

**MEMORANDUM**



**CITY OF DALLAS**

Date     **January 8, 2015**

To       **Honorable Mayor and Members of the City Council**

Subject   **2014 Annual Report for Permit and License Appeal Board**

The members of the Permit & License Appeal Board are pleased to submit to the City Council the Annual Report of activities for 2014.

We appreciate the opportunity to serve on this very important Board and welcome an opportunity to discuss the report with individual Councilmembers or the entire City Council.

A handwritten signature in black ink, appearing to read 'Brent M. Rosenthal'.

**Brent M. Rosenthal, Chair  
Permit and License Appeal Board**

c:   **A.C. Gonzalez, City Manager  
Rosa A. Rios, City Secretary**



**CITY OF DALLAS**

**PERMIT &  
LICENSE APPEAL  
BOARD**

**ANNUAL REPORT  
2014**

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**TAB 1**

## CURRENT BOARD MEMBERS

Board Member	Position	Member as of	Current Status
Brent M. Rosenthal, Chairman	15	03/01/2004	Holdover as of 10/01/13
Christopher M. Albert	1	06/19/2014	Appointed 06/18/14
Jacqueline M. Staley	2	01/22/2014	Appointed 01/15/14
Ricardo Medrano	3	01/13/2012	Reappointed 10/23/13
<b>Vacant</b> (05/11/13 to present)	4	—	—
Raymond E. Fuller	5	12/04/2013	Appointed 12/04/13
Julia Suarez-Macias	6	10/01/2014	Appointed 09/24/14
Carolyn A. Johnson	7	10/28/2008	Reappointed 11/06/13
Michael C. Smotherman	8	11/15/2013	Appointed 11/06/13
James A. Morris	9	12/22/2011	Reappointed 08/06/14
Charles "Chick" Cowan	10	10/25/2012	Reappointed 10/02/13
Don Robinson	11	05/19/2014	Appointed 05/14/14
Robert T. Richard	12	11/8/2013	Appointed 10/23/13
Charles W. Kight	13	1/22/2012	Holdover as of 10/01/13
Greg Haynes Johnson	14	08/15/2014	Appointed 08/06/14

## OTHER BOARD MEMBERS SERVING IN 2014

Board Member	Position	Original Appointment Date	Current Status
Eladio Martinez	1	10/02/09	Term Ended 01/09/14
Wilma Avalos	2	01/22/13	Term Ended 01/09/14
Antonia Hubert	14	03/01/13	Term Ended 01/09/14

## **TAB 2**

## STAFF MEMBERS

- CITY SECRETARY'S OFFICE
  - Rosa A. Rios, City Secretary
  - Bilierae Johnson, Assistant City Secretary
  - Jesse Salazar, Boards and Commissions Manager
  - Dawna Brown, EAC/PLAB Board Coordinator
  - Sandra Du Bose, Boards and Commissions Coordinator
  
- CITY ATTORNEY'S OFFICE
  - Obeng Opoku-Acheampong, Assistant City Attorney, PLAB Counsel
  - Milton Henderson, Assistant City Attorney, PLAB Counsel

**TAB 3**

## **MISSION STATEMENT**

The Permit and License Appeal Board is committed to fulfill its mission as a quasi-judicial body, to hear the evidence offered by any interested persons during appeal hearings of city department director's actions pertaining to the denial, suspension or revocation of a license or permit issued by the city and to make an informed decision on the basis of a preponderance of the evidence presented at the hearing and in accordance with the provisions of Chapter 2, Article IX, Sections 95 through 99 of the Dallas City Code.

**TAB 4**

## GUIDING PRINCIPLES

- Authority:** Dallas City Code, Chapter 2, Article IX Permit and License Appeal Board (PLAB), Section 2-96
- Members:** 15 members, one board member appointed by each City Council member
- Qualifications:** No special qualifications for membership
- Officers:** Mayor appoints the chair, subject to confirmation by a majority of the City Council; full city council appoints the vice-chair
- Support Staff:** Rosa A. Rios, City Secretary  
Jesse Salazar, Boards and Commissions Manager  
Dawna Brown, Board Coordinator
- Hearings:** PLAB shall hear appeals from denial, suspension or revocation of a license or permit issued by a city department director and filed in accordance with Section 2-96 of the Dallas City Code. A hearing of the permit and license appeal board may proceed if a quorum of the board is present. The decision of the permit and license appeal board is final, and no rehearing may be granted; but the appellant may appeal to the state district court.

The following are the areas in which PLAB hears appeals of license and permit suspensions, revocations and denials, in accordance with the provisions of the Dallas City Code:

Aircraft & Airports .....	Chapter 5
Animals.....	Chapter 7
Boarding Home Facilities.....	Chapter 8A
Billiard Halls.....	Chapter 9A
Buses & Shuttles .....	Chapter 10
Limousines .....	Chapter 10A
Non-Motorized Passenger Transport Vehicles..	Chapter 10B
Convenience Stores .....	Chapter 12B
* Dance Halls.....	Chapter 14
Emergency Vehicles.....	Chapter 15D
Food Establishments.....	Chapter 17
Health & Sanitation.....	Chapter 19
Massage Establishments.....	Chapter 25A
Minimum Urban Rehabilitation Standards .....	Chapter 27
Motor Vehicles & Traffic .....	Chapter 28

\* Appeal Hearings for Calendar Year 2014 held only in this area.

Neighborhood Farmers Markets.....	Chapter 29A
Parks & Water Reservoirs .....	Chapter 32
Regulated Property .....	Chapter 39B
Secondary Metals Recyclers .....	Chapter 40B
Sexually Oriented Business.....	Chapter 41A
Special Events.....	Chapter 42A
Streets & Sidewalks .....	Chapter 43
Taxicabs .....	Chapter 45
Vehicle Tow Service .....	Chapter 48A
Vacant Buildings.....	Chapter 48B
Vehicle Immobilization Service.....	Chapter 48C
Consumer Affairs.....	Chapter 50
Development Code .....	Chapter 51A
• Special License Parking	
• Gas Drilling & Production	
• Garage Sale Permits	

And any other matters delegated to PLAB by the Dallas City Council.

**Attendance:** PLAB member attendance is governed under the rules and procedures of Chapter 8, Section 20, 20.1 and 21 of the Dallas City Code (Boards and Commissions).

PLAB hearings are held on the first Thursday of each month. A member can expect to devote one day a month to board service or more as the responsibilities of the board necessitate. A final decision is usually made by the board on the same day the appeal is heard unless a continuance is granted by the board.

An annual meeting is held in January to review/approve the Annual Report required to be submitted to the City Council in accordance with Dallas City Code Chapter 8, Section 8-1.1(a).

**Special Meetings:** Special Meetings may be held in accordance with Chapter 8.3 of the Dallas City Code.

**TAB 5**

## ACTIVITY SUMMARY

The following is a summary of activity within the period January 2014 through December 2014. A detailed summary of all hearings is located behind **Tabs 9 and 10** of the report.

**I. 17** Scheduled Hearing, Meeting and/or Training Days:

- 1 day Appeal hearings conducted (10/02/14)
- 11 days No hearings held as no appeal requests received; cancelled or withdrawn (2/06/14, 3/06/14, 4/03/14, 5/01/14, 6/05/14, 7/10/14, 8/07/14, 9/04/14, 10/23/14, 11/06/14, 12/05/14)
- 1 day Regular board meeting (1/09/14)
- 4 days New board member training (2/20/14, 6/19/14, 8/28/14, 10/16/14)

**II. 3** Appeal Requests Received by the City Secretary's Office and Scheduled for PLAB Hearing: (See Tabs 6 and 7 for Activity Detail)

- 2 Appeal requests considered and judgments rendered (10/02/14)
- 1 Appeal hearing request withdrawn (10/23/14)

**III. 0** Appeal Requests Received but not scheduled by PLAB:

- 0 No hearing request withdrawn by City or Appellant prior to scheduled hearing date

**TAB 6**

## ACTIVITY DETAIL JANUARY 2014 THROUGH DECEMBER 2014

I. Detail of Appeal Requests received and processed by the City Secretary's Office for PLAB

Requests Appeals	License/Permit/ Designation	Appeal Hearing Disposition		Appeal Hearing Not Held
	Description	Denied	Granted	Withdrawn
0	Dance Hall License Denial	0	0	0
2	Dance Hall Late-Hours Permit Denial	0	2 (Lizard Lounge, Station 4)	0
0	Private Ambulance License Denial	0	0	0
0	Mandatory Crime Reduction Program	0	0	0
1	Boarding Home Facility License Denial	0	0	1 (Morning Starr New Beginnings)
<b>Total 3</b>		<b>0</b>	<b>2</b>	<b>1</b>

II. Council District Breakdown of Appeal Requests received and processed by the City Secretary's Office for PLAB

District	Number of Cases	Type
01	0	
02	1	<ul style="list-style-type: none"> <li>Dance Hall Late Hours Permit Denial (Station 4)</li> </ul>
03	0	
04	0	
05	0	
06	0	
07	1	<ul style="list-style-type: none"> <li>Boarding Home Withdrawn (Morning Starr New Beginnings)</li> </ul>
08	0	
09	0	
10	0	
11	0	
12	0	
13	0	
14	1	<ul style="list-style-type: none"> <li>Dance Hall Late Hours Permit Denial (Lizard Lounge)</li> </ul>
15*	0	
<b>Total</b>	<b>3</b>	

\* City Wide (transportation, taxicab, etc.)

**TAB 7**

## NEW BOARD MEMBER TRAINING JANUARY 2014 THROUGH DECEMBER 2014

The City Secretary's Office, City Attorney's Office and the Dallas Police Department provided training for 5 newly appointed members serving a term beginning October 1, 2013 and ending and September 30, 2015 in accordance with Chapter 2, Section 2-95.1 of the Dallas City Code which states "Every person appointed as a member of the permit and license appeal board must attend a one-day training course..."

<b>MEMBER(S) FOR TERM 2013-2015</b>				
NAME	POSITION	APPOINTMENT	TRAINING	OBSERVED HEARING
Jacqueline M. Staley	02	01-15-14	02-20-14	10-02-14
Don Robinson	11	05-14-14	06-19-14	10-02-14
Christopher M. Albert	01	06-18-14	06-19-14	10-02-14
Greg H. Johnson	14	08-06-14	08-28-14	10-02-14
Julia Suarez-Macias	06	09-17-14	10-16-14	10-02-14

**TAB 8**

**PLAB ATTENDANCE RECORD  
JANUARY 2014 THROUGH DECEMBER 2014**

MEETING DATES:		1/9/2014	02/06/14	03/06/14	04/03/14	05/01/14	06/05/14	07/10/14	08/07/14	09/04/14	10/02/14	10/23/14	11/06/14	12/05/14
		R Meeting	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	S Hearing	Hearing	
POS	BOARD MEMBERS													
1	Eladio Martinez	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing		No Hearing	No Hearing	No Hearing
1	Chris Albert							No Hearing	No Hearing	No Hearing	OH	No Hearing	No Hearing	No Hearing
2	Wilma Avalos	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing				
2	Jacqueline Staley		No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	OH	No Hearing	No Hearing	No Hearing
3	Ricardo Medrano	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	P	No Hearing	No Hearing	No Hearing
4	VACANT	V	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	V	No Hearing	No Hearing	No Hearing
5	Raymond Fuller	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	P	No Hearing	No Hearing	No Hearing
6	VACANT	V	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing				
6	Julia Suarez-Macias										OH	No Hearing	No Hearing	No Hearing
7	Carolyn A. Johnson	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	P	No Hearing	No Hearing	No Hearing
8	Michael Smotherman	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	P	No Hearing	No Hearing	No Hearing
9	James A. Morris	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	P	No Hearing	No Hearing	No Hearing
10	Charles Cowan	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	A	No Hearing	No Hearing	No Hearing
11	VACANT	V	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing							
11	Don Robinson							No Hearing	No Hearing	No Hearing	OH	No Hearing	No Hearing	No Hearing
12	Robert Richard	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	P	No Hearing	No Hearing	No Hearing
13	Charles Kight	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	P	No Hearing	No Hearing	No Hearing
14	Antonia Hubert	A	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing				
14	Greg H. Johnson									No Hearing	OH	No Hearing	No Hearing	No Hearing
15	Brent M. Rosenthal	P	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	No Hearing	P	No Hearing	No Hearing	No Hearing

A-Absent AW-Appeal Withdrawn CR-Council Recess CON-Conflict F-Forfeit NM-New Member(Non Voting)  
 NHS-No Hearings Scheduled NQ-No Quorum OH-Observe Hearing P-Present R-Resigned RH-Reset Hearing V-Vacant

**TAB 9**

## APPEALS HEARD BY PLAB JANUARY 2014 THROUGH DECEMBER 2014

This report is a summary of all appeal requests scheduled by the City Secretary's Office for a hearing and heard by the Permit and License Appeal Board.

### 1. **DENIAL OF A DANCE HALL LATE HOURS PERMIT**

Application for a Dance Hall Late Hours Permit under Section 14-3.1

Hearing Date: October 2, 2014  
Appellant: Don Nedler  
Business Name: **LIZARD LOUNGE**  
Location: 2424 Swiss Avenue, 75204  
Notice: Business located within 1,000 feet of the property line of a lot devoted to a residential use  
Issuing Department: DPD  
Council District: 14  
Date Filed with SEC: August 12, 2014  
Scheduled: September 4, 2014 – Reset  
Reset Request: August 19, 2014 – Appellant's Representative  
Rescheduled: October 2, 2014  
Disposition: Appeal Granted/two (2) year exemption  
Vote: 7-1 (1 member absent, 5 new members, 1 vacancies)  
SEC File: 14-6757

### 2. **DENIAL OF A DANCE HALL LATE HOURS PERMIT**

Application for a Dance Hall Late Hours Permit under Section 14-3.1

Hearing Date: October 2, 2014  
Appellant: Gregg Kilhoffer  
Business Name: **BLUE ANGEL, INC., dba STATION 4**  
Location: 3911 Cedar Springs, 75219  
Notice: Business located within 1,000 feet of the property line of a lot devoted to a residential use  
Issuing Department: DPD  
Council District: 2  
Date Filed with SEC: August 29, 2014  
Disposition: Appeal Granted/two (2) year exemption  
Vote: 12-0 (1 member absent, 1 new member, 1 vacancies)  
SEC File: 14-6758

**TAB 10**

## **APPEALS NOT HEARD BY PLAB JANUARY 2014 THROUGH DECEMBER 2014**

This report is a summary of all appeal requests scheduled by the City Secretary's Office for a hearing but not heard by the Permit and License Appeal Board.

### **1. DENIAL OF BOARDING HOME FACILITY LICENSE**

Application for a Boarding Home Facility License under Section 8A-9

Hearing Date:	October 23, 2014
Appellant:	Saperina Winbush
Representative:	Augustus Corbett
Business Name:	<b>MORNING STARR NEW BEGINNINGS</b>
Location:	9016 Tampas Lane, 75227
Notice:	Non-compliance with Dallas City Code, Section 8A-37 [Applicant, owner(s), operator(s), and/or employee(s) of the boarding home facility do not meet the criminal history qualification], and operation of a group residential facility in violation of Dallas Development Code sections 51A-1.104 [requiring certificate of occupancy] and 51A-4.209(b)(3) [prohibiting location in a single family district]
Issuing Department:	CCS
Council District:	7
Date Filed with SEC:	August 29, 2014
Disposition:	Appeal withdrawn (10/10/14) prior to hearing
SEC File:	14-6900

**TAB 11**

**ARTICLE IX.  
PERMIT AND LICENSE APPEAL BOARD.**

**SEC. 2-95. PERMIT AND LICENSE APPEAL BOARD - CREATED;  
FUNCTION; TERMS.**

(a) There is hereby created the permit and license appeal board of the city, which shall be composed of 15 members. Each city council member shall appoint one member to the board. The mayor shall appoint the board chair, and the full city council shall appoint the vice-chair.

(b) The permit and license appeal board shall hear appeals of department directors' actions on licenses and permits issued by the city filed in accordance with Section 2-96 of this chapter and requests for exemptions from locational restrictions filed in accordance with Section 14-2.3, 14-2.4, or 41A-14 of this code, whichever applies.

(c) All members shall be appointed for a term to expire on September 1, 1985. Subsequent appointments will be made in August of each odd-numbered year for a two-year term beginning on September 1. All members shall serve until their successors are appointed and qualified. (Ord. Nos. 18200; 21153; 21514; 22259; 23386; 25002)

**SEC. 2-95.1. TRAINING.**

(a) Every person appointed as a member of the permit and license appeal board must attend a one-day training course before hearing an appeal under Section 2-96 of this chapter or a request for an exemption from locational restrictions under Section 14-2.3, 14-2.4, or 41A-14 of this code, whichever applies. The training course will include, but not be limited to:

(1) an orientation session concerning the powers and duties of the permit and license appeal board and the procedures and requirements for hearing appeals and requests for exemptions from locational restrictions;

(2) instruction in the city's ordinances governing the various licenses and permits issued by the city that may be involved in appeals to the permit and license appeal board;

(3) instruction concerning locational restrictions contained in Chapters 14 and 41A of this code and the procedures and requirements for obtaining exemptions from those restrictions; and

(4) a mock hearing or an observation of an actual hearing.

(b) A person who fails to attend the one-day training course within 90 days from the date of appointment as a member of the permit and license appeal board shall forfeit that position with the city, and that position becomes vacant. (Ord. Nos. 23386; 23736)

**SEC. 2-96. APPEALS FROM ACTIONS OF DEPARTMENT  
DIRECTORS.**

(a) If the director of a city department denies, suspends, or revokes a license or permit over which

the director has regulatory authority, and no appeal is provided by ordinance to another city board, the action is final unless the applicant, licensee, or permittee files a written appeal to the permit and license appeal board with the city secretary within 10 calendar days after the date of receiving notice of the director's action.

(b) If a written request for an appeal hearing is filed with the city secretary within the 10-day limit, the permit and license appeal board shall hear the appeal. The city secretary shall set a date for the hearing within 60 days after the date the appeal is filed.

(c) The permit and license appeal board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply. The permit and license appeal board shall decide the appeal on the basis of a preponderance of the evidence presented at the hearing if there is a dispute of fact, otherwise the board shall decide the appeal in accordance with the provisions of this code. The board shall affirm, reverse, or modify the action of the director by a majority vote. Failure to reach a majority decision on a motion leaves the director's decision unchanged. A hearing of the permit and license appeal board may proceed if a quorum of the board is present. The decision of the permit and license appeal board is final as to administrative remedies, and no rehearing may be granted. (Ord. Nos. 18200; 20279; 21185; 23386; 25002)

#### **SEC. 2-97. RESETS AND CONTINUANCES OF HEARINGS BEFORE THE PERMIT AND LICENSE APPEAL BOARD.**

(a) A request for a reset or continuance of an appeal hearing or of a hearing on an exemption from a locational restriction must be granted by the city secretary if the request is received in writing by the city secretary not less than 10 days before the scheduled hearing date.

(b) The city secretary may not grant any request for a reset or continuance received less than 10 days before a scheduled hearing date, unless the city secretary, after notifying all parties to the appeal or exemption hearing of the request, determines that:

(1) exigent, compelling, or exceptional circumstances exist that:

(A) were unforeseen by and beyond the control of the person requesting the reset or continuance; and

(B) require immediate action or attention by the person requesting the reset or continuance; and

(2) no opposing party will be unreasonably damaged or inconvenienced by the reset or continuance.

(c) Notwithstanding Subsection (a) of this section, a party that has been granted one reset of a scheduled hearing may not be granted another reset of any scheduled hearing for the same appeal or request for an exemption unless the city secretary makes the determinations required by Subsection (b) of this section. (Ord. Nos. 23386; 25002)

#### **SEC. 2-98. PUBLIC NOTICE REQUIREMENTS FOR HEARINGS ON EXEMPTIONS FROM LOCATIONAL RESTRICTIONS.**

If a permit or license is denied because of a locational restriction and the applicant is seeking an exemption to the locational restriction from the permit and license appeal board, a nonrefundable public notice fee of \$100 must be paid to the director of sustainable development and construction at the time

the written request for the exemption hearing is filed. Not less than 10 days before the hearing date, the director of sustainable development and construction shall publish notice of the hearing in a newspaper of general circulation and provide written notice of the hearing to all neighborhood associations registered with the department of sustainable development and construction to receive zoning notices for the area in which the subject of the exemption is located. The director of sustainable development and construction may waive the \$100 public notice fee upon receipt of an affidavit from the applicant showing financial hardship. (Ord. Nos. 23386; 25002; 25047; 27697)

## **SEC. 2-99. APPEALS TO STATE DISTRICT COURT.**

Once the decision of the permit and license appeal board is final under Section 2-96 of this chapter for an appeal of a department director's action on a license or permit or under Section 14-2.3, 14-2.4, or 41A-14 of this code, whichever applies, for a request for an exemption from a locational restriction, the decision may be appealed to the state district court by the city, by the applicant, licensee, or permittee, or by any other person aggrieved by the decision. An appeal to the state district court must be filed within 20 days after the date of the board's final decision. An appeal to the state district court is limited to a hearing under the substantial evidence rule. (Ord. Nos. 18200; 20279; 21185; 23386; 25002)

## **SEC. 2-100. RESERVED.**

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