

CITY OF OAKLAND

AGENDA REPORT

10:00 AM 11:34

To: Public Safety Committee
Attn: Larry Reid, Chairperson
From: Neighborhood Law Corps
City Attorney's Office
Date: April 25, 2006

Re: A report and recommendation on Oakland Liquor stores; update on "The Good, The Bad & the Ugly".

SUMMARY

The City has begun making significant progress in abating problem liquor outlets. Over the past two years Neighborhood Law Corps has improved the conditions at seventeen (17) problem liquor stores and three problem bars. Of those, seven (7) are no longer liquor stores in Oakland, and the other thirteen (13) outlets have had stricter conditions imposed on their operation. These results were achieved with the collaborative efforts of concerned community members and merchants, city council offices, the city administrator's public nuisance office, code enforcement staff, and OPD officers.

Increased prosecution of problem liquor outlets is having a measurably positive impact on surrounding neighborhoods; it has also had a positive, profitable impact on many liquor store owners. We are now seeing more and more cases where owners voluntarily ask to work with the city to improve their stores because they acknowledge existing problems and accept responsibility to change.

While this progress is laudable -- especially considering that the City only staged two liquor store hearings from 1997 through 2003 -- the City can and must act more productively and efficiently. Even at our current success rate, we are addressing less than one liquor outlet per month of work. We believe the city should handle, at a minimum, three formal cases each month, resulting in 36 measurable outcomes per year. This is a more than reasonable expectation given that Oakland has approximately 350 liquor stores, of which about 70 are in over-concentrated areas, and problem liquor outlets are at the top of most neighborhood groups' priority lists. Based on citizen complaints alone, there are definitely three serious problem liquor outlets in Oakland in any given month.

To achieve the higher success rate, we offer the following:

1. An examination of what has worked to abate problem liquor outlets;
2. Identification of the obstacles to full enforcement; and
3. City Attorney Russo's recommendation of necessary changes for further improvements in the program.

Item: _____
Public Safety Comte.
April 25, 2006

FISCAL IMPACT

None at this time.

BACKGROUND

On April 27, 2004, City Council accepted Neighborhood Law Corps' report card on Oakland's liquor stores: the Good, the Bad & the Ugly. The report emphasized the fact that Oakland has over-concentration of liquor stores in many neighborhoods, as well as the need to aggressively utilize the Deemed Approved Hearing Process for nuisance stores.

Since that report, we have successfully abated 17 problem liquor outlets and three problem bars. They are

NAME	ADDRESS	RESULT
1. A & J Liquors	1502 -- 23rd Ave	Stricter Conditions (SC)
2. Al's Market	3841 West St	REVOKED
3. Captains Market	2532 MLK	SC
4. Cille's	8940 International Blvd	SC
5. Club Nayarit	5322 Foothill Blvd	SC
6. Coolidge Market	2637 Coolidge Ave	REVOKED
7. E'N'G Liquors	2003 -- 23 rd Ave	REVOKED
8. E&L Liquor	2401 -- 23rd Ave	REVOKED
9. East Bay Market	8432 International Blvd	SC
10. Greer's Market	3039 MLK	REVOKED
11. K & D Market	1100 -- 24 th St	SC
12. Kibby's Bar	3237 Foothill Blvd	SC
13. M & W Liquor	2400 High S	REVOKED
14. Oakland Food Center	9422 Edes Ave	REVOKED
15. One Stop Liquors	6001 MacArthur Blvd	SC
16. Orlando's Market	2940 Linden S	SC
17. San Pablo Liquors	2363 San Pablo Ave	SC
18. School St. Market	3051 School St	SC
19. Uncle Ross Market	1102 -- 71 st St.	SC
20. Willie Brown's Liquors	1933 Fruitvale	SC

KEY ISSUES AND IMPACTS

What has worked?

After twenty cases, the effective model that has developed to abate problem liquor outlets is as follows.

1. Attention of a problem at the liquor outlet comes to city mainly via the community.
2. Investigation to verify: includes store visit, analyzing OPD reports, code enforcement reports, and/or obtaining declarations from citizens.
3. Conduct SMART (interagency) inspection or Crime Reduction Team (OPD) operation at premise if necessary.
4. Evaluate and determine legal strategy.
5. Implement strategy: send notice of impending action; conduct settlement agreement or hearing.
6. Results in stricter conditions imposed or revocation of liquor sale land use at premise.

We found the most common contributing factor in assuring success was that leadership has come from various sources. In many of the cases, Neighborhood Law Corps took point in being proactive and aggressive throughout the case. In others, groups of community members and merchants, working with their respective city council representative, were actively organized in advocating for protecting and improving their neighborhoods. In those cases where the city's public nuisance ordinance was best suited, the city administrator's office lead. And in cases where OPD had great concern, the beat officers were on point.

Challenges for more strategic, effective, productive enforcement

Having an over-concentration of liquor outlets in Oakland *and* limited city resources, we need to become more focused on this issue. Enforcement to abate problem liquor outlets must be strategic, effective, and productive.

Factors hindering the abatement of problem outlets have been:

1. Unilateral action or decision-making by OPD.
2. Lack of documentation.
3. Documentation is not geared toward enforcement of Deemed Approved Ordinance.
4. Insufficient notice of violation given to operators or property owners.
5. Information and evidence not provided in timely fashion.
6. Verbal warnings continued to be given to operators.
7. Lack of monitoring of new conditions post hearing/settlement.
8. Difficulty in scheduling hearings.

Necessary changes for improvement

To remedy the above hindrances, the following must happen:

1. Consistent proper documentation of every contact with operators.
2. Proper documentation and noticing of problems and opportunity to cure – can come from OPD, Code Enforcement, NSC, OCA, CAO, OFD – and copied to file.
3. Timely investigation.
4. Maintain up-to-date, complete files that are accessible and transparent with basic information including RD #'s, notice to abate, Deemed Approved nuisance abatement notices, correspondence, copies of ABC citations and disciplinary actions.
5. Implement strategic action plan that prioritizes most urgent problem locations balanced with most ready-to-go cases.
6. Post outcomes widely to help with compliance.
7. Automatic 12-month monitoring of premises acted upon.

Recent Developments

In January 2006, the City Administrator's office intervened in the liquor outlet abatement process to help improve interagency cooperation. The effect thus far has been miraculous. After two years of struggling to get liquor outlet files from ABAT, files are practically raining down on us now. In two months' time we have received 50 files, a 900% increase.

We are in the process of reviewing the files. However, Neighborhood Law Corps is also working on other community issues including new slumlord cases and drug nuisance abatement cases. To significantly increase the prosecution rate in problem liquor outlet cases, the City Attorney's office requires a dedicated attorney for all Deemed Approved work.

SUSTAINABLE OPPORTUNITIES

Economic – No economic opportunities were identified.

Environmental - No environmental opportunities were identified.

Social Equity – No social equity issues were identified.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no ADA or senior citizen access issues contained in this report.

Item: _____
Public Safety Comte.
April 25, 2006

RECOMMENDATION

Staff recommends that Council enable us to significantly increase the city's capacity to enforce against problem liquor outlets by tripling our prosecution rate. To do this, we need Council to set appropriate goals and require accountability from staff for measurable outcomes.

ACTION REQUESTED OF THE CITY COUNCIL

1. Readjust Deemed Approved fees to hire a Deputy City Attorney II to prosecute Deemed Approved cases.
2. Pass a Council Resolution mandating staff to make the abatement of problem liquor outlets a critical priority for Oakland.
3. Require appropriate staff in CEDA and in OPD to report to Council no later than June 27, 2006 on which inspectors and police officers will be reassigned to work directly and exclusively with the City Attorney's office to prosecute the backlog of Deemed Approved cases. Staff should be directed to a goal of clearing the backlog by no later than July 1, 2008.

Respectfully submitted,

For


John A. Russo
City Attorney

Prepared by
Alexander Nguyen
Director
Neighborhood Law Corps

Item: _____
Public Safety Comte.
April 25, 2006