



City of Santa Barbara
Police Department

Memorandum

DATE: April 28, 2011

TO: Fire and Police Commission

FROM: Holly Perea, Police Technician

SUBJECT: Nightclub Dance Permit: "La Pachanga", 518 N. Milpas St.

DISCUSSION:

On November 13, 2012, Elias Botello, sole owner of the business at 518 N. Milpas St, dba "La Pachanga Nightclub", submitted an application for a Nightclub Dance Permit to the Santa Barbara Police Department.

The applicant received all necessary approvals from Community Development for the dance permit, and submitted the required security and noise mitigation plans. The sole owner is also listed on the application as the business's Security Manager and General Manager, and therefore is the only person required to undergo Live Scan fingerprinting as a requirement of the application. Mr. Botello's fingerprint results have been received by the Police Technician and satisfactorily meet Santa Barbara Municipal Code requirements.

According to the application, patron dancing is proposed for Thursday through Sunday nights from 5:30 pm until 1:30 am. On these nights, the owner plans to have two security guards on duty. Security guards will wear blue shirts with the word "Security" written on the front and backs of the shirts in yellow lettering. The guards will communicate with one another verbally.

On November 16, 2012, only three days after submission of the Nightclub Dance Permit application, the California Department of Alcoholic Beverage Control ("ABC"), working in conjunction with the Santa Barbara Police Department's Nightlife Enforcement officers, carried out a directed enforcement operation at this premise. The operation was part of an ongoing investigation resulting from several months of reliable evidence that the business regularly allowed females (known as "B Girls" or "Bar Girls") to enter the premise, remove their clothes, and dance for customers while being groped in exchange for tips and increased alcohol sales. As a result of this combined effort, multiple arrests were made and multiple citations were issued, including the following:

- The owner was cited for illegal possession of a Police baton;
- One uniformed security guard was arrested for working without a valid Guard Card and for illegal possession of pepper spray;
- A second uniformed security guard was arrested for cocaine possession, giving false information to a Police Officer, for working as a guard without a valid Guard Card, and for illegal possession of pepper spray;
- Two patrons were arrested for Public Intoxication;
- And one patron was arrested for parole violation.

The owner, Elias Botello, was also arrested for the following charges:

- 25665 BP - Allowing a minor to enter/remain in an "On Sale" liquor premise
- 25657(A) BP – Hire to Procure Liquor Sales (based on "Bar Girls" operations)

Immediately following the enforcement operation, ABC opened a case against La Pachanga with the intent to take action against the premise liquor license. The Police Technician was

notified of the pending ABC action, and informed of the strong possibility that the premise liquor license may be revoked as a result. Given this information, the pending charges against the owner, and the questions surrounding the continued validity of the premise's liquor license, La Pachanga's designated representatives (Mr. Botello's children) were informed that the Nightclub Dance Permit application process could not be completed until adjudication of charges by the Department of Alcoholic Beverage Control. Subsequently at various times throughout the weeks that followed, representatives were reminded that the basis for the delay was the pending action by ABC on the premise's liquor license and adjudication of the charges pending for Elias Botello.

The Police Technician confirmed with ABC in January, February, and March that a final determination had not yet been reached on the matter. In late April 2013, the Police Technician was notified by ABC of the final disposition of the investigation: the premise liquor license would be suspended for the 30-day period from May 2, 2013 through June 1, 2013, and would remain on probation for a two-year period during which even one more violation at the premise may result in permanent revocation of the premise liquor license.

The Police Technician also learned that on March 7, 2013, as part of the adjudication process with ABC, Mr. Botello plead no contest to the charges against him personally.

Mr. Botello's son, Elias Botello Jr, an authorized representative for La Pachanga, was subsequently contacted by the Police Technician. Mr. Botello Jr confirmed that he and his father were aware of the adjudication by ABC.

RECOMMENDATION:

Based on the quantity and egregious nature of the multiple violations of local and state laws discovered by ABC agents and SBPD officers during the November enforcement action, many of which are directly related to the management and business operations of the premise, it is the recommendation of the Santa Barbara Police Department that the application for a Nightclub Dance Permit for La Pachanga at 518 N Milpas Street be denied in accordance with Santa Barbara Municipal Code §5.20.070(C) **Grounds for Denial of a Nightclub Dance Permit:**

"The Board shall deny an application for a Nightclub Dance Permit only when it has evidence sufficient to make one or more of the following findings for denial:

2. The applicant or any person designated by the applicant to exercise on-site managerial control over the nightclub has been convicted of a crime which is substantially related to the qualifications, functions, or required duties of a permittee within the past five years."