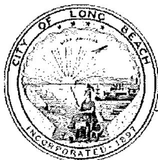


CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Blvd • Long Beach, California 90802

December 20, 2016

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Refer to a Hearing Officer the business license revocation appeal by Enaid's Way, Inc., dba Miko's Sports Lounge, located at 710 W. Willow Street, Long Beach, for business license numbers BU21338610, BU21338620, and BU21338630; and,

Refer to a Hearing Officer the business license revocation appeal by Mark, Ronald, and Colleen Mackey, for the commercial/industrial license number BU90057720, for the property located at 710-714 W. Willow Street. (District 7)

DISCUSSION

On June 15, 1995, Mark, Ronald, and Colleen Mackey were granted a Conditional Use Permit (CUP) and a Standards Variance for the property at 710-714 W. Willow Street (Property). Over the past few years, the Property has been subject to numerous complaints and violations related to the CUP, including lack of security, lack of parking, construction work without permits, and public nuisance activities. There have also been numerous complaints regarding the operation of a business located at the property.

In December 2013, Enaid's Way, Inc., dba Miko's Sports Lounge (Miko's), was issued a business license to operate a bar at the Property. This license was first issued conditionally for a period of six months, and subsequently the regular license was issued. Since issuance of the regular business license, there have been numerous nuisance activities, as well as approximately 250 calls for service between January 2014 and May 2016, and entertainment activities conducted without issuance of the required Entertainment Permits. The Departments of Development Services and Police recommended the revocation of the CUP and the business licenses associated with the Property based on continued violations of the terms of the CUP and business license.

On August 9, 2016, the City Council referred to the Planning Commission the consolidated public revocation hearing of the CUP and the business licenses issued to Mark, Ronald, and Colleen Mackey and Enaid's Way, Inc., dba Miko's Sports Lounge.

On November 3, 2016, the Planning Commission voted to revoke the CUP associated with the Property, as well as the business licenses issued to the property owner and the business owner.

On November 10, 2016, Enaid's Way, Inc., filed an appeal of the business license revocations (Attachment A). On November 14, 2016, Mark, Ronald, and Colleen Mackey filed an appeal of the commercial/industrial business license revocation (Attachment B).

Pursuant to Long Beach Municipal Code (LBMC) Section 3.80.429.5, any licensee whose business license is revoked shall have the right to appeal such revocation to the City Council.

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 2.93.050(A).

This matter was reviewed by Deputy City Attorney Art D. Sanchez on December 12, 2016.

TIMING CONSIDERATIONS

If referred, upon selection of a hearing officer, the matter will be heard not less than thirty (30) days thereafter pursuant to LBMC 3.80.429.5.

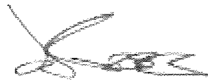
FISCAL IMPACT

There is no fiscal or local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

JG:SP:EA

ATTACHMENTS

APPROVED:

PATRICK H. WEST
CITY MANAGER

Attachment A

November 10, 2016

Office of the Long Beach City Clerk
333 West Ocean Blvd.
Long Beach, CA 90802

Re: Written Request to Appeal and Written Appeal of Business License Revocation (notice thereof dated November 4, 2016) as to Enaid's Way, Inc., dba: Miko's Sports Lounge, 710 West Willow Street, Long Beach, CA 90806 (Damitresse Yancey); Business License Nos. BU21338610, BU21338620 and BU21338630

To Whom It May Concern:

Please take notice that "Appellant", Enaid's Way, Inc., dba: Miko's Sports Lounge doing business at 710 West Willow Street, Long Beach, CA 90806 (Damitresse Yancey), through counsel, the undersigned, does hereby make a written request for and files a written appeal as to the above referenced revocation of the above referenced business licenses. This written request for appeal and Notice of Appeal is timely made pursuant to Long Beach Municipal Code §3.80.429.5.

The "specific grounds" on which this Appeal is based are as follows:

1. THE LONG BEACH MUNICIPAL CODE SCHEME REGARDING ADMINISTRATIVE HEARINGS SUCH AS BUSINESS LICENSE REVOCATION HEARINGS (LONG BEACH MUNICIPAL CODE §§2.93.010 THROUGH 2.93.050; LONG BEACH MUNICIPAL CODE §3.80.429.1) IS UNCONSTITUTIONAL AND VOID ON ITS FACE AND AS APPLIED HEREIN UNDER THE DUE PROCESS CLAUSES OF THE UNITED STATES AND CALIFORNIA CONSTITUTIONS.

(A). DEFECTIVE NOTICE: The October 18, 2016, purported Notice to Appellant (Enaie's Way, Inc.) of a hearing to revoke its business licenses cannot pass

constitutional muster in that it utterly fails to provide any specificity of grounds for that revocation, fails to provide any specificity of charges or specific violations allegedly committed by Appellant as the bases for said revocation proceedings and thus fails to provide Appellant with the specificity of notice required by the Due Process provisions of the United States and California Constitutions. All that the Notice provides is the following vague and overbroad statement:

"At the Hearing, the City will provide evidence that your bar/tavern/lounge business, located at 710 West Willow Street, Long Beach, CA 90806 is operating outside the scope of the authorized business activities identified on your business license."

The "scope of the authorized business activities" is not defined or specified nor is the precise manner in which Appellant's business is allegedly "operating outside" of that scope which is not delineated.

A fundamental requirement of Due Process is an opportunity to be heard upon such notice and proceedings as are adequate to safeguard the right for which the constitutional protection is invoked. That right here is the right to earn a livelihood. As such, it is afforded maximum constitutional protection with regard to procedural Due Process. Anderson National Bank v. Luckett (1944) 321 U.S. 233, 64 S.Ct. 599, 606; Endler v. Schutzbank (1968) 68 Cal. 2d 162, 65 Cal.Rptr. 297. See also the California Constitution, Article I, §7.

It is by now axiomatic that the sin qua non of "Due Process" is "fundamental fairness" and that a party must be afforded a meaningful hearing at a meaningful time before the government deprives that party of their right to engage in a lawful livelihood. Endler v. Schutzbank, supra. Sailer Inn v. Kirby (1971) 5 Cal. 3d 1, 95 Cal. Rptr. 329. As the court held in Endler, supra, at 170:

> "We note at the outset that the Fourteenth Amendment protects the pursuit of one's profession from . . . arbitrary state action. We therefore begin with the settled proposition that the [government] cannot exclude a person from any occupation in a manner or for reasons that contravene the Due Process or Equal Protection clauses of the Fourteenth Amendment.
>
> "Procedural Due Process requires notice, confrontation and a full hearing whenever action by the state significantly impairs an individual's freedom to pursue a private occupation."

Rosenblit v. Superior Court (1991) 231 Cal.App. 3d 1434, 282 C.R. 829 consigns the alleged notice and notice procedures herein to constitutional demise. In that case, the Court of Appeal held that a vague notice of intended suspension of hospital privileges to plaintiff doctor constituted inadequate notice under the Due Process provisions of the California Constitution and rendered all proceedings thereafter constitutionally void. The notice of suspension/revocation in that case stated that the hospital privileges were to be

suspended/revoked "due to poor clinical judgment and because there were problems with management in some cases". Supra, at 1438 – 1439.

With startling applicability to the instant matter, the court ruled as follows:

> "Notice of the charges sufficient to provide a reasonable opportunity to respond is basic to the constitutional right to Due Process and the common law right to a fair procedure."

The court held that such a vague notice without any indication as to the doctor's specific purported deficiencies contravened the guarantees of Due Process of Law and vitiated all of the proceedings occurring thereafter.

The October 18, 2016, letter is identically constitutionally infirm.

(B). UNCONSTITUIONALLY UNKNOWN BURDEN OF AND SHIFT IN BURDEN OF PROOF:

The quantum proof required at the Hearing was and is unknown. No notice thereof exists. No code provision provides such.

The October 18, 2016, purported Notice of Hearing provides, in the second full paragraph thereof that the burden of proof is shifted to Appellant "to show cause why the referenced City of Long Beach business licenses should not be revoked".

However, Long Beach Municipal Code §2.93.010, et. seq. and §3.80.429 do not so provide.

It is rudimentary that the Due Process clause mandates that the burden of proof in administrative proceedings to revoke a vested license is on the accuser (the City of Long Beach). The Due Process clause does not in any manner whatsoever countenance shifting the burden of proof to the accused to initially demonstrate why some vague and unexplained charge of misconduct should not be sustained. Rosenblit v. Superior Court, supra at 1449. See also Kash Enterprises v. Los Angeles (1977) 19 Cal. 3d 294, 138 Cal.Rptr. 53 wherein the court held that where the city moved to terminate a valid business, it was unconstitutional to impose upon that business owner the burden of proving that action was erroneous.

In Menefee Exxon v. Department of Food & Agriculture (1988) 199 Cal.App. 3d 774, 245 Cal.Rptr. 166, the court held that "It is essential that the . . . [accusing administrative body] . . . be required to bear the burden of proof on all issues and the statute must so provide" in order to not run afoul of the guarantees of Due Process of Law.

In the instant matter, the Long Beach Municipal Code does not so expressly provide and, most glaringly, the October 18, 2016, Notice of Hearing places the burden of proof squarely upon Appellant rather than upon the City as is constitutionally required.

That "notice" is contrary to constitutional law and the Long Beach Municipal Code and voids the entire process.

As the court held in Parker v. City of Fountain Valley (1981) 127 Cal.App. 3d 99, 113:

> "It is axiomatic in disciplinary administrative proceedings that the burden of proving the charges rests upon the party making the charges."

Finally, as the court held in Ohio Bell Telephone Company v. Public Utility Commission of Ohio (1937) 301 U.S. 292, 304:

> "It is necessary that the inexorable safeguard of a fair and open hearing be maintained in its integrity . . . the right to such a hearing is one of the single 'rudiments of fair play' assured to every litigant by the Fourteenth Amendment as a minimal requirement."

It is fundamentally unfair to have no provision or notice of the quantum of proof required and to shift the burden of that unknown quantum to Appellant.

(C). DENIAL OF DISCOVERY:

As the court held in Rosenblit, supra, at 1447, once again, with undeniable applicability to the instant matter:

> "Fair procedure would require disclosure of evidence forming the basis of the charges. It would also require that any evidence . . . be made available to the petitioner."

Notwithstanding written and verbal demands for such, the City's failure to reasonably and timely provide discovery, i.e., disclosure of each and every item of evidence it intended to produce at the license revocation hearing to Appellant at a reasonable time prior to that hearing denies fundamental Due Process of Law.

Additionally, the failure of the City to grant Appellant's requested postponement of the November 3, 2016 revocation hearing premised upon Appellant having been denied a reasonable opportunity to prepare a defense and rebut the allegations against it due to the failure of the City to timely and reasonably provide that discovery substantially compounds the severity of the constitutional violations set forth above.

(D) INSUFFICIENCY OF THE EVIDENCE:

It is respectfully submitted that there is no substantial evidence (if that is indeed the standard?) to support the revocation decision appealed herein. Substantial evidence is evidence of ponderable legal significance, reasonable in nature, creditable and of solid value. Pennel v. Pond Union School District (1973) 29 Cal.App.3d 82, 837, footnote 2, 106 Cal.Rptr. 817. The reviewer must then examine not just the evidence in support of the administrative decision, if any, but, rather, all of the evidence in the record. Levesque v. Workman's Compensation Appeals Board (1970) 1 Cal.3d 627, 638, footnote 22, 83 Cal.Rptr. 208. Finally, see Apte v. Regents of the University of California (1988) 198 Cal.App.3d 1084, 244 Cal.Rptr. 312, wherein the court declared that the substantial evidence test requires the reviewer to consider all relevant evidence in the administrative record, including evidence that fairly detracts from the evidence supporting the agency's decision, and that this consideration necessarily involves some weighing of the evidence to fairly estimate its worth.

It is also submitted that the absence of any Findings of Fact, Conclusions of Law or statement of precise bases for the revocation herein in the November 4, 2016, Notice thereof is constitutionally and statutorily fatal. California Code of Civil Procedure §1094.6.

For over forty years, controlling authority has established that there must be a demonstrable "nexus" between disruptions in a community in the vicinity of a licensed business and that business operation in order for local government to revoke a vested right of land use and/or business operation. In other words, there must be a "nexus" between proven patron or licensee misconduct and a licensee breach of duty in order to impose liability on a licensee.

In Sunset Amusement Company v. Board of Police Commissions (1972) 7 Cal. 3d 64, 101 Cal.Rptr. 768, the court declined to impose liability upon a licensee for disturbances beyond the reasonable control of management. See also Tarbox v. Board of Supervisors (1958) 163 Cal.App. 2d 373, 329 P.2d 553.

The majority decision in Sunset Amusement, supra, did not precisely reach the question of to what extent a licensee remains accountable for off premises disturbances beyond his reasonable control because the evidence in that case clearly demonstrated that the neighborhood disturbances were indeed proximately caused by petitioner's method of operation and were within petitioner's reasonable control. However, Justice Mosk did address the instant case issue in his concurring and dissenting opinion in which he stated as follows:

> "Absent a direct and causal relationship between the nature of activities taking place inside . . . [the business] . . .and those occurring outside, and absent a showing that petitioner's encouraged or acquiesced in the disorderly conduct off the premises, licensee responsibility should not

> attach. "The general rule as enunciated by this court in Flores v. Los Angeles Turf Club, 55 Cal. 2d 736 . . . and . . . in Tarbox v. Board of Supervisors, 163 Cal.App. 2d 373 . . . remains sound: 'a licensee is responsible for governing only patrons' activities which are reasonably within the scope of the licensee control."

Thus the lesson of Sunset Amusement is quite clear. Only where there is no reasonable effort made by licensee to control patrons' conduct, where patron misconduct is the proximate result of that very failure of any effort and where there has been an independent act or omission of a duty to act which proximately caused that misconduct, can there be the imposition of any liability upon the licensee.

The evidence herein thus utterly fails to support the revocation. There has been no demonstrable evidence of any Appellant misconduct in the premises, there have been reasonable efforts by Appellant to control patrons on the premises, no off-premises patron misconduct was proximately caused by Appellant's encouragement or breach of any legal duty.

To hold Appellant liable for the alleged misconduct of persons which it cannot foresee and cannot prevent presents a classic dilemma which is legally impossible and logically untenable.

Further, any alleged community disruptions were too ancient to constitute relevant evidence.

Additionally, there was an allegation at the hearing that were "numerous" police calls for service or man hours devoted to Appellant's premises.

The Council's attention is respectfully directed to B.S.A., Inc. v. King County (1986) 804 F.2d 1104, wherein the court addressed the very deficiency in this evidentiary context. In the B.S.A. matter, the Sheriff's Department sought to present statistics regarding the "number of police calls to a particular location" as evidence that it was a problem location. The court quickly dispatched this statistical presentation as essentially meaningless in not providing comparative statistics with regard to police calls or occurrences at other, comparable licensed locations within the same city and within the same time period. The record herein is likewise fatally flawed.

Additionally, the precise outcome of any such call for service is unknown. What is known, however, is that neither Appellant nor any of its employees was convicted of a crime as a result of any of those calls.

How many resulted in a determination that nothing at all was amiss is unknown.

With regard to compliance with conditions imposed on the operation, Appellant has made every reasonable effort to, and in fact has, substantially complied with those reasonable conditions.

Appellant reserves the right to further challenge the sufficiency of other particular areas of so-called "evidence" presented below at the appellate hearing herein. Appellant thus reserves, preserves and does not waive any further argument regarding same.

2. REQUESTS REGARDING HEARING DATE:

Pursuant to Long Beach Municipal Code §3.80.429.5, Appellant respectfully requests that the hearing on this appeal be set at a time "agreed upon" later than thirty days from the City's receipt of this letter of appeal. Because of the holidays, legal counsel's prepaid and prearranged travel plans out of the State of California in late November through December and a very heavy trial calendar, it is requested that the Appeal Hearing herein be scheduled on or after January 9, 2017.

Dated: ____________________ RESPECTFULLY SUBMITTED,

____
JOSHUA KAPLAN, Attorney for Appellant

Dated: ____________________ ENAID'S WAY, INC.

____
By: DAMITRESSE YANCY

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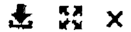

November 10, 2016

Office of the Long Beach City Clerk
333 West Ocean Blvd.
Long Beach, CA 90802

Re: Written Request for Discovery re Business License Revocation (Notice thereof dated November 4, 2016) as to Enaid's Way, Inc., dba: Miko's Sports Lounge, 710 West Willow Street, Long Beach, CA 90806 (Damitresse Yancey); Business License Nos. BU21338610, BU21338620 and BU21338630

To Whom It May Concern:

YOU, AND EACH OF YOU, are hereby required, pursuant to the Due Process clauses of the United States and California constitutions and pursuant to California Government Code Section 6250, et.seq. (California Public Records Act) to furnish Licensee (Appellant), through its legal counsel as designated herein, with the following:

1. Names and addresses of all witnesses, including those intended to be called to testify by the Accuser, and those known to be intending to testify at the hearing in the above-entitled matter.

2. To supply to Appellant and its counsel with copies of any of the following documents under your possession and control:

a. Statements of any person, named in any Accusation against Appellant, when the act or omission of Appellant as to such person is the basis for this Administrative proceeding;

b. Any statement pertaining to the subject matter of any Accusation herein against Appellant;

c. Statements of all witnesses proposed to be called and statements of any other persons having knowledge of the acts, omissions or events which are the basis of this proceeding;

d. All writings and any reports which the Accuser proposes to offer in

With regard to compliance with conditions imposed on the operation, Appellant has made every reasonable effort to, and in fact has, substantially complied with those reasonable conditions.

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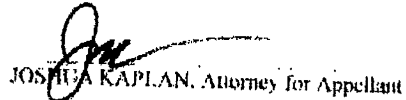
Dated: 11/10/16

RESPECTFULLY SUBMITTED,



JOSHUA KAPLAN, Attorney for Appellant

Dated: 11.10.16

ENAID'S WAY, INC.

By: DAMITRESSE YANCY

November 11, 2016

Long Beach City Clerk
333 West Ocean Blvd
Long Beach, CA 90802

NOTICE OF APPEAL OF LICENSE REVOCATION

Re: Business license: Account number: BU90057720
Type: Commercial/Industrial Space Rental
Owner: Mark and Ronald & Colleen Mackey
Location: 710 W. Willow St., Long Beach, CA

Written Appeal Request and Written Appeal of Business License revocation, notice given on November 4, 2016, as to Commercial/Industrial Business rental license number BU90057720 for 710 W. Willow Street, Long Beach CA.

To Whom it May Concern:

The specific grounds upon which the appeal is based are as follows:

1. Insufficiency of the Evidence as to the owner having done anything improper such that his building rental license should be revoked.

Other than ownership there is no connection between any activity on the part of the owner of the building, which he rents and any disruption from the patron of the tenant.

In response to every single complaint brought to the attention of the owner prior to the hearing, the owner took action, including written and oral notices from him to the tenant that specified action had to be taken by the tenant, holding meetings with neighbors, attending meetings with governmental agencies and passing along warnings of the meetings to the tenant.

There was never a timely notice of a reason for revocation of the business rental license of the owner,.

2. There are no standards set forth in any regulations, statute or governmental entity notice such that a person who simply owns a building for rent is aware he or she is at risk of losing the business license if he or she does not comply with recognizable and addressable standards he has notice of.

There is a violation of due process

There were no specific findings of fact or, conclusions of Law or statements of any specified basis for revocation of the **owner's business rental license involved with the building.**

In every instance of a complaint about the tenant, the owner took action, much of which was included within the evidence submitted to the hearing officers. All of the evidence involved complaints the tenant did not control the patrons. There was no evidence the owner failed to act in a manner an owner should act as a landlord.. All significant complaints against the tenant were stale complaints which, when the owner was actually notified of, were addressed directly with the tenant (reflected in writing from the owner to the tenant The letter was introduced for the council's consideration.). The owner discussed the issues with the Governmental agency (as reflected in the hearsay chronology provided by the City Attorney at the hearing) The owner discussed issues with two of the neighbors and took the complaints to the tenant.

There was never a notice prior to the notice of hearing the owner was at risk of losing his business license until fifteen days before the hearing and at that point not only was it vague but it was too late for the owner to do anything. In fact, the exact opposite.

In terms of losing his building rental license, the owner was specifically told "don't worry your license is not in danger. No one is going to take your license. (pph)

The owner is recovering from serious surgery. The best he could do with this type of notice is hire an attorney and send him to the hearing at the last minute.

3. There is a violation of equal protection involved in this matter under the existing facts.

A similarly situation bar within a short walking distance whose patron are exactly the same as the patrons of the lessee of the building in question is not the subject of the same scrutiny.

It was extremely interesting to hear the words at the hearing to the effect the subject tavern license which had existed for an estimated 30 years was suddenly characterized as a inappropriate today as opposed to when it was issued when a second bar is within a short walking distance.

4. Long Beach Municipal Codes §§ 2.93.010 through 2.93.050 and § 3.80.429 are constitutionally defective, violate due process, and are thus facially void and as applied.

   A. The notice of hearing dated October 18, 2016 , is a one page letter wherein it is indicated there is to be a hearing scheduled for November 3, 2016, fifteen day from mailing of the notice and thirteen days actual notice from mailing. It is constitutionally defective in a number of respects,

(i) The notice fails to specify anything whatsoever as a basis for revocation except that commercial building space rental license number BU90057720 is somehow operating outside of the scope of the authorized business activity permitted by the license.

The owner has a license to rent his commercial building. He has done nothing outside the scope of his business license.

There is no notice of a basis to take that business license. In terms of his duties as an owner he did everything he was supposed to do short of evicting the tenant. He did not evict the tenant because the tenant had, to his understanding, resolved the issues after he, the owner had written and demanded that certain conditions be complied with on multiple occasions.

One may not be deprived of a property right without due process of law. (U.S. Const., Amend. XIV; see Cal. Const., art. I, § 7, subd. (a).)

It is firmly established that the right of every person to engage in a legitimate employment, business or vocation is an individual freedom secured by the due process provision of the federal and state Constitutions. Brecheen v. Riley 187 Cal. 121, 124-125; Bautista v. Jones, 25 Cal.2d 746, 749; Doyle v. Board of Barber Examiners, 219 Cal.App.2d 504, 509

It is an elemental and fundamental principle of law that the right to engage in a business or occupation cannot be taken away except by due process of law Trans-Oceanic Oil Corp. v. City of Santa Barbara, 85 Cal.App.2d 776, 795-797. Where the revocation proceedings are quasi-judicial in nature, due process of law requires an opportunity to be heard upon such notice and proceedings are adequate to safeguard the right for which the constitutional protection is invoked. Anderson Nat. Bank v. Luckett, 321 U.S. 233, 246 [88 L.Ed. 692, 64 S.Ct. 599, 151 A.L.R. 824]

B. The burden of proof set forth in the notice of October 18, 2016 was the owner had to rebut evidence produced by the City; yet no evidence was submitted by the city as to being outside the business license to rent a commercial building. As applied it was constitutionally defective to bootstrap the complaint of the alcohol related issues to the commercial rental issues without any competent evidence being presented as to the commercial business rental license being conducted outside the scope of the license.

In a disciplinary hearing setting the burden of proof the owner of the building has no burden absent evidence being presented that he did something outside the scope of his license.

To establish a procedure where the owner has to meet a burden of proof on issues that he is only tangentially involved in and has only very little knowledge of is contrary to constitutional limits on the power of a municipality.

A licensee is not required to guess at what he is supposed to do. That is exactly what has taken place here. The owner. Wrote cautionary letters, met with the authorities, warned the tenant she must obey the law and discussed the situation with neighbors and warned the tenant again. The owner who only rents buildings has not done anything outside the scope of his license.

C. The evidence submitted by the people was not provided to the owner prior to the hearing. There was a hearsay summary of events alleged to have been violations of the CUP submitted at the hearing and prior to the hearing a small notebook was provided, however, all the papers introduced at the commencement of the hearing were not given to the appellant.

The failure to provide evidence against the owner to the owner prior to the hearing is fundamentally unfair and prevented the owner from presenting an intelligent and full defense.

That failure does not stand alone. To summarize the evidence that was presented, the persons the owner talked with about complaints prior to the hearing, advised the owner he did not have to worry about losing his license. Thereafter, at a hearing, the City Attorney presented a hearsay list of events (which appellant argues was an improper evidentiary presentation, not being reasonably reliable), did not give the evidence against the owner to the owner prior to the hearing with a small exception and then took oral complaints from the neighbors

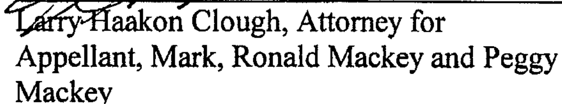
CONCLUSION

Appellant reserves the right to present further challenges to the sufficiency of the notice and evidence introduced at the hearing of this matter.

In terms of the hearing date, appellant is willing to present his appeal as requested by the other parties to the appeal and the City Council. .

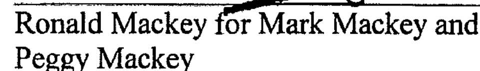
Dated: November 14, 2016

Respectfully Submitted,



Larry Haakon Clough, Attorney for Appellant, Mark, Ronald Mackey and Peggy Mackey

Dated: November 14, 2016



Ronald Mackey for Mark Mackey and Peggy Mackey