

MEMORANDUM

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CITY SECRETARY
DALLAS, TEXAS



Date January 6, 2022
To Honorable Mayor and Members of the City Council
Subject **2021 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 2021.

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.



Benjamin Setnick, Chair
Permit and License Appeal Board

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

PERMIT AND LICENSE APPEAL BOARD



CITY OF DALLAS

ANNUAL REPORT 2021

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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
Benjamin Setnick, Chair	15	10/24/19	Appointed 10/08/19
Joe Ryan Urby	1	11/06/21	Appointed 10/27/21
Vacant (04/30/19 to present)	2	—	—
Vacant (09/30/15 to present)	3	—	—
Vacant (12/27/19 to present)	4	—	—
Vacant (10/26/20) to present)	5	—	—
Laura Baez Torres	6	09/29/21	Appointed 09/22/21
Derrick Nutall	7	12/03/19	Appointed 11/13/19
Vacant (06/22/20 to present)	8	—	—
Richard Cuccia	9	11/25/19	Appointed 11/06/19
Derrich Phillips	10	11/21/19	Appointed 11/06/19
Jack M. Hayes	11	10/20/21	Appointed 10/13/21
Bob T. Richard	12	11/08/13	Reappointed 09/02/20
Charles W. Kight	13	01/22/12	Reappointed 10/16/19
Dolores G. Wolfe	14	10/12/21	Appointed 10/05/21

OTHER BOARD MEMBERS SERVING IN 2020-2021

Board Member	Position	Original Appointment Date	Current Status
Nancy Galvan	1	06/17/20	Resigned 10/08/21
Brandi Patterson	6	08/26/20	Resigned 10/01/21
Kenneth Steinhart	11	11/02/20	Term Ended 10/14/21
Greg Haynes Johnson	14	08/06/14	Resigned 07/29/21

STAFF SUPPORT

- CITY SECRETARY'S OFFICE

- Bilierae Johnson, City Secretary
214-670-5654 ♦ bilierae.johnson@dallascityhall.com
- Miroslava Martinez, Assistant City Secretary
214-670-3809 ♦ miroslava.martinez@dallascityhall.com
- Dawna Brown, EAC/PLAB Board Coordinator
214-670-3741 ♦ dawna.brown@dallascityhall.com
- Ashley De La Rosa, Administrative Specialist
214-670-3055 ♦ ashley.delarosa@dallascityhall.com

- CITY ATTORNEY'S OFFICE

- Anna Holmes, Senior Assistant City Attorney, PLAB Counsel
214-670-5099 ♦ anna.holmes@dallascityhall.com
- Daniel Moore, Assistant City Attorney, PLAB Counsel
214-670-7027 ♦ daniel.moore@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, City Secretary
 Miroslava Martinez, Assistant City Secretary
 Dawna Brown, Board Coordinator
 Ashley De La Rosa, Administrative Specialist
- 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
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 2021 held only in this area.

Motor Vehicles & Traffic	Chapter 28
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
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 Parking License	
• 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 2021 through December 2021. A detailed summary of all hearings is located behind **Tabs 9 and 10** of the report.

- I. 12** Scheduled Hearing, Meeting and/or Training Days:
- 4 days Appeal hearings conducted
(8/05/21, 9/02/21, 10/07/21, 11/05/21)
**2 hearings held 8/05/21*
 - 6 days No hearings held as no appeal requests received; cancelled
(3/04/21, 4/01/21, 5/06/21, 6/03/21, 7/01/21, 12/02/21)
 - 2 days Regular board meeting
(1/07/21, 2/04/21)
- II. 5** Appeal Requests Received by the City Secretary's Office and Scheduled for PLAB Hearing: (See Tabs 6 and 7 for Activity Detail)
- 5 Appeal requests considered and judgments rendered
(8/05/21, 9/02/21, 10/07/21, 11/05/21)
**2 judgments rendered 8/05/21*
 - 0 Appeal hearing requests withdrawn
- III. 1** Appeal Requests Received but not scheduled by PLAB:
- 1 Hearing request withdrawn/abandoned by City or Appellant prior to scheduled hearing date

ACTIVITY DETAIL JANUARY 2021 THROUGH DECEMBER 2021

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

Requests Appeals	License/Permit/ Designation Description	Appeal Hearing Disposition		Appeal Hearing Not Held
		Denied	Granted	Withdrawn/Abandoned
2	Dance Hall Late-Hours Permit Denial	0	1 (Sue Ellen's)	1 (Club Babylon)
4	Habitual Criminal Property	4 (*Hoppenstein Properties, Fairway Townhomes, International Bazaar, Inc.)	0	0
Total 6		4	1	1

*Two separate hearings for Hoppenstein Properties for two different locations.

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 (Sue Ellen’s)
03	1	<ul style="list-style-type: none"> • Habitual Criminal Property (Hoppenstein Properties)
04	1	<ul style="list-style-type: none"> • Habitual Criminal Property (International Bazaar Inc.)
05	0	
06	0	
07	1	<ul style="list-style-type: none"> • Habitual Criminal Property (Hoppenstein Properties)
08	0	
09	1	<ul style="list-style-type: none"> • Habitual Criminal Property (Fairway Townhomes)
10	0	
11	0	
12	0	

Council District Breakdown Continuation

District	Number of Cases	Type
13	0	
14	0	
15*	0	
Total	5	

* City Wide (transportation, taxicab, etc.)

NEW BOARD MEMBER TRAINING JANUARY 2021 THROUGH DECEMBER 2021

The City Secretary’s Office and the City Attorney’s Office provided training for “4” newly appointed members serving a term beginning October 1, 2020 and ending and September 30, 2022 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 2019-2021				
NAME	POSITION	APPOINTMENT	TRAINING	OBSERVED HEARING
Joe Ryan Urby	1	10/27/21	12/17/21	01/03/22
Laura Baez Torres	6	09/22/21	10/06/21	10/07/21
Jack M. Hayes	11	10/13/21	10/26/21	10/25/21
Dolores G. Wolfe	14	10/05/21	10/26/21	11/04/21

PERMIT AND LICENSE APPEAL BOARD 2021 ATTENDANCE RECORD

MEETING DATES:		1/7/2021	2/4/2021	3/4/2021	4/1/2021	5/6/2021	6/3/2021	7/1/2021	8/5/2021	9/2/2021	10/7/2021	11/4/2021	11/5/2021	12/2/2021
		R Meeting	R Meeting	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	Hearing	S Hearing	Hearing
POS	BOARD MEMBERS													
1	Joe Urby (as of 11/06/21)											Rescheduled	R	Cancelled
2	VACANT (as of 04/30/19)	V	V	Cancelled	Reset	Cancelled	Cancelled	Cancelled	V	V	V	Rescheduled	V	Cancelled
3	VACANT (as of 09/30/15)	V	V	Cancelled	Reset	Cancelled	Cancelled	Cancelled	V	V	V	Rescheduled	V	Cancelled
4	VACANT (as of 12/27/19)	V	V	Cancelled	Reset	Cancelled	Cancelled	Cancelled	V	V	V	Rescheduled	V	Cancelled
5	VACANT (as of 10/26/20)	V	V	Cancelled	Reset	Cancelled	Cancelled	Cancelled	V	V	V	Rescheduled	V	Cancelled
6	Laura Torres (as of 9/22/21)										P/OH	Rescheduled	P	Cancelled
7	Derrick Nutall (as of 11/13/19)	P	P	Cancelled	Reset	Cancelled	Cancelled	Cancelled	P	P	P	Rescheduled	P	Cancelled
8	VACANT (as of 06/22/20)	V	V	Cancelled	Reset	Cancelled	Cancelled	Cancelled	V	V	V	Rescheduled	V	Cancelled
9	Richard Cuccia (as of 11/25/19)	P	P	Cancelled	Reset	Cancelled	Cancelled	Cancelled	P	P	P	Rescheduled	P	Cancelled
10	Derrich Phillips (as of 11/06/19)	P	P	Cancelled	Reset	Cancelled	Cancelled	Cancelled	P	A	P	Rescheduled	P	Cancelled
11	Jack Hayes (as of 10/13/21)											Rescheduled	P	Cancelled
12	Robert Richard	P	A	Cancelled	Reset	Cancelled	Cancelled	Cancelled	P	P	P	Rescheduled	P	Cancelled
13	Charles Kight	P	P	Cancelled	Reset	Cancelled	Cancelled	Cancelled	P	P	P	Rescheduled	P	Cancelled
14	Dolores Wolfe(as of 10/05/21)											Rescheduled	P	Cancelled
15	Benjamin Setnick (as of 10/24/19)	P	P	Cancelled	Reset	Cancelled	Cancelled	Cancelled	P	P	A	Rescheduled	P	Cancelled

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

APPEALS HEARD BY PLAB JANUARY 2021 THROUGH DECEMBER 2021

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 CLASS A DANCE HALL LATE-HOURS PERMIT

Application for a Class A Dance Hall License under Section 14-3.1 of the Dallas City Code

Hearing Date: August 5, 2021
Appellant: Gregory Kilhoffer
Representative: Jim H. Birch
Business Name: **ISAC Corporation dba Sue Ellen's**
Location: 3014 Throckmorton Street, 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: July 2, 2021
Disposition: Find for the applicant, granting a two-year exemption from the locational restrictions of Dallas City Code Section 14-3.1
Vote: 8-0 (7 vacancies)
CSO File: 21-5951

2. DESIGNATION AS A HABITUAL CRIMINAL PROPERTY

Habitual Criminal Property under Chapter 27, Article VIII of the Dallas City Code

Hearing Date: August 5, 2021
Appellant: Hoppenstein Properties Inc.
Representative: Warren V. Norred
Business Name: **Maria Retail Inc.**
Location: 1207 E. Red Bird Lane, 75241
Denial: Notice of Final Determination as a Habitual Criminal Property
Issuing Department: DPD
Council District: 3
Date Filed with CSO: July 16, 2021
Disposition: Affirms the decision of the Chief of Police
Vote: 8-0 (7 vacancies)
CSO File: 21-5952

3. DESIGNATION AS A HABITUAL CRIMINAL PROPERTY

Habitual Criminal Property under Chapter 27, Article VIII of the Dallas City Code

Hearing Date: September 2, 2021
Appellant: Hoppenstein Properties Inc.
Representative: Warren V. Norred
Location: 3308 Elsie Faye Heggins Street, 75215
Denial: Notice of Final Determination as a Habitual Criminal Property
Issuing Department: DPD
Council District: 7
Date Filed with CSO: August 17, 2021
Disposition: Affirms the decision of the Chief of Police
Vote: 6-0 (2 absent, 7 vacancies)
CSO File: 21-6002

4. DESIGNATION AS A HABITUAL CRIMINAL PROPERTY

Habitual Criminal Property under Chapter 27, Article VIII of the Dallas City Code

Hearing Date: October 7, 2021
Appellant: Universal Registered Agents, Inc.
Representative: Brian Adkins
Business Name: **Fairway Townhomes Housing, L.P.**
Location: 7229 Ferguson Road, 75228
Denial: Notice of Final Determination as a Habitual Criminal Property
Issuing Department: DPD
Council District: 9
Date Filed with CSO: August 3, 2021
Disposition: Affirms the decision of the Chief of Police
Vote: 5-2 (1 absent, 1 observing hearing, 6 vacancies)
CSO File: 21-5455

5. DESIGNATION AS A HABITUAL CRIMINAL PROPERTY

Habitual Criminal Property under Chapter 27, Article VIII of the Dallas City Code

Hearing Date:	November 5, 2021
Appellant:	International Bazaar Inc.
Representative:	William Chu
Location:	4515 Village Fair Drive, 75224
Denial:	Notice of Final Determination as a Habitual Criminal Property
Issuing Department:	DPD
Council District:	4
Date Filed with CSO:	August 31, 2021
Disposition:	Affirms the decision of the Chief of Police
Vote:	8-0 (1 absent, 6 vacancies)
CSO File:	21-6244

APPEALS NOT HEARD BY PLAB JANUARY 2021 THROUGH DECEMBER 2021

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

1. DENIAL OF A CLASS A DANCE HALL LATE-HOURS PERMIT

Application for a Class A Dance Hall License under Section 14-3.1 of the Dallas City Code

Appellant:	Troy Clark
Business Name:	CLUB BABYLON
Location:	11311 Harry Hines Blvd., 75229
Denial:	No applicant may maintain a Dance Hall Class A in violation of the comprehensive zoning ordinance of the city.
Issuing Department:	DPD
Council District:	6
Date Filed with CSO:	February 25, 2021
Outcome:	Appeal withdrawn by the City Attorney's Office

**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.