

CITY OF LOS ANGELES
CALIFORNIA



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April 29, 2010

Chief Zoning Administrator (A)
Office of Zoning Administration
200 North Spring Street, #763
Los Angeles, CA 90012

Hortensia Delgado (O)
215 Via Montanera
Anaheim, CA 92807

Margarita and Emilio Romo (Op)
10817 Doty Avenue
Inglewood, CA 90303

La Fortuna Market
824 Lincoln Boulevard
Venice, CA 90291

CASE NO. DIR 2009-4040(RV)
IMPOSITION OF CONDITIONS
820, 822 and 824 South
Lincoln Boulevard
Venice Planning Area
Zone : [Q]C2-1-CDO
D. M. : 111B145
C. D. : 11
CEQA : ENV-2009-4041-CE
Legal Description: Fr. Lots 16-17,
Tract 7038

Pursuant to Section 12.27.1 of the Los Angeles Municipal Code, I hereby DETERMINE:

that the operation of the market known as La Fortuna Market, located at 820, 822 and 824 South Lincoln Boulevard is a public nuisance, and requires the modification of its operation to mitigate adverse impacts on persons and properties in the surrounding area,

as set forth below:

1. The property and business owners shall file a Plan Approval application between 9 months and 12 months from the effective date of this action to allow for a review of the effectiveness in implementing the Conditions established herein and to determine whether the public nuisance problems identified in the Findings Section of this determination have been eliminated. A public hearing shall be conducted. Notice of the public hearing shall be mailed to all property owners and occupants located within 500 feet of the property. The owners shall submit evidence of compliance of each condition with the Plan Approval application. The Zoning Administrator conducting the hearing may add, modify or delete Conditions as determined appropriate. The Zoning Administrator may also require the discontinuance of the uses or any portion of the property or individual lease space if the applicable findings can be made.



2. The use of the property shall be conducted at all times with due regard for the character of the surrounding neighborhood. The right is reserved to the Zoning Administrator to impose additional corrective Conditions if such Conditions are proven necessary for the protection of the residents and business owners/operators as well as the property owners of the surrounding properties.
3. The operating hours of the market shall be limited to 9 a.m. to 6 p.m. daily. The business hours shall be posted at the entrance/exit door of the market.
4. Within 30 days from the effective date of this determination, electronic age verification device(s) which can be used to determine the age of any individual attempting to purchase alcoholic beverages or tobacco products shall be installed on the premise at each point-of-sale location. The device(s) shall be maintained in operational condition and all employees shall be instructed in their use prior to the sale of any alcoholic beverage or tobacco product.

The business owner/operator shall verify that patrons attempting to purchase alcohol are of legal drinking age by requiring identification from anyone appearing to be under the age of 35. [LAPD]

5. The business operator shall identify a contact person and provide a 24-hour "hot line" telephone number for any inquiries or complaints from the community regarding the subject facility. Within one week from the effective date of this determination, the phone number shall be posted on the site so that it is readily visible to any interested party. The hot line shall be:
 - posted at the cashier and entry/exit of the store and parking lots,
 - responded to within 24-hours of any complaints/inquiries received on this hot line, and
 - documented in a log and available for review by the Los Angeles Police Department and the Zoning Administrator upon request on when the calls were received, returned and the action taken at a minimum.

Evidence that shows compliance with this condition shall be submitted with a Plan Approval application required in Condition No. 1 above.

6. The conditions of this determination, a copy of a business license, insurance information and an ABC license shall be retained on the premises at all times and be immediately produced upon request of any Los Angeles Police officer, Department of Alcoholic Beverage Control investigator or other responsible agencies.

The manager and all employees shall be knowledgeable of the required conditions and shall be thoroughly trained with respect to their responsibilities in implementing the required conditions. The conditions of this action shall be provided to and reviewed by employees and security personnel. The employees/security personnel

shall be informed that they will be disciplined for violating the required conditions including termination of employment. [LAPD]

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the satisfaction of the Director of Planning.

7. Coin operated game machines, gambling machines, pool tables or similar game activities or equipment shall not be permitted. Official California State lottery games and machines are allowed.
8. There shall be general merchandise items such as milk, juice, water and other non-alcoholic beverages available for purchase at the market.
9. Should there be a change in the ownership of the property/the market and/or the business operator, the property owner and the business owner/operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Prior to the closing of escrow for a potential change in the ownership of the property/business owner or operator, evidence showing that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator, shall be submitted to the satisfaction of the Director of Planning.
10. The property owner, the business owner/operator shall keep the premises and any area adjacent to the premises over which he/she has control free of litter/debris, newspaper racks, benches, boxes or objects that encourage loitering. The exterior portion of the site, including the parking facilities and adjacent sidewalks along the Lincoln Boulevard and the adjoining alley shall be swept daily at a minimum.

Trash storage or other storage shall be closed and locked at all times except when it is used by the business operator so as not to result in noise, order or debris impacts on any adjacent neighbors.

11. Any graffiti painted or marked upon the premise or adjacent area under the control of the owner/operator shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
12. Within 45 days from the effective date of this determination, all personnel acting in the capacity of a manager of the premise and all employees including security personnel shall complete the STAR (Standardized Training for Alcohol Retailers) session sponsored by the Los Angeles Police Department. All employees shall attend follow-up STAR classes every 24 months. The STAR training shall be conducted for all new hires within 2 months of their employment. [LAPD]

Within 60 days from the utilization of this grant, a list of employees, their hire date and written confirmation of their STAR training shall be submitted to the Zoning Administrator, and shall be retained on the premises at all times and be immediately

produced upon request of any Los Angeles Police officer or Department of Alcoholic Beverage Control investigator.

13. A minimum of one security guard shall patrol the premises including the adjoining alley and the adjacent sidewalk during the operating hours at all times. The security guard shall, at a minimum, have the following qualifications and responsibilities:
 - a. A security guard shall have a State licensed security guard license and shall wear a uniform with a patch on each shoulder identifying the name of the registered security company which employs the guard.
 - b. The guard shall not be the business owner/operator or have any association with the operation of the market.
 - c. The guard shall be fluent in English and Spanish and will have clear instructions to enforce applicable conditions and uphold the law.
 - d. Along with normal security guard duties, the guard shall patrol the adjoining alley/parking lot and the adjacent sidewalk area to deter individuals from loitering, and drinking alcoholic beverages on the premises and in public.
 - e. The guard shall not conduct any other activities while employed at the market other than those of a security guard which include checking identification and escorting undesirable patrons off the premises. The security guards shall maintain order and prevent activity that would interfere with the quiet enjoyment of the surrounding properties. The guards shall be responsible for preventing loitering and any criminal activity on and around the store including public drinking, littering, trespassing, transactions involving controlled substances, and other illegal and public nuisance activities. If unlawful activity inside and outside the market including in the adjoining alley and the adjacent sidewalk areas related to loitering, drinking alcoholic beverages, or illegal drugs is observed or reasonably assumed, then the guard(s) shall request such persons to leave the area. The guard(s) shall request the assistance of the Los Angeles Police Department if, based upon the guard's training, the situation so warrants.
 - f. The property and the business owners/operator and a security guard shall cooperate with the LAPD in their investigation and shall not follow, impede, obstruct or delay any law enforcement personnel conducting inspections or official business at the location.
 - g. Along with normal security guard duties, the business operator/guard shall limit the number of patrons inside the market at any one time to a maximum of five (5) patrons.
 - h. The market owner/operator and security guards shall maintain a daily log of patrol activities in the store, which shall include the following:

Name of the security guard on duty
 Date and time for check-in and check-out for security duties
 Date, time and descriptions of any incidents that may occur in and
 around the market during the security patrol
 Resolution of the incidents

Within 30 days of the effective date of this action, the business operator shall provide a copy of the executed security contracts to the satisfaction of the Director of Planning. The contracts shall include the minimum security service requirements as required by the conditions of this determination. The security contract shall include the names of the security guards, their working hours and copies of their State guard licenses. [LAPD]

14. A video surveillance system shall be provided inside and on the exterior of the market to the satisfaction of the Los Angeles Police Department. Management/employees/security personnel shall routinely monitor the cameras and keep the video tapes/DVDs for at least 30 days. Management shall immediately notify the LAPD when criminal activity is observed and shall keep and make available to the LAPD upon request tapes, which indicate possible criminal activity. [LAPD]

Signs indicating the use of a 24-hour video surveillance system shall be posted at the market entrance and on the exterior wall facing the adjoining alley and the street adjacent the premises. The signs shall state the following:

WARNING
 THE MARKET (LA FORTUNA MARKET) IS UNDER 24-HOUR
 SURVEILLANCE BY THE STORE MANAGENENT AND THE
 LOS ANGELES POLICE DEPARTMENT WITH A VIDEO
 SURVEILLANCE MONITORING SYSTEM

The sign(s) shall be at least 2 square feet with 2-inch block lettering. The sign(s) shall be in English and Spanish.

Within 30 days from the effective date of this determination, the business owner/operator or property owner shall submit evidence that shows compliance with this condition including, but not be limited to, photographs of such a posting and a letter from the LAPD, which states that the required surveillance cameras and signs have been installed/posted to the satisfaction of the LAPD.

15. There shall be no loitering on and around the property, including in the adjoining alley and the adjacent street, and no alcoholic beverages shall be consumed on the property or any property adjacent to the premises under the control of the owner/operator. The operator shall not allow any patron to remain on the premises for more than 10 minutes. [LAPD]

Signs shall be prominently posted in English, and the predominant language of the facility's clientele, if different, stating the following:

"California State law prohibits sale of alcoholic beverages to persons who are under 21 years of age."

"No Loitering, No Public Drinking, No Trespassing and No Drugs"

"It is a violation of Section 41.27(d) LAMC to possess any bottle, can, or other receptacle containing any alcoholic beverages, which had been open, or the seal is broken or the contents of which have been partially removed, on or adjacent to these premises." [LAPD]

The adjoining alley and the areas adjacent to the subject site and under the applicant's control shall be routinely patrolled by employees of the market or security personnel to ensure that there is no loitering, no drinking of alcoholic beverages in public, no illegal vending, and/or no patrons who harass pedestrians. Any problems associated with the market operation shall immediately be reported to the market manager/owner/operator who shall correct/remedy the problems.

16. The property/business owner/operator shall provide adequate lighting above the front entrance and rear door of the premises, preferably halogen style lighting. Exterior lighting on the building shall be maintained and provide sufficient illumination of the immediate environment so as to render objects or persons clearly visible to the satisfaction of the LAPD. Exterior lighting shall be directed in such a manner so as not to unreasonably illuminate the window area of nearby residences. [LAPD]

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the satisfaction of the Zoning Administrator such as a letter from the LAPD stating that exterior lighting on the site has been installed to the satisfaction of the LAPD.

17. Signs in English and Spanish, stating "DO NOT DRINK OR OPEN ANY DRINKS ON SIDEWALKS OR ANY OTHER PUBLIC AREAS" shall be posted at the cashier, at the exits and entrances of the premises, and in the rear of the premises.

The business owner/operator shall instruct all patrons not to drink or open any alcoholic beverages inside, in front of, in the area adjacent to the premises and in public including the surrounding residential streets. [LAPD]

18. No narcotics paraphernalia or related items shall be sold or distributed at the location. [LAPD]
19. The property owner and/or the business owner/operator shall reimburse the City of Los Angeles applicable fees and surcharges, as set forth in Los Angeles Municipal Code Section 19.01-P, within 30 days of the effective date of this determination.

20. All windows shall be maintained free of signs and other material that inhibit views into the facility by law enforcement agencies. Minimum signage should cover the window of the premises allowing direct view into the business.

Reconfigure the location of the cash register so that all sales can be clearly observed from the front of the property to the satisfaction of the Los Angeles Police Department, Pacific Division. [LAPD]

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the satisfaction of the Zoning Administrator such as a letter from the LAPD.

21. The property and business owners/operator shall join and actively participate in the efforts of any local business neighborhood watch, and shall meet with the Pacific Patrol Division and Vice Unit representatives of the Los Angeles Police Department semi-annually or on an as needed basis to receive appropriate training and information, regarding alcoholic beverage control laws and procedures. The meetings shall be initiated by La Fortuna Market management. The first meeting with the LAPD shall be made within 30 days from the effective date of this action. The measures recommended by the LAPD to mitigate any nuisance activities associated with the store shall be complied with. [LAPD]

Within 45 days from the effective date of this determination, evidence of compliance with this condition such as meeting venues and summary of the meeting, etc, shall be submitted to the satisfaction of the Zoning Administrator.

22. There shall be no cups, glasses, or small receptacles commonly used for the drinking of beverages, whether constructed of glass, plastic, styrofoam, or other material sold, furnished, or given away in quantities of less than 24. [LAPD]

23. The rear door shall be locked in a manner that allows it to serve as a fire and emergency access only. Place an alarm on the rear door to alert the business operator if the rear door has been opened to the satisfaction of the Fire and Police Department. [LAPD]

Within 45 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the satisfaction of the Zoning Administrator.

24. The business owner/operator shall provide orange plastic bags to package all alcoholic beverages. All sales of alcoholic beverages shall be packaged in an orange plastic bag. [LAPD]

25. "No parking" signs shall be posted to the rear of the business. Patrons shall not be allowed to park in the rear of the premise. [LAPD]

26. The business operator shall strictly adhere to the rules and regulations required by the Department of Alcoholic and Beverage Control (ABC), specifically, but not

limited to, 25612.5 B&P (retail operating standards) and 25602(a) B & P, which prohibits the sale of alcoholic beverages to habitual drunkards and obviously intoxicated persons as defined by the ABC regulations. [LAPD]

27. The property/business owners and operators shall not allow, permit or install any pay phones on the property. [LAPD]
28. No single cigarettes shall be sold and shall be sold only in the manufacture's packs. [LAPD]
29. Within 30 days of the effective date of this action, the property and business owners shall record a covenant acknowledging and agreeing to comply with all the terms and conditions established herein in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

The following alcoholic beverage specific conditions, which are recommended by the LAPD and/or the applicant agreed to comply, shall be incorporated as conditions of this determination and shall be complied with:

30. There shall be no exterior advertising or signs of any type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition. This condition is not meant to preclude an interior display of alcoholic beverage containers within the interior of the premises. [LAPD]
31. No wine, wine products, or distilled spirits shall be sold in less than 750-ml size quantities or 4-pack containers per sale. No beer or malt beverage product shall be sold in less than a 6-pack or quart/liter size quantities per sale. [LAPD]

TRANSFERABILITY

This action runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than the current owner, it is incumbent that the owner advise them regarding the conditions of this action.

VIOLATIONS OF THESE CONDITIONS IS A MISDEMEANOR

It shall be unlawful to violate or fail to comply with any requirement or condition imposed by final action of the Zoning Administrator, Board or Council. Such violation or failure to comply shall constitute a violation of Chapter 1 of the Municipal Code and shall be subject

to the same penalties as any other violation of such Chapter. (Section 12.27.1 of the Municipal Code)

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Section 11.00-M of the Municipal Code)

APPEAL PERIOD - EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after MAY 14, 2010, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

FINDINGS OF FACT

After thorough consideration of the statements and correspondence contained in the file, the report of the Zoning Analyst thereon, the statements made at the public hearing before the Zoning Administrator on February 4, 2010, all of which are by reference made a part hereof, as well as knowledge of the property and the surrounding district, I find that there is

cause for imposition of corrective Conditions based upon the provisions of Section 12.27.1 of the Municipal Code which has been established by the following facts:

NUISANCE ABATEMENT AUTHORITY - SECTION 12.27.1 OF THE LOS ANGELES MUNICIPAL CODE

On May 25, 1989, Ordinance No. 164,749 became effective, establishing procedures for the modification, discontinuance or removal of a use, building or structure that constitutes a public nuisance or endangers the public health or safety or violates any provision of City, State or Federal statutes or ordinance. That ordinance became Section 12.21-A, 15 of the Los Angeles Municipal Code.

On January 18, 2009, Ordinance No. 180,409, became effective, amending the language of the Los Angeles Municipal Code

Prior to an action by the Zoning Administrator requiring that a use be discontinued, it must be found that prior governmental efforts to eliminate the problems associated with the use have failed and the owner or lessee has failed to demonstrate to the satisfaction of the Zoning Administrator a willingness and ability to eliminate the problems associated with the use.

Background

The property consists of two, level, square-shaped, interior parcels of land, having a frontage of 50 feet along the northerly side of Lincoln Boulevard and a lot depth of 70 feet. The site is developed with a one-story commercial building occupied by La Fortuna Market; there are two parking spaces in the rear with access from the adjacent alley.

The subject market was referred to the Office of Zoning Administration by LAPD Pacific Vice Officer Bowser and the Citywide Nuisance Abatement Program for nuisance activities such as, transients, ABC violations, loitering, and littering, and drinking alcohol in the premises and in public. Officer Bowser has been conducting a vice/general nuisance investigation and surveillance of the location since March 2008. Continuous complaints to LAPD from the community and investigations indicate that transients buy single cans of beer from the subject market and loiter, urinate, defecate, and trespass in the surrounding neighborhood and alleyways.

The Zoning Investigator conducted field analysis on December 10, 2009, between 11 a.m. and 12 noon. During site analysis staff observed four males purchase single cans of alcohol and then proceed to an interior residential street (Lake Street) and sat down on the curb in front of residential dwelling units to consume the alcoholic beverage (Photos in the file). Also, staff noted a male passed out with what appeared to be a single can in a brown paper bag, in the parking lot of a video store.

Additionally the following correspondence was received from City departments, in order, to initiate the public nuisance hearing.

Declaration of Officer Paul Bowser – #35842

I Officer Paul Bowser, declare that I am, and at all times mentioned herein was, a Police Officer of the Los Angeles Police Department engaged in the performance of official duties. I have been a police officer for eight years. At the time of the below investigation, I was assigned to Vice Division's, Community Problems Unit (CPU). This declaration is regarding La Fortuna Market, located at 824 Lincoln Boulevard, Los Angeles, California, 90291.

I first learned of La Fortuna Market in February of 2008, from Deputy City Attorney, Claudia Martin who is the neighborhood prosecutor for Pacific Division. Mrs. Martin advised me that citizen were complaining of transients in the neighborhood who were drinking single cans of liquor in plain view of her residence. I called Mrs. Martin; she stated that numerous transients were purchasing single cans of liquor from La Fortuna and drinking the liquor in front, and to the side of her residence, in plain view. Mrs. Martin stated that the market used to sell single cans of liquor out of a window to the rear of the Market in the alley, but they had since stopped that activity. I advised Mrs. Martin that I would monitor the location and observe the extent of the problem.

I conducted research of La Fortuna Market and determined that during the summer of 2006, La Fortuna Market had been investigated for drunken service, and selling alcohol from the rear window. The investigators did not observe any evidence of drunken service, but they did observe numerous transients drinking in public within a one-block radius of the store. In July of 2006, Pacific Vice Sergeant Bert #33112, spoke with the owner (Emilio Romo) regarding the amount of transients and habitual alcoholics in the neighborhood who were drinking in public. Sergeant Bert also asked Mr. Romo if he would be willing to voluntarily discontinue selling single cans of alcoholic beverages. Mr. Romo stated that he was not willing to stop serving single cans because it was not illegal and it was the bulk of his business.

On March 6, 2008, at approximately 1740 hours, Officers Curtis #35603, and Mankey #37189, conducted an Alcohol Beverage Control Impact inspection of La Fortuna Market located at 824 Lincoln Boulevard. The Impact inspection revealed several issues with the market. No rear exterior lighting, no clerk affidavit, no operating standards; graffiti on the trash bin in the rear, too many signs in the front window, and no notice to customer sign.

On several occasions during the months of March, and April of 2008, I monitored the La Fortuna Market in increments of approximately 15 minutes. I did not observe any blatant drinking in front of or around the market. I did observe numerous transients on adjacent blocks drinking single cans of liquor. During those occasions either my partners or I cited those individuals for 41.27(c) LAMC, drinking in public.

From July 1, 2008, through August 4, 2008, I received several declarations from citizens complaining of nuisance activity occurring in the neighborhood. Citizen XXXX continued to communicate with me via email and provided me several photos of nuisance activity in close proximity to the La Fortuna Market.

From July 2008, to September 2008, I continued to monitor the nuisance activity in and around the La Fortuna Market. Throughout this time, I continued to observe transients sleeping in the alley and drinking in public.

On July 2, 2008, I observed the beer and malt liquor stock of Ralph's and Rite Aid. I observed that Rite Aid did not have any single cans of beer and malt liquor available for sale. Ralph's had multiple single cans of beer and malt liquor. On August 15, 2008, I contacted Ralph's corporate office and spoke with Dan Moore regarding discontinuing the sale of the single cans. Mr. Moore advised me that he had done this before in other stores, and he would talk; discuss the matter with his colleagues and get back to me.

On August 21, 2008, at approximately 1330 hours, I spoke with the Emilio Romo. I advised Mr. Romo of the nuisance activity in the neighborhood including the loitering, public drinking, public urination, public defecation, and the loitering. I also advised Mr. Romo that the community has lodged several complaints regarding this nuisance activity and I wanted to know if Mr. Romo would be willing to work with the police and the community to address these issues. Mr. Romo stated that the police had talked to him before regarding this issue and he had done everything he could do. I asked Mr. Romo if he would be willing to volunteer to discontinue selling single cans of alcohol. Mr. Romo advised me that everyone including Ralph's sells single cans of alcohol and if he stopped selling the single cans, "it would, kill me. I will go out of business." Mr. Romo stated that he only sells 30 cases of single cans a week.

Mr. Romo also stated, "I sell to winos, but they aren't drunk." As I was conversing with Mr. Romo, Ms. XXXX (whom I previously cited for drinking in public on 07/02/08, at approximately 1430) walked through the front door into the store and stopped in front of the liquor cooler where the single cans of alcohol were stored. Mr. Romo advised Ms. XXXX that he was not serving (alcohol). Ms. XXXX walked backed out of the store through the front door. At the conclusion of my meeting with Mr. Romo, I walked around the block to see if any nuisance activity was occurring. I observed two male transients sitting in the rear alley next door to La Fortuna (812 Dillon Court) sharing a single 24-ounce can of St. Ides Malt Liquor. I recognized one of the transients to be XXXX, who I obtained a declaration from on 07/02/08. XXXX is depicted several times in the photos provided by citizen XXXX.

On September 23, 2008, at approximately 1500 hours, I, (Officer Bowser #35842), along with Det. Moore #26676, and Det. Winger #33102, from Detective Support and Vice Division, presented Emilio Romo (the owner of La Fortuna Market) with voluntary conditions. While inside of the location Det. Moore observed several male Hispanics loitering to the rear of the store. Det. Moore went to the rear of the store and observed an open container of beer sitting on the floor between two of the male Hispanics. Mr. Romo advised me that he was drinking the beer with his lunch. I warned Mr. Romo and advised him that he and his friends could not drink alcohol in the store. I presented a list of voluntary conditions to Mr. Romo and explained the conditions to him. Mr. Romo advised me that he understood the conditions and volunteered to comply with the conditions. Mr. Romo signed the last page conditions

of the voluntary conditions sheet and I left a copy of the conditions with him. On the same date, at approximately, 1530 hours, I checked the Ralph's Market and observed that they were no longer selling single cans of Beer or Malt Liquor. I called Dan Moore from Ralph's Market and selling single cans of Beer or Malt Liquor. I called Dan Moore from Ralph's Market and thanked him for helping us eradicate the nuisance problems associated with alcohol in the community.

From September 23, 2008, until March 2, 2009, I received sporadic complaints of nuisance activity and single can sales. I monitored the neighborhood around La Fortuna Market and I did not see the sporadic nuisance activity that was being reported to me.

On March 2, 2009, I received an email from citizen XXXX. Ms. XXXX detailed a confrontation she had with some habitual alcoholics who were urinating in public in front of her children. I monitored the area and observed several single can sales of alcohol coming from La Fortuna Market. I also observed transients littering, and urinating in public. I spoke to Emilio Romo and advised him that citizens were complaining about nuisance activity associated with single can sales of beer and Malt liquor coming from his store. I reminded Mr. Romo that he volunteered to stop selling the single cans. Mr. Romo advised me that he spoke to a lawyer and he did not have to stop selling single cans. Mr. Romo advised me that if he stopped selling single cans of alcohol he would have to close his business. After observing this activity, I initiated a formal Vice Investigation.

On March 24, 2009, I sent a copy of the voluntary conditions that were signed by Emilio Romo to Hortensia Delgado, the owner of the commercial property that houses La Fortuna Market. The voluntary conditions were sent by way of certified mail. I included a business card and a note asking Ms. Delgado to call me regarding the voluntary conditions. On April 3, 2009, I received a postcard signed by Alex Morales indicating that the letter was delivered. I did not receive any correspondence from Hortensia Delgado.

From: March 2, 2009, through July 28, 2009, Pacific Vice observed numerous patrons entering the La Fortuna Market empty handed and then exiting the market with various single can brands of beer and malt liquor. Pacific Vice followed the patrons until they opened the can and began to drink the alcoholic beverage. Pacific Vice observed this activity numerous times, and arrested several La Fortuna Market patrons for drinking in public. On two occasions, Pacific Vice observed patrons of La Fortuna Market urinating in public.

On May 21, 2009, at approximately 1830 hours, I entered La Fortuna Market to conduct an Alcoholic Beverage Control (ABC) compliance check. I immediately walked to the rear of the location and I observed two male Hispanics, drinking beer out of a single can. I arrested Mr. Romo for 25612.5(3) B&P violation of ABC retail standards. I then issued Mr. Romo a Notice to Appear, ordering him to LAX Court, on July 7, 2009. Mr. Romo was then released on his own recognizance. I forwarded a copy of the arrest report to ABC.

On July 16, 2009, Pacific Vice conducted surveillance on the La Fortuna Market. Pacific Vice observed numerous single can sales. On one occasion we observed a known habitual alcoholic (XXXX) walk into the La Fortuna Market empty handed and then exited the La Fortuna Market with two single cans of an alcoholic beverage. XXXX handed one of the cans to another habitual alcoholic (XXXX and XXXX), walked southbound to a bus stop on the southeast corner of Lincoln Boulevard and Lake Street. XXXX poured the contents of his single can into a Snapple bottle and began to drink the alcoholic beverage. XXXX placed the single can of 211 Steel Reserve next to a cinderblock wall behind the bus stop. XXXX drank the alcoholic beverage several times in plain view of patrons and Broadway Elementary School located across the street from the location. All of this footage was captured on video tape. Pacific Vice arrested XXXX and XXXX for drinking in public.

I believe the attached recommended conditions will solve the nuisance issues associated with La Fortuna Market.

Suggested operating conditions for La Fortuna Market located at 824 Lincoln Boulevard. As provided by LAPD, Pacific Area Vice.

The property and business owners/managers of La Fortuna Market and the members of the Los Angeles Police Department have agreed upon the attached information. This agreement outlines the property owner/managers new position on operating conditions to prevent drunk service and vagrancy acts and any other conflicts with current laws and municipal codes. If any of the conditions are violated, it is the intent of LAPD, Pacific Area Vice to pursue vigorously through the criminal, civil, and administrative procedures to eliminate any nuisances and violations of the law created by the above property. The property and business owners acknowledge that they will take responsibility for reasonably implementing the below listed suggested operating conditions for the above listed property. The property and business owners shall make every reasonable effort to eliminate any nuisance and/or criminal activity.

- 1. Strict adherence to Department of Alcohol and Beverage Control laws and conditions, specifically 25612.5 BP (retail operating standards).*
- 2. The owner/operator shall keep the premises and any area adjacent to the premises over which he has control clear of litter, newspaper racks, benches, boxes or objects that encourage loitering.*
- 3. There shall be no loitering and no alcoholic beverages consumed on the property or any property adjacent to the premises under the control of the owner/operator. The operator shall not allow any patron to remain on the premises for more than ten minutes.*
- 4. The owner/operator shall provide adequate lighting above the front and rear entrance of the premises, preferably halogen style lighting. The lighting shall be of sufficient strength to make visible the identity and the actions of all persons entering and exiting the premises.*

5. *Any graffiti painted or marked upon the premise or adjacent area under the control of the owner/operator shall be removed or painted over within 24 hours.*
6. *Theo owner/operator shall not allow, permit of install any payphones on the property.*
7. *The owner/operator shall post signs, in compliance with the Section of 41.27 (e) LAMC, on the premises notifying the public of the provisions of Section 41.27 (d) LAMC, in both English and in Spanish to read as follows: "It is a violation of 41.27 (d) LAMC to possess any bottle, can, or other receptacle containing any alcoholic beverage, which has been open, or the seal is broken, or the contents of which have been partially removed, on or adjacent to these premises."*
8. *One California State licensed uniform security guard shall be present during all hours of operation for the market. The security guard shall be employed by the owner/operator and be present each day the premise is open for business. The guard shall be fluent in English and will have clear instructions to enforce applicable conditions and uphold the law. The guard will not follow, impede, obstruct or delay any law enforcement personnel conducting inspections or official business at the location. Along with normal security guard duties, the guard shall limit the number of patrons inside the market at any one time (five maximum).*
9. *The owner/operator shall instruct all patrons not to drink or open any alcoholic beverages inside, in front of, behind, or adjacent to the premises.*
10. *There shall be no cups, glasses, or small receptacles commonly used for the drinking of beverages, whether constructed of glass, plastic, Styrofoam, or other material sold; furnished, or given away in quantities of less than 24.*
11. *No narcotics paraphernalia or related items are to be sold or distributed at the locations (see 1 1364.5(d) H&S).*
12. *The owner/operator shall not maintain any alcohol advertisement on the outside walls or windows of the location. Minimum signage should cover the window of the location, allowing direct view into the business.*
13. *The owner/operator shall join and actively participate in the efforts of any local business neighborhood watch, and shall meet with Pacific Vice Unit representatives on an as needed basis to receive appropriate training and information, regarding alcoholic beverage control laws and procedures.*
14. *The owner/operator shall verify that patrons attempting to purchase alcohol are of legal drinking age by requiring identification from anyone appearing to be under the age of 35.*

15. *The owner/operator shall install and maintain video surveillance cameras with inside/outside and front/rear views of all common areas. Management shall routinely monitor the cameras and keep the video tapes/DVD for at least one week before re-cording over the said recording device. Management shall immediately notify the LAPD when criminal activity is observed and shall keep and make available to the LAPD any and all tapes, which indicate possible criminal activity.*
16. *There shall be a maximum of five patrons allowed in the store at anyone time. If there is a line forming to enter the market, it shall be conducted in an orderly fashion with patrons lining along the wall of the business leaving the sidewalk as a free passage.*
17. *Hours of operation shall be limited to 10 am to 7 pm daily.*
18. *Every employee shall attend Standardized Training for Alcohol Retailers (STAR) session sponsored by the Los Angeles Police Department within 90 days of employment. The owner/operator shall maintain proof of each employee's attendance and have it available on the premise for inspection by the Los Angeles Police Department of Alcohol Beverage Control.*
19. *Lock the rear door in a manner that only allows it to serve as a fire escape only (people can exit the store, but no entry allowed). Place an alarm on the rear door to alert the manger if the rear door has been opened. (Consult fire marshal for appropriate installation.)*
20. *Reconfigure the location of the cash register so that all sales can be observed from the front of the property.*
21. *The owner/operator shall provide orange plastic bags to package all alcoholic beverages. All sales of alcoholic beverages shall be packaged in an orange plastic bag.*
22. *All cigarette products shall be sold in packages of twenty or greater. All cigar products shall be sold in packages of five or greater.*
23. *"No parking" signs shall be posted to the rear of the business. No vehicles shall be parked to the rear of the business.*
24. *It shall be the responsibility of the owner/operator to ensure compliance of these conditions at all times. The manager on duty shall be made familiar with these conditions and implement them as required.*
25. *A copy of this agreement and the list of conditions shall be posted along with other permits in public view and shall be made available to all law enforcement personnel upon demand.*

26. *Thoroughly train all of your employees with respect to all of these procedures. Provide written instructions to your employees and notify that they will be disciplined for violating these conditions.*

The following conditions are highly recommended by the Police Department to assist in the reduction of nuisance activity at the location.

27. *No wine, wine products, or distilled spirits shall be sold less than 750ml size quantities or 4-pack containers per sale (related to wine products).*
28. *No beer or malt beverage product shall be sold in less than a 6-pack or quart liter size quantities per sale.*

City Attorney Referral to Department of City Planning dated November 3, 2009
RE: 824 Lincoln Boulevard La Fortuna Market

I am an attorney with the Safe Neighborhoods Division of the City Attorney's Office and participate in the City Wide Nuisance Abatement program (CNAP), a multi agency task force formed to address properties that constitute nuisances in the City. CNAP's chief objective is to revitalize neighborhoods by encouraging voluntary abatement of nuisances through a cooperative approach involving property owners, LAPD, neighborhood prosecutors, building code inspectors, housing personnel and your office.

A problem location at 824 Lincoln Boulevard, Los Angeles, CA 90018, dba La Fortuna Market (hereinafter referred to as the "Property"), is being referred to you for nuisance abatement proceedings. The Property is a one-story commercial structure that sells alcohol to the community. Community members and law enforcement have complained that this location has been a nuisance for several years.

The problems at the location include individuals drinking on the premises and staff selling single cans of alcohol to transients and habitual alcoholics. These patrons typically purchase cheap individual quantities of alcohol at the Property and then disperse into the surrounding area to loiter, drink in public, urinate, defecate and engage in a variety of criminal activities. These conditions are exacerbated by the presence of the Broadview Elementary School across the street from the public. The presence of intoxicated transients presents a direct health and safety risk to the children who attend that school.

Representatives from the Los Angeles Police Department (LAPD) have met with the owner of the commercial establishment in an informal effort to resolve these problems. Although the owner at first agreed to stop selling single cans of alcohol, he has since changed his mind and the problem has only gotten worse. His business in fact caters to the very transient population that is destroying the peace and well-being of the neighborhood. The business owner seems unwilling or unable to make changes at the Property that would ameliorate the effects of this nuisance on the community.

Attached are pertinent LAPD records that confirm that the location is a source of ongoing enforcement efforts and a level of criminal activity that is disproportionate with the surrounding area. According to the enclosed LAPD reports, the nuisance activity at the Property includes threats of violence, public urination and defecation, theft, loitering, public intoxication, drug use, violence and an overall disruption that affects the peaceful enjoyment of the neighborhood. The enclosed materials include the history of arrests and crime reports that have been generated from the Property over the last several years. The enclosed materials also include a declaration from Officer Paul Bowser, a record of calls for service, criminal history, and photographs depicting the impact of the Property's customers on the surrounding neighborhood.

The problem conditions have not been ameliorated by traditional law enforcement efforts. Due to the failure of traditional law enforcement methods to abate the public nuisance conditions and due to ongoing complaints from concerned citizens, I am requesting that you review the case for nuisance revocation proceedings.

The northerly, across the alleyway identified as Dillon Court, the properties are zoned R1-1VLD and are improved with one- and two-story, single-family dwellings having frontages along Indiana Avenue and Lake Street.

The easterly if the site, the property is zoned [Q]C2-1-CDO and is improved with a one-story commercial building occupied by a tattoo parlor, barber shop, record shop, and Café 50's Restaurant.

The southerly, across Lincoln Boulevard, the properties are zoned [Q]C2-1-CDO and are improved with one-story commercial buildings occupied by a Good Year auto-repair, a vacant commercial space, and Red Hot Video and DVD Store.

The westerly of the site, the adjoining property is zoned [Q]C2-1-CDO and is improved with one-story commercial, which is occupied by a nail salon, furniture upholstery, medical marijuana (in a vacant restaurant space), Marina Motors auto-repair.

Lincoln Boulevard, adjoining the property to the south, is a Local Street dedicated a width of 100 feet and improved with curb, gutter, and sidewalk.

Dillon Court, adjoining the property to the north, is a designated through alley, dedicated to a width of 20 feet and improved with concrete gutter and paved asphalt.

Indiana Avenue, to the west, is a Local Street, dedicated to a width of 50 feet and is fully improved.

Lake Street, to the east, is a Local Street, dedicated to a width of 66 feet and is fully improved.

Relevant cases on the subject property include:

City Plan Case Nos. 92-318 (ZC) and 92-0446 (HD) – On October 8 1993, the city Council approved City initiated zone and height district on the subject property.

Ordinance No. 169,327 was adopted January 25 1994. The permanent [Q] Qualified classification is not relevant to the site.

Case No. ZAI 82-092(E) – On May 24, 1982, the Zoning Administrator, exempted from conditional use status, the sale of alcoholic beverages for on-site consumption for a sit-down restaurant.

Certificate of Occupancy – Issued on March 7, 1968, to convert existing one-story, Type V, 17' x 55', restaurant building to a store building located at 820 Lincoln Boulevard and corresponding to Building Permit No. 67LA56350.

Certificate of Occupancy – Issued on December 5, 1963, for restaurant converted from portion of N/C 50' x 60' commercial building. No Alcoholic Beverage. Corresponding to Building Permit No. 63WLA48044.

Certificate of Occupancy – Issued on October 18, 1955, for deli, conversion from portion of existing 50' x 60' retail storage building. Corresponding to Building Permit No. 55V13575.

Certificate of Occupancy – Issued on July 20, 1955, for one-story, Type V, 50' x 50', retail store, located at 820-22-24 Lincoln Boulevard and corresponding to Building Permit No. 54V11893.

The Venice Plan Map designates the property for Commercial land uses with corresponding zones of CR, C2, C4, RAS3, AND RAS4 and Height District No. 1. The property is within the area of the Coastal Transportation Corridor Specific Plan. The application is not affected. The property is within the area of ZI 2390 - Lincoln Boulevard Community Design Overlay District.

LOS ANGELES POLICE DEPARTMENT – ARRESTS REPORTS AND INVESTIGATIONS

SUMMARY OF LOS ANGELES POLICE DEPARTMENT INCIDENTS AND ARRESTS

2007: LAPD issued 60 citations for LAMC 41.27c, 41 citations for BP 25620 and 8 citations LAMC 41.45c (see file).

2008: LAPD issued 106 citations for LAMC 41.27c, 21 citations for BP 25620 and 10 citations for LAMC 41.45c (see file), LAMC 41.18(D)3. Also, a Battery investigation transients fighting over beer.

2009: LAPD issued 11 citations for LAMC 41.27c, 5 citations BP 25620 and 1 citation for LAMC 41.47.2 (public urination). ABC conducted 4 investigations this year. On 5/21/09, store owner Romo was cited for BP 25612.5c(3). ABC also cited 3 suspects for BP25658(a).

- 1.
2. LAMC 41.27c: Consumption of alcohol in a public place.
3. LAMC 41.45c: Possession of shopping cart.

4. LAMC 41.18D: Blocking/lying down (sleeping) on a sidewalk.
5. State BP 25620: Possession of an open container of alcohol.
6. State BP25658(a): Alcohol sales to a minor.

LAPD Pacific Division Vice Reports for the period of 3/11/09 - 7/8/09

Summary of ABC investigations, surveillance of nuisance activities occurring in the area surrounding La Fortuna Market conducted by Pacific Vice. Those activities include habitual alcoholics that were observed drinking single cans of beer or malt liquor in public within a two block radius of La Fortuna Market. Also included are arrest and observation of the following: loitering, sales of alcoholic beverages to a minor, public drunkenness and sitting on public sidewalk interfering with free passage of pedestrians, public urination and defecation.

Vice Investigations Report dates and time of incidents between March 11, 2009 and April 9, 2009:

03/11/09 – 6:00 p.m. - 6:45 p.m.
03/11/09 – 8:30 p.m. - 9:00 p.m.
03/16/09 – 4:45 p.m. - 6:00 p.m.
03/18/09 – 6:30 p.m. - 7:00 p.m.
03/22/09 – 3:00 p.m. - 3:30 p.m.
03/23/09 – 2:00 p.m. - 3:00 p.m.
03/23/09 – 4:00 p.m. - 5:00 p.m.
03/24/09 – 3:00 p.m. - 4:00 p.m.

Vice Investigations Report dates and time of incident between April 10, 2009 and May 9, 2009:

04/13/09 – 4:00 p.m. - 5:00 p.m.
05/09/09 – 6:00 p.m. - 6:30 p.m.

Vice Investigations Report dates and time of incident between May 10, 2009 and June 8, 2009:

05/13/09 – 4:40 p.m. - 5:40 p.m.
05/21/09 – 6:30 p.m. - 11:30 p.m.
05/26/09 – 3:00 p.m. - 3:45 p.m.
06/02/09 – 6:15 p.m. - 8:15 p.m.
06/05/09 – 5:30 p.m. - 6:30 p.m.

Vice Investigations Report dates and time of incident between June 10, 2009 and July 8, 2009:

06/19/09 – 6:30 p.m. - 7:30 p.m.
07/02/09 – 5:00 p.m. - 6:30 p.m.
07/06/09 – 4:00 p.m. - 5:00 p.m.

Patrol Calls for Service - Intersections of:

- Lincoln/Vernon: 3/17/07 - 5/31/09: 177
- Dillon/Lake: 3/16/07 - 5/31/09: 15
- Dillon/Vernon: 3/16/07 - 5/31/09: 2
- Indiana/Valita: 3/16/07 - 5/31/09: 1
- Vernon/Valita: 3/16/07 - 5/31/09: 5
- Lincoln/Lake: 3/16/07 - 5/31/09: 289
- Lincoln/Indiana: 3/16/07 - 5/31/09: 192
- 824 Lincoln: 3/16/07 - 5/31/09: 26
- 824 Lincoln: 7/28/09 - 10/05/08: 14

The following were received to the file prior to the hearing, which was conducted on February 4, 2010.

- A letter from a resident at 935 Sunset Blvd, Venice in support of revocation.
- The City Attorney, Nuisance Abatement Program stating that the store sells single cans of alcoholic beverages and caters to the very transient population that is destroying the peace and well-being of the neighborhood. The intoxicated transients present a direct health and safety risk to the children who attend the Broadview Elementary School and residents in the surrounding properties.
- An agreement between the business owner and the LAPD signed on September 23, 2008.
- An investigating officer's declaration prepared by Officer Paul Bowser.
- A citizen declaration signed by 9 residents in the area describing nuisance activities on and around the site.
- A letter from St. Joseph Center in support of revocation. The St. Joseph Center provides services for homeless persons and is located at 404 Lincoln Boulevard.
- A letter from G. J. Neville of the Design & Development Company located 812-B Lincoln Boulevard in support of the La Fortuna Market. The letter indicates that the La Fortuna Market was singled out for nuisance activities associated with the sale of alcoholic beverages, which are common problems in the area where there are other establishments that sell alcoholic beverages.

PUBLIC HEARING:

A public hearing was held on February 4, 2010 in the West Los Angeles Municipal Building and was attended by the property owner (Mariecela Delgado), the business owner/operator (Noe Romo), a representative of the property and the business owners (Robert Starr), the Director of the Los Angeles Protection Services (Alex Ketsoyan), the store manager (Emilio Romo, Sr.), an employee of the store (Emilio Romo, Jr.), residents of 738 Howard Street, 917, 926, 927 Indiana Avenue, 908, 912 Vernon Avenue, 814 Flower Avenue, representatives of the Los Angeles Police Department, (Theresa Skinner, senior Lead Officer, Pacific Division; Paul Bowser, the officer who previously worked in the Pacific Vice Division and was involved with investigation of the nuisance activities associated with operation of the subject market; Thomas Wicks, an officer in the Pacific Patrol Division;

Robert Berumen, an officer in the Detective Support and Vice Division and a representative of the City Attorney (Charles D. Sewell of the Citywide Nuisance Abatement Program).

The property owner, the business owner/operator, employees of the store, the representative of the property and business owners, and the Director of the Los Angeles Protection Services stated the following:

- The property owner does care about the property and the community as well as the business owner and supports mitigations that will help reduce or avoid detrimental impacts such as loitering, homeless problems on and around the subject market. However, if the market is closed, the property owner will not be able to re-rent the building due to the recent economic recession. The property owner lives in Orange County and it's difficult to monitor the alleged nuisance activities at the subject property.
- The Director of the Los Angeles Protection Services stated that loitering and homeless problems in the Oakwood Area in Venice are not caused by the sale of alcohol. There are other alcoholic beverage outlets such as the 7-Eleven and Rite Aid stores within a walking distance from the subject location where the alleged nuisance activities occur. If the market is closed and the site remains vacant, the nuisance activities will be worsened because there will be more loitering and homeless persons on and around the site.
- Other stores in the area also sell single cans of beer. An employee of the subject market was able to purchase single cans of beer at the 7-Eleven, Ralphs and Rite Aid store. [The receipts were submitted to the file.]
- The subject market has been in operation at the site under the current ownership since 1980 and is legally allowed to sell single cans of alcoholic beverages. The business owner is aware of loitering and problems with drinking in public, but the business owner/operator cannot stop such activities once patrons are not on the subject property.
- The market has check cash service and is open from 8 a.m. to 7 p.m.
- There are no security guards on the site.
- Security cameras have been installed inside the store, but no surveillance cameras are outside the premises.
- There is no patron parking on-site except for one parking space used by the store manager.
- The business operator, the store manager and employees attended the STAR training program conducted by the Los Angeles Police Department [LAPD].
- The business owner has 2 minor children and the subject market is the only source of income to support the family. The business owner is too old to get a job.
- The store does not sell miniature bottles of alcoholic beverages.
- The business owner agrees not to sell single cans of beer.
- The homeless problems in the Oakwood area in Venice are well known to cause blight in the community, but public urination and defecation are not related to alcohol use.
- The representative of the property and business owners stated that single cans of 32-ounce beer are sold at other chain stores and the business owner at the site should be

allowed to sell single cans in order to compete with other stores that are bigger in size and are open longer hours than the subject market.

- A 375 ml-bottle of Vodka can be purchased at a price of \$3.99 at other stores located less than a block away from the site. The subject market cannot not be singled out and should be treated the same as other alcoholic outlets in the area.

The residents in the area testified the following:

- The Whole Foods market located on Lincoln Boulevard in the area voluntarily does not sell single cans of alcoholic beverages. A conditional use application at CVS market in the same shopping center as the Whole Foods in the area is pending the Zoning Administrator's decision. After the CVS market stops selling alcoholic beverages, the nuisance activities on the north of Rose Avenue that are associated with the sale of alcoholic beverages have been greatly improved.
- The conditional use application to allow the sale of alcoholic beverages at the Express Food Mart located at Lincoln Boulevard and Rose Avenue was denied numerous times.
- Joe's Liquor store renewed its conditional use permit for the sale of alcoholic beverages and agreed not to sell single cans of beer.
- The homeless problem is a great concern to the Venice community.
- The residents in close proximity to the La Fortuna Market frequently see the same homeless people drink beer in the alley. Sometimes, 2 to 5 people drink alcoholic beverages that are kept in brown paper bags in the alley. They most likely purchased the alcoholic beverages at the La Fortuna Market because the Rite Aid store does not use brown paper bags and the 7-Eleven and Ralphs stores are not in close proximity to the adjoining alley.
- The residents see defecation outside the store around 7 a.m.
- The employees of the Rite Aid and Ralphs stores are trained not to sell single cans of beer and always check for a proper identification card to verify the age of the patron prior to the sale of alcoholic beverages.
- Approximately 95% of the residents within 2 blocks from the site signed to support revocation of the use (La Fortuna Market) on the site.

[A petition for revocation which was signed by 34 residents and photographs showing people drinking in public were submitted at the hearing.]

- There is an elementary school [Broadway Elementary School] within a block from the site on the west side of Lincoln Boulevard with Broadway/California Avenue. The residents are afraid of walking on the street near the market. The children who grew up with fear have developmental disorders resulting in juvenile crimes.
- The residents asked homeless people who drink in public near the site where they purchased alcoholic beverages, and were told they purchased them at the La Fortuna Market.
- The St. Joseph Center who provides services for homeless people supports revocation of the use (La Fortuna Market) on the site.
- The market should provide more food such as milk and other household staples that will provide convenience to the local residents than alcoholic beverages.
- There is a homeless service center nearby at the corner of Lincoln and Flower and the operation of the subject market has resulted in detrimental impacts to the

- surrounding properties. The residents have witnessed fights, defecation, and urination on and around the market.
- The California Kitchen Café, which is located within a block from the site, maintains the adjoining alley and the sidewalk clean. The subject market owner should do the same.
 - The other markets in the area, Ralphs, Rite Aid and Smart and Final, have security guards on the property, but there is no outside lighting and security guards on the subject property.
 - The patrons, who are barely able to walk because they are intoxicated, are able to purchase alcoholic beverages at the market.
 - The alcoholic beverages are kept too close to the store entrance and are made extremely convenient to patrons for purchase.
 - Despite the business owner agreeing with the LAPD that single cans of beer will not be sold at the store, the business owner has been selling beer in single quantity.
 - The residents routinely find beer cans on the lawn and intoxicated patrons drinking/walking in the alley.
 - If drunken patrons are chased off by the store operator, they will be spreading to the other residential area nearby resulting in detrimental impacts to wider community.
 - There are other vacant properties in the area and the absentee owner should not be an excuse for nuisance activities occurred on and around the site.
 - Due to lack of parking on the site, a resident who was a prospective tenant a few stores away from the subject location, was not able to open an antique store. The subject store has been on the site under the current ownership for over 30 years, and adverse impacts have been worsened.
 - The site has been a center of gravity for chronic alcoholics and the store owner is familiar with them; however, regardless of how drunk they are, alcoholic beverages are sold to them. The subject market is a home base for alcoholics because they know they can purchase alcoholic beverages regardless of how drunk they are.
 - The sale of alcoholic beverages to drunken individuals numerous times on the same day is the biggest problem at the store.

The representatives of the LAPD testified the following:

- The business owner/operator has not been responsive to the LAPD. The other liquor store owners frequently contact the LAPD to get assistance to mitigate detrimental impacts associated with the sale of alcoholic beverages. However, the business owner of the La Fortuna Market never contacted the LAPD.
- Despite the business owner agreeing and signing an agreement with the LAPD to comply with operating conditions suggested by the LAPD in 2008 including no sale of beer in single quantity, single cans of beer are being sold at the store.
- The St. Joseph Center and Venice Homeless Clinic in close proximity to the site provides services for homeless and substance control including alcoholic beverages. The business practice at the subject site that allows the sale of alcoholic beverages in single quantity and to drunk customers and chronic alcoholics will be counter-productive for such organizations' efforts to improve the life of homeless and people suffering from substance abuse.

- The other alcoholic beverage outlets in the area such as Rite Aid, Ralphs, etc., are cooperative with the LAPD and agreed not to sell single cans of beer. However, the LAPD has not been successful working with the owner/operator of the La Fortuna Market to mitigate detrimental impacts associated with the operation of the market.
- The cash register is located in the middle of the store and the store front façade windows are blocked by advertisement papers/signs; therefore, the LAPD could not monitor activities inside the market resulting in adverse impacts to the public safety because blocking the view of the store frontage will hinder the officer's ability to monitor activities inside in case of criminal activities that may occur inside the market.
- The rear access door was allowed for patrons. The store should have only one patron access from the front door and the rear door should not be allowed for patron access.
- The LAPD officers observed that the patrons are allowed to drink inside the store as soon as the alcoholic beverages are purchased at the store.
- Between July, 2008 and September, 2009, the LAPD cited more than 200 intoxicated patrons for drinking in public near the La Fortuna Market who told the LAPD officers that they purchased alcoholic beverages at the La Fortuna Market.
- The video tape made in August, 2008 shows people fighting and urinating in the alley adjacent to the store.
- The LAPD hasn't received any complaints associated with the operation of other alcoholic beverage outlets in the area.
- There are 15 to 25 individuals who patronize the market and inebriate on a daily basis around the market. The store owner/operator should know those individuals, but continue to sell alcoholic beverages regardless of how drunk they are. The sale of alcoholic beverages to intoxicated persons at the subject market is the biggest problem attributed to nuisance activities in the area.
- The business owner was made aware of nuisance activities associated with the market since 2006 and 2007. More than 200 citations were issued for nuisance activities on and around the market since 2007. The business owner had opportunities to correct nuisance activities; however, continued to sell alcoholic beverages without any regard to the community.
- The sale of alcoholic beverages in single quantities contributes to the nuisance activities, but the biggest problem is the sale of alcoholic beverages to intoxicated person, especially repeated customers who are chronic alcoholics. The same intoxicated person is allowed to purchase alcoholic beverages multiple times per day. The owner knows regular customers who are chronic alcoholics and repeated customers, but sells alcoholic beverages even though he knows they are drunk.
- The LAPD officers observed intoxicated persons enter the market without any alcoholic beverages and come out with alcoholic beverages in their hands.
- The LAPD officers observed the employees drinking alcoholic beverages inside the premises.

The representative of the City Attorney's office, Citywide Nuisance Abatement Program testified the following.

- The store has been under investigation since 2007 and has been cited numerous times for violation with the rules and regulations associated with the sale of alcoholic beverages. More than 100 to 200 citations were issued to the market in 2007 and 2008.
- The list of names in the citations issued to the store patrons and the subject market contains the same names multiple times indicating that intoxicated patrons are able to purchase alcoholic beverages at the market.

The business/property owners' representative stated the following in response to the public comments:

- The business owner agrees to move the cash register close to the store entrance to the satisfaction of the LAPD.
- The signs posted in the front façade will be removed.
- The rear access door will be closed for patron access.
- The lighting has been installed inside and exterior of the building.

After testimony was taken, the Zoning Administrator took the case under advisement for one month in order to allow the business/property owners to work with the LAPD for operating conditions. The LAPD was asked to submit its recommended operating conditions to the Zoning Administrator within the advisement period and the business owner was informed that an officer Robert Berumen in the Detective Support and Vice Division will be a principal contact person in the LAPD.

After the hearing on February 4, 2010, the following was received to the file.

- E-mails from a representative of Council District 11 on February 3, and 8, 2010 in support of the revocation. Imposition of restrictive operating conditions including hours of operation and no single can sale of alcoholic beverages are recommended.
- Letters from a resident indicating that the La Fortuna Market has changed from using a brown bag to using a black plastic bag. On February 7, 2010, Sunday at 10:45 a.m., the resident observed two individuals who are regular customers of the market drinking beer from a black plastic bag on Indiana Court. The resident sees them around her house every day. On the next day on Monday, the resident saw three men each carrying one can of beer in a black plastic bag, one of which was urinating. [The photographs of the scene taken Monday 9:10 a.m. behind 736 Lincoln Boulevard were submitted to the file].
- On April 1 and 12, 2010, the following e-mails were received from residents in the area.

"La Fortuna is still 100% selling to the homeless regulars and to intoxicated individuals. My guess is that if one of these guys comes in alone and he is a regular they go ahead. I pulled over today just before noon, there was quite a crowd on the sidewalk. I saw three separate incidents within five minutes of our worse troublemakers making purchases, two who clearly were intoxicated. Then this

crowd went up Lake 1 half a block and were having a beer in front of someone's house. Two squad cars showed up. Amazingly after they had been give a thorough going over, two of these guys walked right back down Lake back into La Fortuna and made new purchases. We desperately need their license revoked, they will never change."

"The problems with La Fortuna Market are still going on. I have their customers daily drinking around my house. Again, it is unlikely that this will change while they still have a liquor license, we urge you again to revoke this."

Correspondence and reports prior to hearing

Crime Reports

Itemize Police Arrests (Sample)

Date	Time	Code Violation	Code/Statute
2/1/03	12:05 a.m.	Criminal Threat	Penal Code, Section 422
4/18/03	3:15 a.m.	Attempted driving w/o owner consent	Vehicle Code 10851(A)
5/25/03	8:30 a.m.	Parole violation	Penal Code, 3056

DISCUSSION

The crime reports from the LAPD, the Planning Department staff investigation reports, the site investigation conducted by the Zoning Investigator on December 10, 2009, letters from residents in the area as well as oral testimony at the public hearing, all generally summarized above, lead the Director of Planning/Zoning Administrator to conclude that the property has long been a source of nuisance and criminal activity involving a high number of incidents and police responses as a result of violations of several municipal and State laws. The facts of the case support a clear and convincing nexus between nuisance behavior on the subject property and the lack of control exercised by the landlord and business operator over the property during the course of several years.

The subject market has been under the ownership of the current business owner/operator since 1980. The residents and the representative of the Los Angeles Police Department, Pacific Division and the City Wide Nuisance Abatement program (CNAP), the Safe Neighborhoods Division of the City Attorney's Office testified that despite the fact that residents have been complaining about nuisance activities occurring on the subject property to the property/business owners for years; resolution of the problems was not aggressively pursued by the property/business owners or business operators.

It is an objective of the administrative nuisance abatement provisions not to seek closure of an offending land use but rather its rehabilitation. Should corrective conditions prove ineffective, the Municipal Code authorizes the discontinuance of that use.

In order to establish and maintain order and to prevent criminal activities as well as to mitigate public nuisance activities on or nearby the subject site, the Zoning Administrator

has established operating conditions that will mitigate the nuisance activities if the conditions are observed by the business owner/operators and property owner.

In the following section, the rationale for each Condition is set forth.

- 1. The property/business owners and operators shall file a Plan Approval application between 9 months and 12 months from the effective date of this action to allow for a review of the effectiveness in implementing the Conditions established herein and to determine whether the public nuisance problems identified in the Findings' section of this determination have been eliminated. A public hearing shall be conducted. Notice of the public hearing shall be mailed to all property owners and occupants located within 500 feet of the property. The owners shall submit evidence of compliance of each condition with the Plan Approval application. The Zoning Administrator conducting the hearing may add, modify or delete Conditions as determined appropriate. The Zoning Administrator may also require the discontinuance of the uses or any portion of the property or individual lease space if the applicable findings can be made.**

The purpose of the review is to determine in an open, public setting whether or not the Conditions have been followed and whether the nuisance problems have been fully mitigated. The review will depend upon factual information such as arrest reports, detentions, investigations, photographs, videos, the issuance or suspension of licenses or permits, the timeliness of actions taken by the property owner and business operator, and other indices upon which an informed and reasonable judgment can be made. The notice of the review hearing will be mailed by the property owner to the same persons who were notified by the City of the original hearing. Review at a later period may result in a revocation of the use on the subject property, if there is failure to comply and if the nuisance activities on the site continue to impact the surrounding properties.

- 2. The use of the property shall be conducted at all times with due regard for the character of the surrounding neighborhood. The right is reserved to the Zoning Administrator to impose additional corrective Conditions if such Conditions are proven necessary for the protection of the residents and business owners/operators as well as the property owners of the surrounding properties.**

This condition is imposed to bring to the attention of the property owner that additional corrective conditions may be imposed if necessary. The condition also serves to remind the property owner and the business owner/operator that the market should be run in a manner that considers the impact of the market on the surrounding uses.

- 3. The operating hours of the market shall be limited to 9 a.m. to 6 p.m. daily. The business hours shall be posted at the entrance/exit door of the market.**

At the February 4, 2010 hearing, the business owner/operator stated that the current operating hours of the market are from 8 a.m. to 7 p.m. daily. The Los Angeles Police Department recommends the operating hours from 10 a.m. to 7 p.m. daily. A majority of the arrests associated with the operation of the market occurred after 5 or 6 p.m. The residents complained about pedestrians being harassed by intoxicated persons on and around the subject property that include school children. Considering the school hours and police arrests made in the afternoon hours, the operating hours are restricted from 9 a.m. to 6 p.m. daily. Posting the hours of operation at the market will help monitor compliance with the required business hours.

4. **Within 30 days from the effective date of this determination, electronic age verification device(s) which can be used to determine the age of any individual attempting to purchase alcoholic beverages or tobacco products shall be installed on the premise at each point-of-sale location. The device(s) shall be maintained in operational condition and all employees shall be instructed in their use prior to the sale of any alcoholic beverage or tobacco product.**

The business owner/operator shall verify that patrons attempting to purchase alcohol are of legal drinking age by requiring identification from anyone appearing to be under the age of 35.

The business operator sold alcoholic beverages to a minor in the past in violation of the ABC regulation. This condition is intended to minimize or preclude entirely inadvertent sales of alcoholic beverages to minors.

5. **The business operator shall identify a contact person and provide a 24-hour "hot line" telephone number for any inquiries or complaints from the community regarding the subject facility. Within a one week from the effective date of this determination, the phone number shall be posted on the site so that is readily visible to any interested party. The hot line shall be:**
 - **posted at the cashier and entry/exit of the store and parking lots,**
 - **responded to within 24-hours of any complaints/inquiries received on this hot line, and**
 - **documented in a log and available for review by the Los Angeles Police Department and the Zoning Administrator upon request on when the calls were received, returned and the action taken at a minimum.**

Evidence that shows compliance with this condition shall be submitted with a Plan Approval application required in Condition No. 1 above.

This condition is to document any public complaints about criminal activities, public nuisance and/or any anti-social behavior that may be associated with the operation of the market.

6. The conditions of this determination, a copy of a business license, insurance information and an ABC license shall be retained on the premises at all times and be immediately produced upon request of any Los Angeles Police officer, Department of Alcoholic Beverage Control investigator or other responsible agencies.

The manager and all employees shall be knowledgeable of the required conditions and shall be thoroughly trained with respect to their responsibilities in implementing the required conditions. The conditions of this action shall be provided to and reviewed by employees and security personnel. The employees/security personnel shall be informed that they will be disciplined for violating the required conditions including termination of employment. [LAPD]

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the satisfaction of the Director of Planning.

These documents should be available at the fingertips of any responsible business operator. Failure to provide them easily and quickly to law enforcement may indicate that the documents and/or the privileges have lapsed or the conditions are not in compliance. Failure to procure the Conditions of this determination would put into question whether the business operator is cognizant of them and has any ability to therefore comply with them. Such delays are at odds with the ability of law enforcement to conduct a proper and timely inspection of the premises.

7. **Coin operated game machines, gambling machines, pool tables or similar game activities or equipment shall not be permitted. Official California State lottery games and machines are allowed.**

This condition intends to prohibit any nuisance activities that may exacerbate the existing criminal activities and/or anti-social behavior such as loitering and public drinking as well as narcotic transaction in and around the market.

8. **There shall be general merchandise items such as milk, juice, and other non-alcoholic beverages are available for purchase at the market.**

This condition will require the market to make non-alcoholic beverages available to the local residents. This condition will ensure that the items, which the residents in the area need daily such as milk, water and other staples, are available for purchase at the market resulting in public convenience to the local residents.

9. **Should there be a change in the ownership of the property/the market and/or the business operator, the property owner and the business owner/operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Prior to the closing of escrow for a potential change in the ownership of the property/business owner or**

operator, evidence showing that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator, shall be submitted to the satisfaction of the Director of Planning.

This market has had a long history of nuisance and criminal activities such as drinking alcoholic beverages in public, urination and defecation, the sale of alcoholic beverages to minors who are under the drinking age and obviously intoxicated persons as well as loitering. The market has been under the current ownership since January, 1980. It shall be the property and the business owner's responsibility to maintain the property and to conduct the business in a manner that will not adversely impact residents, customers, visitor and business operators as well as properties in the surrounding area. This condition is intended to inform the prospective future property/business owner and the business operators of their responsibilities in implementing the imposed conditions.

10. **The property owner, the business owner/operator shall keep the premises and any area adjacent to the premises over which he/she has control free of litter/debris, newspaper racks, benches, boxes or objects that encourage loitering. The exterior portion of the site, including the parking facilities and adjacent sidewalks along the Lincoln Boulevard and the adjoining alley shall be swept daily at a minimum.**

Trash storage or other storage shall be closed and locked at all times except when it is used by the business operator so as not to result in noise, order or debris impacts on any adjacent neighbors.

This condition requires the property owner, the business owner/operator be responsible to keep the premises clean and free of litter and to discourage loitering in and around the market including adjacent sidewalks and the adjacent alley.

11. **Any graffiti painted or marked upon the premise or adjacent area under the control of the owner/operator shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.**

This condition is intended to keep the subject site free of graffiti and to mitigate the aesthetic impacts that may result in blighting effects to the surrounding properties. The removal of graffiti not only assures a property that visually contributes to the welfare of the surrounding area, but also discourages vandalism and criminal activities on the project site.

12. **Within 45 days from the effective date of this determination, all personnel acting in the capacity of a manager of the premise and all employees including security personnel shall complete the STAR (Standardized Training for Alcohol Retailers) session sponsored by the Los Angeles Police Department. All employees shall attend follow-up STAR classes every 24 months. The STAR training shall be conducted for all new hires within 2 months of their employment. [LAPD]**

Within 60 days from the utilization of this grant, a list of employees, their hire date and written confirmation of their STAR training shall be submitted to the Zoning Administrator, and shall be retained on the premise at all times and be immediately produced upon request of any Los Angeles Police officer or Department of Alcoholic Beverage Control investigator.

STAR training is provided to thousands of employees throughout the City of Los Angeles annually in order to educate alcohol retailers about alcoholic beverage laws, thereby preventing them from unknowingly violating State law, which could jeopardize the use of the alcoholic beverage license. This condition is to provide employee training in handling the sale of alcoholic beverages at the subject market.

13. **A minimum of one security guard shall patrol the premise including the adjoining alley and the adjacent sidewalk during the operating hours at all times. The security guard shall, at a minimum, have the following qualifications and responsibilities:**
- a. **A security guard shall have a State licensed security guard license and shall wear a uniform with a patch on each shoulder identifying the name of the registered security company which employs the guard.**
 - b. **The guard shall not be the business owner/operator or have any association with the operation of the market.**
 - c. **The guard shall be fluent in English and Spanish and will have clear instructions to enforce applicable conditions and uphold the law.**
 - d. **Along with normal security guard duties, the guard shall patrol the adjoining alley/parking lot and the adjacent sidewalk area to deter individuals from loitering, and drinking alcoholic beverages on the premises and in public.**
 - e. **The guard shall not conduct any other activities while employed at the market other than those of a security guard which include checking identification and escorting undesirable patrons off the premises. The security guards shall maintain order and prevent activity that would interfere with the quiet enjoyment of the surrounding properties. The guards shall be responsible for preventing loitering and any criminal activity on and around the store including public drinking, littering, trespassing, transactions involving controlled substances, and other illegal and public nuisance activities. If unlawful activity inside and outside the market including in the adjoining alley and the adjacent sidewalk areas related to loitering, drinking alcoholic beverages, or illegal drugs is observed or reasonably assumed, then the guard(s) shall request such persons to leave the area. The guard(s) shall request the assistance of the Los Angeles Police Department if, based upon the guard's training, the situation so warrants.**

- f. **The property and the business owners/operator and a security guard shall cooperate with the LAPD in their investigation and shall not follow, impede, obstruct or delay any law enforcement personnel conducting inspections or official business at the location.**
- g. **Along with normal security guard duties, the business operator/guard shall limit the number of patrons inside the market at any one time to a maximum of five (5) patrons.**
- h. **The market owner/operator and security guards shall maintain a daily log of patrol activities in the store, which shall include the following:**

- Name of the security guard on duty**
- Date and time for check-in and check-out for security duties**
- Date, time and descriptions of any incidents that may occur in and around the market during the security patrol**
- Resolution of the incidents**

Within 30 days of the effective date of this action, the business operator shall provide a copy of the executed security contracts to the satisfaction of the Director of Planning. The contracts shall include the minimum security service requirements as required by the conditions of this determination. The security contract shall include the names of the security guards, their working hours and copies of their State guard licenses. [LAPD]

Conditions are no more effective than their enforcement. This condition will ensure effective implementation and monitoring of the required security condition. This condition is intended to mitigate illegal activities and to ensure orderly operation of the business.

- 14. **A video surveillance system shall be provided inside and on the exterior of the market to the satisfaction of the Los Angeles Police Department. Management/employees/the security personnel shall routinely monitor the cameras and keep the video tapes/DVDs for at least 30 days. Management shall immediately notify the LAPD when criminal activity is observed and shall keep and make available to the LAPD upon request tapes, which indicate possible criminal activity. [LAPD]**

Signs indicating the use of a 24-hour video surveillance system shall be posted at the market entrance and on the exterior wall facing the adjoining alley and the street adjacent the premises. The signs shall state the following:

**WARNING
THE MARKET (LA FORTUNA MARKET) IS UNDER 24-HOUR
SURVEILLANCE BY THE STORE MANAGENENT AND THE
LOS ANGELES POLICE DEPARTMENT WITH A VIDEO
SURVEILLANCE MONITORING SYSTEM**

The sign(s) shall be at least 2 square feet with 2-inch block lettering. The sign(s) shall be in English and Spanish.

Within 30 days from the effective date of this determination, the business owner/operator or property owner shall submit evidence that shows compliance with this condition including but not be limited to photographs of such a posting and a letter from the LAPD, which states that the required surveillance cameras and signs have been installed/posted to the satisfaction of the LAPD.

Use of video surveillance will show activities occurring inside the subject location as well as activities outside on the adjacent sidewalk area and in the parking lot, and will assist the efforts of the property owners, the business owners/operators, security guards and the LAPD in identifying those persons who are involved in criminal activity and loitering. The recorded video can also be used as supporting evidence in prosecuting suspects who have been detained at the scene or apprehended at a later date.

There is no assurance that the presence of security guards will necessarily preclude all criminal activity. If the guards do not perform his or her required duties, it may be demonstrated on the videotapes. The tapes would then serve as evidence that compliance was not achieved, bolstering a case for ordering discontinuance of the use.

The posting of signs of 24-hour surveillance cameras throughout the premises is intended to discourage criminal and nuisance activities on and around the subject location.

15. **There shall be no loitering on and around the property, including in the adjoining alley and the adjacent street, and no alcoholic beverages shall be consumed on the property or any property adjacent to the premises under the control of the owner/operator. The operator shall not allow any patron to remain on the premises for more than 10 minutes. [LAPD]**

Signs shall be prominently posted in English, and the predominant language of the facility's clientele, if different, stating the following:

"California State law prohibits sale of alcoholic beverages to persons who are under 21 years of age."

"No Loitering, No Public Drinking, No Trespassing and No Drugs"

"It is a violation of Section 41.27(d)LAMC to possess any bottle, can, or other receptacle containing any alcoholic beverages, which had been open, or the seal is broken or the contents of which have been partially removed, on or adjacent to these premises." [LAPD]

The adjoining alley and the areas adjacent to the subject site and under the applicant's control shall be routinely patrolled by employees of the store or security personnel to ensure that there is no loitering, no drinking of alcoholic beverages in public, no illegal vending, and/or no patrons who harass pedestrians. Any problems associated with the market operation shall immediately be reported to the market manager/owner/operator who shall correct/remedy the problems.

This condition requires that the property owner and the business owner/operator be responsible for loitering and congregation of a large number of patrons in and around the subject site including the parking lot, the adjoining alley and sidewalks adjacent to the subject premises.

16. **The property/business owner/operator shall provide adequate lighting above the front entrance and rear door of the premises, preferably halogen style lighting. Exterior lighting on the building shall be maintained and provide sufficient illumination of the immediate environment so as to render objects or persons clearly visible to the satisfaction of the LAPD. Exterior lighting shall be directed in such a manner so as not to unreasonably illuminate the window area of nearby residences. [LAPD]**

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the satisfaction of the Zoning Administrator such as a letter from the LAPD stating that exterior lighting on the site has been installed to the satisfaction of the LAPD.

Adequate lighting of the property not only provides visibility for patrons and employees, but also visibility of criminal and nuisance activities for the security guards and the law enforcement agencies.

17. **Signs in English and Spanish, stating "DO NOT DRINK OR OPEN ANY DRINKS IN SIDEWALKS OR ANY OTHER PUBLIC AREAS" shall be posted at the cashier, at the exits and entrances of the premises, and in the rear of the premises.**

This condition is intended to mitigate drinking alcoholic beverages in public resulting in nuisance activities on and around the subject location.

18. **No narcotics paraphernalia or related items shall be sold or distributed at the location. [LAPD]**

This condition is to avoid any convenience of providing any tools/materials/accessories/information that might be associated with such activities.

19. **The property owner and/or the business owner/operator shall reimburse the City of Los Angeles \$21,025 and applicable surcharges, as set forth in Los**

Angeles Municipal Code Section 19.01-P, within 30 days of the effective date of this determination.

The City Planning staff has spent considerable time preparing the case file, notifying the public of the hearing, coordinating with other departments to obtain relevant information, conducting field investigations, conducting the hearing, drafting the instant determination, and mailing it out. The fee established in the Code represents only partial cost recovery. Time and costs expended by the Police Department are not included in the fee so that department is not reimbursed. This condition allows a partial recovery of the cost involved with this instant determination.

20. **All windows shall be maintained free of signs and other material that inhibit views into the facility by law enforcement agencies. Minimum signage should cover the window of the premise allowing direct view into the business.**

Reconfigure the location of the cash register so that all sales can be clearly observed from the front of the property to the satisfaction of the Los Angeles Police Department, Pacific Division. [LAPD]

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the satisfaction of the Zoning Administrator such as a letter from the LAPD.

This condition is intended to provide a clear visibility of activities inside the market for law enforcement agencies.

21. **The property and business owners/operator shall join and actively participate in the efforts of any local business neighborhood watch, and shall meet with the Pacific Patrol Division and Vice Unit representatives of the Los Angeles Police Department semi-annually or on an as needed basis to receive appropriate training and information, regarding alcoholic beverage control laws and procedures. The meetings shall be initiated by La Fortuna Market management. The first meeting with the LAPD shall be made within 30 days from the effective date of this action. The measures recommended by the LAPD to mitigate any nuisance activities associated with the store shall be complied with. [LAPD]**

Within 45 days from the effective date of this determination, evidence of compliance with this condition such as meeting venues and summary of the meeting etc, shall be submitted to the satisfaction of the Zoning Administrator.

The business owner/operator purchased the market in 1980, but has not cooperated with law enforcement agencies in an effort to mitigate nuisance activities on and around the subject market. This condition will help the current owners/operators to be informed of the concerns for the LAPD and the community that are associated with the subject market as well as in the area.

22. **There shall be no cups, glasses, or small receptacles commonly used for the drinking of beverages, whether constructed of glass, plastic, styrofoam, or other material sold, furnished, or given away in quantities of less than 24. [LAPD]**

This condition is to mitigate nuisance activities and litter/trash problems associated with the drinking of beverages on and around the subject market.

23. **The rear door shall be locked in a manner that allows it to serve as a fire and emergency access only. Place an alarm on the rear door to alert the business operator if the rear door has been opened to the satisfaction of the Fire and Police Department. [LAPD]**

Within 45 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the satisfaction of the Zoning Administrator.

This condition is intended to mitigate nuisance activities in the rear of the property and around the adjoining alley.

24. **The business owner/operator shall provide orange plastic bags to package all alcoholic beverages. All sales of alcoholic beverages shall be packaged in an orange plastic bag. [LAPD]**

This condition is required by the LAPD in order to mitigate nuisance activities associated with the sale of alcoholic beverages that include drinking alcoholic beverages in public, and the law enforcement agencies will easily identify the source of the purchase of the alcoholic beverages.

25. **“No parking” signs shall be posted to the rear of the business. Patrons shall not be allowed to park in the rear of the premise. [LAPD]**

This condition is intended to mitigate loitering problems in the rear of the subject property.

26. **The business operator shall strictly adhere to the rules and regulations required by the Department of Alcoholic and Beverage Control (ABC), specifically, but not limited to, 25612.5 B&P (retail operating standards) and 25602(a) B & P, which prohibits the sale of alcoholic beverages to habitual drunkards and obviously intoxicated persons as defined in the ABC regulations. [LAPD]**

There is no record of prior conditional use permit granted by the City of Los Angeles for the subject location. Therefore, there are no conditions required by the City and the sale of alcoholic beverages at the store is subject to the rules and regulations required by the State Alcoholic Beverage Control (ABC). In order to monitor and enforce compliance with those conditions, the Los Angeles Police Department recommended this condition to be included as a condition of this determination.

Since operating conditions required by the ABC affect nuisance and criminal activities on and around the store, compliance with this condition will help to reduce such activities. This condition will allow the LAPD to enforce and monitor the compliance with the ABC regulations.

27. **The property/business owners and operators shall not allow, permit or install any pay phones on the property. [LAPD]**

Pay phones are often used for criminal and nuisance activities. This condition is to mitigate potential nuisance and criminal activities on and around the subject property.

28. **No single cigarettes shall be sold and shall be sold only in the manufacture's packs. [LAPD]**

This condition will mitigate trash and litter around the subject property.

29. **Within 30 days of the effective date of this action, the property and business owners shall record a covenant acknowledging and agreeing to comply with all the terms and conditions established herein in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.**

The purpose of the covenant is to ensure that the property owner/ the business owner and operator and any subsequent owner/operator will comply with the conditions imposed on the property. This covenant is a recorded public document. The covenant functions as a public notice that the property and business owners as well as the business operators agree to comply with the imposed conditions.

30. **There shall be no exterior advertising or signs of any type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverage**

This condition intends to discourage public drinking and to encourage the subject premise functions as a market not as a liquor store. Any advertising or signs of availability of alcoholic beverages at the market will encourage more purchasing of alcoholic beverages resulting in continuous drinking problems on the adjacent side walk and the parking lot, which cause on-going problems such as littering, loitering, intoxication, urination, defecation, and other undesirable social behavior and criminal activities.

31. **No wine, wine products, or distilled spirits shall be sold less than 750-ml size quantities or 4-pack containers per sale. No beer or malt beverage product**

**shall be sold in less than a 6-pack or quart/litter size quantities per sale.
[LAPD]**

There have been public drinking and trash/littering problems around the market. There has been an allegation that the market sells alcoholic beverages to obviously drunk persons, often numerous times a day to same individuals. This condition is intended to discourage single can sales of alcoholic beverages in order to mitigate nuisance activities such as drinking in public, trash in the surrounding streets and properties, and other anti-social behavior normally associated with the consumption of alcoholic beverages.

FINDINGS

In order to preclude problems identified at the property from continuing, the Zoning Administrator on behalf of the Director of Planning has determined that the use is a public nuisance as established in Section 12.27.1 of the Los Angeles Municipal Code. The Zoning Administrator hereby finds that the market known as La Fortuna Market located at 820, 822 and 824 South Lincoln Boulevard:

1. **Adversely impacts nearby residential or commercial uses.**

The police reports, the Planning Department staff investigation, public testimony at the hearing, which was conducted on February 4, 2010 as summarized in this determination support the alleged nuisance activities such as loitering, littering, inebriation, public urination, drinking alcoholic beverages in public, trash and debris in and around the subject location, alcoholic beverages being sold to obviously intoxicated persons (often numerous times a day to same individuals) and pedestrians being harassed by intoxicated persons. These nuisance and criminal activities have had a negative effect and have affected the safety and welfare of other adjacent businesses and residents living adjacent to and in close vicinity to the site. The subject market has been under the current business ownership since 1980. The business owner/operator has been informed of the alleged nuisance activities associated with the operation of the market since 2006 and the property owner was informed of the same and was requested to contact the LAPD, but the property owner never contacted the LAPD and the property and the business owners/operators have not taken any action to mitigate nuisance and criminal activities on and around the subject site.

Without the implementation of corrective measures, there is no indication that the property/business owners will participate in a reduction of the nuisance and criminal activities. To ensure that the imposed conditions are complied with, a plan approval is required between 9 months and 12 months after this determination becomes effective. The plan approval review requires a public hearing at which members of the public as well as the police and council office will be given a forum to provide information regarding the effectiveness of the conditions and the property owner's/the business owner's/operator's compliance with those conditions.

2. Jeopardizes or endangers the public health or safety of persons residing or working on the premises or in the surrounding area.

The testimony taken at the February 4, 2010 hearing indicated that the residents are afraid of walking near the subject location due to nuisance activities on and around the subject location. Pedestrians are harassed by intoxicated persons and are afraid for their personal safety when they walk near and drive around the subject site because of loitering and other nuisance activities summarized in this determination. The Los Angeles Police Department (LAPD) has submitted documentation indicating multiple incidents of drinking in public on the subject premises and on the adjacent streets. Evidence supports that ongoing nuisance activities around the subject site continue to occur in and around the store and the business owners/operators were unable to conduct the business in an orderly manner resulting in an attraction of nuisance behaviors that endanger the public health or safety of residents/employees/customers on the premises and in the surrounding area.

3. Constitutes a public nuisance.

The LAPD surveillance of nuisance activities occurring in the area surrounding La Fortuna Market shows loitering, sales of alcoholic beverages to a minor, public drunkenness and intoxicated persons (often in a group) sitting on public sidewalk interfering with free passage of pedestrians, public urination and defecation and habitual alcoholics that were observed drinking single cans of beer or malt liquor in public within a two block radius of La Fortuna Market. The LAPD, Vice Investigations Report dates and time of incidents between March 11, 2009 and July 8, 2009 include the following:

03/11/09 – 6:00 p.m. - 6:45 p.m.	05/09/09 – 6:00 p.m. - 6:30 p.m.
03/11/09 – 8:30 p.m. - 9:00 p.m.	05/13/09 – 4:40 p.m. - 5:40 p.m.
03/16/09 – 4:45 p.m. - 6:00 p.m.	05/21/09 – 6:30 p.m. - 11:30 p.m.
03/18/09 – 6:30 p.m. - 7:00 p.m.	05/26/09 – 3:00 p.m. - 3:45 p.m.
03/22/09 – 3:00 p.m. - 3:30 p.m.	06/02/09 – 6:15 p.m. - 8:15 p.m.
03/23/09 – 2:00 p.m. - 3:00 p.m.	06/05/09 – 5:30 p.m. - 6:30 p.m.
03/23/09 – 4:00 p.m. - 5:00 p.m.	06/19/09 – 6:30 p.m. - 7:30 p.m.
03/24/09 – 3:00 p.m. - 4:00 p.m.	07/02/09 – 5:00 p.m. - 6:30 p.m.
04/13/09 – 4:00 p.m. - 5:00 p.m.	07/06/09 – 4:00 p.m. - 5:00 p.m.

The calls for police service were made at the intersections of the following:

- o Lincoln/Vernon: 3/17/07 - 5/31/09: 177
- o Dillon/Lake: 3/16/07 - 5/31/09: 15
- o Dillon/Vernon: 3/16/07 - 5/31/09: 2
- o Indiana/Valita: 3/16/07 - 5/31/09: 1
- o Vernon/Valita: 3/16/07 - 5/31/09: 5
- o Lincoln/Lake: 3/16/07 - 5/31/09: 289
- o Lincoln/Indiana: 3/16/07 - 5/31/09: 192

- 824 Lincoln: 3/16/07 - 5/31/09: 26
- 824 Lincoln: 7/28/09 - 10/05/08: 14

The public testimony indicates that loitering and public drinking and other nuisance activities on the premises and around the subject site have occurred for over 30 years. Even though the LAPD and residents in the area have informed the property owners and the business owners/operators of nuisance activities occurring on the subject property, such problems have not been mitigated. The Los Angeles Police Department has repeatedly responded to, made investigations of and arrests for nuisance activities on and around the subject location. These activities are jeopardizing and/or endangering the public health and safety of persons residing or working on the premise or in the surrounding area, thereby constituting a public nuisance, and contributing to the deterioration of the adjacent community. The activities occurring in and around the premises have generated numerous police responses thereby straining the resources of the Police Department.

Without the imposition of the corrective conditions, the Zoning Administrator hereby finds that La Fortuna Market would continue to repeat instances of nuisance activities. It is through these conditions that the use is made compatible with the neighborhood and their continued existence and compliance assures neighbors that the nuisance problems are under control.

4. **Has resulted in repeated nuisance activities including but not limited to disturbances of the peace, illegal drug activity, harassment of passersby, prostitution, theft, assaults, batteries, loitering, police detentions and arrests.**

The current business owner has operated the subject market at this location since January, 1980 and has been informed of the alleged nuisance activities associated with the operation of the market. In 2008, the business owner/operator agreed with the LAPD to comply with conditions that will mitigate nuisance activities associated with the operation of the subject market. However, the owner/operator failed to comply with the conditions that were recommended by the LAPD.

The imposition of the conditions is a minimum requirement of what the property owner and the business owners/operators can do to improve such nuisance/criminal activities. If there are other measures available to alleviate nuisance activities, the property owner and the business owners/operators should adopt such measures in order to improve the situation on the site.

The property owner and the business operator's compliance with and the effectiveness of the required conditions will be evaluated at the next Plan Approval, which is required to be filed between 9 months and 12 months from the effective date of this determination.

5. **Violates provisions of Chapter 1 of the Municipal Code, or any other city, state, or federal regulations, ordinance or statute.**

The LAPD records indicate that there have been numerous arrests for drinking alcoholic beverages in public, which are within 50 feet from the subject liquor market in violation of the Alcoholic Beverage Control (ABC) regulations, in residential streets in the area, and in the alley adjacent to the subject site. The business operator sold alcoholic beverages to a minor in violation of the ABC regulation and allowed employees to drink alcoholic beverages on the subject premises. The residents and the LAPD testified that the market sells alcoholic beverages to obviously intoxicated persons, often numerous times a day to the same individuals, which is in violation of the ABC regulations.

It is the purpose of these proceedings under Ordinance No. 171,740 to provide a just and equitable method to be cumulative and in addition to any other remedy available for the abatement of certain public nuisance activities. This action is, therefore, to advise the owner and any future owner or lessee that this determination constitutes the **first** governmental action (provided by the above noted ordinance) and to make the herein cited correction and changes. **Failure to comply with the conditions cited herein will put you at risk of revocation and the issue of an order directing the discontinuance of the use located at 820, 822 and 824 South Lincoln Boulevard.**

It is further determined that the instant action by the Zoning Administrator on behalf of the Director of Planning is in compliance with Section 12.27.1 of the Municipal Code and has been conducted so as not to impair the constitutional right of any person. The owner/operator of the business has been afforded the opportunity to review the file both in advance of and after the hearing which was duly noticed and testify and respond to the allegations concerning the impacts of the operation of the La Fortuna Market. The property and business owners and representatives were in attendance at the public hearing held on February 4, 2010. Further, the conditions imposed are not so onerous as to prevent the viable operation of the business.

S. GAIL GOLDBERG
Director of Planning



SUE CHANG
Associate Zoning Administrator
Direct Telephone No. (213) 978-3304

SC:lmc

cc: Councilmember Bill Rosendahl
Eleventh District
Adjoining Property Owners