

MEMO AND PROPOSAL CONCERNING:

THE CREATION OF AN INTER-AGENCY TASK FORCE TO COORDINATE THE ENFORCEMENT OF THE CITY'S AL FRESCO DINING ORDINANCE

Background:

Just over two years ago, the city passed Ordinance 188073 establishing a system for the creation of permanent outdoor (al fresco) dining in Los Angeles. In an attempt to balance the financial interests of applicants and the quality of life of those living close to these new spaces, the ordinance, among other things, prohibits the use of outdoor speakers and screens and live music and karaoke, and it imposes mandated closing hours of 10:30 pm on Sundays through Thursdays and 11:00 pm on Fridays and Saturdays, if abutting or across an alley from a residential zone.

Since the adoption of the ordinance, there have been a large number of complaints concerning some of the al fresco operators in Venice (which, at 102, has an extremely high density of these spaces). For example, since the passage of the ordinance "The Brig," at 1515 Abbot Kinney Blvd, has been the subject of 196 calls to LAPD. Hinano Café, at 15 Washington Blvd, has been the subject of well over 100 calls. Nalu Vida, at 1 Washington Blvd, likewise has garnered multiple complaints. Unfortunately, LAPD has neither the manpower nor the mandate to investigate what they consider low-priority calls. Thus, persistent callers eventually learn to try other options, in particular the Department of Building & Safety (DBS). As a result, each of the examples cited above is the subject of multiple DBS complaints. However, DBS is not open after hours and has no centralized way to process these complaints, despite there being a mandate to do so in the ordinance itself (see LAMC 12.12.2, subdivision 24(D)(1)(viii)).

Moreover, it is the position of DBS that the Department of Transportation (DOT) and Bureau of Engineering (BOE) are the appropriate agencies for most enforcement since much of the complained about conduct is happening on the sidewalk or in the street. However, contacting DOT directly results in an email advising one that the proper avenue is to use MyLA311. However, MyLA311 has no tab nor clear option for filing Al Fresco Dining complaints, and upon using the "Other" tab, complaints, even when citing the specific license being violated, are automatically closed. The California Department of Alcoholic Beverage Control (ABC) similarly points to City agencies as the proper channel through which to seek redress.

In laymen's terms this is what is called "the run-around." No one has responsibility, no one does anything. And as a result, operators operate with total impunity.

A Case Study: Nalu Via, 1 Washington Blvd

Nalu Vida at 1 Washington Blvd currently operates under the Restaurant Beverage Program (RBP) (issued under ADM-2024-5388-RBPA) which bans live music and Karaoke. They are also subject to an ABC license (#657878), for which conditions 4 and 5 state *"No noise shall be heard from the exterior of the premises"* and *"A single jukebox or stereo may be maintained however the music shall not be audible outside the premises."* Finally, they are subject to the temporary Al Fresco Dining Ordinance, which prohibits outdoor speakers, and live music.

Since the day it opened, Nalu Vida has had outdoor speakers, which violates their RBP, their ABC license, the Al Fresco Dining Ordinance, and surely the City's Noise Ordinance. Multiple complaints have been made with photos and videos proving this. No city agency has done anything.

In addition, five days a week, Nalu Vida has live music, DJ's and/or Karaoke in violation of their ABC license, their RBP, and in the case of live music, the Al Fresco Dining Ordinance. In the last year there have been over 50 documented violations. This isn't a matter of opinion. Nalu Vida brags about these actions and regularly posts photos of their live music on social media. Their calendar advertises "Acoustic Music" Tuesdays, "Live Jazz" Thursdays, "Karaoke" Fridays and "Live Music" (which is outdoors) on Saturdays and Sundays.

The notion that a licensee would publicly flaunt violating all three of the licenses/ordinances under which they are operating is solid evidence that the possibility of enforcement is, to them, a nullity. Multiple agencies have received lists and photos documenting beyond a reasonable doubt all of these violations, (including db meter readings often in the 90db range). But because of the above-mentioned bureaucratic shuffle, nothing has been done.

A First Step Toward a Solution:

The agency game of pass-the-buck must stop and the mandate in the ordinance for real enforcement must be realized. While there are many steps that can and should be taken toward this goal, a first, simple and economical one is would be the establishment of an inter-agency task force dedicated to the enforcement of the Al Fresco Dining Ordinance.

This group, would:

-- Have designees from the BEST unit of Planning, and the enforcement units of DBS, DOT, BOE, and LAPD, and should have primary responsibility for investigating and enforcing violations of the Al Fresco Dining Ordinance. The agencies are free to divide the work as they see fit.

--Receive all calls and complaints concerning al fresco violations or noise violations emanating from a business, including calls to an Al Fresco Dining hotline (yet to be designated), LAPD, MyLA311 or complaints received via e-mail.

-- Be required to keep a publicly discoverable log of ALL complaints, however they are received. That log should list, at a minimum, the name of the business, the address of the business and the nature of the complaint.

--Issue a monthly list of all businesses that have received multiple violations along with a notation about whether an investigation was conducted and/or an enforcement action was taken.

Simply compiling centralized data about the impact of Al Fresco Dining on neighbors and residents will go a long way toward balancing the scales, which now, thanks to a lack of complaint and enforcement options, allow operators to ignore the rules with impunity essentially requiring their neighbors to pay the costs of their operation in terms of noise and disruption, while they retain the profits. That is not the balance of interests the ordinance aims to achieve.

Simply collecting data will also make clear that a very small number of operators account for the vast majority of complaints and community concern. From our sample thus far, it is clear that in Venice fewer than a dozen operators among the 100 plus who operate outdoor dining spaces account for the vast majority of complaints. Those operators also share a number of discernable traits: they are clustered in high density areas, (the Windward Ave, Washington Blvd, Rose Ave and Abbot Kinney Blvd corridors), they have type 48 rather than type 47 licenses, and most are older, legacy/ grandfathered bars without CUBs. Collecting comprehensive complaint information will also allow the kind of targeted and thoughtful enforcement that can help curb the most egregious offenders.

To be clear, this is in no way a complete solution. After all, it does not entail a dedicated enforcement unit (nor does it explicitly allow evidence of violations, citizen by citizen and neighbors, to be used in enforcement actions), it fails to toughen penalties, and it does not explicitly permit the aggregation of violations (Street, Sidewalk and DBS) to suffice for disciplinary or revocation proceedings. But it is a much needed start.