

**BOARD OF ZONING APPEALS
STAFF REPORT**

DATE: May 20, 2009

TO: Board of Zoning Appeals

FROM: Zoning Administrator

SUBJECT: (ZA#32) Appeal of Zoning Administrator's Interpretation on Section 17.71.060.B of the Zoning Code, Abatement and Termination – Termination by discontinuance. Specifically, the section states that a nonconforming use that is discontinued or changed to a conforming use for a continuous period of at least 12 months shall not be reestablished, and the use of the structure or site thereafter shall conform to the current provisions of the Zoning Code for the subject zoning district.

APPELLANT: Sterge Demetriades

ZONING ADMINISTRATOR RECOMMENDATION:

The Zoning Administrator recommends that the Board of Zoning Appeals:

1. Adopt the Environmental Determination for the project as being categorically exempt in compliance with the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3); and
2. Uphold the decision of the Zoning Administrator regarding Section 17.71.060.B of the Zoning Code, that the nonconforming alcohol sales at 217 So. Michigan Ave. (Eddie's Market) has been discontinued for more than a year and cannot be reestablished.

ENVIRONMENTAL DETERMINATION:

Under CEQA Guidelines, Article 5, Section 15061(b)(3) describes the "general rule." The general rule states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The action of the Board of Zoning Appeals regarding the Zoning Administrator's interpretation of Section 17.71.060.B of the Zoning Code, Abatement and Termination – Termination by discontinuance will not result in an impact and can be seen with certainty to have no significant effect on the environment.

BACKGROUND:

What is before the Board of Zoning Appeals is the appeal of a decision by the Zoning Administrator that the sales of beer and wine for off-site consumption cannot be reestablished at 217 South Michigan Avenue (Eddie's Market). The property is located in the RM-48 (Multi-Family Residential, 48 units per acre), and is currently developed with a commercial building, which is and has been used as a food market (Food Sales land use). The property also had a

license from the California Department of Alcoholic Beverage Control (ABC) to sell beer and wine for off-site consumption (Alcohol Sales, Beer and Wine land use). Both these uses are considered nonconforming uses since they are not allowed in the RM-48 Zoning District.

A review of City records for the property shows that the property operated continuously as a food market since the 1950's (according to the earliest record with the Zoning Section). In regards to the alcohol sales land use, according to ABC, the beer and wine license associated with this address was surrendered on September 20, 2007. When a license is surrendered, the license holder is no longer allowed to sell alcohol. According to the Department of ABC this license was surrendered voluntarily.

On November 29, 2008, the appellant wrote a letter to the City requesting written determination of the nonconforming uses at the property. On December 15, 2008, and December 31, 2008, the City responded to the letter stating that the food market use can continue to operate since there has been a business license for that use on the property for the last 12 months, however alcohol sales ceased to exist on the property for over 12 months and therefore cannot be reestablished.

Between the two letters written by the City in response to the appellant's request (December 15, 2008 and December 31, 2008), the appellant also requested written clarification on the City's procedures for interpreting the Zoning Code and the appeal process of the interpretation. On December 24, 2008 the City responded with another letter clarifying the interpretation and appeal procedure.

A timeline of the recent actions at this property are as follows:

| TIMELINE FOR EDDIE'S MARKET | |
|------------------------------------|---|
| May 2006 | New business owner, Bella Vita, takes over Eddie's Market; it held an ABC license for beer and wine |
| Fall 2007 | Bella Vita was evicted and market was closed |
| September 20, 2007 | Bella Vita surrendered ABC license |
| September 2007 | Owners took control of the market |
| May 2008 | New business owner (Lee) reopened Eddie's market but does not sell alcohol |
| September 20, 2008 | 12-month period in which to reestablish nonconforming alcohol sales runs out |
| November 29, 2008 | Appellant sends letter to the City regarding nonconforming uses |
| December 2008 | City responded to the appellant's letter |
| January 2009 | Appeal application submitted |

The appellant submitted the appeal of the Zoning Administrator's interpretation of the nonconforming alcohol sales at 217 South Michigan Avenue on January 8, 2009 based on the fact that Section 17.71.060.B.3.a.2 of the City's Zoning Code states:

(2) If the [nonconforming] use is discontinued for a continuous period of 12 months or more, the land or structure shall lose its nonconforming status. The use shall be considered discontinued when any of the following apply:

(a) The intent of the owner to discontinue use of the nonconformity is apparent; or

(b) Where characteristic furnishings and equipment of the use have been removed and not replaced with equivalent furnishings and equipments during this time.

The appellant argues that he never intended to discontinue the use for a continuous period of 12 months since repairs to the market has been under way since September 2007, when the last tenant was evicted.

On April 24, 2009, the appellant submitted additional information stating that he had contacted the Zoning Division prior to the sales of alcohol being discontinued for a period of 12 months and was informed by the Zoning Division that the property would not lose its nonconforming status since the property was being repaired. The appellant then argues that since he was informed that the property would not lose its nonconforming status, "the City is estopped to assert that the nonconforming use is lost". On April 24, 2009, the appellant also submitted copy of petitions supporting the sales of alcohol at Eddie's Market.

ANALYSIS:

Intent to discontinue use

In considering any interpretation of the Zoning Code, the Zoning Administrator reviews the language identified in the Zoning Code and the intent. In this case, the provisions of Section 17.71.060.B.3.a.2 state that a use shall be considered discontinued when the intent of the owner to discontinue use of the nonconformity is apparent; or where characteristic furnishings and equipment of the use have been removed and not replaced with equivalent furnishings and equipments during this time.

The appellant argues that he never intended to discontinue the use for a continuous period of 12 months since repairs to the market has been under way since September 2007, when the last tenant was evicted.

In such situations, the property owner is required to show to the satisfaction of the Zoning Administrator that he never intended to discontinue the nonconforming use. Based on the facts submitted by the appellant, the Zoning Administrator found that the appellant has not provided sufficient fact to show his intent to continue the nonconforming sales of alcohol for the following reasons:

1. According to City records, no building, electrical, or mechanical permits were applied for nor issued between September 2007 and the present time. As such, the City has no records that the appellant was repairing the property with the intentions of continuing the alcohol sales use. The Zoning Administrator has interpreted the Zoning Code such that if a building permit has been issued, then the 12-month time period for the loss of nonconforming uses is halted. Again, no building permits were issued for this property during that time period.

2. According to the appellant, the new tenant (Lee) was approached by the previous tenant (Bella Vita) and offered to sell the alcohol license for \$5,000. Not purchasing the previous

tenant's alcohol license is contrary to the argument that the appellant intended to continue selling alcohol on the premises. The owner demonstrated his intent not to sell alcohol (and thus abandon the nonconformity) by not purchasing the alcohol license from the previous tenant. In several meetings with the staff, the property owner informed staff that the reason that they did not purchase the alcohol license was that the previous tenant was asking too much for the license.

3. In the appeal package, there is information that the new tenants hired a broker to obtain the alcohol license, but not until May 2008. According to the information provided, the broker informed the new tenants that the City or Department of ABC would not reissue an alcohol permit because the property is located across the street from a park and the only way they could continue to sell alcohol is to obtain the license from the previous tenant. This statement is inconsistent with the information the City would provide because the City would check the Zoning District when determining if alcohol sales is permitted on a property or not. Parks and other sensitive uses are analyzed as part of the Conditional Use Permit process for alcohol sales but not used in determining if alcohol sale is allowed on a property. The City also checked with the Department of ABC and ABC stated similar procedures, that an applicant may apply for a license and proximities to parks would only be an issue if there are protests to the application. As such, staff determined that this statement is incorrect and therefore cannot be used to determine the appellant's intent to continue selling alcohol. In addition, the length of time that it took for the applicant to hire the broker weighs against any serious intention to maintain alcohol sales.

Estoppel

In the latest correspondence to the City, the appellant argues that the City is estopped to assert that the nonconforming alcohol sales use is lost, since the City advised the appellant that the site will not lose its nonconforming use of alcohol sales because it was under remodel.

Generally speaking, four elements must be present in order to apply the doctrine of estoppel against the City: (1) the City must have been apprised of the facts; (2) the City must intend that its conduct shall be acted upon, or must so act that the applicant had a right to believe it was so intended; (3) the applicant must be ignorant of the true state of facts; and (4) the applicant must rely upon the City's conduct to its injury. However, California law establishes that the applicant faces daunting odds in establishing estoppel against a governmental entity in a land use case. Courts have severely limited the application of estoppel in land use cases by balancing the injustice done to the private person with the public policy that would be supervened by invoking estoppel to grant land use rights outside of the normal planning and review process. The courts have established an overriding concern that public policy may be adversely affected by the creation of precedent where estoppel can too easily replace the legally established substantive and procedural requirements for obtaining permits or other land use approvals. In other words, courts have expressly limited the application of estoppel in the land use context in only "the most extraordinary case where the injustice is great and the precedent set by the estoppel is narrow."

In this instance, during the 12 month window in which the applicant could have acted to protect the nonconforming alcohol sales use, the applicant fails to show that the City was fully apprised of the facts or intended that its over-the-counter advice could be relied on, in that there is no evidence in the City's files that the applicant discussed the issue with the City or sought building permits for improvements that would have stopped the running of the 12 month period. Second, there is evidence that the applicant fully understood the true state of facts in that the applicant

admits to having discussions with the prior tenant about the need to acquire the license from the prior tenant. Finally, there is no evidence that the applicant relied on the City's advice to its injury, since the only evidence in the City's files is that the applicant did not correspond with the City about the nonconforming alcohol sales until after the 12 month period had run.

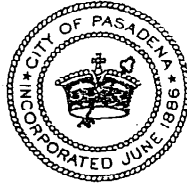
CONCLUSION:

The Zoning Administrator's interpretation accurately interprets the Zoning Code and is consistent with the intent of the Zoning Code. As previously pointed out, by virtue of the applicant not purchasing the ABC license from the previous owner, it was his intent to abandon the nonconforming alcohol sales. If the Board of Zoning Appeals upholds the Zoning Administrator's interpretation then the alcohol sales use cannot be reinstated on the property.

ATTACHMENTS:

- Attachment A – Zoning Administrator Letter – Dated – December 31, 2008
- Attachment B – Appeal Application – Received – January 8, 2009
- Attachment C – Letters from appellant – Dated – April 24, 2009

Attachment A – Zoning Administrator Interpretation Letter – Dated – December 31, 2008



PLANNING & DEVELOPMENT DEPARTMENT
PLANNING DIVISION

REVISED

December 31, 2008

Mr. and Mrs. S. T. Demetriades
2065 Vista Ave
Sierra Madre, CA 91024-1553

**RE: Request for information regarding a nonconforming use at 217 S. Michigan Ave.
Pasadena, CA**

Dear Mr. and Mrs. Demetriades:

This revised letter is in response to your letter dated November 29, 2008, regarding your business located at 217 S. Michigan Ave (Eddie's Market) in the City of Pasadena. Specifically, you are asking if you are allowed to continue the market at the subject property and can you continue the alcohol sales which were part of the market. Markets are classified as "Food Sales" or if they are 3,500 square feet or less are classified as a "Convenience Stores" use. According to records from ABC, Eddie's Market had a license to sell beer and wine. This property is located within the RM-48 Zoning District (Multi-Family Residential), and "Food Sales," "Convenience Stores" and "Alcohol Sales" uses are not allowed uses in the RM-48 Zoning District, therefore the uses were considered a legal nonconforming use.

Chapter 17.71 of the City of Pasadena Zoning Code regulates Nonconforming Uses and Structures. Specifically, Section 17.71.060.B of the City's Zoning Code states that a nonconforming use that is discontinued for a continuous period of at least 12 months shall not be reestablished. According to the City's Records, the market has been in existence at the subject location without a cease in the business license, therefore the market on the property may continue to exist.

From the limited information contained in your letter, it appears that the alcohol sales use ceased to exist on the subject property around September 2007 when you took possession of the business from the existing tenant. Therefore the alcohol sales has been discontinued for a period of more than 12 months and can not be reestablished.

This decision is appealable to the Board of Zoning Appeals. If you are interested in filing an appeal, please come to Window #3 in the Permit Center (175 No. Garfield) and get an appeal application. There is a fee of \$650.00 to file such an appeal. In filing such an appeal, you will need to show how the use has not been discontinued for a period of 12 months. The last day to

file an appeal is Monday, January 12, 2009. The decision becomes effective Tuesday, January 13, 2009. I have enclosed a copy of the appeal application.

Hopefully this information is of assistance. Please call our office if you have additional questions or have concerns with any other zoning matter. Our office hours are 8:00 AM until 5:00 PM, Monday through Thursday, and 8:00 AM until 12:00 PM on Fridays. You may contact our office by telephone at (626) 744-6777.

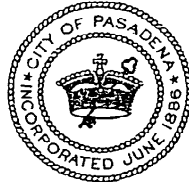
Sincerely,

A handwritten signature in cursive script, appearing to read "Denver E. Miller".

Denver E. Miller
Zoning Administrator

DEM:byu

cc: 2008 Reading File



PLANNING & DEVELOPMENT DEPARTMENT
PLANNING DIVISION

December 15, 2008

Mr. and Mrs. S. T. Demetriades
2065 Vista Ave
Sierra Madre, CA 91024-1553

**RE: Request for information regarding a nonconforming use at 217 S. Michigan Ave.
Pasadena, CA**

Dear Mr. and Mrs. Demetriades:

This letter is in response to your letter dated November 29, 2008, regarding your business located at 217 S. Michigan Ave (Eddie's Market) in the City of Pasadena. Specifically, you are asking if you are allowed to continue the market at the subject property and can you continue the alcohol sales which were part of the market. Markets are classified as "Food Sales" or if they are 3,500 square feet or less are classified as a "Convenience Stores" use. According to records from ABC, Eddie's Market had a license to sell beer and wine. This property is located within the RM-48 Zoning District (Multi-Family Residential), and "Food Sales," "Convenience Stores" and "Alcohol Sales" uses are not allowed uses in the RM-48 Zoning District, therefore the uses were considered a legal nonconforming use.

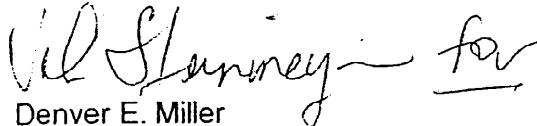
Chapter 17.71 of the City of Pasadena Zoning Code regulates Nonconforming Uses and Structures. Specifically, Section 17.71.060.B of the City's Zoning Code states that a nonconforming use that is discontinued for a continuous period of at least 12 months shall not be reestablished. According to the City's Records, the market has been in existence at the subject location without a cease in the business license, therefore the market on the property may continue to exist.

From the information contained in your letter, it appears that the alcohol sales use ceased to exist on the subject property sometime between 2006 and early 2007, therefore the alcohol sales has been discontinued for a period of more than 12 months and can not be reestablished.

This decision is appealable to the Board of Zoning Appeals. If you are interested in filing an appeal, please come to Window #3 in the Permit Center (175 No. Garfield) and get an appeal application. There is a fee of \$650.00 to file such an appeal. In filing such an appeal, you will need to show how the use has not been discontinued for a period of 12 months.

Hopefully this information is of assistance. Please call our office if you have additional questions or have concerns with any other zoning matter. Our office hours are 8:00 AM until 5:00 PM, Monday through Thursday, and 8:00 AM until 12:00 PM on Fridays. You may contact our office by telephone at (626) 744-6777.

Sincerely,

A handwritten signature in cursive script that reads "Denver E. Miller" followed by a horizontal line and the word "for" written in a smaller, simpler script.

Denver E. Miller
Zoning Administrator

DEM:byu

cc: 2008 Reading File



REQUEST FOR APPEAL

APPLICATION INFORMATION

Project Address: 217 S. Michigan Avenue, Pasadena, CA
Case Type (MCUP, TTM, etc.) and Number: Zoning Administrator interpretation
Hearing Date: Not applicable Appeal Deadline: 1/12/09

APPELLANT INFORMATION

APPELLANT: Sterge Demetriades, Trustee Telephone: 626 355-3535
Address: 2065 Vista Avenue Fax: 626-355-3536
City: Pasadena State: CA Zip: 91024-1553 Email:
APPLICANT (IF DIFFERENT):

I hereby appeal the decision of the:

- Hearing Officer
Design Commission
Historic Preservation
Zoning Administrator
Director of Planning and Development
Film Liaison

REASON FOR APPEAL

The decision maker failed to comply with the provisions of the Zoning Code, General Plan or other applicable plans in the following manner (use additional sheets if necessary):

See attachment.

Handwritten signature of Sterge Demetriades, Trustee

Signature of Appellant

The Demetriades Family Trust
LAD 20 Dec 1983

Date

OFFICE USE ONLY
PLN # CASE # PRJ #
DESCRIPTION
DATE APPEAL RECEIVED: APPEAL FEES: \$ RECEIVED BY:

ATTACHMENT TO REQUEST FOR APPEAL

PROPERTY ADDRESS: 217 SOUTH MICHIGAN AVENUE

APPEAL OF ZONING ADMINISTRATOR DETERMINATION REGARDING
LEGAL NONCONFORMING USE FOR ALCOHOL SALES.

Appellant appeals the determination of the Zoning Administrator in his letter of December 31, 2008 that the legal nonconforming use for alcohol sales at the captioned premises has been discontinued for a period of more than twelve months and cannot be re-established.

The decision is based on Pasadena Zoning Code Section 17.71.060.B.

The premises have been continuously operated as a market with beer and wine sales for more than twenty five years. Attached is a letter from Appellant to the Zoning Administrator dated November 29, 2008 which contains a background of the use of the property. Appellant acquired the property in 1980. The market was existing then as a market with sales of beer and wine and Appellant's tenants have continuously used it for that purpose since Appellant acquired the property in 1980. Appellant's tenants, the Stantons, operated the market for approximately 23 years until March, 2005. A new tenant, Bella Vita Culinary Services and its owner Kimberly Dalley, took over the premises in or about 2005. Bella Vita obtained a transfer of the liquor license from the prior tenants, the Stantons.

Bella Vita was evicted from the premises in September, 2007 after defaulting under the lease.

After Bella Vita vacated the premises, Appellant made repairs and performed work to ready the premises for lease to a new tenant as a market with beer and wine sales. A new lease was signed in April, 2008 with Sang and Soo Lee, who were recommended by City Health Inspector, William Kimura.

The new tenants always intended to keep the same use for the property, i.e., a market with sales of beer and wine.

Attached is a January 5, 2009 letter from the Lees to Appellant's attorney, Scott W. Carlson, outlining the background and their efforts to obtain an ABC license.

In or about May, 2008, the Lees hired a broker, Reiko Sakata, based upon the recommendation of Mr. Kimura, to obtain the beer and wine license. A copy of the Lees' check to Ms. Sakata dated May 21, 2008 is attached. The Lees were advised that it would take two to three months and after waiting a few months, contacted Ms. Sakata who advised that she had been in a bad car accident. The Lees waited for a response. Ms. Sakata eventually called to advise that the ABC would not issue a license under current zoning because there was a park

across the street. Apparently, Ms. Sakata was not aware that there was a legal, nonconforming use for the sales of alcohol.

In May, 2008, the Lees also were approached by representatives of the former tenant, who advised that she would sell the beer and wine license to the Lees for the sum of \$5,000. Attached is a handwritten letter of January 5, 2009 from Soo Lee concerning the offer by the former tenant to transfer the license for a sum of \$5,000. The Lees pursued this with Ms. Dalley. However, ultimately the former tenant would not transfer the ABC license. The Lees were misled into believing that the liquor license was going to be transferred.

The Lees wish to apply to the Department of Alcohol and Beverage Control for a new license to continue the legal nonconforming use of beer and wine sales at the premises.

The Zoning Administrator's determination appears based on 17.71.010.B.3.2. That section provides:

- (2) If the use is discontinued for a continuous period of 12 months or more, the land or structure shall lose its nonconforming status. The use shall be considered discontinued when any of the following apply:
 - (a) The intent of the owner to discontinue use of the nonconformity is apparent;
or
 - (b) Where characteristic furnishings and equipment of the use have been removed and not replaced with equivalent furnishings and equipment during this time.

Clearly, there has been no intent to discontinue the use. After Bella Vita was evicted, Appellant made repairs and performed work to ready the premises to be re-let for the same use. The current tenants have made reasonable efforts to obtain the license. The tenants have reasonably relied on others but have been misinformed or misled in their efforts. The consultant retained by the tenant did not provide correct information. Further, the former tenant, after initially advising that she would transfer the license ultimately refused to do so. The tenants wish to apply to the ABC for a new license.

Further, there has been no removal of furnishings or equipment. After the last tenant vacated, the Appellant repaired the premises for the new tenants. Attached are Appellant's records reflecting payments and expenses for the property. This is also set forth in the attached summary that has previously been provided by Appellant.

Appellant submits that there has been no discontinuance of the legal, non-conforming use. Reasonable efforts have been made and are being made to obtain the ABC license for the beer and wine sales and the tenants should be allowed to proceed with that application.

Appellant requests that the Board of Zoning Appeals reverse the determination of the Zoning Administrator and find that the premises have not lost the legal nonconforming use for alcohol sales.

MR. AND MRS. S. T. DEMETRIADES
2065 Vista Avenue
Sierra Madre, CA 91024-1553
Tel. (626) 355-3535, Fax (626) 355-3536, Cell (818) 400-3300

29 November 2008

Mr. Denver Miller
Zoning Administration, City of Pasadena
175 N. Garfield Ave.
Pasadena, CA 91101-1704

Tel. 626-744-6733

Subject: ABC License, 217 S. Michigan Ave. (Eddie's Market): Request for continuation of non-conforming use.

Dear Mr. Miller:

1. The undersigned Sterge T. and Anna Demetriades are the Trustees of the Demetriades Family Trust (DFT), UAD 20 December 1983, owner of the property at 217 S. Michigan Ave. in Pasadena, known as Eddie's Market, operating continuously for more than 50 years, written up in the Star News repeatedly and under DFT ownership for about 27 years.
2. Our tenants of 23 years, the Stantons, stopped paying rent in March 2005. They operated with an ABC license that we transferred to them. In April 2005 we immediately advertised for tenants and started renovating the place to comply with all new requirements by the city of Pasadena under the guidance and advice of Mr. Wm. Kimura, Health Department Inspector for the City of Pasadena. To the best of our recollection, he assured us, our help and our licensed contractors that he was the city authority or intermediary in charge of all our relations with and enforcement of requirements by the city of Pasadena.
3. For example, he suggested where to buy the required stainless steel sinks, specified what materials to use on the walls and floor of the food preparation section, how to re-pipe with copper, how the floor should drain, how to clean and re-galvanize the walk-in cooler, install electrical lines for air screens and many, many other details. We were very impressed by him and his advice and accepted his assurances about his being the intermediary with the City.
4. The store was rented to a young lady with a diploma (we believe from the Culinary Arts Institute of New York) who claimed she had experience with University catering and other applicable qualifications. She signed the lease in September of 2005 but did not start operations until Memorial Day of 2006, having obtained the ABC license from the Stantons. Unfortunately, she operated the store only from about 10 AM to 5 PM and only on weekdays.
5. She was in default of the NNN lease she had signed, on several counts, when she asked us to sign some document for a USSBA loan in which we had to state that she was **not** in default. We were advised to tell the facilitating Bank about the defaults: they then advised us not to sign to avoid perjuring ourselves. About that time the young lady stopped paying rent (last rent June 2007) and we had to evict her in the fall of 2007. Immediately we started repairs of the damage and changes she had made not authorized by the lease and initiated a search for a new experienced and hard-working tenant.

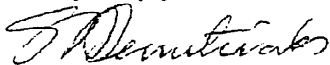


6. We took possession in or about September 2007 and had the store leased (after the repairs) to a couple, after we checked with Mr. Kimura, by 1 April 2008. Our understanding was that our new tenant had received verbal assurances by the young lady (tenant of 2005-2007) that she was to sell and transfer the ABC license to the new tenant but she changed her mind and decided to keep the license for herself.

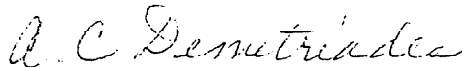
7. If you couple all the problems – the underperforming tenant, the economic depression/recession, the violations of the lease, the repairs of damage done to premises, etc. to the physical condition of Mrs. Demetriades and Mr. Demetriades (both handicapped) – we believe we have performed more than enough to prove that we never intended to “discontinue the use of the nonconformity” and if anything we improved “the characteristic furnishings and equipment of the use” and have never “removed and not replaced” any of the appropriate equipment. In fact, as late as last August (2008), we discovered that the HVAC and walk-in cooler compressor (both installed new in 2006) had not been properly checked in April 2008 by the AirTro Company of Monrovia and requested them to correct the installation (to drain condensate properly) and re-check all units.

8. We request that you grant a continuation of the non-conforming use.

Very truly yours,



S. T. Demetriades



A. C. Demetriades

PASADENA EDDIE'S MARKET, INC

EDDIE MARKET
217 S. MICHIGAN AVE.
PASADENA, CA 91106
626-795-2447

JANUARY 5, 2009

SCOTT W. CARLSON
301 E. COLORADO BLVD.
PASADENA, CA 91101

RE: EDDIE'S MARKET BEER & WINE LICENSE

DEAR: MR. CARLSON,

WE ARE WRITING IN REGARDS TO ABOVE REFERENCE. FIRST, LET ME INTRODUCE OUR SELF. BEFORE TAKING OVER EDDIES MARKET, WE USED TO OWN AND RUN A DELI/CAFÉ IN A HIGH RISE BUILDING IN PASADENA FOR 12 YEARS. IT WAS CALLED "BIG BEN'S DELI CAFÉ LOCATED AT 199 S. LOS ROBLES AVE. PASADENA, CA 91101. WE OWNED AND WORKED VERY HARD AT THIS LOCATION SINCE MARCH 1996 - JANUARY 2008. WHILE WE OWNED THE DELI, WE CATERED FOR MAJOR COMPANIES IN PASADENA, JUST TO NAME FEW "PASADENA WATER & POWER, AARP, RAYTHEON, KAISER PERMENTE, AMERON, PASADENA VISTOR CENTER, JACOBS ENG., & MANY LAW FIRMS IN PASADENA AREA. (TOO MANY TO NAME.) IF YOU CALL ANY OF THESE COMPANIES, THEY WILL TELL YOU ANYTHING YOU WANT TO KNOW ABOUT US. WE PROVIDED THEM WITH BEST SERVICE AND BEST & FRESH FOOD.

WE EVEN RECEIVED MANY AWARDS FROM THE CITY OF PASADENA HEALTH DEPARTMENT FOR KEEPING THE DELI AT BEST DURING THE PAST 12 YEARS. THE REASON WE LEFT, WAS WE WERE BURNED OUT AND NEEDED A CHANGE IN OUR LIVES. AND TAKE OUR FIRST VACATION IN 12 YEARS.

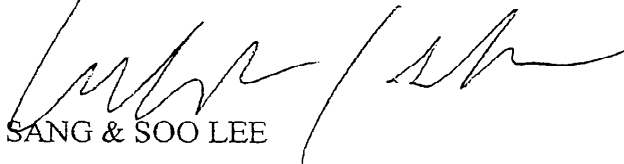
WHILE WE WERE HOME RELAXING AND DOING NOTHING WE GOT A PHONE CALL FROM ONE OF THE HEAD HEALTH INSPECTOR WHO KNOW US FROM BIG BEN'S DELI , SAID THAT THERE IS A MARKET/DELI NEAR CAL-TECH AND THE LANDLORD IS LOOKING FOR SOMEONE WHO IS EXPERENCED TO RUN THE PLACE. THEREFORE, THE INSPECTOR ASKED US

IF WE WERE INTERESTED. IF WE WERE, HE WOULD RECOMMENED US TO THE LANDLORD. THE LANDLORD CHECKED OUR BACKGROUND AND OUR CREDIT REPORT AND SHE WAS HAPPY.

SINCE THIS WAS FIRST BUSINESS THAT NEEDED BEER/WINE LICENSE, WE ASKED THE INSPECTOR IF HE KNEW ANYBODY WHO CAN HELP US. HE RECOMMENED REIKO SAKATA. HE (INSPECTOR) SAID, SHE IS A REAL ESTATE BROKER AND HELP PEOPLE GET THE LICENSE. SHE BEEN DOING THIS FOR MANY YEARS. THEREFORE, WE CALLED HER AND PAID HER \$1,500.00 FOR THE SERVICE TO GET THE LICENSE. SHE SAID IT WOULD TAKE TWO- THREE MONTHS. AFTER FEW MONTHS PAST, I CALLED REIKO TO FIND OUT WHAT HAPPEN AND SHE SAID SHE WAS IN A BAD CAR ACCIDENT. WHAT CAN I SAY, SO I WAITED. THEN ONE DAY REIKO CALLED AND SAID THAT THE CITYOF PASADENA WILL NOT ISSUE NEW LICENSE TO BUSINESS WITH PARK ACROSS THE STREET. THE ONLY WAY WAS IF KIMBERLY TRANSFER TO US. WHICH SHE DID NOT. REIKO FOUND OUT WHERE KIMBERLY LIVED AND WENT TO SEE HER AND HAD A LONG TALK WITH HER.

I THINK KIMBERLY IS JUST GIVING HARD TIME FOR EVERYBODY. IF YOU HAVE ANY QUESTIONS, PLEASE CALL ME ANYTIME AT 818-620-2922.

Sincerely,



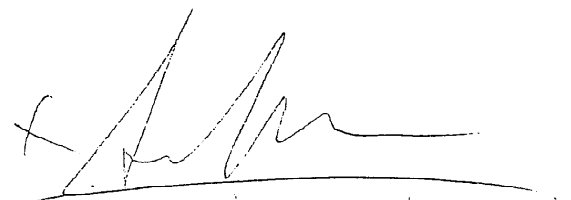
SANG & SOO LEE

Re: EDDIES MARKET

January 5, 2009

To whom may it concern:

On MAY, 2008 Saturday, three man
came to Eddies Market ate Luncheon
(ate 3 Teriyaki) and after they ate
they said they were friends of Kimberly.
They wanted \$5,000 for the Beer + Wine
License Kimberly was holding from
EDDIES MARKET when she used to run it.
They said, this is the only way we
can the license.


Soo Jung Lee

Demetriades All Accounts
Profit & Loss Detail
January 2005 through December 2008

TOTAL 2005-2008
\$ 114,345.52

| Type | Date | Num | Name | Memo | Clr | Split | Amount | Balance |
|----------------------------------|-----------|-------|----------------------|---|-----|--------------|----------|-----------|
| Ordinary Income/Expense | | | | | | | | |
| Expense | | | | | | | | |
| 217 So. Michigan | | | | | | | | |
| Gardening | | | | | | | | |
| Check | 9/12/2008 | 25750 | Uriel Garcia, 217... | 217; Gardening; July, August; 08; 09; Se... | | B.O.A. 2-... | 50.00 | 50.00 |
| Check | 11/5/2008 | 25851 | Uriel Garcia, 217... | 217; Gardening; Sept08-Oct08; 03; No... | | B.O.A. 2-... | 50.00 | 100.00 |
| | | | Total Gardening | | | | 100.00 | 100.00 |
| Office Expense | | | | | | | | |
| Check | 8/28/2008 | 25717 | Collette Mohr | 217 Office; Inv177; 8/24-8/27/08; Copi... | | B.O.A. 2-... | 49.10 | 49.10 |
| Check | 9/3/2008 | 25726 | Collette Mohr | 217; Copies of Bills; 30 August; 2008 | | B.O.A. 2-... | 76.39 | 125.49 |
| | | | Total Office Expense | | | | 125.49 | 125.49 |
| Maintenance & Repairs | | | | | | | | |
| Check | 4/6/2005 | 16808 | Foothill Lock & K... | Keys | | B.O.A. 6-... | 133.50 | 133.50 |
| Check | 4/18/2005 | 23311 | Thrifty Glass & ... | 217 So. Michigan, Eddie's Mkt, 2 Glass... | | B.O.A. 2-... | 485.40 | 618.90 |
| Check | 4/21/2005 | 23314 | Arrow Restaurant... | Per City Inspector Replace Sinks To Co... | | B.O.A. 2-... | 1,116.72 | 1,735.62 |
| Check | 4/23/2005 | 23317 | Alex Barkauskas | 217 S. Mi. Reprs, SSN#557-96-4896#; ... | | B.O.A. 2-... | 727.50 | 2,463.12 |
| Check | 4/24/2005 | 23321 | Starting Over (Al... | 217 S. Mich. Reprs; Cust#419; Inv#574... | | B.O.A. 2-... | 420.29 | 2,883.41 |
| Check | 4/28/2005 | 23323 | Roy Adcox Plum... | 217 S. Mi. Repr Toilet; Inv. #2... | | B.O.A. 2-... | 200.00 | 3,083.41 |
| Check | 4/28/2005 | 23330 | Roy Adcox Plum... | 217 S. Mi. Repr Sinks; Inv. #01676 Part... | | B.O.A. 2-... | 500.00 | 3,583.41 |
| Check | 5/3/2005 | 23339 | Roy Adcox Plum... | 217 S. Mi. Reprs; Inv. #01676 Part# thr... | | B.O.A. 2-... | 772.00 | 4,355.41 |
| Check | 5/5/2005 | 23342 | Kuttruff Plumbing | 217 SMI Eddie's Repr; Inv#4698; #4/21... | | B.O.A. 2-... | 276.20 | 4,631.61 |
| Check | 5/12/2005 | 23360 | Starting Over (Al... | 217 SMI, Reprs; Cust#419; Inv#6220#; ... | | B.O.A. 2-... | 700.00 | 5,331.61 |
| Check | 6/2/2005 | 23397 | G-E-M Plumbing... | 217 So Mich; Misc Plumbing, Install; in... | | B.O.A. 2-... | 1,500.00 | 6,831.61 |
| Check | 6/5/2005 | 23399 | SALAM REFRIG... | 217 SMI; Service & Repair Gaskets; Inv... | | B.O.A. 2-... | 160.00 | 6,991.61 |
| Check | 6/16/2005 | 23422 | Collette Mohr | 217 S Grills & Racks; Invoice 78072; 6/1... | | B.O.A. 2-... | 132.00 | 7,123.61 |
| Check | 6/16/2005 | 23426 | Starting Over (Al... | 217 SMI, Reprs; Cust#419; Inv#6221#; ... | | B.O.A. 2-... | 705.00 | 7,828.61 |
| Check | 6/29/2005 | 23441 | California Pavin... | 217 SMI.; Repr Driveway; Inv#111387... | | B.O.A. 2-... | 2,700.00 | 10,528.61 |
| Check | 7/13/2005 | 23471 | Starting Over (Al... | 217 SMI, Reprs; Cust#419; Inv#6222#6... | | B.O.A. 2-... | 1,192.50 | 11,721.11 |
| Check | 7/26/2005 | 23500 | West Coast Gal... | 217 Reprs; Regalvanize Walkin Cool... | | B.O.A. 2-... | 64.00 | 11,785.11 |
| Check | 8/2/2005 | 23512 | Collette Mohr | 217 #565-19-7744#; Inv34; 16hr; 7/22... | | B.O.A. 2-... | 136.00 | 11,921.11 |
| Check | 8/14/2005 | 23533 | Martin Ceramic ... | 217 Rettle Deli/Health Dept Regs; #Inv... | | B.O.A. 2-... | 2,150.00 | 14,071.11 |
| Check | 8/16/2005 | 23541 | Vince Osterlag | 217 Eddie's; Repairs-Walkin CoolerL... | | B.O.A. 2-... | 100.00 | 14,171.11 |
| Check | 8/20/2005 | 23542 | Industrial Metals | 217 Al; 12"x10"x1/16" Repr Eddie's Mr... | | B.O.A. 2-... | 141.24 | 14,312.35 |
| Check | 8/20/2005 | 23543 | Vince Osterlag | 217 Eddie's; Repairs-Walkin CoolerL... | | B.O.A. 2-... | 250.00 | 14,562.35 |
| Check | 8/20/2005 | 23545 | Vince Osterlag | 217 Eddie's; Repairs-Walkin CoolerL... | X | B.O.A. 2-... | 0.00 | 14,562.35 |
| Check | 8/30/2005 | 23562 | Industrial Metals | 217, Stainless Steel, 22 gage, 46"x59"... | | B.O.A. 2-... | 104.64 | 14,666.99 |
| Check | 9/12/2005 | 23579 | Starting Over (Al... | 217 SMI, Reprs; Cust#419; Inv#6223#7... | | B.O.A. 2-... | 1,380.00 | 16,046.99 |

**Demetriades All Accounts
Profit & Loss Detail**

January 2005 through December 2008

10:56 AM
12/31/08
Accrual Basis

| Type | Date | Num | Name | Memo | Clr | Split | Amount | Balance |
|--------------------------------|------------|-------|---------------------|--------------------------------------|-----|--------------|----------|-------------|
| Check | 9/17/2005 | 23593 | Pasadena Water... | 217+213;Wtr/Swr;Ac#54795-0#;7/5... | | B.O.A. 2-... | 23.48 | 3,172.67 |
| Check | 9/26/2005 | 23612 | AT & T (217 S... | 217S;Ac#030 344 5893 001#;9/10/05 | | B.O.A. 2-... | 48.15 | 3,220.82 |
| Check | 10/11/2005 | 23654 | Athens Services | 217SoMich;Ac#28569-000#;Oct05;... | | B.O.A. 2-... | 93.00 | 3,313.82 |
| Check | 11/5/2005 | 23723 | AT & T (217 S... | 217S;Ac#030344 5893001#;10/10/0... | | B.O.A. 2-... | 45.80 | 3,359.62 |
| Check | 11/18/2005 | 23747 | Pasadena Water... | 217+213;Wtr/Swr;Ac#54795-0#;8/3... | | B.O.A. 2-... | 21.54 | 3,381.16 |
| Check | 11/18/2005 | 23748 | Pasadena Water... | 217SoMiElectric#54794-3#8/31/05-1... | | B.O.A. 2-... | 620.01 | 4,001.17 |
| Check | 11/28/2005 | 23753 | The Gas Comp... | 217SoMich;#08962112374#;10/19/... | | B.O.A. 2-... | 27.19 | 4,028.36 |
| Check | 11/10/2006 | 23842 | The Gas Comp... | 217SoMich;#08962112374#;11/16/... | | B.O.A. 2-... | 32.90 | 4,061.26 |
| Check | 2/1/2006 | 23891 | The Gas Comp... | 217SoMich;#08962112374#;12/16/... | | B.O.A. 2-... | 34.60 | 4,095.86 |
| Check | 3/16/2006 | 23960 | The Gas Comp... | 217SoMich;#08962112374#;01/23/0... | | B.O.A. 2-... | 29.35 | 4,125.21 |
| Check | 3/31/2006 | 23986 | The Gas Comp... | 217SoMich;#08962112374#;02/21/... | | B.O.A. 2-... | 29.34 | 4,154.55 |
| Check | 5/5/2006 | 24055 | Pasadena Water... | 217+213;Wtr/Swr;Ac#54795-0#;11/... | | B.O.A. 2-... | 42.81 | 4,197.36 |
| Check | 5/15/2006 | 24061 | The Gas Comp... | 217SoMich;#08962112374#;03/22/... | | B.O.A. 2-... | 27.02 | 4,224.38 |
| Check | 10/12/2007 | 25108 | Jeandrew Brink, ... | 213;ReimbursementforUtilities.217... | | B.O.A. 2-... | 296.00 | 4,520.38 |
| Check | 11/16/2007 | 25199 | Pasadena Water... | 217SM;Ac#379657-0#;Sep07-31Oc... | | B.O.A. 2-... | 129.92 | 4,650.30 |
| Check | 1/14/2008 | 25298 | Pasadena Water... | 217+213;Wtr/Swr;#379657-0#;10/3... | | B.O.A. 2-... | 61.26 | 4,711.56 |
| Check | 3/13/2008 | 25426 | Pasadena Water... | 217+213;Wtr/Swr;#379657-0#;1/07... | | B.O.A. 2-... | 134.32 | 4,845.88 |
| Check | 5/20/2008 | 25537 | Pasadena Water... | 217+213;Wtr/Swr;#379657-0#;3/4-0... | | B.O.A. 2-... | 191.98 | 5,037.86 |
| Total Utilities | | | | | | | | 5,037.86 |
| 217 So. Michigan - Other | | | | | | | | |
| Check | 4/11/2005 | | BofA Cash With... | 1139+Eddie'sCleaning | | B.O.A. 2-... | 1,000.00 | 1,000.00 |
| Check | 12/8/2005 | | Kimberly Dalley | BouncedCheck#1564#ForNov2005 | | B.O.A. 2-... | 3,000.00 | 4,000.00 |
| Check | 10/24/2007 | 25149 | Kimberly Dalley | CaseNo.07JU00457;PasadenaCourt... | | B.O.A. 2-... | 2,505.00 | 6,505.00 |
| Total 217 So. Michigan - Other | | | | | | | | 6,505.00 |
| Total 217 So. Michigan | | | | | | | | 106,350.52 |
| Total Expense | | | | | | | | 106,350.52 |
| Net Ordinary Income | | | | | | | | -106,350.52 |
| Net Income | | | | | | | | -106,350.52 |

BELL VITA CULINARY SERVICES

1. REFUNDED MS. KIM DALEY FOR NEW COMPRESSOR (INV.# 3065 FROM HAMILTON REFRIGERATION, DATED 10AUG2006) BY BOFA MONEY ORDER CASHIERS CHECK # 202-3364787# DATED 20 DEC 2006 - - - - - 3,000.-

2. AIRTRIO HVAC, INSTALLED 7 DEC 2006 - - - - - 7995.-

TOTAL THRM DEC 2008 = \$114,345.52



1630 SOUTH MYRTLE AVE. • MONROVIA, CA 91016-4634
PHONE: (626) 357-5311 • FAX: (626) 358-9580

Date: 8/5/08

To FAX # 626 355 3536

From: FAX # (626) 358-9580

Company: t

Dept: _____

Attention: _____

EDDIE'S MARKET

ALSO CORRECTED INSTALLATION OF WALK-IN COOLER COMPRESSOR!

12 APR INVOICE # 235030 \$ 286.70
2008 (DFT)

MARCH 2007 (KIM'S) # 220043 \$ 53.50

EDDIE'S
DEC 2006 (DFT) # 290714 \$ 4995.00

THANK YOU

From: Air-Tro Incorporated TIMOTHY X 19

No. of pages: 1

** Please call back vocally if this transmission is garbled **

**Demetriades All Accounts
Profit & Loss Detail**
January 2005 through December 2008

11:13 AM
12/31/08
Accrual Basis

| Type | Date | Num | Name | Memo | Clr | Split | Amount | Balance |
|---|------------|-------|------------------------|-------------------------------------|-----|------------|----------|-----------|
| Ordinary Income/Expense | | | | | | | | |
| Expense | | | | | | | | |
| Credit Cards | | | | | | | | |
| ACD+stdVISA4147-1106-9922-1449 | | | | | | | | |
| Check | 9/9/2007 | 25035 | CITI CARDS ACDS... | See Letter 9 Sept 2007 Charges 1... | | B.O.A. ... | 849.48 | 849.48 |
| Check | 9/14/2007 | 25048 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | X | B.O.A. ... | 0.00 | 849.48 |
| Check | 10/19/2007 | 25135 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 570.90 | 1,420.38 |
| Check | 11/14/2007 | 25189 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 386.69 | 1,807.07 |
| Check | 12/22/2007 | 25262 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 566.01 | 2,373.08 |
| Check | 1/22/2008 | 25317 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 600.80 | 2,973.88 |
| Check | 2/13/2008 | 25370 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 336.47 | 3,310.35 |
| Check | 3/13/2008 | 25427 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 750.73 | 4,061.08 |
| Check | 4/18/2008 | 25480 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 683.41 | 4,744.49 |
| Check | 5/20/2008 | 25538 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 1,066.84 | 5,811.33 |
| Check | 6/13/2008 | 25588 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 741.24 | 6,552.57 |
| Check | 7/16/2008 | 25642 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 325.99 | 6,878.56 |
| Check | 8/19/2008 | 25703 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 340.56 | 7,219.12 |
| Check | 9/16/2008 | 25764 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 486.51 | 7,705.63 |
| Check | 10/17/2008 | 25832 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 381.23 | 8,086.86 |
| Check | 11/18/2008 | 25882 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 576.61 | 8,663.47 |
| Check | 12/22/2008 | 25942 | CITI CARDS ACDS... | ACDstdV/#41471106 99221449... | | B.O.A. ... | 296.40 | 8,959.87 |
| Total ACD+stdVISA4147-1106-9922-1449 | | | | | | | 8,959.87 | 8,959.87 |
| ACD+stdsolIMC5466-1600-5308-6599 | | | | | | | | |
| Check | 6/8/2007 | 24837 | CITI Cards-6599/std... | STD-MC#...8 6599#24May2007 | | B.O.A. ... | 677.63 | 677.63 |
| Check | 7/11/2007 | 24901 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 2,123.27 | 2,800.90 |
| Check | 8/7/2007 | 24967 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 5,680.15 | 8,481.05 |
| Check | 9/6/2007 | 25023 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 1,987.46 | 10,468.51 |
| Check | 10/4/2007 | 25084 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 1,183.96 | 11,652.47 |
| Check | 11/2/2007 | 25162 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 1,774.56 | 13,427.03 |
| Check | 12/3/2007 | 25224 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 733.12 | 14,160.15 |
| Check | 1/2/2008 | 25268 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 886.49 | 15,046.64 |
| Check | 2/1/2008 | 25339 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 3,991.97 | 19,038.61 |
| Check | 3/1/2008 | 25394 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 2,355.99 | 21,394.60 |
| Check | 4/3/2008 | 25461 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 1,442.14 | 22,836.74 |
| Check | 5/2/2008 | 25502 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 2,544.08 | 25,380.82 |
| Check | 6/5/2008 | 25562 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 1,845.49 | 27,226.31 |
| Check | 7/10/2008 | 25620 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 3,087.20 | 30,313.51 |
| Check | 7/31/2008 | 25671 | CITI Cards-6599/std... | ACD+stdSolMC#54661600-530... | | B.O.A. ... | 1,357.93 | 31,671.44 |

MC... 5319 see p. 5

BUSINESS ONLY - WA3