

CITY OF OAKLAND
MEMORANDUM

TO: Mayor Libby Schaaf
Oakland City Council
FROM: Nancy Marcus
Office of the City Administrator – Special Activity Permits
DATE: October 31, 2017
RE: Applications for Transfer Of and New Alcoholic Beverage Licenses

Mayor Schaaf and Members of the City Council:

Attached are the liquor license application reports we received from the Department of Alcoholic Beverage Control (ABC). Below you will also find a chart summarizing the proposed applications. Usually the greatest concern to Oakland neighborhoods are Types 20 (Off-Sale Beer and Wine) and 21 (Off-Sale General); in other words, liquor stores or other stores that sell liquor to drink off-site. ABC's glossary of all license types is also attached for reference.

State law allows cities to request that specific conditions be imposed on licenses upon transfer. The conditions must be designed to reduce nuisances and other adverse impacts stemming from alcohol sales. Within 30 days of the owner posting notice of the transfer, the City Administrator must either respond with its recommendation to the ABC or request an additional 20 days. The posting date on the application is the "*Copies Mailed Date*". If timing is an issue, you can verify the posting date by speaking with the ABC licensing representative or investigator assigned to the application, whose name you can get by calling ABC at (510) 622-4970.

If you wish to share complaints about any of the attached license applications, please note the application's Transaction Type, which is significant because it limits the types of conditions ABC can consider. If the transaction type is Person to Person, the license was already at the Oakland location currently applying for it and objections to the applicant are most relevant. If, however, the Transaction Type is Premise to Premise, the license is coming from another location, not necessarily within Oakland, and objections to the transfer based on the proposed location are important. The application may be both a Person to Person and Premises to Premises transfer (also known as a Double Transfer) in which case both property specific and applicant specific objections are relevant.

The City may be asked to show evidence to support its requests for conditions; accordingly, please provide all possible documentation to ABAT when sharing complaints about a proposed application. The City cannot request unsubstantiated conditions.

If you have concerns or questions about requesting license conditions on any of the attached premises, please contact ABAT's **Sgt. Andy McNeil** as soon as possible. The City may also take legal action to impose conditions against existing licensees by enforcement of Oakland Planning Code and/or state laws. ABAT is the City department designated to recommend conditions to ABC. **Sgt. Andy McNeil** may be contacted at: 510-777-8525

Andy McNeil, Phone 777-8525, Email amcneil@oaklandnet.com, Fax 777-8979.

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It is quite possible that ABAT is aware of the complaints against specific applicants. However, to ensure that all complaints are considered regarding these applications, your input is requested and appreciated.

Examples of the types of conditions that have successfully been recommended by ABAT are prohibitions on live entertainment and amplified sound. Conditions imposed by ABC are not negotiable for at least one year.

Here are the recent applications:

Establishment Name	Address	License Type	Transaction Type
Brotzeit-Lokal	1000 Embarcadero East	41	Dropping Partner Fiduciary Transfer
Rustica	6106 La Salle Ave.	41	Person to Person
Royal Kitchen Indian Restaurant	175 98 th Ave.	41	Original
Intersect Beverage	9401 San Leandro St.	13	Stock Transfer
Pho Anh Dao Oakland	280 E18th St.	41	Person to Person
Osmanthus	6048 College Ave.	47	Person to Person
Sacred Wheel Cheese Shop	4935 Shattuck Ave.	41	Person to Person
Wine and Design	222 Broadway Suite 3B	42	Original

You may also wish to speak with **Aubrey Rose** (238-2071, arose@oaklandnet.com) a City Planner, who can confirm how the applicant represented their business to the City and whether they obtained the proper clearances and/or land use permits.

Any citizen may directly protest an application by completing the Protest Against Alcoholic Beverage License Application **and** the Citizen's Log of Disruptive Activity. This document is attached for your convenience to forward to any other list servers, newsletter, community groups etc.

Please note that a license may be modified for reasons not detailed in this memo. Examples include 1) a licensee's request to modify his/her operating conditions, 2) certain applications to change a premise's license type, and 3) a request to physically modify a licensed premises. Different procedures from those discussed in this memo, and often tight deadlines, apply to the different processes. If your office is contacted directly by ABC, immediately notify **Scott Miller in Zoning (238-2235) and Sgt. Andy McNeil in ABAT (777-8525)**, as City action may be required.

Not all license conditions originate with the City. ABC may impose conditions that are sometimes objectionable to the applicant. One example is a restaurant seeking operating hours ending at 2:00 a.m. in an area where, based upon previous requests from the City, all of the other alcohol outlets must close at 11:00 p.m. Granting later hours to the new applicant could produce an unfair business advantage and is likely to create grounds for extending the hours of the other businesses. In the past, applicants have contacted the Mayor's Office and/or their City

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Council Member, requesting the City's advocacy on their behalf. If your office is contacted by such an applicant, confirm with ABAT whether the conditions were imposed at the City's request. If not, ABC invites and encourages you to contact them directly at (510) 622-4970 to discuss the reasons underlying their proposed conditions.

Copies of the applications for the transfer of alcoholic beverage licenses will be submitted to your office on a regular basis for information and review purposes. Thank you for your assistance in this matter. If you have any questions, please call me at 238-3294.

Sincerely,

Nancy Marcus
Administrative Assistant
Office of the City Administrator
Special Activity Permits

Enclosures:

1. License type listing
2. Copies of ABC applications for the transfer of licenses
3. ABC protest for Citizens