

CITY OF LOS ANGELES  
CALIFORNIA

DEPARTMENT OF  
CITY PLANNING

S. GAIL GOLDBERG, AICP  
DIRECTOR

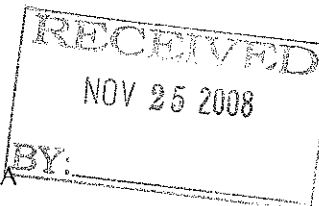
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52 E Woodward

November 21, 2008

Louie Ryan (A)  
52 East Woodward Avenue  
Venice, CA 90291

CASE NO. DIR 2008-2468(BSA)  
BUILDING AND SAFETY APPEAL  
52 East Woodward Avenue  
Venice Planning Area  
Zone : C2-1-CA  
D. M. : 106.5A143  
C. D. : 11  
Legal Description : Lot 20, Block 2,  
Venice of America Tract

Ronald F. Bennet (O)  
Bennett Family, LLC  
58 East Woodward Avenue  
Venice, CA 90291

Ralph Barat Saltsman (R)  
Law Offices of Solomon,  
Saltzman & Jamieson  
426 Culver Boulevard  
Playa Del Rey, CA 90293

Pursuant to the provisions of Section 12.26-K of the Los Angeles Municipal Code, I hereby FIND:

that the Department of Building and Safety did not err in citing the establishment for failure to secure a Certificate of Occupancy for use of the basement.

Pursuant to the provisions of Section 12.26-K of the Los Angeles Municipal Code, I hereby FIND:

that the Department of Building and Safety did not err in its determination that a Conditional Use Permit for the service of alcohol is required for the basement portion of the establishment.

FINDINGS OF FACT

After thorough consideration of the statements contained in the appeal, the information submitted by the Department of Building and Safety, the report of the Zoning Analyst thereon, and the statements made at the public hearing on September 11, 2008, and written material received, all of which are by reference made a part hereof, as well as knowledge of the property and surround district, I find as follows:

BACKGROUND

On November 16, 2007, the Department of Building and Safety issued an Order to Comply No. A-1624850, Case No. 210580, requiring discontinuance of the unapproved use of the basement as a bar.



## Violation(s):

1. *Unapproved occupancy or use of the basement as a bar*  
Code Section(s) in Violation: 91.104.2.5, 91.103.1, 91.106.1.1, 91.108.1, 91.109.1, 12.26E and 12.21A.1.(a) of the Los Angeles Municipal Code.
2. *Plumbing work done without the required permits and approvals*  
Code Section(s) In Violation: 94.103.1.1, 94.103.1.1, 12.21A.1.(a) of the Los Angeles Municipal Code.

Case No: 210580

Order No. A-1624850

Effective Date: November 16, 2007

Compliance Date: December 11, 2007

### **Building and Safety Action**

The Department of Building and Safety considered an appeal and on June 6, 2008 the Department of Building and Safety determined that the Department did not err in determining that the bar in the basement portion of the two-story building requires review and approval by the Department of City Planning for a Conditional Use Permit and a Certificate of Occupancy as cited in LADBS Order to Comply No. A-1624850.

As provided under Section 12.26-K of the Los Angeles Municipal Code provides in part, "The Director of Planning shall have the power and duty to investigate and make a decision upon appeals where it is alleged there is error or abuse of discretion in any order, interpretation, requirement, determination, or action made by the Department of Building and Safety in the enforcement or administration of Chapter I of this Code and other land use ordinances in site-specific cases."

### **Appeal**

The appellant filed an appeal of the action of the Department of Building and Safety finding that the Department did not err of abuse its discretion in issuing an Order to Comply for the sale of alcoholic beverages for on-site consumption in the basement of a two-story building and failure to secure a certificate of occupancy for the use of the basement.

### **PUBLIC HEARING**

A public hearing was held by the Zoning Administrator on September 11, 2008 at which approximately 30 people were in attendance. Following is a summary of the testimony at the hearing:

Ralph Saltzman, Representative for the applicant, provided the following testimony:

- Building was constructed prior to 1915 and alcohol was served
- Have tried to find all records
- Previously served alcohol in the basement during prohibition
- Have police and other permits
- August 2007 a citation was issued and all activity stopped

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 12-11-07

- Live entertainment, alcohol, dancing - there has been no absence of activity
- Community is behind the re-establishment
- City files are not complete
- (outlined police permit)
- Did file appeal with Building and Safety

Louie Ryan, the owner, provided the following testimony:

- (showed photos of the basement area)

Fifteen speakers provided testimony in support of the appeal as follows:

- In the early '60's I patronized the townhouse
- Bar has always been there including when owned by the Bennetts
- In the mid-1970's we held an event in the basement
- I consumed alcohol downstairs many times
- (submitted historical photos including Minotti's Cafe)
- Activities could only take place downstairs
- Korean War veteran I met also remembers being downstairs
- In 1925 there was a speakeasy below
- In 1976, I played across the street and another band was playing in the basement
- I was a bartender there in 1993 when owned by Frank Bennett
- 1968 opened downstairs and music was downstairs
- Basement was a favorite for clientele
- "Ran" alcohol downstairs
- In operation up to at least 5 years ago when the previous owner died
- I patronized the establishment between 1974 and 1976
- I was a patron in 1990
- Noise might be an issue, but this is Venice
- I've owned a business on the street since 1991
- My husband and I patronized the establishment in the early 1970's
- I was in the basement in 1990's
- Business has been there for many years and everyone goes there
- I've lived in Venice since 1960's and played in a band
- I frequented the business
- I own the adjacent restaurant and formerly manages another business two blocks away
- Business has been there for several years and the property is maintained
- Owner very concerned about the business operation and perception
- Has always been the hub of Venice
- I'm with the Venice Chamber of Commerce and I am in support
- I have experienced band below in the basement
- Townhouse is not a problem with regard to noise
- I am the head of security. I have worked with the Graham security and I remove loiterers. We do not permit problem activities

A representative for two parties in opposition to the appeal provided the following testimony:

- There are new submittals in the file which I would like an opportunity to view
- Went to ABC and got records

- Request for license does not include the basement
- A perjury statement was also filed with license request and dated May 6, 2003
- Building and Safety records dated April 5, 1972 says upstairs only
- Handwritten note in Building and Safety file and not signed
- Building and Safety acted on the appeal on June 6th and reviewed all records. There were no occupancy records
- Area may have been in use, but it was illegal
- Must go through the Conditional Use process and get a Certificate of Occupancy and "vest" the issues
- Did not apply for a conditional use and therefore illegal

Three additional speakers provided testimony in opposition to the appeal. Their concerns are as follows:

- Have had problems at the establishment
- We have our own security
- Prior to the new owner, there were no problems
- There have been 8 incidents requiring police assistance in the last year
- There has been noise, loud music, fights, people fighting our guards, drinking on the street, loitering outside and graffiti
- Basement should not be used for expansion
- Our hotel is located across from the back of the bar
- We have made financial investment in our hotel
- (submitted comments from 5 guests dated from July to the present)
- We've hired private security
- Bar has not co-operated with our request to reduce the noise
- My office in the hotel is across from the bar's rear door
- Noise, rowdiness, urinating in public, drinking in the alley has been observed since the 1970's and continues
- Activity disturbs hotel guest
- Room balconies face the rear of the bar
- Activities in the basement are illegal
- Police have been called
- Would be an asset if complied with the laws

In rebuttal the representative for the applicant provided the following testimony:

- Submitted a 257 to ABC and the written note
- ABC records are purged after 5 years
- ABC is willing to sign the form to allow
- Not serving alcohol in the basement

The representative for parties in opposition provided the following testimony:

- I also met with ABC and they don't have a record of the issuance of a Certificate of Occupancy nor CUB and won't issue a license

#### Written Communication

Five letters were received including a submission of crime reports from a security officer. The concerns identified in the letters are as follows:

A letter was received from the representative for the applicant as follows:

"At the conclusion of the Zoning Administrator's hearing on September 1, 2008, a question was asked but not answered just as the record closed.

The question asked was:

Was the basement permitted by the State of California, Department of Alcoholic Beverage Control to sell and serve and allow consumption of alcoholic beverages?

Unfortunately, the Department of Alcoholic Beverage Control does not have records that precede any time period earlier than five years ago. The Department therefore cannot determine with certainty that the basement area has been unlicensed or if it has been licensed.

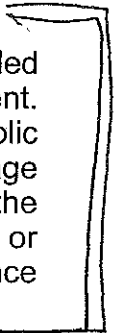
Stated differently, the Department of Alcoholic Beverage Control has no documentation relative to the licensed premises for the time era in question. The records held by the ABC concerning action in 1972 and 1982 were given to the Department by the undersigned to show prior licensure of the basement and a acknowledgment by the Department during that time period.

*What are these documents?*



*La R. kept?*

By statutory deference, the Department of Alcoholic Beverage Control has responded to the citation issued by the City of Los Angeles relative to use of the basement. Presently, according to the District Administrator of the Department of Alcoholic Beverage Control, Inglewood District Office, the Department of Alcoholic Beverage Control will allow reestablishment of licensure or continued licensure for the basement upon indication from the City of Los Angeles that such continuation or reestablishment of licensure would not be in violation of local city zoning ordinance (See Business and Professions Code Section 23790).



*Should be grandfaded*

There is a written request for recognition of licensure which is presently pending before the Department. I have been assured by the District Administrator that the Department will acknowledge or reestablish licensure upon receipt of confirmation in any form of approval taken by the City of Los Angeles."

A letter was received from a representation of the General Real Estate Management Company stating observation of the transformation of the Townhouse. The writer further stated that the establishment is an improvement to the neighborhood and feels it is an asset.

A letter was received from a Venice resident stating that entertainment in the basement dates back to the '80's. The writer further elaborated on his relationship with other residents. The writer also stated that the music venue operated at the townhouse is first class and upscale with family friendly music and no rowdy crowds.

A letter was received from a resident outlining the problems at the Townhouse including:

- throwing glass bottles
- making noise outside

playing loud music on car radios  
fighting on the sidewalk  
defacing buildings and fences

The writer also outlined police incidents and reports.

**APPLICABLE ZONE CODE PROVISIONS**

Certificate of Occupancy

Section 12.26-E provides:

“No vacant land shall be occupied or used, except for agricultural uses, and no building erected or structurally altered shall be occupied or used until a certificate of occupancy shall have been issued by the Superintendent of Building.”

The Department of Building and Safety in its examination of building records located permits for a café and stores (retail) dating from 1926 to 1939. In 1935 a permit for stairs was identified, however the permit did not identify any other use. In 1958 the first floor was converted into a bar and restaurant and in 1961 the second story was converted into an “art studio”. In 1989 other permits were issued to comply with retrofit requirements for the unreinforced masonry buildings. While the plans identify the existing first and second floors as “cocktail lounge” and offices, the basement was not indicated. The Department of Building and Safety staff also conducted research of records at the Los Angeles County Assessors Office. Information on dimension of the first and second floor were shown, however no assessment of any floor area was located for a basement floor.

The basement floor as identified in the record and through an investigation by the Department of Building and Safety has been renovated and a bar and stage added without the benefit of permits. Hence, no building permit or other records exists for the basement floor and therefore the citation for the unapproved occupancy or use of the basement was correctly issued.

To legalize the use, the applicant must file for a Certificate of Occupancy with the Department of Building and Safety or cease use of the basement area. In addition, the photos taken by the staff investigator identify an area which appears to be used for dancing and stage.

*\*  
Prior operation  
to 1977*

Conditional Use Permit

Section 12.24-W,1 requires the filing of a conditional use permit for the on-site sale of alcoholic beverages if an ABC license was not secured prior to March 1, 1977.

The representative for the applicant subsequent to the hearing sent a letter with the following correspondence.

“At the conclusion of the Zoning Administrator’s hearing on September 1, 2008, a question was asked but not answered just as the record closed.

*Trans since  
1968*

*since 1915*

*1977 CAB  
ordinance*

*1999 purged file - no actual records*

The question asked was:

Was the basement permitted by the State of California, Department of Alcoholic Beverage Control to sell and serve and allow consumption of alcoholic beverages?

Unfortunately, the Department of Alcoholic Beverage Control does not have records that precede any time period earlier than five years ago. The Department therefore cannot determine with certainty that the basement area has been unlicensed or if it has been licensed.

Stated differently, the Department of Alcoholic Beverage Control has no documentation relative to the licensed premises for the time era in question. The records held by the ABC concerning action in 1972 and 1982 were given to the Department by the undersigned to show prior licensure of the basement and an acknowledgment by the Department during that time period.

By statutory deference, the Department of Alcoholic Beverage Control has responded to the citation issued by the City of Los Angeles relative to use of the basement. Presently, according to the District Administrator of the Department of Alcoholic Beverage Control, Inglewood District Office, the Department of Alcoholic Beverage Control will allow reestablishment of licensure or continued licensure for the basement upon indication from the City of Los Angeles that such continuation or reestablishment of licensure would not be in violation of local city zoning ordinance (See Business and Professions Code Section 23790).

There is a written request for recognition of licensure which is presently pending before the Department. I have been assured by the District Administrator that the Department will acknowledge or reestablish licensure upon receipt of confirmation in any form of approval taken by the City of Los Angeles."

As noted in the applicant's correspondence and testimony at the hearing, the applicant is now applying to the State Alcohol Beverage Control for licensing of the basement area. Hence, there is no license for the basement and none for the last five years can be located. The ABC will not issue the license until the City of Los Angeles confirms that an application and approval of such application is in conformance with the City's Code. Any license issued by the ABC must be renewed annually. If no records exist, and the license has not been renewed and the ABC decision on "re-establishment" is pending, there is no license.

The City's code requires the filing of a Conditional Use Permit in accordance with the City's Code. Hence, the filing of the application pursuant to Section 12.24-W,1 is required. Section 12.24-W,1 requires the filing of a conditional use application with the Department of City Planning for the sale or dispensing for consideration of alcoholic beverages, including beer and wine for consumption on the premises in the C2 Zone among other zones. No such application has been filed to date.

The subject basement area of the location not only includes a bar, but also has a stage, dance floor with possible live entertainment for which a conditional use permit is also required under Section 12.24.

Giving consideration to the above, the Department of Building and Safety did not err and the owner must file and secure approval of a Conditional Use Permit.

Citywide Impact

Pursuant to the requirements of Section 12.26-K,4, the determination herein will not have a Citywide Impact as the use of the specific property, circumstances and issues are unique to the affected site and will not generally apply to other sites in the City.

**APPEAL PERIOD - EFFECTIVE DATE**

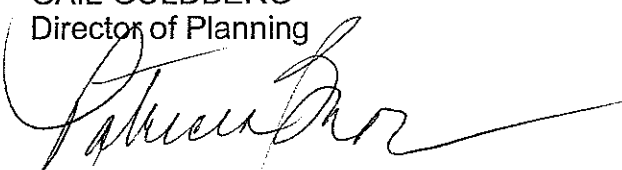
The Zoning Administrator's determination in this matter will become effective after DECEMBER 8, 2008, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may 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 [www.lacity.org/pln](http://www.lacity.org/pln)**. 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.

GAIL GOLDBERG  
Director of Planning

  
PATRICIA BROWN  
Associate Zoning Administrator  
Direct Telephone No. (213) 978-1306

PB:lmc

cc: Councilmember Bill Rosendahl  
Eleventh District  
Adjoining Property Owners  
County Assessor