded to the location after observing
19 numerous people entering the restaurant. (AR 4-15:1396.) Sgt. Ernest
20 observed approximately 40 people outside and saw people entering both
21 the front and back doors. (AR 4-15:1397-98.) During public comment, a
22 member of the public commented to seeing a “large event on Saturday that
23 required a lineup on Broadway to allow the crowd of people in.” (AR 6-
24 23:2049.) Similarly, at 4:00 a.m., the City’s Fire Department was forced to
25 respond to a malicious fire alarm at the premises. (AR 4-15:328-29; AR 6-
26 28:2154-55.) Whether the event was “private” or not, the Fire Department
27 issued JP23 an incident report for violation of California Fire Code 105.3.3
28 [occupancy prohibited before approval]. (AR 4-15:328-29; AR 1-6:367.)

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C. Two weeks after its grand opening event, on September 16, 2021, JP23 submitted for the first time a completed application for a business license to the City. (AR 1-6:371; AR 4-12:1189.) Its CEO Mr. Poozhikala signed an attestation in the application that “I must obtain a business license and all necessary federal, state, and local permits” before he could operate his business in Long Beach. (AR-1:6:375.) The application was subject to review in an investigative process by the City’s Planning, Building & Safety, Environmental Health, and Fire Departments before it came back to Financial Management for its final review. (AR 4-12:1191-1192.)

D. While the City was still reviewing the business license application, JP23 inexplicably opened for business. It not only opened its restaurant and bar, but began holding live entertainment events, including live music and disc jockeys, even though it did not have an entertainment permit or a business license. On or about October 13, 2021, the City issued JP23 a TCO, but it had not yet issued the business license. (AR 1-6:385, 390.) Responding to the ongoing open business on October 14, 15, 16, 20, and 21, 2021, the Police Department issued misdemeanor citations to JP23 for repeatedly conducting its business without a business license. (See AR 1-6:392, 2-6:395, 2-6:400, 2-6:503, 511.)

E. No provision of the LBMC prevents the Director or the City Council from also considering JP23’s past extensive record of noncompliance. Neither, does the LBMC require the Director to ignore continuing violations. Indeed, JP23’s violations were ongoing as of October 19, 2021 – the date that JP23 contends the City was obligated to issue it a

1 license. (See AR 2-6:503 [listing citations on 10/14, 10/15, 10/16, 10/20
2 and 10/21].) The City gave JP23 every opportunity to open its business
3 successfully. The City issued JP23 a CBL on November 3, 2021, which it
4 was happy to accept. (AR 2-6:410.)

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6 F. Even after granting the CBL, on December 29, 2021 and
7 several occasions thereafter, the City was forced to notify JP23 that it was
8 violating the LBMC for hosting entertainment events without an
9 entertainment permit. (AR 2-6:511-512 [Exh. 52]; AR 4-12:1229.)

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11 G. On or about February 4, 2022, the City learned of
12 advertisements for live performances by various well-known artists,
13 including Buster Rhymes, Nelly & T-Pain at JP23’s location on February 10,
14 11, and 12, 2022. (AR 4-12:1238) On February 9, 2022, the City notified
15 JP23 that live performances advertised for February 10, 11, and 12 at the
16 business were not allowed without an entertainment permit or an occasional
17 event permit, and that the live performances would create a public safety
18 risk and public nuisance. (AR 2-6:513 [Exh. 52].) JP23 nonetheless held
19 the live events as advertised without a temporary entertainment permit.
20 (AR 6-28:2158; AR 2-6:491-492; AR 4-12:1233, 1239.)

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22 H. Financial Management is one of the “appropriate departments
23 of the City” that determines whether to issue a business license if the
24 business will comply with applicable rules and regulations. (AR 4-12:1193;
25 see also LBMC § 3.80.421.1(A).) The Finance Director had discretion to
26 determine whether particular legal criteria had been met before granting
27 JP23’s business license application; including the requirement to determine
28 whether JP23 will comply with the City’s rules and regulations. No

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provision of the LBMC prevents the Director or the City Council from also considering JP23’s past extensive record of noncompliance. (See LBMC §§ 3.80.421.1(A); 3.80.421.1(B); 3.80.421.5.)

I. Based on JP23’s history of violations and its refusal to abide by the same set of rules and regulations as other businesses in the City, on March 14, 2022, the Director of Financial Management denied JP23’s business license application and terminated its CBL. (AR 2-6:499.) The Director correctly determined to reject JP23’s business license application based on all of the evidence and reasoning cited herein, and consistent with the Court’s Judgment. (LBMC §§ 1.32.040; 3.80.210; 3.80.410; 3.80.421.1(A); 3.80.421.1(B); 3.80.421.5; 3.80.421.6.).

Section 2. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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1 I hereby certify that the foregoing resolution was adopted by the City
2 Council of the City of Long Beach at its meeting of May 16, 2023, by the following vote:

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4 Ayes: Councilmembers: Zendejas, Supernaw, Kerr, Saro,
5 Uranga, Austin, Ricks-Oddie.

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8 Noes: Councilmembers: None.

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10 Absent: Councilmembers: Duggan.

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12 Recusal(s): Councilmembers: Allen.

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16 City Clerk

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OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
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