

# CITY OF OAKLAND

## AGENDA REPORT

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OFFICE OF THE CITY CLERK  
OAKLAND

2007 DEC 26 AM 10:12

**To:** Office of the City Administrator  
**Attn:** Deborah Edgerly  
**From:** Police Department  
**Date:** January 8, 2008

**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), which includes enforcement activities, staffing, and zoning applications since the last report, dated January 9, 2007.

### FISCAL IMPACT

This is an informational report, therefore no fiscal impacts are associated with the acceptance of this report.

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.

Revenues for FY 05-06 were \$593,571.38 compared to expenditures of \$824,164.50 (\$602,444.47 in personnel costs charged to the Deemed Approved Project + \$165,235.58 in personnel costs charged to non-project ABAT Org + \$56,484.45 in O&M).

Revenues for FY06-07 were \$503,220.88 compared to expenditures of \$907,636.47 (\$501,665.87 in personnel costs charged to the Deemed Approved Project + \$371,866.68 in personnel costs charged to non-project ABAT Org + 34,103.92 in O&M).<sup>1</sup>

No "Deemed Approved" establishments were delinquent for FY 06-07.

### BACKGROUND

In August 1993 the City of Oakland passed the Education, Monitoring, and Enforcement Program, also known as the "Deemed Approved" Program (Ordinance No. 11624 C.M.S.), in an effort to improve the operating standards of alcohol outlets (bars and off sale liquor stores) 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.

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<sup>1</sup> Fiscal Impact section is representative of Police Department expenditures only.

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## KEY ISSUES AND IMPACTS

### *Staffing*

Personnel currently assigned to ABAT remains at: 1 sergeant, 2 police officers, 3 police services technicians (one technician is on loan to the Property Section), and 1 administrative analyst II/planner II. On August 1, 2007, one full time ABAT Deputy City Attorney was hired.

### *Case Preparation and Administrative Action*

On September 25, 2007 the operator of **DBA: One Stop Market** at 6001 Mac Arthur Blvd. sold alcoholic beverages to a minor. On October 15, 2007 ABAT staff requested an administrative hearing for the revocation of the land use entitlement for the property. On October 20, 2007 the ABAT City Attorney filed the administrative case; the administrative hearing will take place by the end of December 2007 and the results will be updated in the next report.

### *ABAT Enforcement Activities between December 1, 2006 and November 1, 2007*

- Conducted over 405 Annual Inspections and 125 re-inspections.
- Conducted 75 bar check operations.
- 32 re-inspection fees were charged to operators for failure to comply with State and Local laws. These fees generated \$6,400.00.
- Conducted 166 decoy operations, resulting in 39 sales to a minor (24% sale rate).
- Made 2 felony arrests.
- Issued 55 citations for public intoxication/open container in front of liquor stores.
- Four Deemed Approved locations lapsed (A legal-non-conforming use status will "lapse" if the business is closed in excess of 90 days) or had their status revoked (Table 2).

### *2007 Minor Decoy Operations (Table 1)*

- **166** Attempts made in 2007
- **39** Citations were issued for Sales to a Minor
- Probability of a minor purchasing alcohol in the City of Oakland is **24%** (buy rate)

**Table: 1**

Year	# Decoy Attempts	# of Sales	Average rate of sale	Cases Charged by the DA	Cases Charged by ABC	3 year average
2007	166	39	24%	30 of 39 or 77%	39 of 39 or 100%	27%
2006	134	57	43%	12 of 57 or 21%	18 of 57 or 32%	23%
2005	65	9	14%	?	?	?
2004	35	5	15%	?	?	?

**Table: 2**

Address	DBA	Lapse Date	Details
2481 11 <sup>th</sup> Ave	Liquor Store	Apr-07	ABC license canceled, revoked for non-payment. OPD-ABAT requested and lapsed DA Status.
1141 Peralta St.	Bay Area Mkt.	Oct-07	ABC license surrendered and no longer in use. OPD-ABAT requested and lapsed DA Status.
6415 International Blvd.	Plucky's	Nov-07	ABC license canceled, revoked for non-payment. OPD-ABAT requested and lapsed DA Status.
3015 38 <sup>th</sup> Ave.	Janet & Tea Cakes	Nov-07	ABC license surrendered and no longer in use. OPD-ABAT requested and lapsed DA Status.

Before the establishments noted in Table 2 can reopen, they will be required to go through the planning process and acquire a Conditional Use Permit (CUP).

A complete list of establishments that sold alcohol or tobacco products to minors in 2007 is attached.

*Zoning*

Between December 1, 2006 and November 1, 2007, the Zoning Division received seven applications related to alcoholic beverage sales activities. The applications are for on and off-site sale operations. All applications have been approved with conditions of approval to ensure owner/operator compliance.

<u>Address</u>	<u>Type</u>	
5727 College Ave	Grocery Store	(Approved)
3250 Lakeshore Blvd.	Grocery Store	(Approved)
230 Bay Pl	Grocery Store	(Approved)
1630 High St	Grocery Store	(Approved)
3411 Mac Arthur Blvd.	Cabaret/Assembly	(Approved)
66 Airport Access Rd.	Lounge/bar	(Approved)
4252 Piedmont Ave.	Restaurant	(Approved)

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

## PROGRAM DESCRIPTION

### *Deemed Approved Participants*

All Oakland bars and liquor stores participate in the Deemed Approved program. (Full Service Restaurants are not included in the Deemed Approved Programs and are not assessed the Annual Inspection Fee). Since the last report, two liquor stores have allowed their deemed approved status to lapse; however, two additional establishments have enrolled in the program. The number of alcohol outlets enrolled in the program is now 383 establishments (308 Liquor Stores and 75 Bars).

- Since December 1, 2006, ABAT staff has submitted one case for administrative review by the City Attorney's Office. Additionally, the City Attorney's Office has reached settlement agreements on four additional problem properties.
- On August 1, 2007, an ABAT Deputy City Attorney was hired full time for a period of one year. Funds in the amount of \$152,000 were transferred from the ABAT general operating fund to the City Attorney's operational budget to cover salary and benefits cost.
- Since the last report, the number of Oakland alcohol licensees in the Deemed Approved Program has remained at 383.

## SUSTAINABLE OPPORTUNITIES

*Economic:* ABAT has begun research into Retail Tobacco Sales licensing. The City of Oakland has roughly 500 unregulated tobacco selling establishments. Tobacco licensing will generate revenue for additional staff with the responsibility of regulating operators and limiting tobacco products from reaching minors. Other cities in the state are currently charging a similar licensing fee to tobacco retailers. Staff will complete a tobacco licensing ordinance for Council approval in March of 2008.

*Environmental:* Blight issues are often associated with problematic liquor stores. By eliminating these properties environmental issues surrounding litter pollution are addressed and the community is improved.

*Social Equity:* By working with alcohol beverage establishments, ABAT can help ensure that the quality of life is not negatively impacted by the presence of legally operated liquor stores.

## DISABILITY AND SENIOR CITIZEN ACCESS

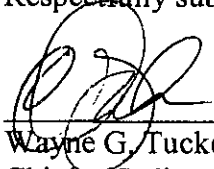
There are no ADA or senior citizen access issues contained in this report.

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**RECOMMENDATION / ACTION REQUESTED OF THE COUNCIL**

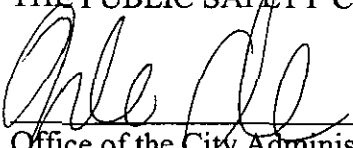
Staff recommends acceptance of this status report on the activities of the ABAT Unit's Deemed Approved Program. There is no action requested of the Council.

Respectfully submitted,

  
Wayne G. Tucker  
Chief of Police

D. KOZICKI  
FOR

APPROVED AND FORWARDED TO  
THE PUBLIC SAFETY COMMITTEE:

  
Office of the City Administrator

Prepared by:

Jacob Graef, MPA  
Analyst II/Planner II  
ABAT Unit  
Strategic Area Command  
Bureau of Field Operations

*Attachment:*

A. 2007 Decoy Sales

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The following information is results for the minor decoy operations conducted in 2007.

**Alcohol Buys were made at the following locations:**

<u>DBA:</u>	<u>Address:</u>
BONFAIR MKT.	10319 INTERNATIONAL
G & M	8301 INTERNATIONAL
FOODTOWN	6421 INTERNATIONAL
3M FOODS	6349 INTERNATIONAL
GOLDEN 7 FOOD STORE	2400 MARKET ST
SHARIFFS MARKET	1044 WILLOW ST
STATE MARKET LIQUORS	707 WILLOW ST
7TH ST. LIQ	1460 7TH STREET
A1 ARCO AM PM	889 W GRAND AVE
IDEAL MAKRET	2036 MARKET ST.
SEVEN SEAS	4001 MACARTHUR BLVD
CLEM DANIELS' END ZONE	1466 HIGH ST
PLUCKY'S	6415 INTERNATIONAL
GOLDEN HOURS LOUNGE	1358 FRUITVALE AVE
400 CLUB	400 29TH AVE
RUBY ROOM THE	132 14TH ST
SMITTY'S	3339 GRAND AVE
WILLIE BROWNS	1933 FRUITVALE AVE.
SUN HOP FAT	5424 E. 14TH
STATE MRT	707 WILLOW ST.
UPTOWN	5635 SHATTUCK
JAX	502 FOOTHILL
DALLAS MKT.	2539 MARKET ST.
BLUEBIRD LIQ.	3431 SAN PABLO
WALLY'S WORLD MKT.	5559 CLAREMONT AVE.
JALLOS MKT.	2267 38TH AVE..
A&M LIQUORS	303 OAKLAND AVE.
QUIK STOP MKT.	401 MERRITT AVE
SYBIL'S LIQUOR	501 E. 18TH ST.
CILLES	8940 E.14TH
ONE STOP	6001 MAC ARTHUR BLVD.
A & M LIQUOR	1301 MAC ARTHUR BLVD.
OAKLAND LIQ.	1335 E. 17TH ST.
THREE AMIGO'S	1554 13TH AVE.

**Tobacco Buys were made at the following locations:**

<u>DBA:</u>	<u>Address:</u>
PLUCKY'S	6415 INTERNATIONAL
DEEP EAST SMOKE SHOP	10316 INTERNATIONAL
JAX	502 FOOTHILL BLVD.
N&A	3147 ADELIN.
QUICK STOP	2400 FRUITVALE AVE.
DAROU SALAM STORE	2416 TELEGRAPH AVE
FAIRWAY PARK DONUTS	411 E.18TH ST.
INTERNATIONAL SMOKE SHOP	5910 INTERNATIONAL BLVD.

**Seven Citations were issued at the following location for violations of 6404.5 LC  
(Smoking in the work place):**

<u>DBA:</u>	<u>Address:</u>
KIM'S BACKYARD	2424 TELEGRAPH AVE.
WHITE HORSE INN	6551 TELEGRAPH AVE.
GEORGE KAYES	4044 BROADWAY