

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 SEP 10 PM 4:44

CITY OF OAKLAND

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Administrative Hearing Officer
DATE: September 22, 2009

RE: A Supplemental Report For The Public Hearing And Resolution Denying The Appeal Filed By Dawit Mebrahtu And Upholding The Administrative Hearing Officer's Decision To Deny The Application For A Permit To Operate A Cabaret Under The Name "Oasis" At 135 12th Street

SUMMARY

On June 19, 2008, the Administrative Hearing Officer conducted a public hearing on the application of Dawit Mebrahtu for a permit to operate a cabaret under the name "Oasis" at 135 12th Street. Because the Oasis had not passed its fire, building, plumbing, and electrical inspections, no permit could be issued at that time.

On December 9, 2008, following post-hearing investigation and based upon the preponderance of the evidence, the Hearing Officer denied the application. Mr. Mebrahtu timely appealed the denial. On March 25, 2009 Mr. Mebrahtu submitted an additional statement explaining the basis for his appeal. A public hearing was scheduled on the Oakland City Council's April 21, 2009 agenda. The Hearing Officer's decision, the original appeal and the additional statement are included in the staff report dated April 21, 2009.

FISCAL IMPACT

There is no direct fiscal impact of denying this permit, other than the annual cabaret license renewal fee of \$300.

BACKGROUND

The chronology of unpermitted and/or illegal activity at Oasis, which formed the basis for the denial of the cabaret permit, is outlined in the Staff Report submitted for the appeal that had been scheduled to be heard April 21, 2009. To summarize, a permit is required to conduct cabaret activities. To maintain a cabaret permit, permit holders must pay an annual fee. The Oasis received a cabaret permit in 2001 and paid their annual fees through 2003. Between 2004 and 2008 the Oasis continued cabaret activity but paid no annual fees; therefore they had no cabaret permit.

When Oasis cabaret activity was brought to the attention of the City Administrator's permit unit in 2008, the original permit file was located. It contained a notation, "The Oasis, 135 12th Street,

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closed as of 2002, per Business Tax.” There was no further documentation in the Business Tax Unit regarding a closure, and Dawit Mebrahtu claimed that he believed he had a cabaret permit the entire time. The Oasis was given the benefit of the doubt and no citations were issued, nor were past due fees or penalties collected.

The City requested that the Oasis operate legally, and in compliance with local regulations, by obtaining the required permits – a Cabaret Permit for ongoing operations and, prior to the issuance of said Cabaret Permit, Special Event permits for occasions at which entertainment was planned. The requirement for Special Event permits ensures that a minimum level of safety is met for public assemblies.

Mr. Mebrahtu applied for a cabaret permit on April 30, 2008, after which the Oasis continued cabaret activity without obtaining any Special Event permits, without completing Fire, Building, or Health inspections, and while conducting activities that violated the laws imposed by Alcoholic Beverage Control (ABC) and the City requirements for all cabaret permittees. On the basis of these multiple violations and failures Mr. Mebrahtu’s application for a cabaret permit was denied in a decision dated December 9, 2008. Mr. Mebrahtu appealed.

At the request of the appellant, the hearing scheduled for April 21, 2009 was postponed to May 5, 2009 to provide the appellant more time to prepare and to address the deficiencies that had been noted on the inspections performed in conjunction with the cabaret permit application.

On May 5, 2009 the Oakland Fire Department inspected the Oasis. The report issued from that inspection listed 24 violations of the California Fire Code and concluded “The conditions observed at 135 12th Street are an extreme fire hazard to the public. . . . This business is closed to the public until further notice.”

In view of the closure of the business, the City Council determined that there was no point in hearing the appeal on May 5, 2009. On July 23, 2009 the Hearing Officer received an email notice that all of the violations had been corrected and that the Oakland Fire Department (OFD) had issued a public assembly-fire code permit effective July 23, 2009, valid for one year.

Shortly after approval by OFD, Dawit Mebrahtu inquired as to when they could commence entertainment activities. The Hearing Officer explained that his appeal of the cabaret permit was still pending and that the soonest it could be scheduled was September 22, 2009. In the meantime, Mr. Mebrahtu was advised that, if he wished to conduct entertainment/cabaret activities, he must obtain Special Event permits from the Oakland Police Department. Mr. Mebrahtu applied for and obtained Special Event permits for the weekend of August 7 and 8, 2009.

KEY ISSUES AND IMPACTS

The Staff Report dated April 21, 2009 outlines the main reasons for denial of the permit as:

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1. Operating a cabaret without a cabaret permit and, after applying for a cabaret permit, continuing to operate cabaret activity without Special Events permits after being notified that Special Events permits must be obtained to conduct entertainment activities when a cabaret permit is not in place,
2. Operating "after hours" in violation of OMC section 5.12.030 and in violation of the Oasis' ABC license
3. Business practices, in addition to the above, that reflect negatively on the applicant's character "as respects morality, honesty and integrity," criteria which the Hearing Officer is mandated to consider in awarding or denying permits, including:
 - a. allowing the smoking of marijuana
 - b. failure to operate the restaurant during business hours, as required by both City ordinance and ABC regulations

Since the cancellation of the initial appeal hearing, and much to their credit, Oasis has made tremendous improvements in the safety of the physical environment, and the owner has applied for Special Event permits to conduct cabaret activity. Unfortunately, two situations continue to cloud their application for an ongoing cabaret permit.

1. Handling of incidence of violence related to the first weekend operation of Oasis.

On their first weekend of operation after being cleared by the Fire Department, at approximately 1:30 a.m. Saturday August 8, 2009, a patron's car was reportedly shot at after he drove away from the curb in front of Oasis and was rounding the corner only several yards away. (Police report RD09-053800 enclosed as *Attachment A*) When notified of this incident, Sgt. Espinoza of OPD's Special Event Unit, the Hearing Officer, and the Chief of Staff for Council member Kernighan requested to meet with the Mebrahtu brothers. The meeting was conducted at Oasis.

The brothers seemed to understand the gravity of the situation and the need for their security staff to ensure that the block in which they are located is cleared of all patrons and others before ending their duties. The brothers stated that they had been questioning patrons regarding this incident and that their patrons may be able to help identify the shooter. They indicated they would assist OPD in the investigation.

While this discussion was taking place, Oyenda Chambers, who handles security for Oasis arrived and joined the conversation. Mr. Chambers denied that the reported incident could have occurred because his security staff had confirmed that all Oasis patrons were clear of the area before 1:30 a.m. When confronted with the cooperative statements made by the Mebrahtu brothers, Mr. Chambers agreed to assist with the investigation but insisted that the incident could not have occurred as reported and that his security staff already do all of the requested proactive clearing at closing time. He then requested and was given a copy of the associated police report.

It is unknown at the time of this writing whether there has been any further investigation by the Mebrahtu brothers and/or Mr. Chambers and whether any information has been shared with the OPD.

2. Failure to serve food during hours of operation as mandated by City zoning and ABC license requirements for full service restaurants

Despite the notations in the previous staff report regarding the importance of serving meals when alcohol permittees represent themselves as full service restaurants, the Oasis menu is a lunch-only menu, which lists restaurant hours as 11 a.m. to 3 p.m. and bar hours from 11 a.m. through 2:00 a.m.

Oakland Planning Code Section 17.156.070 defines a full service restaurant as one that serves “meals to guests at all times the establishment is open for business.” This requirement was spelled out to Oasis in the Conditional Use Permit they obtained in 2001 and in the temporary cabaret permit they were issued the same year, as well as in the original staff report submitted for the appeal hearing. As noted in the previous report this is important for the following reasons:

- a. The City encourages full service restaurants by exempting them from the “no net growth” policy regarding alcohol licenses.
- b. Applicants for full-service restaurant licenses are not required to go through the Conditional Use Permit process, as are applicants for bar licenses.
- c. To stress the importance of the food element, ABC requires that 50 percent of the restaurant’s gross revenues come from food. Oakland has increased the percentage of food revenue to 60 percent. It is highly unlikely, if not impossible, to generate 50 to 60 percent of the revenues from a portion of the business that operates during less than one third of the business hours.
- d. It is an unfair business practice by which Oasis gains an economic advantage over its competitors who abide by the law and serve meals at all times they are open for business.

Conclusion and Recommendation

Both the handling of the incidence of violence associated with Oasis operation and the blatant failure to operate as a full service restaurant are troubling reminders of the multiple instances of Oasis operating without regard for the law that resulted in the denial of their application for a cabaret permit. Oasis is a popular venue with a dedicated following of supporters. However, as stated in the Staff Report prepared for the originally scheduled hearing, Oasis business practices put lawful competitors at an unfair advantage. At the time of the prior report, it was their after-hours operation that was the unfair business practice. Now it is the representation of being a full service restaurant while functioning as one less than one third of the time. Oasis should not be rewarded for this by the award of a cabaret permit.

Additionally, Oasis is within 300 feet of a sensitive use, the Faith Chinese Alliance Church. This proximity requires a finding that the cabaret will not have a negative impact on City resources, public safety and neighborhood quality of life. With Oasis past and current track record, the Hearing Officer would be unable to make such a finding.

SUSTAINABLE OPPORTUNITIES

Economic

The revocation of this permit has no substantial economic effect on the City. Cabarets pay a nominal \$300 per year license fee to the City. Additionally, like all businesses, they are subject to the payment of business taxes. The cabaret application process does not request projected income information, so no estimate of this potential loss is available.

Environmental

There are no environmental opportunities involved in the denial this permit.

Social Equity

No social equity issues have been identified.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no disability or senior citizen issues involved in this application or its denial.

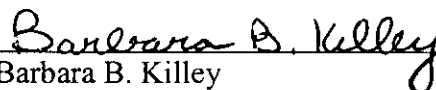
RECOMMENDATION AND RATIONALE

The permit should be denied. Denial of the permit would not prevent the Oasis from operating as a full service restaurant, and it should do so. Oasis would be free to apply for a cabaret permit in the future, after demonstrating, by obtaining appropriate permits, that they can obey the City's rules and regulations.


ACTION REQUESTED OF THE CITY COUNCIL

The Administrative Hearing Officer requests that the City Council adopt the Resolution to deny the appeal and affirm the Hearing Officer's decision.

Respectfully submitted,


Barbara B. Killey
Administrative Hearing Officer
Office of the City Administrator

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



Office of the City Administrator

Item: _____
City Council
Sept. 22, 2009

ATTACHMENT A

OAKLAND POLICE DEPARTMENT
455 7TH STREET,
OAKLAND, CALIFORNIA 94607
(510) 236-3021

Incident Number: 09-053800

Incident Summary

Incident Type: FELONY ASSAULT
Inc Occurred Address: 100 12TH, OAKLAND, CALIFORNIA 94607
Inc Occurred Start: 08/08/2009 01:30 Inc Occurred End: 08/08/2009 01:30
Domestic: N Bias Motivation: Gang Related: U Substance: U
Contact Nature: NO Reported Date/Time: 08/08/2009 03:05
Reporting Officer: LOW, JONATHAN Primary Assigned Officer: GALLIEN, ROSALIND
Case Status: Disposition: Disposition Date:

Offenses

Statute Code: PC245 (A)(2) Enhancers:
Statute Desc: ASSAULT WITH FIREARM ON PERSON
Counts: 1 Statute Severity: Felony

Officers

Event Association	Emp#	Badge#	Name	Squad#
PRIMARY REPORTING OFFICER	8606		LOW, JONATHAN	
REPORTING OFFICER'S SUPERVIS	7640		YOUNG, WARREN	
REVIEWER	8240		WEHRLY, BRANDON	
PRIMARY ASSIGNED OFFICER	4131		GALLIEN, ROSALIND	

Persons Involved

Person#: 0001 MNI: 1407400 Can ID Suspect: No
Event Association: SUSPECT Contact Date/Time: 08/08/2009 02:30
Name: UNK, TONY
DOB: Age: 40 - 41 Sex: MALE Race: BLACK
Height: 5' 5" - 5' 5" Weight: 180 - 180 lbs Eye Color: Hair Color: BLACK
Address: , OAKLAND, Sector/Beat: /04X
Phone Type 1: Phone# 1: Ext 1:
Phone Type 2: Phone# 2: Ext 2:
Occupation: Employer/School:

Characteristics

Characteristic Type: Further Defined By: Description:
HAIR LENGTH SHOULDER
HAIR STYLE DREADLOCKS
FACIAL HAIR NONE
CLOTHING WHI JKT, BLU JEANS

Incident Report

OAKLAND POLICE DEPARTMENT
455 7TH STREET,
OAKLAND, CALIFORNIA 94607
(510) 236-3021

Incident Number: 09-053800

Persons Involved

Person#: 0002	MNI: 1407401	Can ID Suspect: No
Event Association: VICTIM	Contact Date/Time: 08/08/2009 02:40	
Name: POWELL, HOWARD EDMUNDY		
DOB:	Age: 43 - 43 Sex: MALE	Race: BLACK
Height: 6' 1" - 6' 1"	Weight: 160 - 160 lbs	Eye Color: BROWN
Address:		Hair Color: BLACK
Phone Type 1:	Phone# 1:	Ext 1:
Phone Type 2:	Phone# 2:	Ext 2:
Occupation:		Sector/Beat:
	Employer/School:	

OAKLAND POLICE DEPARTMENT
455 7TH STREET,
OAKLAND, CALIFORNIA 94607
(510) 238-3021

Incident Number: 09-053800

Modus Operandi

Against Persons: Y
Against Property: N
Occupied: N
General Premise 1:
General Premise 2:
Specific Premise:
Surrounding Area 1:
Surrounding Area 2:
Surrounding Area 3:
Relationship to Suspect 1:
Relationship to Suspect 2:
Weapon Type 1: HANDGUN
Automatic: N
Weapon Type 2:
Automatic: N
Weapon Type 3:
Automatic: N

Crime Against Property

# of Premises Entered:	Suspect Action 1:
Entry Point:	Suspect Action 2:
Exit Point:	Suspect Action 3:
Entry Loc 1:	Suspect Action 4:
Exit Loc 1:	Suspect Action 5:
Entry Loc 2:	Additional Factor 1:
Exit Loc 2:	Additional Factor 2:
Entry Method 1:	Additional Factor 3:
Exit Method 1:	Additional Factor 4:
Entry Method 2:	Additional Factor 5:
Exit Method 2:	Security Type:
Entry Tool 1:	Victim Location:
Exit Tool 1:	Electronic Locks: N
Entry Tool 2:	Video Surveillance: N
Exit Tool 2:	Maid:
Vehicle Entry:	Inspectress:
Safe Entry:	

Crime Against Persons

Pre-incident Contact 1:	Suspect Action 1:
Pre-incident Contact 2:	Suspect Action 2:
Pre-incident Contact 3:	Suspect Action 3:
Victim Condition 1:	Suspect Action 4:
Victim Condition 2:	Suspect Action 5:
Victim Condition 3:	Sex Crime 1:
Victim Condition 4:	Sex Crime 2:
Victim Condition 5:	Sex Crime 3:
Suspect Solicited 1:	Sex Crime 4:
Suspect Solicited 2:	Sex Crime 5:
Suspect Pretended to Be:	Vehicle Involvement 1:
	Vehicle Involvement 2:

OAKLAND POLICE DEPARTMENT
455 7TH STREET,
OAKLAND, CALIFORNIA 94607
(510) 238-3021

Incident Number: 09-053800

Narratives

ENTERED DATE/TIME: 8/8/2009 03:05:00

SUBJECT: SYNOPSIS

AUTHOR: LOW, JONATHAN

Assault with deadly weapon (firearm), no injuries.

ENTERED DATE/TIME: 8/8/2009 03:05:00

SUBJECT: FBR NARRATIVE

AUTHOR: LOW, JONATHAN

Summary:

On 08Aug09, at about 0230hrs., I was working as a solo Oakland patrol unit using the call sign 6L03. I was wearing full police uniform and operating in marked patrol vehicle #1739. I was dispatched to meet with a victim who said he was shot at.

Upon arrival, I made contact with V1 POWELL who told me that a person that he knows by the name of Tony (S1) shot at him with a 9mm handgun while he was leaving the club and driving home. POWELL was not injured and the vehicle he was driving did not sustain any bullet holes. No medical attention needed.

POWELL told me the following on a written statement. On 08Aug09, he was in 135 12th St. (Oasis club) when he saw a person that has known for over 2 years (Tony) inside the club. For unknown reason, TONY approached POWELL and said, "I'm gonna treat you like a bitch tonight." POWELL stated there has been no animosity between them except that TONY gets mad at him for no reason at times. At about 0130hrs, POWELL exited the club and got into his vehicle which was parked in front of the club. POWELL drove to the corner of 12th St and Madison St and was about to make a Southbound turn onto 12th St. TONY was standing in the South/East corner and saw POWELL inside of the car. TONY produced a handgun from his jacket, pointed it at POWELL from about 5 feet away and shot at POWELL once. POWELL immediately fled and drove home and did not see where TONY went. POWELL does not know the address of TONY but said he lives near Seminary Av in East Oakland. POWELL can identify TONY and wants to press charges. See his statement for further.

Ofc. Lee checked the area near Oasis Club in an attempt to locate a crime scene with negative results. He also canvassed the area for witnesses with negative results. See his supplemental for further.

No tech requested, no tech tag left. Sgt. Wehrly was notified of the incident. I call Communications Division and conducted a comm order.

Apparently, S1 used a handgun and shot at V1 once, for unknown reason. S1 fled in unknown direction by unknown means.

Printed by: ovr4317
Printed date/time: 8/10/09 10:06

Incident Report

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OAKLAND POLICE DEPARTMENT
455 7TH STREET,
OAKLAND, CALIFORNIA 94607
(510) 238-3021

Incident Number: 09-053800

Signatures

Reporting Officer Date

Supervisor Date

Incident Report

OAKLAND POLICE DEPARTMENT
455 7TH STREET,
OAKLAND, CALIFORNIA 94607
(510) 238-3021

Incident Number: 09-053800-001

Incident Summary

Incident Type: FELONY ASSAULT
Inc Occurred Address: .
Inc Occurred Start: 08/08/2009 00:00 Inc Occurred End: 08/08/2009 00:00
Domestic: N Bias Motivation: Gang Related: U Substance: U
Contact Nature: Reported Date/Time: 08/08/2009 02:59
Reporting Officer: LEE, KWANG Primary Assigned Officer:
Case Status: Disposition: Disposition Date:

Offenses

Statute Code: PC245 (A)(2) Enhancers:
Statute Desc: ASLT W/FIREARM ON PERSON
Counts: 1 Statute Severity: MISDEMEANOR

Officers

Event Association	Emp#	Badge#	Name	Squad#
PRIMARY REPORTING OFFICER	8219		LEE, KWANG	
REPORTING OFFICER'S SUPERVIS	8240		WEHRLY, BRANDON	
REVIEWER	8219		LEE, KWANG	

OAKLAND POLICE DEPARTMENT
455 7TH STREET,
OAKLAND, CALIFORNIA 94607
(510) 238-3021

Incident Number: 09-053800-001

Modus Operandi

Against Persons: N
Against Property: N
Occupied: N
General Premise 1:
General Premise 2:
Specific Premise:
Surrounding Area 1:
Surrounding Area 2:
Surrounding Area 3:
Relationship to Suspect 1:
Relationship to Suspect 2:
Weapon Type 1:
Automatic: N
Weapon Type 2:
Automatic: N
Weapon Type 3:
Automatic: N

Crime Against Property

# of Premises Entered:	Suspect Action 1:
Entry Point:	Suspect Action 2:
Exit Point:	Suspect Action 3:
Entry Loc 1:	Suspect Action 4:
Exit Loc 1:	Suspect Action 5:
Entry Loc 2:	Additional Factor 1:
Exit Loc 2:	Additional Factor 2:
Entry Method 1:	Additional Factor 3:
Exit Method 1:	Additional Factor 4:
Entry Method 2:	Additional Factor 5:
Exit Method 2:	Security Type:
Entry Tool 1:	Victim Location:
Exit Tool 1:	Electronic Locks: N
Entry Tool 2:	Video Surveillance: N
Exit Tool 2:	Maid:
Vehicle Entry:	Inspectress:
Safe Entry:	

Crime Against Persons

Pre-incident Contact 1:	Suspect Action 1:
Pre-incident Contact 2:	Suspect Action 2:
Pre-Incident Contact 3:	Suspect Action 3:
Victim Condition 1:	Suspect Action 4:
Victim Condition 2:	Suspect Action 5:
Victim Condition 3:	Sex Crime 1:
Victim Condition 4:	Sex Crime 2:
Victim Condition 5:	Sex Crime 3:
Suspect Solicited 1:	Sex Crime 4:
Suspect Solicited 2:	Sex Crime 5:
Suspect Pretended to Be:	Vehicle Involvement 1:
	Vehicle Involvement 2:

OAKLAND POLICE DEPARTMENT
455 7TH STREET,
OAKLAND, CALIFORNIA 94607
(510) 238-3021

Incident Number: 09-053800-001

Narratives

ENTERED DATE/TIME: 8/8/2009 02:59:00
SUBJECT: SYNOPSIS
AUTHOR: LEE, KWANG

245 P.C.

ENTERED DATE/TIME: 8/8/2009 02:59:00
SUBJECT: FBR NARRATIVE
AUTHOR: LEE, KWANG

On 8 Aug09 at around 0245 hours I was working as OPD Patrol Unit 6L01. I was dispatched to 12th St. and Madison St. to assist 6L03 locate a crime scene. I was advised that a shooting occurred on the S/E corner of the intersection and was instructed to locate a single shell casing in the area.

I canvassed both East and South of the S/E corner of 12th St. and Madison St. with negative results.

I spoke with 2 male blacks sleeping underneath the over hang of the county building at that location. Both males stated they did not wish to be identified and stated that they saw or heard nothing. Both males stated that they had been at that location since 1900 hrs. on 7Aug09.

No other known witnesses were located.

Signatures

Reporting Officer Date

Supervisor Date

2. Report No.
09-053800

1. Complainant
POWER, HOWARD E

Offense/Crime
245(a)(2) PC

3. Name of Person Giving Statement
POWER, HOWARD E

Sex/Race/DOB
M/B

Complainant
 Suspect
 Driver
 Reporting Person
 Witness

STATEMENT:

POWER I DROVE OFF AND EVENTUALLY CAME HOME AND
CALLED THE POLICE. I CAN DESCRIBE TONY (UNR
LAST NAME) AS A MACE BLACK, 40-41, 5'5", 180 lbs
BLACK DREDD LOCKS TO HIS SHOULDER AND HE WAS WEARING
A WHITE JACKET WITH BLUE JEANS. HE LIVES SOMEWHERE
NEAR SEMINARY. I CAN DEFINATELY IDENTIFY HIM IF I
SAW HIM AGAIN. TONY IS JAMAICAN AND HE'S BEEN IN
AMERICA FOR OVER 20 YEARS. THERE WAS A LOT OF
PEOPLE LEAVING THE CURB DURING THE SHOOTING. I DID
NOT GET HIT AND MY CAR DID NOT GET HIT. I WANT
TO PRESS CHARGES AND WILL ASSIST WITH THE INVESTIGATION.
THIS IS A TRUE STATEMENT.

8509 HOWARD E POWER

Signature of Person Giving Statement
Howard E Power Date
8/20/99

DRAFT

Revised -- Revisions Underscored

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 SEP 10 PM 4:44

Approved as to Form and Legality

Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

**RESOLUTION DENYING THE APPEAL FILED BY DAWIT
MEBRAHTU AND UPHOLDING THE ADMINISTRATIVE HEARING
OFFICER'S DECISION TO DENY THE APPLICATION FOR A
PERMIT TO OPERATE A CABARET UNDER THE NAME "OASIS"
AT 135 12TH STREET**

WHEREAS, in evaluating the application for a cabaret permit, Oakland Municipal Code (OMC) Section 5.12.020 requires the Hearing Officer designated by the City Administrator to give particular consideration to the peace and order and moral welfare of the public; and

WHEREAS, OMC Section 5.12.030 requires that cabarets be closed and patrons off the premises between 2:00 a.m. and 6:00 a.m. and the State's Alcohol Beverage Control (ABC) Licensees are required to stop serving alcohol two hours after midnight; and

WHEREAS, these rules were established to maintain peace and order; and

WHEREAS, during the Oasis' application process, the Oakland Police Department (OPD) has documented one instance in which Oasis was conducting cabaret activity with numerous patrons drinking and dancing after 2:00 a.m. and another instance, on the night of the change from Daylight Savings Time to Pacific Standard Time, when Oasis was serving alcohol more than two hours past midnight; and

WHEREAS, the Oakland Police Department should not be required to monitor any one cabaret to ensure that they are obeying the laws regarding maintaining peace and order; and

WHEREAS, pursuant to OMC Section 5.02.060, the Hearing Officer is required to consider the character of the applicant as respects morality, honest and integrity and all pertinent acts which may concern the health, safety, and general welfare of the public; and

WHEREAS, the applicant has jeopardized the safety of Oasis patrons by conducting cabaret activity prior to completion of fire, building and electrical inspections; and

WHEREAS, the applicant has further jeopardized the safety of Oasis patrons by failing to obtain the Special Event Permits, which are required prior to issuance of ongoing cabaret permits and which are issued only if the Building and Fire Departments concur that

the premises meets the minimal safety requirements for temporary conduct of the planned activities; and

WHEREAS, the applicant continued to conduct cabaret activity illegally without said permits after being cited and admonished by OPD and after admitting that the applicant understood the law and had agreed not to violate it in the future; and

WHEREAS, the applicant continued to conduct cabaret activity illegally without permits after his cabaret permit was denied due to ongoing violations of the law; and

WHEREAS, the applicant does not serve meals during all hours of operation, as required by his ABC License and his Oakland Conditional Use Permit; and

WHEREAS, the numerous instances of Oasis’ illegal operations prevent a finding that Oasis will not have a negative impact on City resources, public safety and neighborhood quality of life, a finding that is required due to the proximity of the Oasis to a church; and

WHEREAS, in regard to his morality, honesty, and integrity, the applicant’s actions do not recommend the applicant as a person who keeps his commitments or who may be trusted to obey the law in the future; now, therefore, be it

RESOLVED: That the City Council finds and determines that the Administrative Hearing Officer’s decision was made in accordance with the requirements of Oakland Municipal Code Chapters 5.02 and 5.12; and be it

FURTHER RESOLVED: That the Administrative Hearing Officer’s December 9, 2008, decision to deny the application of Dawit Mebrahtu for a permit to operate a cabaret is hereby affirmed.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2009

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT BRUNNER

NOES –

ABSENT –

ABSTENTION –

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California