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July 6, 2007

City Clerk of the City of Long Beach by fax: 562-570-6789
City Council of the City of Long Beach by fax: 562-570-6789
Business License Section of the City of Long Beach by fax: 562-570-6783
Chief of Police of the City of Long Beach by fax: 560-570-7114

Re: JAB Entertainment, Inc. DBA Sugarwalls; Application for Entertainment Permit at 1811 W. Anaheim St.- REQUEST FOR CONTINUANCE OF HEARING on July 10, 2007 and for DISCOVERY; alternatively, PRELIMINARY APPLICANT'S SUBMISSION.

To: The City of Long Beach and all Interested Parties/Departments:

As counsel to the above-named applicant, pursuant to California Government Code section 6250, et. seq. and the Due Process Clauses of the U.S. and California Constitutions; this requests a continuance of the hearing set for July 10 so that there may be discovery provided to counsel for Applicant of all matters relevant to the assertions of Chief of Police Batts in his Memo regarding this matter sent to Pamela Wilson-Horgan of May 29, 2007 (supplied to Applicant only on or about June 28, 2007) prior to any such hearing. More particularly, Applicant requests all reports, memoranda and writings of any kind relevant to "The Vice Investigations" and all other matters referred to in the Chief's aforesaid Memo.

Without such discovery **well prior** to any hearing, Applicant would be deprived of Due Process of Law in not having the specific factual allegations against it known to it and thus capable of rebuttal. By way of example only and without limitation, Chief Batts alleges four incidents of misconduct on unspecified dates by un-named entertainers (page 2 of his Memo). Applicant may have as many as 12 to 15 such entertainers in its premises on any date and thus cannot know who to interview nor who to bring to the hearing as a

rebuttal witness nor how to defend against such generalized allegations without the specificity through discovery sought herein.

Therefore, a continuance is requested to allow for receipt and investigation of such materials. Applicant does agree to condition the continuation of its Temporary Permit during such an interval to expressly preclude any activities violative of Long Beach City Code 5.72.121 and to expressly preclude any and all entertainment defined as Adult Entertainment in Sect. 21.15.110.


Further and alternatively, Applicant submits that Long Beach Code sect.5.72.120 D 4 (Permit Application Process) is unconstitutional and void as Overbroad and Vague in violation of the Due Process Clauses of the U.S. and California Constitutions as explained in Burton vs. Municipal Court (1968) 68 Cal. 2d 684 and Perrine vs. Municipal Court (1971) 5 Cal. 3rd 656. These decisions condemned usage of the "public peace, welfare and safety" criteria to used in sect. 5.72.120 D 4 to judge an application and the use of the permissive "may" rather than the mandatory "shall" in granting an application that met constitutionally precise criteria, if any, in Freedom of Expression contexts. That we are in that context is not subject to doubt by virtue of In Re Giannini. (1968), holding dance entertainment to be such protected expression. Sect 5.72.120 D 4 (c) is even more defective in providing that an application which meets all criteria may still be denied.

Further, the Chief's Memo is replete with mis-statements: Applicant **did apply for a permit with dancing**, not without as the Chief states on page 1; Applicant did not close escrow on nor acquire this business **until mid- March, 2007** when it applied for its City permit so any activity prior to that cannot be made the liability of Applicant, contrary to what the Chief states at page 1 thru 2; Applicant is shocked at general allegations of misconduct after March, 2007 for Applicant takes very seriously the prohibition against Adult Entertainment at its premises, has no intention nor desire to have such and instructed all entertainers and personnel accordingly. Even without knowing the specific facts of the Chief's allegations, Applicant is right now re-doubling its efforts to absolutely preclude any such Adult Entertainment at its premises by stressing such in no uncertain terms to all persons who perform any function at all in the premises.

Applicant's shareholder, Melinda Garcia, is the shareholder or primary member of two other A.B.C. licensed locations and the unblemished records there demonstrate that she and JAB Entertainment are law abiding persons who will operate and conduct this business in a lawful manner if but given the opportunity to do so. If any transgressions previously occurred, they were certainly isolated and perhaps the result of inexperience by a new operator. They assuredly were not intentional and not ratified by Applicant which wishes only to conduct its business in a community sensitive and responsible manner.

Please contact the undersigned on behalf of the Applicant.

Yours,

A handwritten signature in black ink, appearing to be 'Joshua Kaplan', written over the typed name.

Joshua Kaplan