

# CITY OF OAKLAND

## AGENDA REPORT

OFFICE OF THE CITY CLERK  
OF OAKLAND

2005 OCT 27 PM 12: 07

**To:** Office of the City Administrator  
**Attn:** Deborah Edgerly  
**From:** Police Department  
**Date:** November 8, 2005

**Re: Semi-Annual Status Report from the Chief of Police on the Activities of the Alcoholic Beverage Action Team (ABAT) Deemed Approved Program**

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### SUMMARY

This report outlines the activities of the Alcoholic Beverage Action Team (ABAT) for the last six months (March 2005-September 2005), including enforcement activities, staffing, zoning applications, and staff training.

### FISCAL IMPACT

During the FY 2003-05 mid-cycle budget deliberations, City Council approved the increase of the annual fee from \$600 to \$1,500 per location in order to make the program cost neutral. Fees are collected on an annual basis, and the majority of fees collected for the 2005 calendar year were reported in the previous status report. Collection revenue during this reporting period totals \$40,000. ABAT will begin assessing the fee for FY 2005-06 on January 1, 2006.

### BACKGROUND

In August 1993 the City of Oakland passed the Education, Monitoring, and Enforcement Program, a.k.a. "Deemed Approved" Program (Ordinance No. 11624 C.M.S.), in an effort to improve the operating standards of alcohol outlets and provide an enforcement program to monitor their operation. After affirmation of the ordinance by the California Supreme Court, ABAT launched the program in January 1997.

### KEY ISSUES AND IMPACTS

#### **ABAT Enforcement Activities in 2005**

- ABAT conducted 341 site visits, resulting in 77 formal inspections. Three businesses received SMART<sup>1</sup> inspections (Table 1) - plus re-inspections, with an additional four stores receiving re-inspections due to non-compliance (Table 2).

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<sup>1</sup> SMART Inspections are a coordinated group of public agency representatives who enforce civil law statutes and regulatory rules to clean up problem sites. Representatives from the Fire Department, Code Enforcement, Alameda County Vector Control, and PG&E often join ABAT personnel to conduct these code enforcement activities.

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**Table 1:** Special Multi-Agency Response Team (SMART) inspections

Business	Incident Date	Street Number	Street Name	Details
Victors Bar	22-Mar-05	659	E.12 <sup>th</sup> St	Response to community complaints.
ENG Liquors	19-Apr-05	2003	23 <sup>rd</sup> Ave.	Litter, graffiti, and required signage not posted
E & L Liquors	19-Apr-05	2401	23rd Ave.	Response to community complaints.

**Table 2:** Re-inspections

Business	Re-Inspect Date	Street Number	Street Name	Details
E&L Liquors	30 Mar- 05	2401	23 <sup>rd</sup> Ave.	Operator passed re-inspection. All work completed.
Williams Liquor	7- Apr-05	5830	Telegraph Avenue	Operator passed re-inspection. All work completed.
Vintage Inn	19-Mar-05	2541	Seminary Avenue	Operator failed re-inspection. Work not completed. The bar will remain closed.
New York Market	2-May-05	3446	Market Street	Operator passed re-inspection. All work completed.

- ABAT personnel issued five citations for a violation of the CA Business & Professional Code Section 25658 - "Selling alcohol to a minor," and four citations for CA Penal Code § 308.2 - "Selling Single cigarettes."
- ABAT conducted 39 decoy operations, resulting in five sales to a minor (10% sale rate).
- ABAT conducted 21 Bar Check operations. Bar Checks involve uniformed and undercover staff entering bars during regular operating hours to see if illegal activities are occurring. No illegal activity was verified during these operations.
- ABAT imposed operating restrictions on eleven locations (Table 3). The operating restrictions were instituted in response to nuisance activity. These restrictions act as an alternative to an Administrative Hearing (i.e., ABAT and City Attorney staff meet with the operator and mutually agree on specific operating restrictions). The restrictions are binding and ABAT issues citations for any violations.

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**Table 3: Operating Restrictions Imposed**

Business	Incident Date	Location Type	Address	Conditions
New York Market	23-Jun-05	Liquor Store	3446 Market St	Hours restriction
Shashamene Ethiopian	01-Jun-05	Restaurant	2507 Broadway	Hours restriction
Hudson Bay Coffee	01-Jun-05	Restaurant	5401 College Ave.	Hours restriction and no live entertainment
Quik Stop	01-Jun-05	Liquor Store	401 Merritt Ave.	No single cups and no ice under 5 lbs.
Gong Gan	01-Jun-05	Restaurant	4419 Telegraph Ave.	Hours restriction and no live entertainment
Cock A Doodle Café	26-May-05	Restaurant	719 Washington St	Hours restriction and no live entertainment
Friendly Market	30-Mar-05	Liquor Store	3227 West St.	Hours restriction, no single sales of beer under 16oz., no single cups and no ice under 5lbs.
Los Coporales Restaurant	23-Mar-05	Restaurant	4481-93 East 14th St	Hours restriction and no live entertainment
Bangkok Palace Thai	23-Mar-05	Restaurant	3300 Grand Av	Hours restriction and no live entertainment
Oak Plaza Bar & Grill	23-Mar-05	Restaurant	200 Frank H Ogawa Plaza	Hours restriction and no live entertainment
Ya Ma Japanese Restaurant	01-Mar-05	Restaurant	351 12th St	Hours restriction and no live entertainment

- Three program participants allowed their Deemed Approved status to lapse (a legal-non conforming use status will “lapse” if the business is closed in excess of 90 days):

3841 West	Al’s Liquor	5/05	<u>CUP Revoked via hearing</u>
3827 E.12 <sup>th</sup> St	Los Cabos Market	4/05	
1102 71 <sup>st</sup> Ave	Uncle Ross Market	7/05	

Before these establishments can re-open, they will be required to go through the planning process and acquire a Conditional Use Permit (CUP).

**Staffing**

The personnel currently assigned to ABAT are: 2 Police Officers, 2 Police Service Technicians, 1 Administrative Analyst II/Planner II. On September 24, 2005, Sergeant Leonard White was transferred to patrol and Sergeant Robert Crawford was assigned to supervise ABAT. ABAT is currently in the Neighborhood Services Division under Captain Cyril Vierra.

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**Zoning**

Between January 1, 2005 and October 1, 2005 the Zoning Division received six applications related to alcoholic beverage sales activities. The applications are for on and off-site sale operations. All six locations have been issued CUPs with conditions of approval to ensure owner/operator compliance. The applications are for a grocery store, three bars and two full service restaurants:

<u>Address</u>	<u>Type</u>
3420 Fruitvale Boulevard	Grocery Store
1928 Telegraph Avenue	Bar
215 Washington Street	Bar
492 9 <sup>th</sup> Street	Bar
735 International Boulevard	Restaurant
3451 International Boulevard	Restaurant

If approved by the Planning Commission, these six new businesses will be enrolled as participants in the Deemed Approved Program.

**Deemed Approved Participants**

All Oakland bars and liquor stores participate in the Deemed Approved program. The number of alcohol outlets in the program remain at 377 establishments enrolled, which includes 304 liquor stores and 73 bars

**Deemed Approved Advisory Committee (DAAC)**

The DAAC continues to meet on a monthly basis to identify problems and share ideas about controlling nuisance, loitering and criminal activities in and around liquor establishments.

**Education**

In March 2005 ABAT personnel attended a joint *Enforcement of Labor Code Section 6404.5 - Smoking in the Work Place*, sponsored by Alameda County Department of Public Health. This training expanded staff's knowledge of current tobacco laws and citation liability if/when a violation is verified. This training also provided an opportunity for staff to network with other law enforcement agencies to develop additional methods for tobacco control enforcement.

**SUSTAINABLE OPPORTUNITIES**

**Economic** - When performing site visits, ABAT personnel check to ensure that participating establishments possess current business licenses. As retail establishments, they contribute to the City's tax revenue base.

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**Environmental** - No environmental opportunities were identified.

**Social Equity** - One of ABAT's main functions is to work with alcohol beverage establishments to ensure that they do not negatively impact the quality of life in local neighborhoods.

**DISABILITY AND SENIOR CITIZEN ACCESS**

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

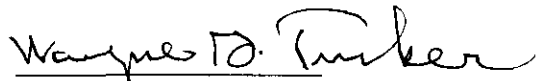
**RECOMMENDATION(S) AND RATIONALE**

Staff recommends acceptance of this status report on the activities of the ABAT Unit's Deemed Approved Program.

**ACTION REQUESTED OF THE CITY COUNCIL**


Receive this status report on the ABAT Deemed Approved program.

Respectfully submitted,

  
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Chief of Police

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ABAT Unit, Neighborhood Services Div.  
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APPROVED AND FORWARDED TO  
THE PUBLIC SAFETY COMMITTEE:

  
Office of the City Administrator

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