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## The Good, the Bad and the Ugly: A Report Card on Liquor Stores in Oakland

By John Russo

Oakland just has too many liquor stores. Citywide there are over 900 commercial sources for alcohol, including restaurants, bars and supermarkets. Of these, 359 liquor licenses allow the sale of alcohol to take off premises—in other words, liquor stores. This amounts to at least 74 more liquor stores than would be allowed by law today.

During the past two years, our Neighborhood Law Corps attorneys have attended more than 200 community meetings. From neighborhood to neighborhood, community members consistently identify problem liquor stores as the most pressing priority for the Neighborhood Law Corps to address. Neighbors complain that many liquor stores are magnets for pathologies ranging from nuisance to criminal: littering, loitering, alcohol sales to minors, drug dealing, prostitution and shootings. Although significant progress has been made to address these problems on a store-by-store basis, there has never been a comprehensive analysis of the overall impact of liquor stores citywide.

On May 4, 2004, the Neighborhood Law Corps presented such an analysis to the Oakland City Council. Called *The Good, the Bad and the Ugly*, this preliminary report card grades the performance of 315 liquor stores based on the City's data. The Final Report Card will be issued following the 30-day public comment period now underway. Community input is essential to making this Report Card complete and accurate (see *We Need Your Help* below).

### How Did We Get Here? The Scope of Over-Concentration

In 1994, the State of California established new guidelines for the issuance of liquor licenses by the Department of Alcoholic Beverage Control (known as ABC). These guidelines defined specific limitations for off-sale licenses with respect to “undue concentration” of crime or of liquor licenses in a given area. **When this law went into effect in 1994, Oakland was already over-concentrated with liquor stores.**

In determining what constitutes “undue concentration,” ABC considers whether the applicant will be located in a high-crime area as determined by Oakland's annual crime statistics, or whether the location has surpassed its concentration limit of liquor outlets as determined by census tract population. If either condition is met, ABC will deny a liquor license application.

Of the seven City Council districts in Oakland, six exceed ABC's liquor license concentration limit, with the most extreme situation in West Oakland, which is over the limit by 28 licenses.

- District 1—North Oakland/Rockridge/Temescal 14 over
- District 2—East Lake/Grand Avenue/Lakeshore 14 over
- District 3— West Oakland/Downtown 28 over
- District 4—Montclair/Laurel/Dimond 1 over
- District 5—Fruitvale/Glenview No overage
- District 6—Eastmont/Central East Oakland 3 over
- District 7—Elmhurst/East Oakland 14 over

## **The Report Card**

In preparing the Report Card, the Neighborhood Law Corps reviewed data files generated over the last three years from the Oakland Police Department’s Alcohol Beverage Action Team (ABAT) and ABC.

Of the 315 stores listed, 136 (43%) were graded as “good,” 89 were “bad” and 11 were deemed “ugly.” Information was not available for the remaining 79 stores at the time of the report.

The “good” stores have no recorded violations or only one or two minor incidents (i.e., excessive litter, graffiti). “Bad” liquor stores have several minor or at least one serious violation (i.e., selling alcohol to minors, selling drug paraphernalia). The “ugly” stores have had multiple serious violations.

Effectively immediately, the stores graded “ugly” will be brought to an administrative hearing and afforded due process in determining stricter conditions for continued operation.

## **What are the City’s Enforcement Powers?**

Six years ago the City Council passed the “Deemed Approved” Ordinance, meaning that existing liquor stores were “grandfathered” in and could operate without a conditional use permit as long as they met the operating standards set forth in the ordinance. Violation of these standards or conviction by ABC can trigger a Deemed Approved hearing, where the City can argue for stricter conditions. If a further violation occurs, the hearing officer can revoke the deemed approved status and require the operator to apply for a Conditional Use Permit.

Although the City has adequate legal and administrative tools to address problem liquor stores, enforcement has been lax. In 2003, there were 35 reported violations cited by the City and 12 convictions by ABC; however, there was only one Deemed Approved hearing scheduled, which did not take place due to the absence of the hearing officer. In the past six years, ABC has convicted 133 liquor stores; 118 were serious enough violations of law to warrant City action.

## **Recommendations and Next Steps**

As a result of the “Good, Bad and Ugly” Report Card, the City Council directed City staff to take the following steps:

- Vigorously enforce the Deemed Approved ordinance entailing prompt attention every time a violation occurs.

- Propose a new Attrition Moratorium stating that Oakland will have no new liquor stores or licenses. In the event that a much-needed business, such as a large grocery outlet, wants to open in an underserved area, the Planning Commission can make an exception for public necessity or convenience.
- Propose a new regulation requiring visibility into liquor store windows. While state law requires that no more than one-third of a liquor store's window area may be covered with signs or advertising, many store windows are blocked with shelving or refrigerators. Visibility into stores is an important factor in crime prevention.
- Look into prohibiting stores from selling to-go cups with ice and lemons called "set-ups" or "personals" that allow a customer to begin drinking alcohol immediately after purchasing it.
- Implement a 30-day public input period.

## **We Need Your Help**

We need input from the community to ensure that the Report Card is complete, balanced and accurate. To help you gather information, blank log sheets are available at: [www.oaklandcityattorney.org](http://www.oaklandcityattorney.org). A sample log depicting the information we are looking for is shown below.

During a 30-day public comment period from May 5 – June 4, the City Council will hold community meetings attended by Neighborhood Law Corps attorneys to gather information about specific problems at specific liquor stores. This information will be factored into a revised Report Card and presented to the City Council for further action. Contact your City Councilmember for more information about meeting dates.

The Neighborhood Law Corps will bring this Report Card to the Planning Commission on May 19. Plan to attend this meeting and provide the Planning Commission with your input and concerns.

In its final form, the Report Card will give the City and the community a benchmark for assessing the impact of liquor stores in Oakland, help us to identify all problem neighborhoods, set goals for working with ABC in high-crime and over-concentrated areas, and provide the Planning Commission with a fuller picture as it evaluates liquor store Conditional Use Permit applications, Deemed Approved Status Appeals and Public Necessity or Convenience findings.

*To review a copy of the full Report Card, go to [www.oaklandcityattorney.org](http://www.oaklandcityattorney.org) or call Alex Nguyen, Neighborhood Law Corps Director, at (510) 238-6628.*

### SAMPLE LOG

Date: <i>April 9, 2004</i>	Time: <i>7:45 P.M</i>	Location <i>Laura's Liquors—1234 Main St.</i>
Activity: <i>I was in the store to buy some cigarettes when I was approached by two Asian men, who asked me if I wanted to buy some weed.</i>		
Report, Complaint, or Incident #: <i>15802</i> Who you called: <i>CPD, ABAI</i> Result of your call? <i>The police drove by later</i>		

Date: <i>April 12, 2004</i>	Time: <i>9:45 P.M</i>	Location <i>Laura's Liquors—1234 Main St.</i>
Activity: <i>Today I saw the clerk sell a pack of wine coolers to two girls who were obviously under-age.</i>		
Report, Complaint, or Incident #: <i>15802</i> Who you called: <i>CPD, ABAI, ABC</i> Result of your call? <i>Pending investigation</i>		