

MEMORANDUM



Date January 5, 2017
To Honorable Mayor and Members of the City Council
Subject **2016 Annual Report for Permit and License Appeal Board**

The members of the Permit & License Appeal Board are pleased to submit to you our Annual Report of activities for 2016.

We appreciate the opportunity to serve on this very important Board and welcome an opportunity to discuss the report with each of you or collectively as a group.



Brent M. Rosenthal, Chair
Permit and License Appeal Board

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



Permit & License Appeal Board
2016 Annual Report

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DALLAS CITY CODE, Chapter 2, Permit and License Appeal Board, Article IX, Section 2-95 - 2-99 [See Tab 6 (Activity Detail) which outlines the different Chapters of the Dallas City Code for appeals heard by PLAB]	

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
Chad A. West	1	09/26/2016	Appointed 09/14/2016
Manuel Tellez	2	10/04/2016	Appointed 09/14/2016
Vacant (08/26/15 to present)	3	—	—
Vacant (05/11/13 to present)	4	—	—
Raymond E. Fuller	5	12/04/2013	Reappointed 09/02/15
Vacant (07/11/16 to present)	6	—	—
Vacant (10/02/15 to present)	7	—	—
Michael C. Smotherman	8	11/15/2013	Reappointed 10/28/15
Ricardo Medrano	9	01/13/2012	Reappointed 08/26/15
Charles “Chick” Cowan	10	10/25/2012	Reappointed 01/06/16
Marsha Lefkof	11	08/18/2016	Appointed 08/10/2016
Robert T. Richard	12	11/8/2013	Reappointed 12/02/15
Charles W. Kight	13	01/22/2012	Reappointed 11/18/15
Greg Haynes Johnson	14	08/15/2014	Reappointed 08/26/15

OTHER BOARD MEMBERS SERVING IN 2016

Board Member	Position	Original Appointment Date	Current Status
Chris Albert	1	06/19/14	Resigned 07/07/16
Julia Suarez-Macias	6	10/01/14	Resigned 07/11/16

STAFF SUPPORT

- CITY SECRETARY'S OFFICE

- Rosa A. Rios, City Secretary
214-670-5654 ♦ rosa.rios2@dallascityhall.com
- Bilierae Johnson, Assistant City Secretary
214-670-5653 ♦ bilierae.johnson@dallascityhall.com
- Jesse Salazar, Boards and Commissions Manager
214-670-3067 ♦ jesus.salazar@dallascityhall.com
- Dawna Brown, EAC/PLAB Board Coordinator
214-670-3741 ♦ dawna.brown@dallascityhall.com
- Sandra Du Bose, Boards and Commissions Coordinator
214-671-8970 ♦ sandra.dubosedallascityhall.com

- CITY ATTORNEY'S OFFICE

- Obeng Opoku-Acheampong, Assistant City Attorney, PLAB Counsel
214-670-7067 ♦ O.Opoku-Acheampong@dallascityhall.com
- Theresa Pham, Senior Assistant City Attorney, PLAB Counsel
214-671-7979 ♦ theresa.pham@dallascityhall.com

MISSION STATEMENT

The Permit and License Appeal Board is committed to fulfilling 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.

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 2016 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.

ACTIVITY SUMMARY

The following is a summary of activity within the period January 2016 through December 2016. A detailed summary of all hearings is located behind **Tabs 9 and 10** of the report.

- I. 13** Scheduled Hearing, Meeting and/or Training Days:
- 5* Appeal hearings conducted
(5/05/16, 6/02/16, 7/07/16, 9/15/16)
 - 7 No hearings held as no appeal requests received; cancelled
(2/04/16, 3/03/16, 4/07/16, 8/04/16, 10/06/16, 11/03/16, 12/01/16)
 - 1 Annual board meeting
(1/07/16)
- II. 5** Appeal Requests Received by the City Secretary's Office and Scheduled for PLAB Hearing: (See Tab 6 for Activity Detail)
- 5 Appeal requests considered and judgments rendered
(5/05/16, 6/02/16, 7/07/16, 9/15/16)
 - 0 Appeal hearing requests withdrawn
- III. 0** Appeal Requests Received but not scheduled for PLAB Hearing:
- 0 No hearing requests withdrawn by City or Appellant prior to scheduled hearing date

*Two hearings held on September 15, 2016

ACTIVITY DETAIL JANUARY 2016 THROUGH DECEMBER 2016

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

Requests	License/Permit/ Designation	Appeal Hearing Disposition		Appeal Hearing Not Held
		Denied	Granted	Withdrawn
2	Dance Hall Late-Hours Permit Denial	0	2 (Lizard Lounge, Station 4)	0
2	Special Event Permit	1 (McKinney Avenue Tavern)	1 (Mad Decent Block Party)	0
1	Wrecker Driver's Permit	0	1 (Chubb's Towing/J&J Towing/Jordan's Towing)	0
Total 5		1	4	0

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"> • Dance Hall Late Hours Denial (Station 4)
03	0	
04	0	
05	0	
06	0	
07	0	
08	0	
09	0	
10	0	
11	0	
12	0	
13	0	
14	3	<ul style="list-style-type: none"> • Special Event Permit Revocation (McKinney Avenue Tavern) • Special Event Permit Denial (Mad Decent Block Party) • Dance Hall Late Hours Denial (Lizard Lounge)
15*	1	<ul style="list-style-type: none"> • Wrecker Driver's Permit Denial (Chubb's Towing/J&J Towing/Jordan's Towing)
Total	5	

* City Wide (transportation, taxicab, etc.)

**NEW BOARD MEMBER TRAINING
JANUARY 2016 THROUGH DECEMBER 2016**

The City Secretary's Office, City Attorney's Office and the Dallas Police Department provided training for "3" newly appointed members serving a term beginning October 1, 2015 and ending and September 30, 2017 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..."

MEMBER(S) FOR TERM 2015-2017				
NAME	POSITION	APPOINTMENT	TRAINING	OBSERVED HEARING
Marsha Lefkof	11	8/10/16	8/18/16	9/15/16
Chad A. West	1	9/14/16	10/06/16	1/01/17 Video
Manuel Tellez	2	9/14/16	10/06/16	12/23/16 Video

PERMIT AND LICENSE APPEAL BOARD 2016 ATTENDANCE RECORD

MEETING DATES:		1/7/2016	2/4/2016	3/3/2016	4/7/2016	5/5/2016	06/02/16	07/07/16	08/04/16	09/15/16	10/06/16	11/03/16	12/01/16
		R Meeting	Hearing	Hearing	Hearing	Hearing	S Hearing	Hearing	Hearing	S Hearing	Hearing	Hearing	Hearing
POS	BOARD MEMBERS												
1	Chris Albert	P	No Hearing	No Hearing	No Hearing	A	A	A	No Hearing		No Hearing	No Hearing	No Hearing
1	Chad A. West								No Hearing	V	No Hearing	No Hearing	No Hearing
2	Manuel Tellez	V	No Hearing	No Hearing	No Hearing	V	V	V	No Hearing	V	No Hearing	No Hearing	No Hearing
3	VACANT	V	No Hearing	No Hearing	No Hearing	V	V	V	No Hearing	V	No Hearing	No Hearing	No Hearing
4	VACANT	V	No Hearing	No Hearing	No Hearing	V	V	V	No Hearing	V	No Hearing	No Hearing	No Hearing
5	Raymond Fuller	P	No Hearing	No Hearing	No Hearing	A	P	P	No Hearing	P	No Hearing	No Hearing	No Hearing
6	Julia Suarez-Macias	P	No Hearing	No Hearing	No Hearing	P	A	A	No Hearing	P	No Hearing	No Hearing	No Hearing
6	VACANT (as of 7/11/16)								No Hearing		No Hearing	No Hearing	No Hearing
7	VACANT	V	No Hearing	No Hearing	No Hearing	V	V	V	No Hearing	V	No Hearing	No Hearing	No Hearing
8	Michael Smotherman	A	No Hearing	No Hearing	No Hearing	P	P	P	No Hearing	P	No Hearing	No Hearing	No Hearing
9	Ricardo Medrano	P	No Hearing	No Hearing	No Hearing	P	P	P	No Hearing	P	No Hearing	No Hearing	No Hearing
10	Charles Cowan	P	No Hearing	No Hearing	No Hearing	P	A	P	No Hearing	P	No Hearing	No Hearing	No Hearing
11	VACANT	V	No Hearing	No Hearing	No Hearing	V	V	V	No Hearing		No Hearing	No Hearing	No Hearing
11	Marsha B. Lefkof									OH/P	No Hearing	No Hearing	No Hearing
12	Robert Richard	P	No Hearing	No Hearing	No Hearing	A	P	A	No Hearing	P	No Hearing	No Hearing	No Hearing
13	Charles Kight	P	No Hearing	No Hearing	No Hearing	P	P	A	No Hearing	P	No Hearing	No Hearing	No Hearing
14	Greg H. Johnson	P	No Hearing	No Hearing	No Hearing	P	P	P	No Hearing	P	No Hearing	No Hearing	No Hearing
15	Brent M. Rosenthal	P	No Hearing	No Hearing	No Hearing	P	P	P	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) S-Special Mtg
 NQ-No Quorum OH-Observe Hearing P-Present R-Resigned RH-Reset Hearing
 V-Vacant No Hearing = Mtg Cancelled

APPEALS HEARD BY PLAB JANUARY 2016 THROUGH DECEMBER 2016

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. ISSUANCE AND DENIAL OF WRECKER DRIVER'S PERMIT

Application for a Wrecker Driver's Permit under Section 15D-32

Hearing Date: May 5, 2016
Appellant: Charles Glidden
Business Name: **CHUBB'S TOWING/J&J TOWING/JORDAN'S TOWING**
Location: 319 Cole Street, Garland, TX 75040
Notice: Failure to comply with Chapter 15D of the Dallas City Code
Issuing Department: CCS – Code Compliance
Council District: All
Date Filed with CSO: February 24, 2016
Disposition: Affirm the decision of the Code Compliance Director
Vote: 7-0 (3 absent, 5 vacancies)
CSO File: 16-5951

2. DENIAL OR REVOCATION OF SPECIAL EVENTS PERMIT

Revocation of Special Events Permit under 42A-13

Hearing Date: June 2, 2016
Appellant: Al Mack
Representative: Lorin M. Subar
Business Name: **MCKINNEY AVENUE TAVERN**
Location: 2822 McKinney Avenue, Dallas, TX 75204
Notice: Revocation of Special Events Permit under 42A-13 of the Dallas City Code
Issuing Department: CES - Department of Convention and Events
Council District: 14
Date Filed with CSO: April 19, 2016
Request for Reset: April 21, 2016
Disposition: Affirm the decision of the Special Events Manager
Vote: 4-3 (3 absent, 5 vacancies)
CSO File: 16-5953

3. DENIAL OR REVOCATION OF SPECIAL EVENTS PERMIT

Denial of Special Events Permit under 42A-13

Hearing Date: July 7, 2016
Appellant: Jon Fordin
Business Name: **MAD DECENT BLOCK PARTY**
Location: 703 McKinney Avenue, Dallas, TX 75202
Notice: Denial of Special Events Permit under 42A-13 of the Dallas City Code
Issuing Department: CES - Department of Convention and Events
Council District: 14
Date Filed with CSO: June 17, 2016
Disposition: Reverse the decision of the Special Events Manager
Vote: 6-0 (4 members absent, 5 vacancies)
CSO File: 16-6057

4. DENIAL OF A DANCE HALL LATE HOURS PERMIT

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

Hearing Date: September 15, 2016
Appellant: Don Nedler
Representative: Roger Albright
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 CSO: August 4, 2016
Disposition: Appeal Granted/two (2) year exemption
Vote: 8-0 (1 observing hearing, 6 vacancies)
CSO File: 16-6651

5. DENIAL OF A DANCE HALL LATE HOURS PERMIT

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

Hearing Date: September 15, 2016
Appellant: Gregg Kilhoffer
Representative: James H. Birch
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 CSO: August 4, 2016
Disposition: Appeal Granted/two (2) year exemption
Vote: 8-1 (6 vacancies)
CSO File: 16-6652

**APPEALS NOT HEARD BY PLAB
JANUARY 2016 THROUGH DECEMBER 2016**

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.

NONE in 2016

The Dallas City Code

**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) Each member shall be appointed for a two- year term beginning on October 1 of each odd- numbered year. All members shall serve until their successors are appointed and qualified. (Ord. Nos. 18200; 21153; 21514; 22259; 23386; 25002; 29645)

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; 25002)

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.