

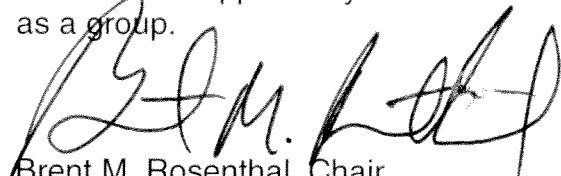
MEMORANDUM



Date January 5, 2018
To Honorable Mayor and Members of the City Council
Subject **2017 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 2017.

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: T.C. Broadnax, City Manager
Biliera Johnson, Interim City Secretary

PERMIT AND LICENSE APPEAL BOARD



ANNUAL REPORT 2017

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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 10/01/17
Brandon Johnson	1	05/17/2017	Reappointed 11/08/17
Manuel Tellez	2	10/04/2016	Reappointed 10/11/17
Vacant (08/26/15 to present)	3	—	—
Vacant (05/11/13 to present)	4	—	—
Raymond E. Fuller	5	12/04/2013	Reappointed 10/11/17
Vacant (07/11/16 to present)	6	—	—
Jennifer L. Rylander	7	04/18/2017	Holdover as of 10/01/17
Michael C. Smotherman	8	11/15/2013	Reappointed 09/06/17
Ricardo Medrano	9	01/13/2012	Reappointed 10/11/17
Charles “Chick” Cowan	10	10/25/2012	Reappointed 10/11/17
Marsha Lefkof	11	08/18/2016	Reappointed 09/27/17
Robert T. Richard	12	11/8/2013	Reappointed 11/14/17
Charles W. Kight	13	01/22/2012	Holdover as of 10/01/17
Greg Haynes Johnson	14	08/15/2014	Reappointed 09/13/17

OTHER BOARD MEMBERS SERVING IN 2017

Board Member	Position	Original Appointment Date	Current Status
Chad A. West	1	09/26/2016	Resigned 04/17/17

STAFF SUPPORT

- CITY SECRETARY'S OFFICE

- Bilierae Johnson, Interim 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
- Kanesia Williams, Assistant City Attorney, PLAB Counsel
214-670-3429 ♦ kanesia.williams@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:** Bilierae Johnson, Interim 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
- Convenience Stores Chapter 12B
- * Dance Halls..... Chapter 14
- Emergency Vehicles..... Chapter 15D
- Food Establishments..... Chapter 17
- Health & Sanitation..... Chapter 19
- Massage Establishments..... Chapter 25A
- Motor Vehicles & Traffic Chapter 28

* Appeal Hearings for Calendar Year 2017 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
* Transportation For Hire	Chapter 47A
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 2017 through December 2017. 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:
- 4 days Appeal hearings conducted (8/03/17, 8/10/17, 9/07/17, 10/05/17)
 - 1 day Appeal hearings reset (7/20/17)
 - 7 days No hearings held as no appeal requests received; cancelled (2/02/17, 3/02/17, 4/06/17, 5/04/17, 6/01/17, 11/02/17, 12/07/17)
 - 1 day Regular board meeting (1/05/17)
- II. 4** Appeal Requests Received by the City Secretary's Office and Scheduled for PLAB Hearing: (See Tabs 6 and 7 for Activity Detail)
- 4 Appeal requests considered and judgments rendered (8/03/17, 8/10/17, 9/07/17, 10/05/17)
 - 0 Appeal hearing request withdrawn
- III. 0** Appeal Requests Received but not scheduled by PLAB:
- 0 No hearing request withdrawn by City or Appellant prior to scheduled hearing date

ACTIVITY DETAIL JANUARY 2017 THROUGH DECEMBER 2017

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 (Under The Bridge, Sue Ellen's)	0
2	Suspension of Driver Permit	0	2 (Ambassador Cab, Jet Cab)	0
1	Denial of Transportation- for-Hire Driver Permit	1 (John Wayne Morrison, III)	0	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 (Sue Ellen's)
03	0	
04	0	
05	0	
06	0	
07	0	
08	0	
09	0	
10	0	
11	0	
12	0	
13	0	
14	1	<ul style="list-style-type: none"> • Dance Hall Late Hours Denial (Under The Bridge)
15*	3	<ul style="list-style-type: none"> • Suspension of Driver Permit (Ambassador Cab, Jet Cab) • Denial of Transportation-for-Hire (John Wayne Morrison, III)
Total	5	

* City Wide (transportation, taxicab, etc.)

NEW BOARD MEMBER TRAINING JANUARY 2017 THROUGH DECEMBER 2017

The City Secretary's Office, City Attorney's Office and the Dallas Police Department provided training for "2" 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
Jennifer Rylander	7	04/12/17	05/18/17	08/03/17
Brandon Johnson	1	05/17/17	05/18/17	08/10/17

PERMIT AND LICENSE APPEAL BOARD 2017 ATTENDANCE RECORD

MEETING DATES:		1/5/2017	2/2/2017	3/2/2017	4/6/2017	5/4/2017	6/1/2017	7/20/2017	8/3/2017	8/10/2017	9/7/2017	10/5/2017	11/02/2017	12/07/2017
		R Meeting	Hearing	Hearing	Hearing	Hearing	Hearing	S Hearing	Hearing	S Hearing	Hearing	Hearing	Hearing	Hearing
POS	BOARD MEMBERS													
1	Brandon Johnson	V	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	A	OH/P	P	A	Cancelled	Cancelled
2	Manuel Tellez	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	P	P	A	P	Cancelled	Cancelled
3	VACANT	V	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	V	V	V	V	Cancelled	Cancelled
4	VACANT	V	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	V	V	V	V	Cancelled	Cancelled
5	Raymond Fuller	A	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	A	P	P	P	Cancelled	Cancelled
6	VACANT	V	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	V	V	V	V	Cancelled	Cancelled
7	Jennifer Rylander	V	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	OH/P	P	A	P	Cancelled	Cancelled
8	Michael Smotherman	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	P	P	P	P	Cancelled	Cancelled
9	Ricardo Medrano	A	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	P	P	P	A	Cancelled	Cancelled
10	Charles Cowan	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	P	P	P	A	Cancelled	Cancelled
11	Marsha B. Lefkof	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	A	A	A	P	Cancelled	Cancelled
12	Robert Richard	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	P	P	P	P	Cancelled	Cancelled
13	Charles Kight	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	P	P	P	P	Cancelled	Cancelled
14	Greg H. Johnson	A	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	P	A	P	A	Cancelled	Cancelled
15	Brent M. Rosenthal	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	RH	P	A	P	P	Cancelled	Cancelled

A-Absent F-Forfeit OH-Observe Hearing R-Resigned RH-Reset Hearing V-Vacant Cancelled-Mtg Cancelled

APPEALS HEARD BY PLAB JANUARY 2017 THROUGH DECEMBER 2017

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 of the Dallas City Code

Hearing Date: August 3, 2017
Appellant: Standard Bridges
Business Name: **UNDER THE BRIDGE CLUB**
Location: 5610 South Lamar Street, 75215
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: June 26, 2017
Disposition: Appeal Granted/one (1) year exemption
Vote: 6-2 (1 observing hearing, 3 absent, 3 vacancies)
CSO File: 17-6401

2. SUSPENSION OF DRIVER PERMIT

Reinstatement of Driver Permit under Section 5-62(c)(1)(D) of the Dallas City Code

Hearing Date: August 10, 2017
Appellant: Martin Azubueze Njoku
Representative: Okey N.C. Akpom
Business Name: **AMBASSADOR CAB #L234**
Notice: Suspension of driver permit under 5-62(c)(1)(D)
Issuing Department: AVI
Council District: 14
Date Filed with CSO: June 12, 2017
Request for Reset: July 13, 2017
Disposition: Modify the decision of the Director of Aviation
Vote: 5-3 (4 absent, 3 vacancies)
CSO File: 17-6402

3. SUSPENSION OF DRIVER PERMIT

Reinstatement of Driver Permit under Section 5-62(c)(1)(D) of the Dallas City Code

Hearing Date: September 7, 2017
Appellant: Aniekeme Akpabot
Representative: Okey N.C. Akpom
Business Name: **JET CAB #J722**
Notice: Suspension of driver permit under 5-62(c)(1)(D)
Issuing Department: AVI
Council District: 14
Date Filed with CSO: June 14, 2017
Reset by PLAB: August 10, 2017
Disposition: Modify the decision of the Director of Aviation
Vote: 6-3 (3 absent, 3 vacancies)
CSO File: 17-6404

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 7, 2017
Appellant: Gregory N. Kilhoffer
Business Name: **SUE ELLEN'S**
Representative: James Birch
Location: 3014 Throckmorton Street, 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: July 18, 2017
Disposition: Reverse the decision of the Chief of Police
Vote: 9-0 (3 absent, 3 vacancies)
CSO File: 17-6403

5. DENIAL OF A TRANSPORTATION-FOR-HIRE DRIVER PERMIT

Application for Transportation-for-Hire Driver Permit under Section 47A-2.2.2

Hearing Date: October 5, 2017
Appellant: John Wayne Morrison III
Notice: Denial of Transportation-for-Hire Driver Permit
under 47A-2.2.2
Issuing Department: AVI
Council District: All
Date Filed with CSO: August 30, 2017
Disposition: Reverse the decision of the Chief of Police
Vote: 9-0 (3 absent, 3 vacancies)
CSO File: 17-6694

**APPEALS NOT HEARD BY PLAB
JANUARY 2017 THROUGH DECEMBER 2017**

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 2017

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.