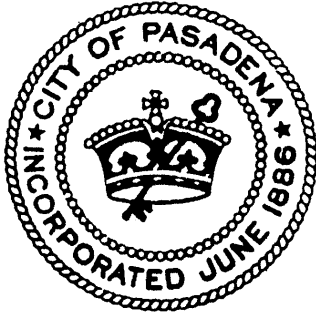


ATTACHMENT "A"



# Agenda Report

**TO:** CITY COUNCIL **DATE:** January 25, 2010  
**FROM:** CITY ATTORNEY  
**SUBJECT:** SUPER LIQUOR'S REQUEST FOR RECONSIDERATION OF  
CONDITIONS OF OPERATION IMPOSED PURSUANT TO THE  
DEEMED APPROVED ORDINANCE

## RECOMMENDATION

Staff recommends that the conditions of operation imposed on Super Liquor by the Code Enforcement Commission, as affirmed by the City Council on Super Liquor's appeal, not be modified as requested. However, clarifying language may be added to certain conditions by the City Council, as indicated in the body of the agenda report.

## BACKGROUND

Super Liquor appealed the Code Enforcement Commission's imposition of conditions of operation under the Deemed Approved Ordinance. The City Council heard the appeal on July 27, 2009. After hearing evidence from the public and the appellant, the City Council affirmed the Code Enforcement Commission's decision and imposed conditions of operation. Super Liquor has requested that certain of those conditions be modified, claiming that they are overreaching and/or preempted by state law.

The City Attorney's Office has engaged in discussions with Super Liquor regarding the modification of conditions. The requested modifications require City Council approval. The agenda report presented to the City Council on July 26, 2009, at Super Liquor's initial appeal hearing, and the Conditions imposed by the City Council are attached hereto as Exhibits 1 and Exhibit 2, for the Council's ease of reference.

This office has discussed the modification of conditions requested by Super Liquor with both the Police Department and Code Enforcement. Their recommendations are included herein.

## SUPER LIQUOR SEEKS TO MODIFY THE FOLLOWING CONDITIONS

Super Liquor seeks to modify the following 5 conditions. For the Council's

convenience, the condition is set forth, in full, followed by Super Liquor's request for modification, and then staff's analysis and recommendation.

**Condition 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.

**Request --** Remove "distilled spirits"

**Analysis --** This condition relates to the "airline" size containers of distilled spirits. The record is clear that Super Liquor has significant problems relating to drinking in public, littering and loitering. The sale of small bottles of distilled spirits is part of that problem. Although staff believes that the record supports the need for this condition, and that it may be defensible, if challenged, this would be a question of first impression for the courts, and the potential exists that a court may invalidate such a requirement. Staff recommends that this condition not be modified unless the Council desires to strengthen its position by removing the reference to "distilled spirits," or unless information is presented at the hearing which would mitigate the need for full implementation of this condition.

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**Condition 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.

**Request --** In lieu of this conditions, adopt the additional security conditions as outlined in Exhibit E, to Super Liquor's letter dated January 20, 2010.

**Analysis --** Although it is recognized that the employment of a private security guard is an additional cost to the business, the record is clear that Super Liquor has significant problems relating to littering, loitering and drinking in public. The condition is legally defensible and staff recommends that this condition not be removed. Staff does recommend that the condition be modified to clarify the role of the security guard, i.e., that they need not confront offenders; that they observe and report; and that they not patrol private property. However, if the Council finds that the additional security conditions proposed by Super Liquor will have the same affect of controlling these problems, it should consider adopting these additional security conditions in lieu of the requirement for a security guard.

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**Condition 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.

**Request** -- Modify so that litter removal is limited to the north side of E. Orange Grove up to 100 feet from the premises.

**Analysis** -- Super Liquor claims that a 500 foot radius is excessive in proportion to the size of their property. This is an incorrect analysis. The issue is whether the business is responsible for the litter. The condition addresses this by requiring that the business remove only identifiable litter. The record is clear that there is a litter problem; therefore, it is not excessive to require Super Liquor to remove only litter generated by their store. The condition is legally defensible, and staff recommends that this condition not be modified. However, information may be presented at the hearing which would mitigate the need for the full implementation of this condition.

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**Condition 18** -- All alcoholic beverage 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.

**Request** -- Eliminate the labeling requirement or modify in a commercially reasonable manner.

**Analysis** -- Litter and drinking in public were identified as significant problems. Identifying the alcoholic beverage containers and the translucent plastic bags in which they are transported will assist in identifying the place of purchase of the liquor being consumed in public and also identify the generator of the litter. The condition is legally defensible, and staff recommends that this condition not be modified. However, information may be presented at the hearing which would mitigate the need for full implementation of this condition or that would provide a better manner of identifying litter generated by the business.

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**Condition 19** -- Business hours of operation shall be between 7:00 a.m. and 9 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.

**Request** -- Permit the sale of alcoholic beverages from 9 a.m. to 9 p.m. and overall operation from 6:30 a.m. to 10:00 p.m.

**Analysis** -- The record includes evidence that there was a significant problem with loitering around the premises, including, among other times, early mornings and evenings. The condition is legally defensible, and staff recommends that this condition not be modified. However, information may be presented at the hearing which would mitigate the need for full implementation of this condition, or suggest modification of the

hours of operation by setting different times that would address the loitering issues and reduce the hours from their past operation, but slightly increase the hours from the existing condition.

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Should the Council approve any of the requested modification and/or approve any of the clarifications, it is recommended that the Council direct the City Attorney to draft such clarification or modification language.

Respectfully submitted,

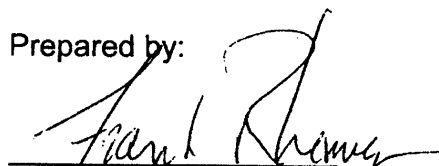
Handwritten signature of Michele Beal Bagneris, dated 1/21/10.

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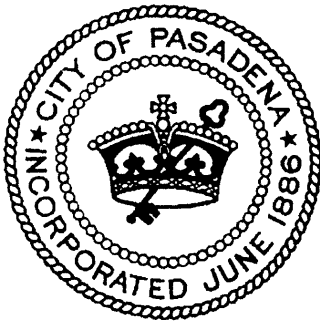
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MICHELE BEAL BAGNERIS  
City Attorney

Prepared by:

Handwritten signature of Frank L. Rhemrev.

Frank L. Rhemrev  
Assistant City Attorney



# Agenda Report

**TO:** CITY COUNCIL

**DATE:** JULY 27, 2009

**FROM:** CITY MANAGER

**SUBJECT:** APPEAL OF CODE ENFORCEMENT COMMISSION PANEL ORDER  
RE: SUPER LIQUOR – 125 E. ORANGE GROVE BLVD.

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Conduct a public hearing;
2. Following the public hearing, confirm the action of Panel No. 3 of the Code Enforcement Commission to impose conditions 1 through 20 found in Attachment 1.

## **BACKGROUND:**

Appellants Kum Man Jhae and Kun Chin Jhae are doing business as "Super Liquor" located at 125 E. Orange Grove Boulevard. The Deemed Approved Ordinance (Pasadena Municipal Code Chapter 8.18) was adopted to insure that alcoholic beverage retail sales establishments which are nonconforming because they do not have a conditional use permit for alcohol sales have no adverse impact on the community. Super Liquor does not have a conditional use permit but its operation is "deemed approved" pursuant to Chapter 8.18. The ordinance requires that these "deemed approved" liquor stores comply with the performance standards set forth in section 8.18.060.

The Deemed Approved Alcoholic Beverage Retail Sale Ordinance (see Attachment "3") allows the City greater local control over those establishments that are not regulated by conditional use permits by requiring that they adhere to certain performance standards relating to operating as a public nuisance. If an establishment fails to adhere to imposed performance standards, the City is able to impose additional conditions.

On June 4, 2009, a public hearing was held by Panel No. 3 of the Code Enforcement Commission concerning violations of the Pasadena Municipal Code at Super Liquor.

STR0881

MEETING OF \_\_\_\_\_ -07/27/2009 01/25/2010

AGENDA ITEM NO. 11-6-B-(7:30-P.M.)

Based upon findings previously made by the California Department of Alcoholic Beverage Control, the Code Enforcement Commission determined that the operation of Super Liquor constituted a nuisance under P.M.C. Section 8.18.060(A)(4)(5).

The Code Enforcement Commission, after a noticed hearing approved the conditions as set forth in "Attachment 1" and directed Kum Man Jhae and Kun Chin Jhae to take corrective actions by July 6, 2009.

**ANALYSIS:**

In correspondence dated March 17, 2009 and written by Hilarie B. Vasquez, District Administrator for the Monrovia District Office of the California Department of Alcoholic Beverage Control, it was reported that between the months of January 2007 and April 2008 the licensees of "Super Liquor" kept or permitted in conjunction with a "licensed premise, a disorderly house, or to which people resort, to the disturbance of the neighborhood or in which people abide or resort which is injurious to the public moral (sic), health, convenience or safety." Support for this determination was provided in the form a decision letter dated March 13, 2009, which indicated that the licensees had filed a "stipulation and waiver" with the ABC wherein the licensees waived their rights to a hearing, reconsideration and appeal, and in which the ABC had confirmed that the licensees had "violated or permitted violations of Business & Professions Code Section(s) 25601<sup>1</sup>, 24200(e)<sup>2</sup> and 24200.5<sup>3</sup>(a).

The Department of Alcoholic Beverage Control found that Super Liquor was a public nuisance and imposed the following conditions:

1. Wine products with an alcohol content greater than 14.9% are prohibited.
2. Fortified beer and/or malt beverages with an alcohol 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.

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<sup>1</sup> B & P 25601 "Every licensee, or agent or employee of licensee, who keeps, permits to be used, or suffers to be used, in conjunction with a licensed premises, any disorderly house or place in which people abide or to which people resort, to the disturbance of the neighborhood, or in which people abide or to which people resort for purposes which are injurious to the public morals, health, convenience, or safety, is guilty of a misdemeanor.

<sup>2</sup> B & P 24200(e) "The following are grounds that constitute a basis for the suspension or revocation of licenses: [e] Failure to take reasonable steps to correct objectionable conditions on the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee, that constitute a nuisance, within a reasonable time after receipt of notice to make those corrections from the department, under Section 373(a) of the Penal Code. For the purpose of this subdivision only, "property or premises" as used in Section 373(a) of the Penal Code includes the area immediately adjacent to the licensed premises that is owned, leased, or rented by the licensee.

<sup>3</sup> B & P 24200.5(a) "Notwithstanding the provisions of Section 24200, the department shall revoke a license upon any of the following grounds: [a] If a retail licensee has knowingly permitted the illegal sale, or negotiations of sales, of controlled substances or dangerous drugs upon his or her licensed premises. Successive sales, or negotiations of sales, over any continuous period of time shall be deemed evidence of permission. As used in this section, "controlled substances" shall have the same meaning as is given that term in Article 1 (commencing with Section 11000) of Chapter 1 of Division 10 of the Health and Safety Code, and "dangerous drugs" shall have the same meaning as is given to that term in Article 2 (commencing with Section 4015) of Chapter 9 of Division of this code.

4. The licensee is prohibited from packaging merchandise in anything other than clear plastic bags.
5. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under 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 the area under the control of the licensee(s) as depicted on ABC-257 dated (Pursuant to Condition a).

After a public hearing the Code Enforcement Commission, relying on the finding by the Department of Alcoholic Beverage Control to make a determination that Super Liquor operated as a public nuisance, imposed conditions to insure that the business will comply with the performance standards as set forth in section 8.18.060 of the Pasadena Municipal Code.

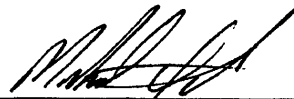
After hearing presentation of the staff report, testimony from various City staff, the licensee and approximately 1 ½ hours of testimony from members of the public in which various scenarios and descriptions of public drunkenness, public defecation, public urination, prostitution and other unlawful acts were described, Panel No. 3 of the Code Enforcement Commission approved 20 separate performance conditions regarding the general operation of Super Liquor. Those conditions are set forth in "Attachment "1"" herein.



**FISCAL IMPACT:**

Approval of the conditions in "Attachment 1" are intended to result in fewer police calls to the site, therefore reducing the fiscal burden on the City.

Respectfully submitted,



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MICHAEL J. BECK  
City Manager

Prepared by:



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Jon A. Pollard  
Code Compliance Manager

Approved by:



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Richard J. Bruckner  
Director of Planning and Development

Attachments:

1. Commission's Directed Corrective Action – Items 1 through 20 inclusive.
2. Staff Report to the Code Enforcement Commission – Super Liquor Hearing
3. Pasadena Municipal Code – Deemed Approved Ordinance

**ATTACHMENT "1"**

**CODE ENFORCEMENT COMMISSION HEARING**

**SUPER LIQUOR  
125 E. ORANGE GROVE BOULEVARD**

**COMMISSION'S DIRECTED CORRECTIVE ACTION**

**ITEMS 1 THROUGH 20 INCLUSIVE**

**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.

**ATTACHMENT "2"**

**STAFF REPORT  
TO  
THE CODE ENFORCEMENT COMMISSION**

**SUPER LIQUOR  
125 E. ORANGE GROVE BOULEVARD**

**STAFF REPORT  
CODE ENFORCEMENT COMMISSION**

**Date of Hearing:** June 4, 2009

**Deemed Approved Administrator:** Rod Olguin

**Property in Violation:** Super Liquor  
125 E. Orange Grove Boulevard  
Pasadena, CA 91103

**Violative Condition:** Operation of a public nuisance per Section 8.18.060(A)(1)(2)(3)(4)(5) of the Pasadena Municipal Code as evidenced by keeping a disorderly house, or to which people resort, to the disturbance of the neighborhood or in which people abide or resort which is injurious to the public morals, health, convenience or safety in violation of California Business and Professions Codes Sections 25601, 24200(e) and 24200.5(a).

**Assessors Parcel Number:** 5725-010-041

**Land Use:** Commercial

**Zoning:** FGSP-C-3D (Fair Oaks – Orange Grove Specific Plan – Commercial)

**Legal Description:** Refer to Attachment "D"

**Current Business Owner of Record:** Kum Man Jhae.  
125 E. Orange Grove Avenue  
Pasadena, CA 91103

**Affected ABC Respondents:** Kum Man Jhae  
Kun Chin Jhae

**Tenant Name/Address (if applicable):** N/A

**Representative Name/Address:** N/A

**Initial Inspection Date:** N/A

**Dates of Notices and Citations:** N/A

**Date of ABC Certificate of Decision:** March 13, 2009.

**Notice of Substandard Building:** N/A

**Notice of Public Hearing Mailed:** May 20, 2009

**Notice of Public Hearing Posted:** May 20, 2009

**City's Photographs Dated:** N/A

**Total Number of City's Photographs:** N/A

**Violations:**

Pasadena Municipal Code Chapter 8.18 Deemed Approved Alcoholic Beverage  
Retail Sale Ordinance

**Introduction:**

At its meeting on September 13, 2004, the City Council adopted the recommendations of the Pasadena Nuisance Off-Premise Working Group and directed the City Attorney to prepare an ordinance to implement those recommendations regarding non-conforming alcoholic beverage establishments. By amending the City's Municipal Code, the ordinance established a "deemed approved" status for nonconforming alcoholic beverage sales establishments (those who are not subject to the City's conditional permit requirements.)

The ordinance allows greater local control over those establishments that are not regulated by conditional use permits by requiring that they adhere to certain performance standards relating to operating as a public nuisance. If an establishment fails to adhere to imposed performance standards the City will be able to impose additional conditions. If the establishment, thereafter, continues to operate as a public nuisance, their deemed approved status could be revoked which could result in the closing of the establishment.

**Violation of the Pasadena Municipal Code Section 8.18.060**

**Section 8.18.060 – Performance Standards**

- A. Deemed approved activities must comply with the following performance standards:
1. It shall not result in adverse effects to the health, welfare, peace, or safety of persons visiting, residing, working, or conducting business in the surrounding area;
  2. It shall not jeopardize or endanger the public health, welfare, or safety of persons visiting, residing, working, or conducting business in the surrounding area;
  3. It shall not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood as a result of inadequate maintenance, prohibited activities, and/or operating characteristics;
  4. It shall not result in nuisance activities, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, public consumption of alcoholic beverages, harassment of passers-by, gambling, prostitution, sale of stolen goods, public urination, theft, assault, battery, vandalism, littering, loitering, graffiti, illegal parking, loud noises (especially in the late night or early morning hours,) traffic violations, curfew violations, lewd conduct, or police detentions and arrests;

5. It shall not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute.

**Property and Neighborhood Description:**

The subject property is located on the north side of Orange Grove Boulevard, at the northern terminus of Summit Avenue, between Raymond Avenue and Marengo Avenue. The subject parcel is level, generally rectangular in shape, with approximately 125 feet of frontage on Orange Grove Boulevard. The subject parcel is immediately adjacent to southern perimeter of the "Community Arms" housing project. The Community Arms housing project is a fenced, high-density multi-family residential project consisting of 133 units on a level 5.88 acre parcel. The fully fenced housing project has limited means of ingress and egress with one of the main pedestrian access points into and out of the development being directly adjacent to the east side of the Super Liquor parking lot. The general neighborhood is comprised of a wide-ranging mix of single and multiple family residences as well as various commercial uses along the major thoroughfares.

The Los Angeles County Assessor's Records indicate that the Super Liquor parcel is 10,337 square feet, with a 2,634 commercial building that was constructed in 1954.

**Background:**

Super Liquor is subject to the Deemed Approved Ordinance which was adopted by the City in 2005. The Deemed Approved Ordinance was adopted to insure that alcoholic beverage retail sales establishments which are nonconforming because they do not have a conditional use permit for alcohol sales have no adverse impact on the community<sup>1</sup>.

Super Liquor does not have a conditional use permit but its operation is "deemed approved" pursuant to Chapter 8.18. The ordinance requires that these "deemed approved" liquor stores comply with the performance standards set forth in section 8.18.060.

In a correspondence issued by Hilarie B. Vasquez, District Administrator for the Monrovia District Office of the California Department of Alcoholic Beverage Control (ABC), Ms. Vasquez reported that between the months of January 2007 and April 2008, the licensees of "Super Liquor" identified as Kum Man Jhae and Kun Chin Jhae kept or permitted in conjunction with "a licensed premise, a disorderly house, or to which people resort, to the disturbance of the neighborhood or in which people abide or resort which is injurious to the public moral (sic), health, convenience or safety."

The ABC forwarded their decision letter identified as "File : 21 – 393118" and "Reg. : 09070704" wherein respondents Jhae were accused of, and stipulated to the accusation that violations of California Business and Professions Code Sections 25601<sup>2</sup>, 24200(e)<sup>3</sup> and

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<sup>1</sup> Definition: "Nonconforming Use" A use of a structure (either conforming or nonconforming) or land that was legally established and maintained before adoption of this Zoning Code and which does not conform to current Code provisions governing allowable land uses for the zoning district in which the use is located. This includes uses that do not conform to the land use regulations for the district in which they are located and were established prior to July 1, 1985, under a use of property variance.

<sup>2</sup> B & P 25601 "Every licensee, or agent or employee of licensee, who keeps, permits to be used, or suffers to be used, in conjunction with a licensed premises, any disorderly house or place in which people abide or to which people resort, to the disturbance of the neighborhood, or in which people abide or to which people resort for purposes which are injurious to the public morals, health, convenience, or safety, is guilty of a misdemeanor.

<sup>3</sup> B & P 24200(e) "The following are grounds that constitute a basis for the suspension or revocation of licenses: [e] Failure to take reasonable steps to correct objectionable conditions on the licensed premises, including the immediately adjacent area that is owned, leased, or rented by the licensee, that constitute a nuisance, within a reasonable time after receipt of notice to make those corrections from the department,



24200.5(a)<sup>4</sup> had occurred. A photocopy of the decision letter is attached herein.

The Department of Alcoholic Beverage Control found that Super Liquor was a public nuisance and imposed the following conditions:

1. Wine products with an alcohol content greater than 14.9% are prohibited.
2. Fortified beer and/or malt beverages with an alcohol 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 manufacturer pre-packaged multi-unit quantities.
4. The licensee 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 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 (Pursuant to Condition a).

The Code Enforcement Commission can rely on the finding by the Department of Alcoholic Beverage Control to make a determination that Super Liquor operated as a public nuisance. Based upon that finding, the Code Enforcement Commission can impose conditions to insure that the business will comply with the performance standards as set forth in section 8.18.060 of the Pasadena Municipal Code.

**Attachments:**

- Attachment A: Correspondence from Hilarie B. Vasquez (ABC District Administrator) to Chief of Police Melekian.
- Attachment B: Decision Letter from ABC regarding Super Liquor
- Attachment C: Los Angeles County Assessor's Ownership Information
- Attachment D: Full Legal Description for 125 E. Orange Grove Boulevard
- Attachment E: Assessors Plat Map for 125 E. Orange Grove Boulevard
- Attachment F: Area Map for 125 E. Orange Grove Boulevard
- Attachment G: Aerial Photograph of Area Surrounding 125 E. Orange Grove Boulevard

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under Section 373(a) of the Penal Code. For the purpose of this subdivision only, "property or premises" as used in Section 373(a) of the Penal Code includes the area immediately adjacent to the licensed premises that is owned, leased, or rented by the licensee.  
<sup>4</sup> B & P 24200.5(a) "Notwithstanding the provisions of Section 24200, the department shall revoke a license upon any of the following grounds: [a] If a retail licensee has knowingly permitted the illegal sale, or negotiations of sales, of controlled substances or dangerous drugs upon his or her licensed premises. Successive sales, or negotiations of sales, over any continuous period of time shall be deemed evidence of permission. As used in this section, "controlled substances" shall have the same meaning as is given that term in Article 1 (commencing with Section 11000) of Chapter 1 of Division 10 of the Health and Safety Code, and "dangerous drugs" shall have the same meaning as is given to that term in Article 2 (commencing with Section 4015) of Chapter 9 of Division of this code.

- Attachment H: Aerial Photograph of 125 E. Orange Grove Boulevard
- Attachment I: Street Level Photograph of 125 E. Orange Grove Boulevard
- Attachment J: Zoning Map – Area of 125 E. Orange Grove Boulevard
- Attachment K: ABC Licensure Data for Super Liquor
- Attachment L: Photocopy of Grant Deed for 125 E. Orange Grove Boulevard

**Recommended Commission Findings:**

(I move that) The Commission makes the following factual findings:

1. That Kun Chin Jhae and Kum Man Jhae are the current owners of the business known as "Super Liquor" and were the owners of "Super Liquor" at the time of the ABC enforcement action described herein.
2. That Kun Chin Jhae and Kum Man Jhae were duly notified of the alleged violations of the Pasadena Municipal Code and properly informed of the hearing date.
3. That on March 13, 2009, the Department of Alcoholic Beverage Control issued a decision that Kum Man Jhae and Kun Chin Jhae were operating Super Liquor in violation of Business and Profession Code Section 25601, 24200(e) and 24200.5(a).
4. That on March 17, 2009, the Department of Alcoholic Beverage Control addressed correspondence by official business letter to Pasadena Chief of Police Bernard Melekian advising that Super Liquor has been determined to be "a disorderly house, or to which people resort, to the disturbance of the neighborhood or in which people abide or resort which is injurious to the public moral, health, convenience or safety."
5. That Kim Man Jhae and Kun Chin Jhae were made aware of the fact that the Department of Alcoholic Beverage Control had accused respondents Jhae of operating "a disorderly house, or to which people resort, to the disturbance of the neighborhood or in which people abide or resort which is injurious to the public moral, health, convenience or safety" in violation of Business and Professions Code Sections 25601, 24200(e) and 24200.5(a).
6. That the Commission accepted into the administrative record the following documents at the hearing of June 4, 2009:
  - a) Exhibit 1 – Staff Report
5. That Kun Chin Jhae [and/or] Kum Man Jhae appeared and testified on his/her/their own behalf at the hearing of June 4, 2009, regarding the findings of the March 13, 2009, Alcoholic Beverage Commission decision;

or

That (representative) appeared and testified on behalf of Kun Chin Jhae [and/or] Kum Man Jhae at the hearing of June 4, 2009;

or

That neither Kun Chin Jhae or Kum Man Jhae appeared at the hearing of June 4, 2009.

6. That based upon the finding by the California Department of Alcoholic Beverage Control, the operation of Super Liquor constituted a nuisance.
7. That the imposition of the conditions set forth below are necessary to ensure conformity with the performance standards and will allow Super Liquor to maintain its Deemed Approved status, with the proviso that any future violations can result in the revocation of the deemed approved status.
8. That these conditions shall apply to all future owners / operators of the business, currently known as Super Liquor located at 125 E. Orange Grove Boulevard, Pasadena, CA 91103.

**Recommended Commission Corrective Action:**

The Commission orders the addition and imposition of the following conditions to ensure conformity with the performance standards and hereby directs Kum Man Jhae and Kun Chin Jhae to take the following corrective actions within thirty (30) calendar days from the mailing date of the Order of the Code Enforcement Commission:

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 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 clear 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 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. It shall be the responsibility of the business owner / operators of the business to remove such litter from the public right-of-way, and make prompt notification to the Pasadena Police Department of instance of loitering or the public consumption of alcohol. Such patrol of the premises and surrounding vicinity shall occur a minimum of three times daily including one-time each before the hours of 11:00 a.m., 4:00 p.m., and 9:00 p.m. of each business day.
10. The site and surrounding area shall be maintained free of graffiti. Any graffiti that occurs on the site shall be removed within 48 hours.
11. 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.
12. 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.
13. 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.

Submitted by:



Jon Pollard, Code Compliance Manager

Date: May 7, 2009

## DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Monrovia District Office  
222 E. Huntington Dr., Ste. 114  
Monrovia, CA 91016  
(626) 256-3241



March 17, 2009

Chief Bernard Melekian  
Pasadena Police Department  
207 N Garfield Ave  
Pasadena, CA 91101

Kum Man JHAE  
Kun Chin JHAE  
Super Liquor  
125 E Orange Grove Blvd  
Pasadena, CA 91103-3422  
File No. 21-393118  
Reg.: 09070704

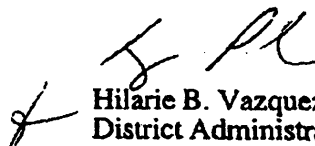
Dear Chief Melekian:

Between the months of January 2007 and April 2008, the respondent-licensee kept or permitted in conjunction with a licensed premises, a disorderly house, or to which people resort to the disturbance of the neighborhood or in which people abide or resort which is injurious to the public moral, health, convenience or safety.

The license has been ordered revoked, with revocation stayed for 2 years, until March 13, 2011, with a 15 day suspension. The 15 day suspension was placed into effect on March 17, 2009.

Licensed privileges may not be exercised during the suspension period mentioned above, but may be exercised after that period for the remainder of the stayed revocation.

Sincerely,

  
Hilarie B. Vazquez  
District Administrator

HBV:da

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE ACCUSATION AGAINST:

Kun Man Jhae  
Kun Chin Jhae  
Super Liquor  
125 E Orange Grove Blvd.  
Pasadena, CA 91103

OFF-SALE GENERAL LICENSE

FILE : 21 - 393118

REG. : 09070704

DECISION

Respondent(s)/Licensee(s)  
under the Alcoholic Beverage Control Act.

The above-entitled matter having regularly come before the Department for decision; and it appearing to the Department that the respondent(s) has filed a stipulation and waiver in connection with the accusation herein in which respondent(s) waives right to hearing, reconsideration and appeal; and good cause appearing therefor, the Department now finds as follows:

That cause for disciplinary action has been established.

Determination of issues presented: That respondent(s) violated or permitted violation of Business & Professions Code Section(s) 25601, 24200(e) and 24200.5(a).

Grounds for suspension or revocation have been established under Article XX, Section 22 of the State Constitution and Business and Professions Code Section 24200(a&b).

Wherefore, it is hereby ordered that the license(s) issued to respondent(s) at the above-mentioned premises be revoked, with said revocation stayed for a period of two years from the effective date of the Department's decision until March 13, 2011, upon the following conditions:

1. That the license be suspended for a period of 15 days, beginning upon service of notice.
2. That no cause for disciplinary action occur within the stayed period.
  - (a) The Licensee(s) shall submit a revised diagram of the licenses premises, ABC-257 and revised supplemental diagram ABC-253.
  - (b) The Licensee(s) shall petition for a conditional license containing the following restrictions:
    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.

If cause for disciplinary action occurred during the stayed period, the Director of the Department of Alcoholic Beverage Control may, in his discretion and without further hearing, revoke the license. Should no cause for disciplinary action occur during the stayed period, the license shall become permanent.

Attachment "B"

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE ACCUSATION AGAINST:

Kum Man Jhae  
Kun Chin Jhae  
Super Liquor  
125 E Orange Grove Blvd.  
Pasadena, CA 91103

OFF-SALE GENERAL LICENSE

FILE : 21 - 393118

REG. : 09070704

**DECISION**

Page 2 of 2

Respondent(s)/Licensee(s)  
under the Alcoholic Beverage Control Act.

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. The licensee 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 licensed premises under the control of the licensee(s) as depicted on 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 (Pursuant to Condition a).

**CERTIFICATE OF DECISION**

It is hereby certified that on March 13, 2009 the Department of Alcoholic Beverage Control adopted the foregoing as its decision in the proceeding therein described effective immediately.

Sacramento, California

Dated: March 13, 2009

By \_\_\_\_\_ Helen McConville  
Supervisor, Hearing & Legal

**Attachment "B"**

Owner Name	Parcel Number / Property Tax ID	Site Address	Mail Address
JHAE,KUN C & KUM M	5725-010-041	125 E ORANGE GROVE BLVD PASADENA, CA 91103-3422	125 E ORANGE GROVE BLVD PASADENA, CA 91103-3422

**Property Profile****Ownership Information**

<b>Primary Owner</b>	JHAE,KUN C & KUM M
<b>Secondary Owner</b>	
<b>Ownership Description</b>	
<b>Site Address</b>	125 E ORANGE GROVE BLVD
<b>Site City, St Zip</b>	PASADENA, CA 91103-3422
<b>Mail Address</b>	125 E ORANGE GROVE BLVD
<b>Mail City, St Zip</b>	PASADENA, CA 91103-3422
<b>Telephone</b>	
<b>Census Tract</b>	4620.00
<b>Legal Description</b>	L H MICHENER'S SUB OF THE N 38.86 ACS OF BLK U PAINTER AND BALL'S ADD TO PASADENA LOT COM AT NE COR OF LOT 64 TH W ON N LINE OF SD LOT 165.95 FT TH S 16.33 FT TH E 31 FT TH S 56.67 FT TH
<b>Lot/Block</b>	64/U
<b>Housing Tract / Subdivision Name</b>	MICHENERS L H

**Property Details**

<b>Use Description</b>	STORES, RETAIL OUTLET		
<b>State</b>	CALIFORNIA	<b>County/Municipality</b>	LOS ANGELES
<b>RTSQ</b>		<b>Total Rooms</b>	
<b>Zoning</b>	PSC*	<b>Bedrooms</b>	
<b>Number Of Units</b>		<b>Bathrooms</b>	
<b>Year Built/Effect Yr Built</b>	1954 / 1956	<b>Basement Square Feet</b>	
<b># Of Stories</b>		<b>Basement Description(s)</b>	
<b>Lot Size</b>	1,692,741 SQFT / 38.8600 Acres	<b>View</b>	
<b>Usable Lot Size</b>	10,337 SQFT / 0.2373 Acres	<b>Pool</b>	
<b>Lot Depth</b>		<b>FirePlace</b>	
<b>Lot Width</b>		<b>HT/AC</b>	
<b>Square Feet</b>	2,634	<b>Cooling Detail</b>	
<b>Square Ft 1st Fir</b>		<b>Heating Detail</b>	
<b>Square Ft 2nd Fir</b>		<b>Roof Type</b>	
<b>Square Ft 3rd Fir</b>		<b>Construction Quality</b>	
<b>Additions - Square Feet</b>		<b>Construction Type</b>	
<b>Parking</b>		<b>Exterior</b>	
<b>Parking Square Feet</b>		<b>Foundation</b>	
<b>New Page Grid</b>	565 -H3	<b>Building Shape</b>	
<b>Map Page Grid</b>			

**Tax Information**

<b>Assessor's Parcel Number / Tax ID</b>	5725-010-041	<b>Assessor's Market Value</b>	\$0
<b>Alt Assessor's Parcel Number</b>		<b>Exemption</b>	
<b>Assessed Total</b>	\$529,263	<b>Tax Amount</b>	\$6,457.34
<b>Land Total</b>	\$385,939	<b>Tax Status</b>	Current
<b>Improvement</b>	\$143,324	<b>Year Delinquent</b>	
<b>Percent Improvement</b>	27%	<b>Tax Rate Area</b>	7695

**Sale Information**

<b>Last Sales Date</b>	January 3, 2003		
<b>Document Number</b>	0000014630	<b>1st Loan Amount</b>	\$670,000
<b>Sale Value</b>	\$480,000 (Full)	<b>First Loan Type</b>	Conventional
<b>Last Transaction W/O \$</b>		<b>2nd Loan Amount</b>	
<b>Last Transaction W/O \$ Doc</b>		<b>Cost / Square feet</b>	\$182
<b>Title Company</b>	CHICAGO TITLE		

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This information is compiled from public documents and is not guaranteed.

Attachment "C"



**SEE EXHIBIT A**

Page 1  
Order No. 26062868

**DESCRIPTION**

3

**PARCEL 1:**

THE EAST 100 FEET OF THE SOUTH 65 FEET OF LOT 64 OF L. H. MICHENER'S SUBDIVISION OF THE NORTH 38.86 ACRES OF BLOCK "U" OF PAINTERS AND BALL'S ADDITION TO PASADENA, IN THE CITY OF PASADENA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 14 PAGE 77, MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**PARCEL 2:**

THE NORTH 20 FEET OF THE EAST 166 FEET OF LOT 64 OF L. H. MICHENER'S SUBDIVISION OF THE NORTH 38.86 ACRES OF BLOCK "U" OF PAINTER AND BALL'S ADDITION TO PASADENA, IN THE CITY OF PASADENA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 14 PAGE 77, MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM THE PORTION THEREOF LYING WITHIN THE NORTH 3.67 FEET OF THE SOUTH 68.67 FEET OF THE WEST 31 FEET OF THE EAST 166 FEET OF SAID LOT 64.

**PARCEL 3:**

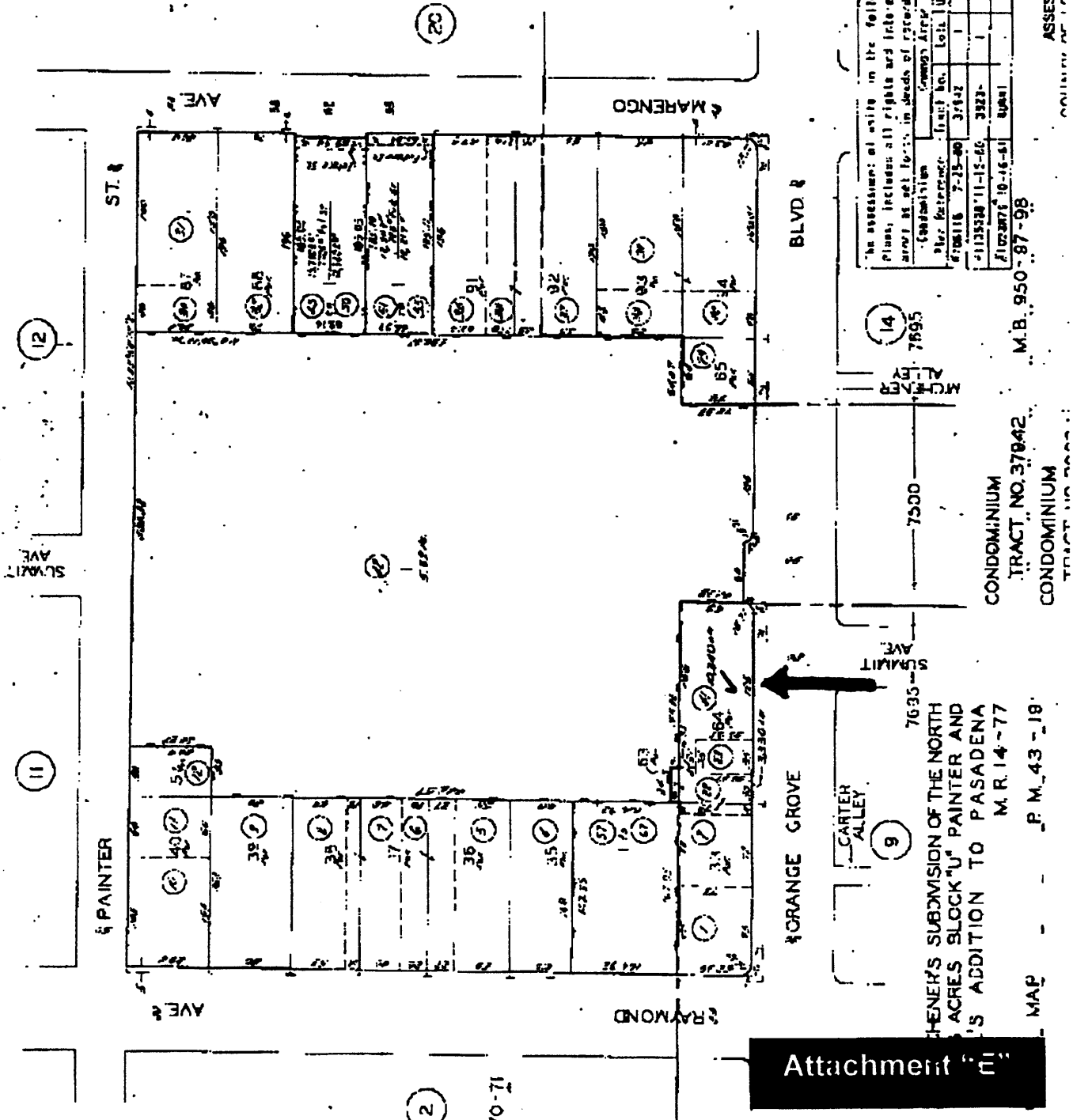
THE WEST 35 FEET OF THE EAST 135 FEET OF THE SOUTH 65 FEET OF LOT 64 OF L. H. MICHENER'S SUBDIVISION OF THE NORTH 38.86 ACRES OF BLOCK "U" OF PAINTER AND BALL'S ADDITION TO PASADENA, IN THE CITY OF PASADENA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 14 PAGE 77, MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THE NORTHERLY 8 FEET OF THE SOUTHERLY 12 FEET OF SAID LAND AS CONVEYED TO THE CITY OF PASADENA FOR STREET PURPOSES.

**03 0014630**

**Attachment "D"**

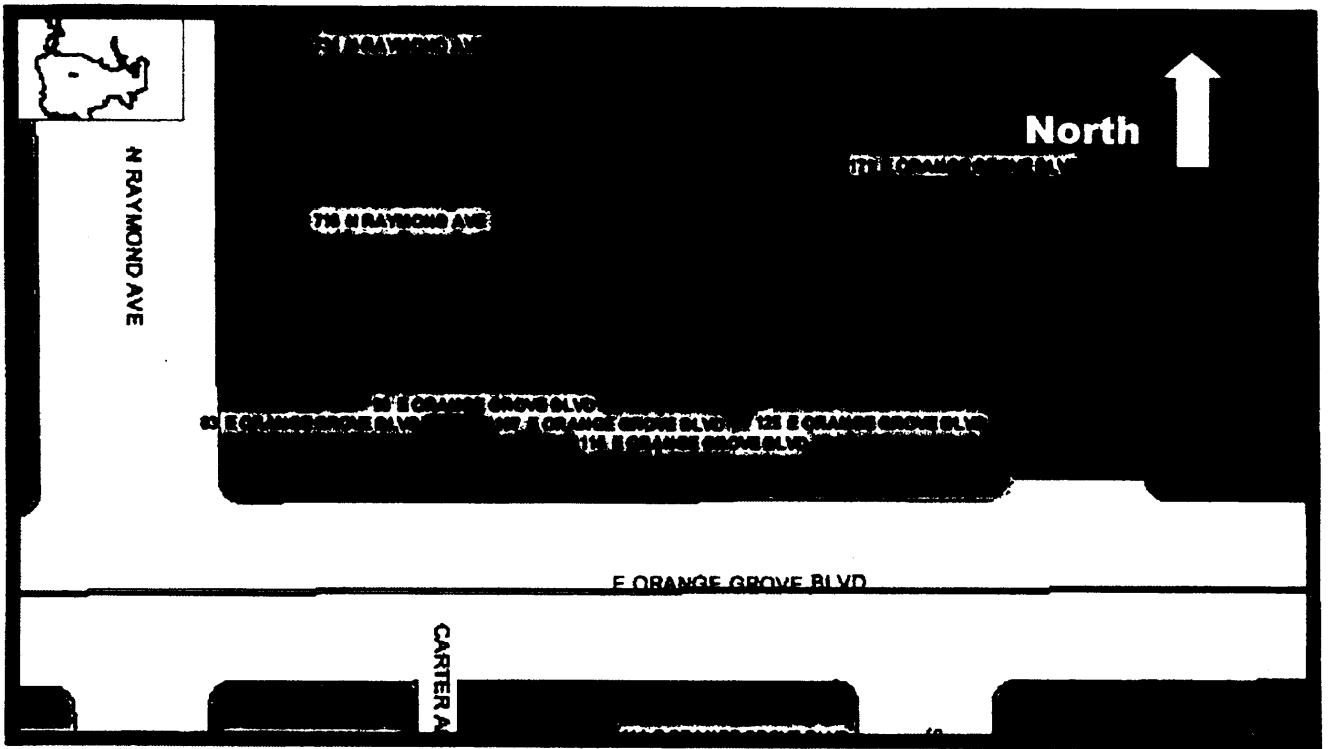
SECTION  
2054000000  
ZONING  
R-010000



The assessment of units in the following Condominium Plans, includes all rights and interests in the common areas as set forth in deeds of record.

Condominium Plan No.	Lot No.	Units	Assessment at Allegata
7-25-80	3742	---	Sheet 2
11-15-80	3823-	1	Sheet 2
19-16-81	equal	---	Sheet 3

Attachment "11"



Area Map  
Super Liquor  
125 E. Orange Grove Boulevard