


MEMORANDUM



Date January 3, 2019
To Honorable Mayor and Members of the City Council
Subject **2018 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 2018.

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
Billerae Johnson, City Secretary

PERMIT AND LICENSE APPEAL BOARD



ANNUAL REPORT 2018

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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]	

TAB 1

CURRENT BOARD MEMBERS

Board Member	Position	Member as of	Current Status
Brent M. Rosenthal, Chairman	15	03/01/2004	Holdover as of 10/01/17
Brandon P. Johnson	1	05/18/2017	Reappointed 11/08/17
Manuel Tellez	2	10/04/2016	Reappointed 10/11/17
Vacant (09/30/15 to present)	3	—	—
Crystal N. Armstrong	4	07/03/2018	Appointed 06/13/2018
Raymond E. Fuller	5	12/04/2013	Reappointed 10/11/17
Linda Neel	6	02/26/2018	Appointed 02/07/2018
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” N. Cowan	10	10/25/2012	Reappointed 10/11/17
Vacant (01/14/18 to present)	11	—	—
Robert T. Richard, Vice Chair	12	11/8/2013	Reappointed 11/14/17
Charles W. Kight	13	01/22/2012	Reappointed 05/02/18
Greg Haynes Johnson	14	08/15/2014	Reappointed 09/13/17

OTHER BOARD MEMBERS SERVING IN 2018

Board Member	Position	Original Appointment Date	Current Status
Marsha B. Lefkof	11	08/10/2016	Resigned 01/14/18

TAB 2

STAFF SUPPORT

- CITY SECRETARY'S OFFICE

- Bilierae Johnson, City Secretary
214-670-5654 ♦ bilierae.johnson@dallascityhall.com
- Jesse Salazar, First Assistant City Secretary
214-670-3067 ♦ jesus.salazar@dallascityhall.com
- Miroslava Martinez, Assistant City Secretary
214-670-3809 ♦ miroslava.martinez@dallascityhall.com
- Sandra Du Bose, Boards and Commissions Manager
214-671-8970 ♦ sandra.dubose@dallascityhall.com
- Dawna Brown, EAC/PLAB Board Coordinator
214-670-3741 ♦ dawna.brown@dallascityhall.com

- CITY ATTORNEY'S OFFICE

- Theresa Pham, Senior Assistant City Attorney, PLAB Counsel
214-671-7979 ♦ theresa.pham@dallascityhall.com

TAB 3

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.

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:** Bilierae Johnson, City Secretary
 Jesse Salazar, First Assistant City Secretary
 Miroslava Martinez, Assistant City Secretary
 Sandra DuBose, 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
* Habitual Criminal Property	Chapter 27

* Appeal Hearings for Calendar Year 2018 held only in this area.

Motor Vehicles & Traffic	Chapter 28
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.

TAB 5

ACTIVITY SUMMARY

The following is a summary of activity within the period January 2018 through December 2018. A detailed summary of all hearings is located behind **Tabs 9 and 10** of the report.

- I. 14** Scheduled Hearing, Meeting and/or Training Days:
- 2 days Appeal hearings conducted (8/02/18, 9/06/18)
**5 hearings held 8/02/18*
 - 2 days Appeal hearings reset (6/28/18, 11/01/18)
 - 9 days No hearings held as no appeal requests received; cancelled (2/01/18, 3/01/18, 4/05/18, 5/03/18, 6/07/18, 7/05/18, 10/04/18, 11/01/18, 12/06/18)
 - 1 day Regular board meeting (1/04/18)
- II. 7** Appeal Requests Received by the City Secretary's Office and Scheduled for PLAB Hearing: (See Tabs 6 and 7 for Activity Detail)
- 6 Appeal requests considered and judgments rendered (8/02/18, 9/06/18)
**5 hearings held 8/02/18*
 - 1 Appeal hearing request withdrawn (12/06/18)
- 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 2018 THROUGH DECEMBER 2018

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
3	Dance Hall Late-Hours Permit Denial	0	3 (Amnesia, Station 4, Lizard Lounge)	0
2	Special Event Permit	2 (Bishop Arts Festival, Dallas Festival of Arts)	0	0
2	Habitual Criminal Property	1 (Vista Forrent, LLC)	0	1 (Pecan Tree Apartments)
Total 7		3	3	1

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	2	<ul style="list-style-type: none"> • Dance Hall Late Hours Denial (Station 4, Amnesia)
03	0	
04	0	
05	0	
06	1	<ul style="list-style-type: none"> • Habitual Criminal Property (Pecan Tree Apartments)
07	1	<ul style="list-style-type: none"> • Habitual Criminal Property (Vista Forrent)
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 (Lizard Lounge)
15*	2	<ul style="list-style-type: none"> • Special Event Permit (Bishop Arts Festival, Dallas Festival of Arts)
Total	7	

* City Wide (transportation, taxicab, etc.)

TAB 7

NEW BOARD MEMBER TRAINING JANUARY 2018 THROUGH DECEMBER 2018

The City Secretary's Office and the City Attorney's Office provided training for "2" newly appointed members serving a term beginning October 1, 2017 and ending and September 30, 2019 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 2017-2019				
NAME	POSITION	APPOINTMENT	TRAINING	OBSERVED HEARING
Linda Neel	6	02/07/18	03/27/18	08/02/18
Crystal N. Armstrong	4	06/13/18	07/27/18	08/02/18

TAB 8

PERMIT AND LICENSE APPEAL BOARD 2018 ATTENDANCE RECORD

MEETING DATES:		1/4/2018	2/1/2018	3/1/2018	4/5/2018	5/3/2018	6/7/2018	7/5/2018	8/2/2018	9/6/2018	10/4/2018	11/1/2018	12/6/2018
		R Meeting	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing
POS	BOARD MEMBERS												
1	Brandon Johnson	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	P	Cancelled	Cancelled	Cancelled
2	Manuel Tellez	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	A	A	Cancelled	Cancelled	Cancelled
3	VACANT	V	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	V	V	Cancelled	Cancelled	Cancelled
4	Crystal Armstrong	V	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	OH/P	P	Cancelled	Cancelled	Cancelled
5	Raymond Fuller	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	P	Cancelled	Cancelled	Cancelled
6	Linda Neel	V	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	OH/P	A	Cancelled	Cancelled	Cancelled
7	Jennifer Rylander	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	P	Cancelled	Cancelled	Cancelled
8	Michael Smotherman	A	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	P	Cancelled	Cancelled	Cancelled
9	Ricardo Medrano	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	P	Cancelled	Cancelled	Cancelled
10	Charles Cowan	A	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	A	Cancelled	Cancelled	Cancelled
11	Marsha B. Lefkof (Resigned 1/16/18)	A											
11	VACANT		Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	V	V	Cancelled	Cancelled	Cancelled
12	Robert Richard	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	P	Cancelled	Cancelled	Cancelled
13	Charles Kight	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	P	Cancelled	Cancelled	Cancelled
14	Greg H. Johnson	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	P	Cancelled	Cancelled	Cancelled
15	Brent M. Rosenthal	P	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	Cancelled	P	P	Cancelled	Cancelled	Cancelled

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

TAB 9

APPEALS HEARD BY PLAB JANUARY 2018 THROUGH DECEMBER 2018

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 2, 2018
Appellant: Gregg Kilhoffer
Representative: James H. Birch
Business Name: **BLUE ANGEL, INC., dba STATION 4**
Location: 3911 Cedar Springs, 75219
Denial: 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: June 18, 2018
Disposition: Appeal Granted/two (2) year exemption
Vote: 12-0 (1 absent, 2 vacancies)
CSO File: 18-6335

2. 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 2, 2018
Appellant: Khanh Nguyen
Business Name: **CLUB DRAGON 1, LLC, dba AMNESIA**
Location: 1707 South Lamar Street, 75215
Denial: 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: June 22, 2018
Disposition: Appeal Granted/one (1) year exemption
Vote: 11-1 (1 absent, 2 vacancies)
CSO File: 18-6336

3. DENIAL OR REVOCATION OF SPECIAL EVENT PERMIT

Application for Special Event Permit under Section 42A-13

Hearing Date: August 2, 2018
Appellant: Randall D. Fox
Business Name: **ATLANTA FOUNDATION FOR PUBLIC SPACES**
Bishop Arts Festival
Denial: Denial of Special Event Permit under 42A-13 of the Dallas City Code
Issuing Department: CES
Council District: All
Date Filed with CSO: May 24, 2018
Reset by PLAB: June 12, 2018
Disposition: Affirm the decision of the special event manager
Vote: 11-0 (1 absent, 1 absent when vote taken, 2 vacancies)
CSO File: 18-6337

4. DENIAL OR REVOCATION OF SPECIAL EVENT PERMIT

Application for Special Event Permit under Section 42A-13

Hearing Date: August 2, 2018
Appellant: Randall D. Fox
Business Name: **ATLANTA FOUNDATION FOR PUBLIC SPACES**
Dallas Festival of Arts
Denial: Denial of Special Event Permit under 42A-13 of the Dallas City Code
Issuing Department: CES
Council District: All
Date Filed with CSO: May 24, 2018
Reset Request: June 12, 2018
Disposition: Affirm the decision of the special event manager
Vote: 11-0 (1 absent, 1 absent when vote taken, 2 vacancies)
CSO File: 18-6338

5. DESIGNATION AS A HABITUAL CRIMINAL PROPERTY

Habitual Criminal Property Designation under Section 27, Article VIII

Hearing Date: August 2, 2018
Appellant: Viviana Amzel
Business Name: **VISTA FORRENT, LLC**
Location: 3019 South Boulevard, 75215
Notice: Notice of Final Determination regarding Habitual Criminal Property under Section 27, Article VIII of the Dallas City Code
Issuing Department: DPD
Council District: 7
Date Filed with CSO: July 17, 2018
Disposition: Affirm the decision of the Chief of Police
Vote: 11-0 (1 absent, 1 absent when vote taken, 2 vacancies)
CSO File: 18-6339

6. 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: September 6, 2018
Appellant: Don Nedler
Representative: Roger Albright
Business Name: **LIZARD LOUNGE**
Location: 2424 Swiss Avenue, 75204
Denial: 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: July 25, 2018
Disposition: Appeal Granted/two (2) year exemption
Vote: 10-0 (3 absent, 2 vacancies)
CSO File: 18-6481

TAB 10

APPEALS NOT HEARD BY PLAB JANUARY 2018 THROUGH DECEMBER 2018

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. DESIGNATION AS A HABITUAL CRIMINAL PROPERTY

Habitual Criminal Property Designation under Section 27, Article VIII

Hearing Date:	December 6, 2018
Appellant:	Elliot Aronson/Eric Aronson
Representative:	Jonathan Bass
Business Name:	PECAN TREE APARTMENTS
Location:	3001 Kendale Drive, 75220; 3011 Kendale Drive, 75220; 3001 Clydedale Drive, 75220; 3002 Clydedale Drive, 75220; 3006 Storey Lane, 75220; 3012 Storey Lane, 75220
Notice:	Notice of Final Determination regarding Habitual Criminal Property under Section 27, Article VIII of the Dallas City Code
Issuing Department:	DPD
Council District:	6
Date Filed with CSO:	August 22, 2018
Date Withdrawn:	November 29, 2018

TAB 11

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.