

# **CORRESPONDENCE**

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Ref: 70541-0001

January 20, 2010

**VIA MESSENGER**

Mayor Bill Bogaard and Members of the City Council  
c/o City Clerk  
City of Pasadena, Room S228  
100 N. Garfield Avenue  
Pasadena, CA 91109

Re: Reconsideration Hearing: Appeal of Code Enforcement Commission  
Panel No. 3 Order Regarding Super Liquor - 125 East Orange Grove Blvd.  
Hearing Date: January 25, 2010

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Dear Mayor Bogaard and Members of the City Council:

This firm represents Mr. Kun Chin Jhae and Mrs. Kum Man Jhae, the owners and operators of Super Liquor, located at 125 E. Orange Grove Boulevard, Pasadena, California 91103 (the "**Appellants**"). At its July 27, 2009 meeting, the Pasadena City Council (the "**City Council**") held an appeal hearing (the "**Appeal**") regarding an order by the Code Enforcement Commission Panel No. 3 (the "**Commission**") imposing conditions on the Appellants pursuant to Pasadena Municipal Code ("**PMC**") § 8.18.100 (B)(1)(b). (See Exhibit "A") After receiving input from the community and the Appellants, the City Council upheld the Commission's conditions, with one key modification. As adopted, the cumulative effect of these twenty conditions seriously jeopardizes the financial viability of the Appellants' business.

Following the July 27, 2009 City Council hearing, our clients requested that the City Council reconsider the Appeal, in light of a number of issues that we raised in a letter dated August 3, 2009. On October 19, 2009, the City Council granted the Appellants' request for reconsideration, and a hearing is scheduled for January 25, 2010.

**I. Background**

Mr. and Mrs. Jhae have owned and operated Super Liquor since 2002. In addition to selling beer, wine and distilled spirits, Super Liquor also sells a variety of household and convenience items and assorted merchandise. Super Liquor is currently open from 6:30 a.m. until 10:00 p.m. daily, in order to meet the varied schedules of its customer base. The Jhaes' small business is located in an economically and socially challenging environment in close proximity to the Community Arms housing complex. Super Liquor has been allowed to operate for many

years without being specifically regulated by the City of Pasadena pursuant to a conditional use permit. Under PMC § 8.18 *et seq.*, (the "**Deemed Approved Ordinance**"), an establishment selling alcoholic beverages that is not subject to a conditional use permit must still comply with a set of performance standards.<sup>1</sup>

As licensees under the California Alcoholic Beverage Control Act, the Jhaes are subject to regulation by the California Department of Alcoholic Beverage Control ("**ABC**"). In March 2009, ABC issued a decision that the Jhaes had violated, or permitted violation, of California Business & Professions Code §§ 25601, 24200(3) and 24200.5(a). Without full knowledge of their rights and the implications of this decision, the Jhaes waived their right to a hearing and stipulated to the underlying violations, in exchange for acceptance of a conditional license. As a conditional licensee, Super Liquor is now subject to the following six operating restrictions by ABC:

- (1) Wine products with an alcoholic content greater than 14.9% are prohibited;
- (2) Fortified beer and/or malt beverages with an alcoholic content greater than 5.7% are prohibited;
- (3) Beer, malt beverages, and wine coolers in containers of 12 oz. or less cannot be sold by single containers, but must be sold in manufacturers' pre-packaged multi-unit quantities;
- (4) Super Liquor is prohibited from packing merchandise in anything other than clear plastic bags;
- (5) No alcoholic beverages shall be consumed on any property adjacent to the Super Liquor premises under the control of the Jhaes; and
- (6) Loitering is prohibited on or around the Super Liquor premises under the control of the Jhaes.

Thus, as part of an agreement whereby Mr. and Mrs. Jhae waived their right to an appeal, ABC imposed six express conditions tailored to the specific violations of which the Jhaes were accused. Since the ABC issued its decision, the Jhaes have complied with these six conditions.

However, in reliance on this March 2009 ABC decision, in a City code enforcement hearing, the Commission found on June 4, 2009 that Super Liquor was not in compliance with the Deemed Approved Ordinance's standards and imposed twenty conditions on Super Liquor, including the six ABC conditions above (the "**Commission Hearing**"). (See Exhibit "B")

Importantly, the Commission modified Condition No. 3 by adding "distilled spirits" to the list of alcoholic beverages subject to the prohibition against single containers in

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<sup>1</sup> See PMC § 8.18.060

less than 12 oz. containers, without any evidentiary support that this ABC condition should be supplemented.

On appeal, the City Council upheld the Commission's decision with one key modification. Whereas the Commission's conditions merely restricted Super Liquor's overall hours of operation from 7:00 a.m. until 9:00 p.m., the City Council further limited the hours of operation by prohibiting alcohol sales before 9:00 a.m. and after 6:00 p.m. Thus, the City Council *eliminated six and one-half hours of alcohol sales and one and one-half hours of overall business* from Super Liquor's daily operations.

In modifying the hours of operation, the City Council relied on information provided by the Pasadena Police Department regarding the frequency and timing of police responses to alleged incidents at Super Liquor. However, this information is misleading and does not accurately reflect Super Liquor's operations. For example, police frequently respond to pedestrian activity in the general vicinity of Super Liquor, even when the individuals questioned by police are not Super Liquor customers and their conduct is wholly unrelated to Super Liquor's operations. However, based on a summary of incident reports provided by the Pasadena Police Departments, and our clients' review of their security footage, these incidents are attributed to the Appellants' address. Further, the Deemed Approved Ordinance creates a "Catch-22" - store owners, such as the Appellants, are encouraged to contact the Police Department regarding loitering and other problems at or near their business, but are penalized when such calls are treated as the basis to impose additional conditions.

The Appellants have complied with the remainder of City and ABC conditions, which has resulted in dramatic improvements in their operating environment. Therefore, the imposition and enforcement of the additional conditions is unnecessary. In addition, as discussed in detail below, some of the conditions adopted by the City Council, including those regulating container size, hours of operation, labeling, security, and litter removal, place a cumulatively excessive burden on the Appellants and are preempted by state law. Meanwhile, similarly-situated businesses throughout the City of Pasadena, including a comparable establishment immediately across E. Orange Grove Boulevard from Super Liquor, are not subject to the same operating standards. This creates an unlevel playing field.

## **II. The City's Conditions Are Cumulatively Excessive**

As discussed above, pursuant to the City Council's July 27, 2009 hearing, the Appellants will be subject to fourteen additional conditions, beyond the six initially imposed by ABC. A number of these conditions place an excessively onerous burden on the Appellants, and fail to meet the proportionality standard established by the U.S. Supreme Court in *Dolan v. Tigard*, 512 U.S. 374, particularly:

- (i) Condition No. 19: Limiting the sale of alcoholic beverages to the hours of 9:00 a.m. to 6:00 p.m., and the overall hours of operation from 7:00 a.m. to 9:00 p.m.

Over 40% of the Appellants' alcohol sales occur between the hours of 6 p.m. and 10 p.m. In addition, a significant share of non-alcohol sales will be lost due to these restricted hours. According to information provided by the City's Police Department, a disproportionate share of Police responses have not occurred after 6:00 p.m. In addition, if the underlying purpose of the City Council's action is the regulation of alcohol sales, there is no basis to also curtail Super Liquor's overall business hours. Therefore, there is no reason to impose these arbitrary cut-off times.

- (ii) Condition No. 9: Requiring the Appellants to employ a security guard, with responsibility for patrolling and monitoring activity up to fifty (50) feet from their premises.

Compliance with this condition will cost the Jhaes approximately ***\$90,000 per year***<sup>2</sup>, which is an excessive and disproportionate burden. In addition, this condition places responsibility on the Appellants' security personnel for monitoring and enforcing off-site conduct occurring on private property or in the public right-of-way beyond the Appellants' control, which exposes the Appellants to significant liability. Lastly, the City has not provided a basis to require a security guard during those hours of operation when alcohol is not being sold at Super Liquor.

- (iii) Condition No. 18: Requiring the Appellants to label all containers of alcoholic beverages sold with their business name.

Compliance with this condition will cost the Appellants between ***\$12,000 and \$24,000 per year***, based on the costs for labeling and labor. This excessive burden is disproportionate to any community benefit gained by the condition. Further, other comparable businesses in Pasadena are not subject to this requirement, which places the Appellants at a competitive disadvantage.

A generally applicable, city-wide ordinance is a more equitable and appropriate means of imposing labeling requirements.

- (iv) Condition No. 10: Requiring the Appellants to remove litter within ***five hundred (500) feet*** of the Appellants' business.

It is wholly infeasible and unreasonable for the Appellants to remove all litter within five hundred feet of their business. An area with a 500 ft. radius equals 787,398 square feet (equal to more than 18 acres) while the Appellants' property is only 10,340 square feet (approx.), or 1.3% of the total area they would be responsible for monitoring.

This condition clearly places an excessive and disproportionate burden on the Appellants beyond the particular impacts of their business. Further,

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<sup>2</sup> Based on an estimate of \$18/hour provided to the Appellants for a private security guard.

the City has provided little evidentiary support that the Appellants are responsible for a disproportionate share of litter up to 500 feet from the Super Liquor site.

Based on the above, it is clear that the cumulative burden placed on the Appellants by the City's conditions is excessive and jeopardizes the financial viability of their family-owned and operated small business. If the City imposes these conditions, the Appellants will likely have to make further cuts to their labor force and could be forced out of business. Given the ongoing economic crisis, the City Council should strongly consider whether it wants to regulate this local businesses in a manner that exacerbates unstable conditions.

### **III. The City's Conditions Are Preempted by State Law**

Under the general principle of state preemption, when local legislation conflicts with state law, the latter preempts the former. *Candid Enterprises, Inc. v. Grossmont Union High School Dist.* (1985) 39 Cal.3d 878, 885) A conflict exists when local legislation "duplicates, contradicts, or enters an area fully occupied" by the laws of the state.

Article XX, Section 22 of the California Constitution expressly states that "[t]he State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State...". Further, the Alcoholic Beverage Control Act (Business & Professions Code § § 23000 *et seq.*) establishes a comprehensive regulatory framework and licensing bureaucracy to oversee establishments that sell alcoholic beverages.

Within this context, California courts have long grappled with how much latitude to grant local governments in regulating establishments where alcohol is sold. Local conditions which duplicate State efforts at regulating the sale of alcohol are preempted. As stated in *California Restaurant Association v. City of Los Angeles* (1987) 192 Cal.App.3d 405, 411, and repeated in *City of Oakland v. Superior Court of Alameda County* (1996) 45 Cal.App.4th 740, 764, Article XX, section 22 of the California Constitution will expressly preempt local regulations that "***directly affects the licensee's ability to sell alcoholic beverages to a willing purchaser***".

In this case, the Appellants are already being regulated by ABC, through six conditions specifically tailored to the Appellants' violations. For example, the Appellants are currently prohibited from selling individual containers of beer and/or malt beverage and wine coolers in sizes of 12 oz. or less. This condition was included as a recommendation in the staff report prepared by Deemed Approved Administrator Rod Olguin for the Commission Hearing. However, at the Commission Hearing, this condition was modified to include "distilled spirits" among the list of beverages for which the sale of 12 oz. or smaller containers was prohibited.

The City is prohibited from adding distilled spirits to this condition, because the State is already regulating this field. The issue of container sizes and packaging requirements for alcoholic beverages was expressly addressed by ABC, which chose to refrain from regulating the container sizes of distilled spirits. In addition, the 12 oz. threshold imposed by ABC is a relevant standard for containers of beer and/or malt beverage and wine coolers, but is not an applicable standard for distilled spirits.

The Appellants recognize the City's legitimate interest in adopting and enforcing reasonable land use regulations. However, the City does not have carte blanche authority to regulate all areas of the Appellants' business. The City's hours-of-operation and container-size conditions, imposed in this case, directly affect the Appellants' ability to sell alcoholic beverages to Super Liquor's willing customers. Therefore, these conditions exceed the permissible scope of the City's regulation of the Appellants' business.

#### **IV. Super Liquor Is Already Complying with Most of the Conditions**

For the past nine months the Appellants have been in full compliance with the six conditions imposed by ABC. In addition, Super Liquor is currently complying with the following City of Pasadena conditions:

- Condition No. 7: There are ***no signs visible*** from off-site showing that alcoholic beverages are being offered for sale at Super Liquor (see Exhibit "C");
- Condition No. 10: The Super Liquor premises and adjacent E. Orange Grove Boulevard right-of-way are ***litter-free*** (see Exhibit "C");
- Condition No. 11: The Super Liquor site is ***graffiti-free*** (see Exhibit "C");
- Condition No. 12: There is ***sufficient lighting*** in the Super Liquor parking area to discourage loitering, public consumption of alcohol and/or other illegal activity (see Exhibit "C");
- Conditions No. 13: ***Three signs have been posted*** on the exterior of the Super Liquor premises indicating that loitering and consumption of alcohol on site are both prohibited (see Exhibit "C");
- Conditions No. 14: ***No pay telephone*** is maintained on the exterior of the Super Liquor premises (see Exhibit "C");
- Condition No. 15: There are ***no coin operated games or video machines*** on the Super Liquor premises (see Exhibit "C");
- Condition No. 16: Super Liquor's owners have complied with all decisions, orders, and directives of the Department of Alcoholic Beverage Control;

- Condition No. 17: Super Liquor's owners are not aware of any additional planning approvals or building permits necessary for compliance with the City's conditions; and
- Condition No. 20: A **lock and chain** has been installed, thereby restricting access to the parking area when the store is closed (see Exhibit "C").

There has been a significant improvement in Super Liquor's operating environment as a result of the Appellants' current compliance with the six ABC conditions and the ten City of Pasadena conditions listed above. According to information provided by the Pasadena Police Department, there have only been two Police Department responses to the Super Liquor location within the last six months, one of which was a "Pedestrian Traffic" intercept that may have been unrelated to Super Liquor operations.

This shows a dramatic reduction in Police Department responses to the Super Liquor premises and vicinity as compared to the 2007-2008 time period that led to the ABC corrective action. This is also evidence that Super Liquor's compliance with the excessively burdensome Condition Nos. 9, 10, 18 and 19, and the preempted Condition No. 3, is not necessary to meet the City's objective of nuisance abatement.

#### V. Conclusion

The Appellants have owned their small, family-run business in Pasadena since 2002. While operating in a very challenging environment, they have done their best to minimize the risk of nuisance conditions associated with their business. The Jhaes have a modern surveillance and security system consisting of numerous monitoring cameras and mirrors. (See Exhibit "D"). This system also includes electronic video recording and storage.

The ABC has already acted to specifically address the violations it identified, and this current case is the first time that the Jhaes have been specifically regulated by the City. As a result of compliance with ABC conditions and most of the City's conditions, there has already been significant improvement in Super Liquor's operating environment.

However, the cumulative impact of all twenty regulations goes too far, and will likely put the Jhaes out of business. In addition, there is no clearly prescribed administrative review procedure for the Jhaes to seek a re-evaluation of whether conditions are working, or if they should be revised to reflect changed circumstances.

Therefore, on behalf of the Appellants, we respectfully request that the City Council take the following actions:

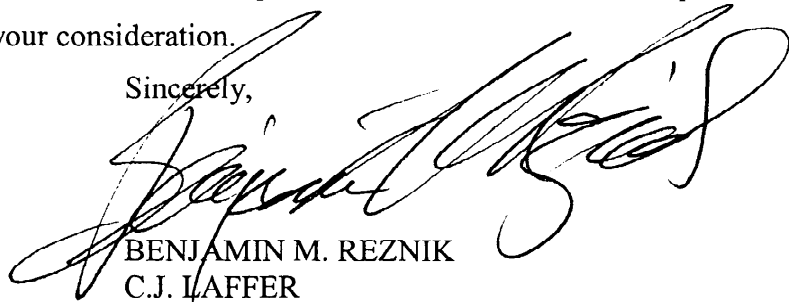
- (1) Remove "distilled spirits" from Condition No. 3;
- (2) In lieu of Condition No. 9's requirement for a security guard, adopt the additional security conditions volunteered by Appellants in Exhibit "E";



- (3) Modify Condition No. 10. such that the Appellants' responsibility for litter removal is limited to the north side of E. Orange Grove Boulevard, up to 100 feet from the premises;
- (4) Eliminate the labeling requirement imposed by Condition No. 18, or modify the condition in a commercially-reasonable manner; and
- (5) Modify Condition No. 19 to permit the sale of alcoholic beverages from 9 a.m. to 9 p.m., and overall hours of operation from 6:30 a.m. to 10:00 p.m.

Thank you for your consideration.

Sincerely,



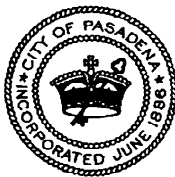
BENJAMIN M. REZNIK  
C.J. LAFFER

Jeffer, Mangels, Butler & Marmaro LLP

BMR:CJL:dg  
Exhibits

cc (w/exhibits, via e-mail): Mr. Mark Jomsky, City Clerk  
Ms. Michele Beal Bagneris, City Attorney  
Mr. Frank Rhemrev, Assistant City Attorney





OFFICE OF THE CITY CLERK

July 30, 2009

Super Liquor  
Kum Man Jhae  
125 East Orange Grove Boulevard  
Pasadena, CA 91103

Re: Appeal of Code Enforcement Commission Panel No. 3 Order Regarding  
Super Liquor - 125 East Orange Grove Boulevard

Dear Mr. Jhae:

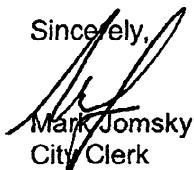
At its regular meeting on Monday, July 27, 2009, the City Council considered the above-referenced matter. At the conclusion of the appeal hearing, and after considering the written and oral evidence presented, the City Council adopted the findings of the California Alcoholic Beverages Commission as set forth in its Decision dated March 13, 2009, regarding the above location; and based on those findings affirmed the June 4, 2009 decision of the Code Enforcement Commission's Panel No. 3 to impose 20 separate (and severable) conditions (Conditions Nos. 1 through 20) provided as Attachment 1 of the agenda report. The City Council also modified Condition No. 19 by limiting the hours that alcohol sales may occur between the hours of 9:00 a.m. to 6:00 p.m., while specifically avoiding any additional limitation on the hours of operation of the other retail components at the site.

Enclosed, please find an amended copy of the conditions imposed by the Code Enforcement Commission's Panel No. 3, and affirmed and modified by the City Council at the July 27, 2009 meeting.

The effective date for this decision is August 7, 2009.

If you have any questions regarding the above action, please do not hesitate to contact me.

Sincerely,

  
Mark Jomsky  
City Clerk

Enclosure – Amended copy of the conditions affirmed and modified by the City Council at the July 27, 2009 meeting

cc: Richard Bruckner, Planning Department  
Jon Pollard, Code Enforcement  
City Clerk Legislative File

**CODE ENFORCEMENT COMMISSION HEARING  
SUPER LIQUOR – 125 E. ORANGE GROVE BOULEVARD  
COMMISSION'S DIRECTED CORRECTIVE ACTION  
ITEMS 1 THROUGH 20 INCLUSIVE  
WITH CITY COUNCIL AMENDMENT TO NO. 19**

1. The sale or stocking of wine products with an alcohol content greater than 14.9% are prohibited.
2. The sale or stocking of fortified beer and/or malt beverages with an alcohol content greater than 5.7% are prohibited.
3. The sale or stocking of single containers of distilled spirits, beer, malt beverages, and wine coolers in sizes of 12 oz. or less is prohibited, but may be sold in manufacturer pre-packaged multi-unit quantities.
4. The licensee is prohibited from packing merchandise in anything other than translucent plastic bags. It shall be at the City's discretion to modify this requirement as local ordinance dictates.
5. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee(s) as depicted on the ABC-257 and ABC 253 dated (Pursuant to Condition a).
6. Loitering is prohibited on or around these premises or this area under the control of the licensee(s) as depicted on ABC-257 dated March 13, 2009 (Pursuant to Condition a).
7. Signs advertising types of alcoholic beverages for sale at the subject site shall not be visible from anywhere off the site.
8. Alcohol sales shall be for off-site consumption only.
9. Management shall employ a private security guard to patrol the business premises and the surrounding vicinity, including the north side of Orange Grove Boulevard adjacent to the property, during all hours of business operation for a distance of 50 feet in each direction from the subject site to ensure that no littering, loitering, or consumption of alcohol occurs.
10. It shall be the responsibility of the business owner / operators of the business to remove identifiable litter of the business from the public right-of-way within a 500 ft. radius of said business, and make prompt notification to the Pasadena Police Department of instances of loitering or the public consumption of alcohol.
11. The site and surrounding area shall be maintained free of graffiti. Any graffiti that occurs on the site shall be removed within 48 hours.
12. The parking area shall be sufficiently lit to discourage loitering, disturbances of the peace, illegal drug activity, public consumption of alcohol, public drunkenness, public urination, gambling and/or late night activity that is prohibited by law. Such lighting shall be at an amount of not less than two footcandle nor more than three footcandle.
13. Three signs shall be posted on the premises prohibiting loitering and the consumption of alcohol on site. Such signs shall be a minimum of 24 inches wide and 18 inches tall with letters not less than two inches high.

14. No pay telephone shall be maintained on the exterior of the premises.
15. There shall be no coin operated games or video machines maintained on the premises at any time.
16. The ownership or management shall comply with all decisions, orders, or directives of the Department of Alcoholic Beverage Control.
17. The ownership or management shall obtain all required planning approval and building permits for items, signs, lighting fixtures or other appurtenances required as a result of this recommended corrective action.
18. All alcoholic beverages containers shall be identified with a sticker that has the name of the business establishment. Translucent plastic bags shall be identified in the same manner.
19. Business hours of operation shall be between 7:00 A.M. and 9:00 P.M. daily with the sale of alcohol to occur only between the hours of 9:00 a.m. and 6:00 p.m. daily.
20. A sturdy lock and chain shall be placed across the parking lot entrance promptly at 9:00 P.M.



**CODE ENFORCEMENT COMMISSION HEARING  
SUPER LIQUOR – 125 E. ORANGE GROVE BOULEVARD  
COMMISSION'S DIRECTED CORRECTIVE ACTION  
ITEMS 1 THROUGH 20 INCLUSIVE**

1. The sale or stocking of wine products with an alcohol content greater than 14.9% are prohibited.
2. The sale or stocking of fortified beer and/or malt beverages with an alcohol content greater than 5.7% are prohibited.
3. The sale or stocking of single containers of distilled spirits, beer, malt beverages, and wine coolers in sizes of 12 oz. or less is prohibited, but may be sold in manufacturer pre-packaged multi-unit quantities.
4. The licensee is prohibited from packing merchandise in anything other than translucent plastic bags. It shall be at the City's discretion to modify this requirement as local ordinance dictates.
5. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee(s) as depicted on the ABC-257 and ABC 253 dated (Pursuant to Condition a).
6. Loitering is prohibited on or around these premises or this area under the control of the licensee(s) as depicted on ABC-257 dated March 13, 2009 (Pursuant to Condition a).
7. Signs advertising types of alcoholic beverages for sale at the subject site shall not be visible from anywhere off the site.
8. Alcohol sales shall be for off-site consumption only.
9. Management shall employ a private security guard to patrol the business premises and the surrounding vicinity, including the north side of Orange Grove Boulevard adjacent to the property, during all hours of business operation for a distance of 50 feet in each direction from the subject site to ensure that no littering, loitering, or consumption of alcohol occurs.
10. It shall be the responsibility of the business owner / operators of the business to remove identifiable litter of the business from the public right-of-way within a 500 ft. radius of said business, and make prompt notification to the Pasadena Police Department of instances of loitering or the public consumption of alcohol.
11. The site and surrounding area shall be maintained free of graffiti. Any graffiti that occurs on the site shall be removed within 48 hours.
12. The parking area shall be sufficiently lit to discourage loitering, disturbances of the peace, illegal drug activity, public consumption of alcohol, public drunkenness, public urination, gambling and/or late night activity that is prohibited by law. Such lighting shall be at an amount of not less than two footcandle nor more than three footcandle.
13. Three signs shall be posted on the premises prohibiting loitering and the consumption of alcohol on site. Such signs shall be a minimum of 24 inches wide and 18 inches tall with letters not less than two inches high.

14. No pay telephone shall be maintained on the exterior of the premises.
15. There shall be no coin operated games or video machines maintained on the premises at any time.
16. The ownership or management shall comply with all decisions, orders, or directives of the Department of Alcoholic Beverage Control.
17. The ownership or management shall obtain all required planning approval and building permits for items, signs, lighting fixtures or other appurtenances required as a result of this recommended corrective action.
18. All alcoholic beverages containers shall be identified with a sticker that has the name of the business establishment. Translucent plastic bags shall be identified in the same manner.
19. Hours of operation shall be between 7:00 A.M. and 9:00 P.M. daily.
20. A sturdy lock and chain shall be placed across the parking lot entrance promptly at 9:00 P.M.





## Super Liquor Storefront

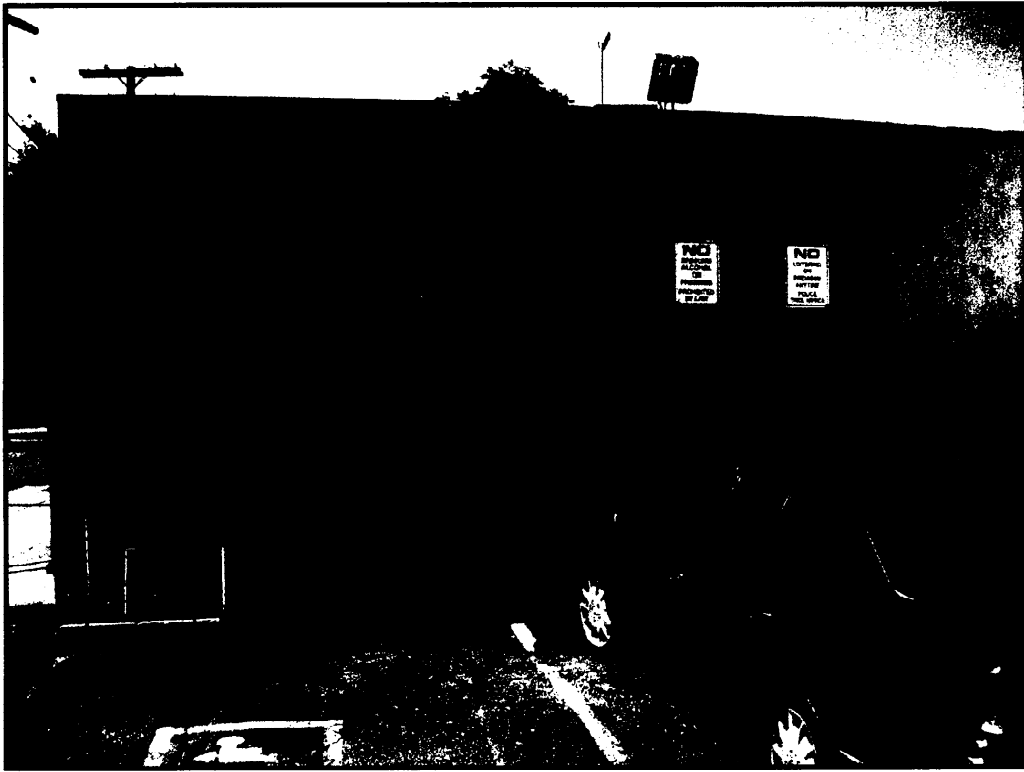


**No Visible Advertising for Alcoholic Beverages (Condition No. 7),  
No Litter (Condition No. 10) , No Graffiti (Condition No. 11),  
No Payphone (Condition No. 14)**



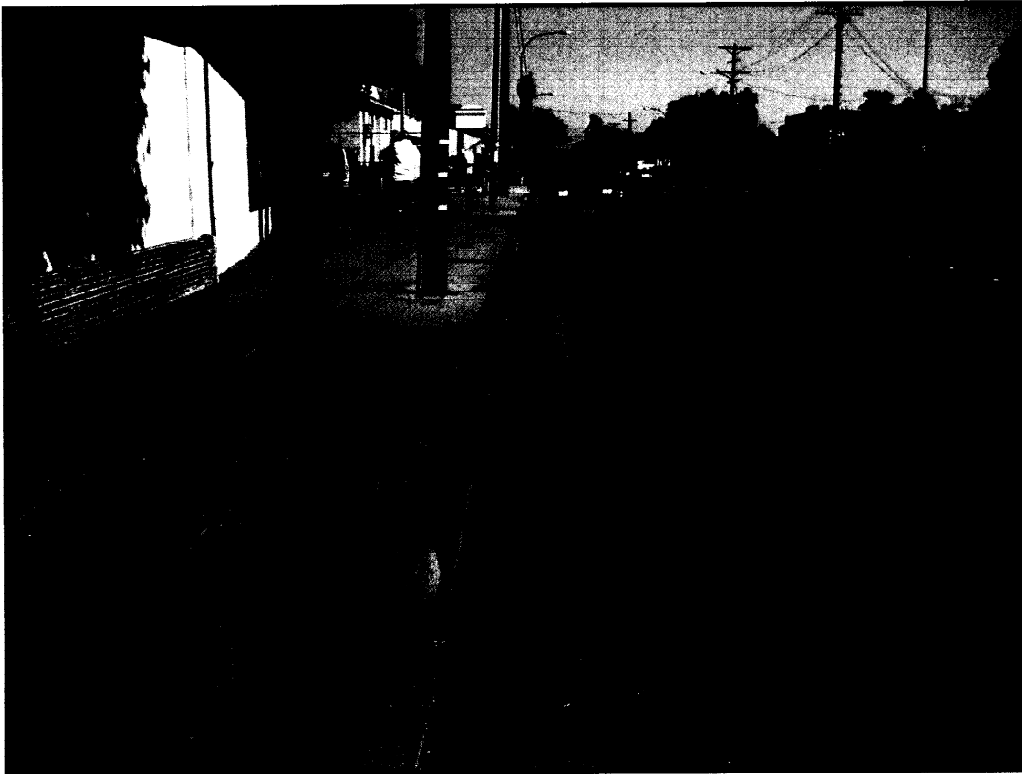
**"No Loitering" and "No Drinking Alcohol" Signs (Condition No. 13)**

## Super Liquor Parking Area

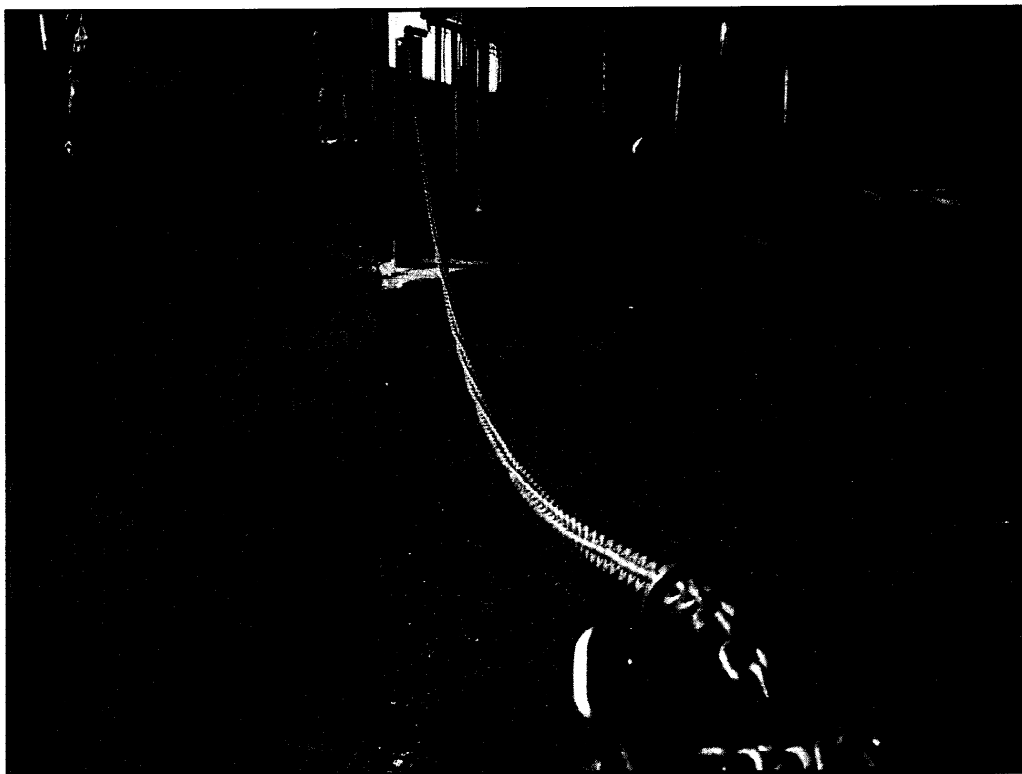


No Litter (Condition No. 10) , No Graffiti (Condition No. 11),  
Parking Area Floodlights (Condition No. 12)  
"No Loitering" and "No Drinking Alcohol" Signs (Condition No. 13)

## Super Liquor Storefront and Parking Area



No Litter (Condition No. 10) , No Graffiti (Condition No. 11),



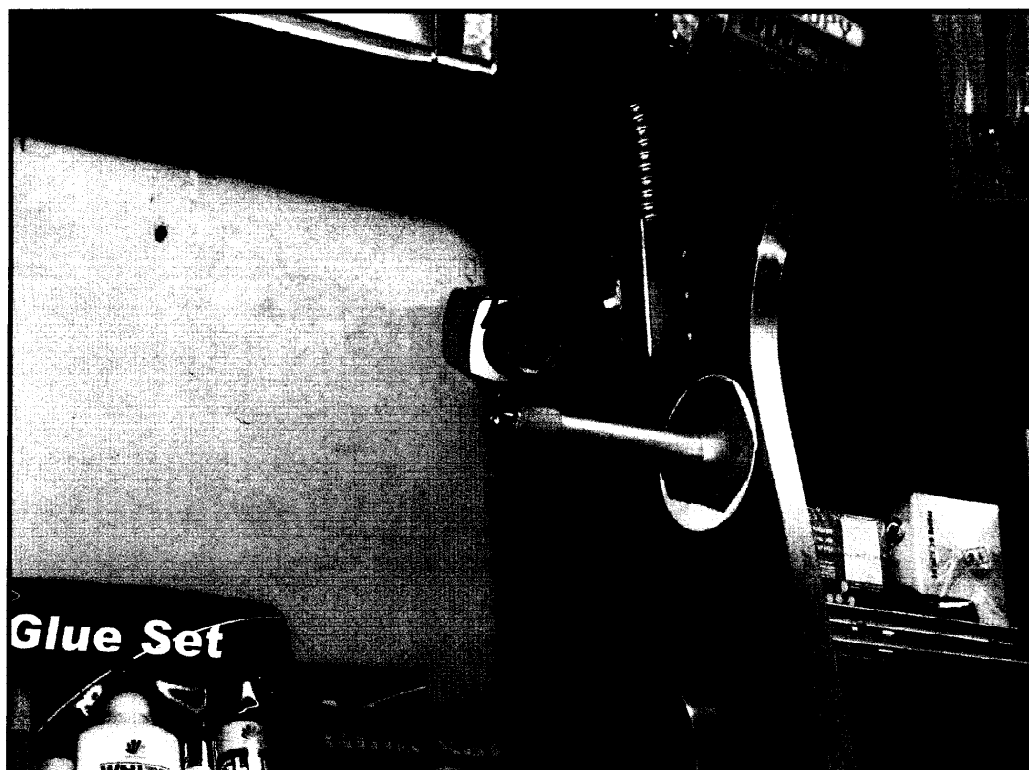
Lock and Chain to Restrict Access to Parking Area (Condition No. 20)



# Super Liquor Security: Interior Monitor and Mirrors



## Super Liquor Security: Security Cameras







**Voluntary Security Conditions:**  
**Super Liquor / 125 E. Orange Grove Boulevard**

1. Sale of single cans of beer shall be limited to 16 ounces and above.
2. Single cups, glasses, containers (paper, plastic, etc.) or individual small plastic bags of ice shall not be sold at any time.
3. All of Appellants' employees shall complete the Alcoholic Beverage Control (ABC) License Education on Alcohol & Drugs (LEAD) Program.
4. Electronic age verification device(s) used to determine the age of any individual attempting to purchase alcoholic beverages or tobacco products shall be installed on the premises at each point-of-sale location. These device(s) shall be maintained in an operational condition, and all employees shall be instructed in their use prior to the sale of any alcoholic beverage or tobacco products.
5. The Appellants shall maintain an electronic video surveillance security system to monitor the interior of the premises and the adjacent parking lot. Records of such system shall be maintained for a minimum of thirty (30) days and will be made available to the City of Pasadena for review upon request, within the stated time frame.
6. The Appellants shall post signs in two (2) conspicuous locations indentifying the name and contact information (phone number) of the Super Liquor staff member who is responsible for responding to community questions and related issues.
7. The Appellants shall post "We ID" stickers on the entry door and posters on the security glass at the pay point station.
8. The Appellants shall contact the designated senior lead law enforcement officer on a monthly basis (via e-mail) to ensure compliance with the voluntary conditions noted herein, and to advise same regarding and changed conditions of the neighborhood, community and environment. Upon such contact, Pasadena Police will provide Appellants with detailed information regarding all Police responses to premises.

**Kun Chin and Kum Man Jhae  
125 E. Orange Grove Boulevard  
Pasadena, California 91103**

January 20, 2010

Mayor Bill Bogaard and Members of the City Council  
City of Pasadena  
100 N. Garfield Avenue  
Pasadena, CA 91109

Re: Super Liquor  
125 East Orange Grove Boulevard  
January 25, 2010 Reconsideration Hearing

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Dear Mayor Bogaard and Members of the City Council:

We are the owners of Super Liquor, located at 125 E. Orange Grove Boulevard. Since purchasing Super Liquor in December 2002, our store has been a family-owned and operated business. We also employ three workers, who rely on their jobs to support themselves and their families.

Since April 2009, our business has been in compliance with conditions imposed by the Department of Alcoholic Beverage Control of the State of California. As a result, our overall sales have fallen more than 13 percent, compared to the previous year, and we have had to cut our employees' hours.

On July 27, 2009, the Pasadena City Council voted to impose additional operating restrictions on Super Liquor, and we are already in compliance with most of these conditions. However, based on our review of the store's receipts and estimates provided by potential vendors, some of these conditions severely threaten the financial viability of our small business, including the following:

- Condition No. 19 limits the hours when we can sell alcoholic beverages to 9:00 a.m. to 6:00 p.m, as well as restricting our overall hours of operation. On average, more than **35% of our revenue** from alcohol sales occurs between the hours of 6:00 p.m. and 10:00 p.m.. Our business cannot survive the loss of these operating hours.

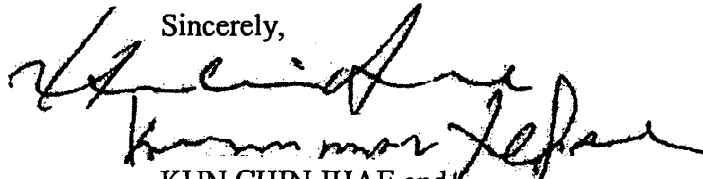
In addition, many of our customers come to the store to purchase both alcoholic beverages and other food, merchandise or household items. On average, more than 32% of our total sales occur between the hours of 6:00 p.m. and 10:00 p.m. and approximately 7% of our total sales occur between the hours of 6:30 a.m. and 9:00 a.m. However, if we are prevented from selling alcohol before 9:00 a.m. and after 6:00 p.m. we will not only lose the majority of our revenue from the sale of alcohol,

but we will also lose a large share of non-alcohol sales that accompany the sale of alcohol.

- Condition No. 18 requires us to label all alcoholic beverage containers with the name of our business. We estimate that complying with this condition will cost us between \$500 and \$1,000 per month for labels and an additional \$500 to \$1,000 per month in labor costs - totaling between ***\$12,000 to \$24,000 per year!***
- Condition No. 9 mandates that we hire a private security guard to be present at our store during all hours of operation. Even under the restricted hours that the City is attempting to impose, at \$18/hour, a private security guard will cost us more than ***\$7,500 per month and more than \$90,000 per year!*** Our small store cannot support such a huge expense and we will no doubt be forced to close.

If the City Council imposes the conditions above, we will be forced out of business. However, we believe that all of the City's concerns can be addressed through less burdensome security measures. We respectfully ask that you take the information above into consideration before you make any decisions concerning what conditions, if any, you impose on our business.

Sincerely,



KUN CHIN JHAE and  
KUM MAN JHAE

Disclosure: This letter has been translated for Kun Chin Jhae and Kum Man Jhae from their native language (Korean) into English.



12-07-09

The Honorable William Bogaard  
Mayor  
City of Pasadena  
100 N. Garfield Avenue, Room S228  
Pasadena, CA 91109-7215

Re: APN – 5725-010-041  
Super Liquor & Market (125 E. Orange Grove Boulevard)

Dear Mayor Bogaard:

The Korean American Grocers Association of California (KAGRO), established in 2001, represents more than 4,500 large and small grocery store retailers in the Southern California area. Kum Man Jhae and Kun Chin Jhae are one of our most active members and have proven to be responsible and caring operators of Super Liquor & Market. This letter is put forth in support of their reconsideration to the Pasadena City Council with respect to Conditions imposed on July 27,<sup>th</sup> 2009 by the Council.

The Jhae's are hands on owners/operators of this long established neighborhood market that provides convenient one stop shopping for food (can, dry and perishables), household items (pots, pans, cleaning items, etc.), paper goods (diapers, tissue, towels, etc.) and a restaurant, in a transit dependent neighborhood. Not only do the Jhae's operate the store, they are also the property owners.

As you well know, the Jhae's operate in a very challenging environment, yet have a very loyal customer base. Many in the neighborhood consider the Jhae's friends, and treat them like a member of their own family. To ensure the safety of their customers and staff which includes their daughter, they have implemented a number of security measures (lighting, signs, video cameras, LEAD training, etc.), which has proven successful in eliminating any negative activities associated with the subject location. The Jhae's have a "zero tolerance" policy with respect to any illegal activities around their business. Nevertheless, it appears that the Jhae's have been the unintended victims of their surroundings and are unfairly being punished. There is substantial evidence (Pasadena Police Department [PPD], Drug Enforcement Agency [DEA], Alcohol Tobacco Firearms (ATF), US Attorney's Office and Immigration Enforcement [ICE]) that most of the noted negative activities was coming from a small number of residents and their associates of the Community Arms Housing Project.



Moreover, additional negative activities are well known by law enforcement to be associated with the nature and character of the neighborhood. With respect to same, the recent multi-agency task force (see above), created to address said conditions, conducted a sixteen (16) month surveillance and under cover investigation culminating in at least 89 arrests. Since said arrests, the area is much improved, allowing families to shop and recreate in the neighborhood without the former negative elements. Much of the current improvements can be attributed to law enforcement, and measures instituted by the owners/operators of Super Liquor & Market. A testament of the owner's effort is the enclosed petition of support from a cross section of the community, confirming the improved conditions post law enforcement activities. In other words, it is clear that the problems were not with our member, but with a few residents and their associates bent on making life miserable for all of the impacted stakeholders. The Conditions, recommended by the City of Pasadena, over and above that of ABC, impose an undue and unwarranted hardship on our member, especially during these tough economic times.

On behalf of the Jhae's, the national, California and local chapters of KAGRO strongly urges you to support modifying said Conditions as requested by the law firm of Jeffer, Mangels, Butler & Marmaro, LLP (JMBM) and FMG.

Lastly, be advised that KAGRO will work with all of our members in Pasadena and surrounding cities to ensure that they are in compliance with all local codes, ordinances and procedures. Thank you for your support of our request.

Best regards,

James Kim, President  
California KAGRO

Robert Kim, Chairman  
California KAGRO

CC: Members of the Pasadena City Council



12-07-09

The Honorable William Bogaard  
Mayor  
City of Pasadena  
100 N. Garfield Avenue, Room S228  
Pasadena, CA 91109-7215

Re: APN – 5725-010-041  
Super Liquor & Market (125 E. Orange Grove Boulevard)

Dear Mayor Bogaard:

The Korean American Grocers Association of Los Angeles (KAGRO), established in 2001, represents more than 1,000 large and small grocery store retailers in the Southern California area. Kum Man Jhae and Kun Chin Jhae are one of our most active members and have proven to be responsible and caring operators of Super Liquor & Market. This letter is put forth in support of their reconsideration to the Pasadena City Council with respect to modifying Conditions imposed by the Council on July 27, 2009.

The Jhae's are hands on owners/operators (on premises everyday) of this long established neighborhood market that provides convenient one stop shopping for food (can, dry and perishables), household items (pots, pans, cleaning items, etc.), paper goods (diapers, tissue, towels, etc.) and restaurant, in a transit dependent neighborhood. The Jhae's take pride in keeping the store and the property clean and clear of litter, debris and graffiti. Moreover, they have a sophisticated security camera system that monitors the exterior and interior of the store. Video is maintained for 90 days and available to law enforcement (PPD & ABC) upon request. Additionally, the adjoining parking lot is well lighted, and secured at the close of business to prevent cars from parking overnight. As you well know, the Jhae's operate in a very challenging environment, yet have a very loyal customer base. Many in the neighborhood consider the Jhae's friends and treat them like a member of the family. Modifying the requested Conditions will allow the Jhae's to stay in business while offering a very vital service to the community, with due regard to the safety and security of same.

Hence, let it be known that KAGRO supports the modification of Conditions as requested by the law firm of Jeffer, Mangels, Butler & Marmaro, LLP (JMBM) and FMG.

Best regards,

Dalsub Yoon, President  
KAGRO Los Angeles Chapter

A handwritten signature in cursive script, appearing to read "Augustine Park".

Augustine Park, Chairman  
KAGRO Los Angeles Chapter

A second handwritten signature in cursive script, appearing to read "Augustine Park".

CC: Members of Pasadena City Council

## Jomsky, Mark

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**From:** Laurie Baer [laurie\_baer@yahoo.com]  
**Sent:** Wednesday, January 20, 2010 1:23 PM  
**To:** Jomsky, Mark  
**Cc:** De La Cuba, Vannia  
**Subject:** Super Liquor:

We are fairly new to the area, my husband Philip Kay and I moved to 580 North Raymond Avenue 2 years ago. We had great hopes for the neighborhood and Pasadena. Having been residents in Glendale for 15 years we moved here to be closer to my mother. She lives on Paloma Avenue, her home is a five minute drive from our neighborhood, but the difference is like night and day.

The main difference that I see is the need for and availability of liquor stores on every other street corner in our neighborhood and despite all the communication that occurs with the majority of the neighbors and the city it appears that Super Liquor is trying to squirm out of the limitations placed on them by the city.

If our government in Pasadena will not fight for our lovely neighborhood to keep the dangers away, we will be lost. Without protection from the evils the great tax paying residents will move away and the lovely neighborhood will have no hope.

Super Liquor got off easy, drug use and selling on their property under their aware eyes is not acceptable. Please **STAND UP FOR OUR RIGHTS!**

We love our home, now we want to say that about our neighborhood and Pasadena.

Thank You,  
Laurie Baer