



CITY OF PROVIDENCE

January 7, 2015

To the Members of the Providence City Council:

Enclosed please find the 2014 Annual Report of the Providence Board of Licenses.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Johanna Harris".

Johanna Harris
Chair

IN CITY COUNCIL
JAN 15 2015

READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.
A handwritten signature in black ink, appearing to read "L. D. [unclear]".
CLERK

BOARD OF LICENSES

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Providence Board of Licenses Year in Review: 2014

Johanna Harris, Chairwoman

The Board of Licenses facilitates the establishment and operation of over 8,000 businesses in the City of Providence. It thus plays a key role in the economic development of the City. Since I joined the Board in February and became Chairwoman in March 2014, we have granted licenses to hundreds of businesses. Most of these licenses were noncontroversial. In particular, of the approximately 400 liquor licenses that had been renewed at the close of 2013, about 380 were renewed this year without controversy. In fact, the Board has devoted most of its time and resources to a relatively small number of nightclubs and hookah bars. As documented by local businesses and residents, these establishments have had an outsized negative effect on the welfare of the community. As documented by the Police Department, they also drain our public safety resources. And as documented by the I-195 Commission, some clubs have also had an adverse effect on the marketability of parcels in the Jewelry District. Accordingly, the bulk of this year-end report focuses on issues raised by these establishments.

Major Changes

All of the Board's decision-making is now subject to public scrutiny.

In the past, when a licensee was summoned to "show cause" why it should not be disciplined, the licensee's attorney and the Assistant City Solicitor would routinely negotiate a resolution behind closed doors during "pre-trial conferences." The negotiated deal would then be presented to the Board for its approval. The underlying facts of the case were not made available to the Board, and the public had no opportunity to appreciate what happened at the licensee's establishment that triggered the show-cause complaint.

Since I have assumed responsibility as Chairwoman, I have undertaken a major revision in this procedure. All show-cause hearings of the Board must now be conducted in open public meetings. Before every show-cause hearing, each Board member receives a copy of the show-cause complaint, the police report and the club's violation history, if any. All testimony of police and other witnesses is open to the public. When the Board makes its decision, each member has an opportunity to explain on the public record the reasons for his or her vote. This change has allowed the Board to utilize the expertise of all of its commissioners and to allow the community to understand the process.

Applicants for new licenses must now appear personally before the Board and provide evidence of fitness to be granted a license.

All applicants for new licenses must now appear personally before the Board to answer questions concerning their fitness to hold a license. They must now provide concrete evidence of fitness, including business, marketing and security plans, business partners, sources of funding, type of entertainment, and clientele.

The Board revoked the licenses of seven clubs.

The Board revoked the licenses of seven establishments: *Karma, Louie's, \$3 Bar, D'Noche, Sky, Ice* and *Ava's Wrath*. As reported by the police and the surrounding community, these closings significantly improved the safety, quality of life and compliance with the law in the neighborhoods where they were located.

The Board devised a system for reviewing the annual renewal of liquor licenses.

Rather than automatically renewing all liquor licenses at year's end, the Board has held public hearings on license renewal for all establishments that received suspensions or fines totaling at least \$2,000 during 2014. These public hearings have addressed a key requirement for license renewal, namely, that neighbors have input into the impact of the club on the surrounding community. As a consequence of this review procedure, the Board has thus far declined to renew the liquor license of *Skarr*. The review process has sent a strong message that a club's license will be at risk if it blasts music, dumps garbage, permits graffiti or public urination, or otherwise acts as a bad neighbor.

The Board will renew a license only if the licensee is in fiscal good standing.

Historically, some licenses were renewed even if the licensee owed substantial amounts to the City in unpaid debts. The Board now monitors licensees' payments of all fines, charges for police details, and Fire Department fees. The Board will now renew a license at year's end only if the licensee has paid all applicable fines, charges and fees, or if it has entered into an approved payment plan. The Board will now monitor compliance with such payment plans. In addition, the Board is recommending that the Solicitor's office attempt to collect large outstanding fines and fees from establishments that have gone out of business.

The Board declined to extend a 3 A.M. closing time to all other large clubs.

Three and half years ago, the Board allowed a small number of clubs to close at 3 A.M., rather than the statutorily established closing time of 2 A.M. This spring, Commissioner Pare proposed to extend the 3 A.M. closing time to all nightclubs with a capacity over 250. In response, the Board voted to conduct a thorough

review of the Commissioner's proposal. The Board's decision was motivated, in great part, by the fact that two of the original recipients had lost their licenses due to violence, while others had incidents of violence after 2 A.M.

After an exhaustive review of nightclub violence in Providence this year, the available resources of the Providence Police Department, the practices of other cities, and the evidence on the effects of extended hours on alcohol consumption and violence, the Board determined that the 3 A.M. closing was not for now in the best interests of the economic development of the city or the safety of its residents.

How best to monitor and stagger closing times remains an open issue. In the interests of fairness to both large and small clubs, a new policy needs to be designed.

Recommendations

Strengthening the Board

- The Board plans to ask the City Council to investigate ways to impose sanctions for disruptive and disrespectful conduct during Board hearings.

These sanctions need to include fines imposed on attorneys who do not adhere to the decorum required of any tribunal, as well as ejection from the proceedings in extreme cases.

- The Board plans to ask City Council about the possibility of increased funding for the legal counsel to the Board

In addition to advising the Board during hearings, the legal counsel would: (a) provide comprehensive education to Board members on licensing laws and administrative procedures; (b) meet regularly with the Board Chair to review the legal issues on upcoming agenda items; (c) prepare legal analyses on pending cases for the Board's review; and (d) appeal some adverse decisions of the Department of Business Regulation (DBR) to the Superior Court, working with the Assistant Solicitor. The Office of the City Solicitor does not appear to have the resources to fulfill these additional functions. In the past, some key decisions by the DBR that have run contrary to the interests of the City may not have been appealed because of limited resources.

- The Board needs larger physical accommodations for public meetings.

Even without community observers, a typical show-cause hearing requires space for about 20 people, including Board members, the Board's counsel, the Assistant City Solicitor, the licensee and his attorney, the police and witnesses. Now that the Board has supported public observation and participation, the

current conference room is too crowded. The room currently allocated to the Board has a capacity of no more than 15 spectators.

- The Board needs its own full-time stenographer.

The Board regularly gets transcripts of its own hearings, but its requirements go beyond that. The Board's decisions are now routinely appealed to the DBR, but the DBR does not provide transcripts of its proceedings. Without such transcripts, the Board cannot determine whether to request an appeal of the DBR's rulings to the Superior Court.

- The City would be better served if the Board had input into decisions to call for emergency closings.

Currently, the Commissioner of Public Safety alone decides whether to call a hearing for an emergency closing. Instead, the decision needs to be made in consultation with the Board, the legal counsel for the Board, the Solicitor's Office, and the Police Department. In the past, failure to call an emergency hearing right after an incident of serious violence has made it difficult for the Board later to justify the revocation of a club's license on the basis of a threat to public safety. Allowing collaboration of the relevant parties would also ensure consistency in this area.

Increasing the Capacity of the Licensing Office to Support the Board and the Business and Residential Community

- The Licensing Office needs to enhance the quality of its database.

The Licensing Office now electronically posts all Board agendas on the Secretary of State's website. These documents, however, are not searchable. A Board member seeking the dates on which a particular licensee appeared would have to search all agendas one by one. The Licensing Office has also begun to post all Board minutes on the City of Providence Open Meetings Portal, but these documents are at present only skeletal. A Board member seeking to determine why a particular license was revoked would encounter only the fact of a vote for revocation. The Board needs to cross tabulate these individual actions to create a detailed electronic violation history of each licensee.

- The license application process needs to be streamlined and simplified.

The license application form should ask only relevant questions. It should contain clear, explicit instructions advising the applicant whether he will need to bring legal counsel to the hearing and what to do if he needs a translator. It should explain the key elements of required business and security plans. The submitted application needs to be reviewed for completeness in advance of a Board hearing.

- In order to ensure that the license requirements are clear and understandable, the Licensing Office could prepare a series of "Frequently Asked Questions" for the public.

License applicants repeatedly ask the same questions and have the same misunderstandings. The Licensing Office could prepare FAQs on such topics as "What a tobacco license allows you to do," and "What an entertainment license allows you to do."

- The process for notifying residents within a 200-foot radius needs improvement.

In some cases, the Board cannot approve a liquor license without formally notifying all residents with a 200-foot radius of the applicant. The City of Providence should assume responsibility for providing the required radius map, which can now be constructed via GIS (Global Information System)-based software. Registered mail notices should be sent to all residents within the radius, and then retained on file like any other license-related record.

- The Licensing Office needs to react to and maintain records of complaints about establishments.

Members of the community call the Licensing Office with complaints about specific establishments. At present, there is no standard form for recording the complaint and attaching it to the establishment's file. There is no formal mechanism for referring a complaint to the Board of Licenses Detective Unit for further investigation.

Enhancing Effective Communication between the Board and the Solicitor's Office

- The Solicitor's Office needs an electronic method to regularly communicate the status of all cases and investigations to the Board.

On a monthly basis, the Solicitor's Office needs to provide the Board with a list of all completed police case files that have yet to be brought before the Board. On a daily basis, the Solicitor's Office needs to inform the Board of the hearing dates of all cases before the DBR and the Superior Court, as well as all decisions issued by the DBR and the Superior Court, including club openings and closings. In the event of any adverse decision by the DBR, the Solicitor's Office should promptly offer the Board the option of directing the Solicitor to appeal. These communications need to be streamlined electronically.

- The Solicitor's Office should consider the prosecution of clear-cut cases of perjury.

Witnesses testify before the Board under oath. Failure to prosecute clear-cut cases of perjury encourages even more fabricated testimony and seriously impedes the functioning of the Board.

Working with the Nightclubs

The Police Department, including the License Board's detectives, has established productive working relationships with a number of clubs. These new relationships have been effective to some extent in reducing violence, improving security, and preventing illegal conduct. However, there remain a number of key areas for improvement that are generally applicable to all clubs.

- All clubs need to adopt the most effective techniques to monitor and prevent underage drinking. These could include requiring multiple IDs, confiscating false IDs, and adopting the latest screening technology.
- All clubs need to adopt the most effective techniques for monitoring for weapons. These could include metal detectors, wands, and physical searches of hats, shoes, boots, and belts.
- All clubs should be required to install video cameras that are maintained in operation and have adequate coverage of the premises.

All clubs should be required to turn over all video recordings immediately after an incident of violence.

- All nightclubs should have written procedures for handling violent incidents and written procedures for preventing violence.

There should be a management-level person in charge at every establishment. This individual should be readily identifiable and should work with the police after any incident of violence.

- Floor hosts at all clubs should wear uniforms or T-shirts with clearly distinguishable markings that indicate STAFF or SECURITY.
- Parking lots at all clubs should be well illuminated. The parking areas should be monitored just like the interior of the nightclub, as incidents of violence frequently occur in the parking areas.

Clubs with valet parking must have a specific lot to park cars and keep the street free of congestion. Clubs need to strictly enforce these rules and all other rules applicable to valet parking.

- Nightclubs should have strict rules on dispersal of the crowds after closing time. Floor hosts should be stationed to make sure that melees do not break out as the patrons are leaving and walking to their cars.
- Clubs should enforce standards for party buses.

It is not the responsibility of the Police Department to arrange for and monitor party buses. However, clubs that arrange for buses to transport college students to their venues should not permit drinking before boarding and en route. Clubs must have the cell phones of bus drivers and know where the buses are parked. Party buses should be parked only in specific locations designed by the club. Clubs must establish an orderly procedure so that exiting students can return to the buses without destroying property or disturbing the neighborhood.

- All clubs should vet the acts that they have scheduled.

Each month, clubs prospectively inform the Board about the acts that are scheduled to perform. The Board turns over the information to the detectives, who research these groups. However, the clubs themselves should take the initiative to determine whether any group has a history of violent incidence related to previous performances at other venues.

- Clubs need to comply with established procedures for police details.

The Board sometimes orders police details for a specific club on a specific night. It is the club's responsibility to reserve the police details, including specifying the number of policemen and the hours that they will be needed. If the club decides not to open, it is the club's responsibility to cancel the police detail.

In the face of limited resources, the Police Department gives preference to police details ordered by the Board. If for some reason a mandatory police detail is unavailable, then the club cannot open.

Conclusion

The Board has accomplished a lot within the space of one year. Its decision-making process is now open to public scrutiny. New applicants must now demonstrate their fitness as license holders. The process for annual renewal of existing licenses has been clarified and made more efficient. The Board has closed those few clubs that have posed significant threats to the surrounding communities. The resulting improvements in law enforcement and public safety have had positive effects on the City's economic development.

There is much more to do in the year to come. I have asked the City Council to consider a number of concrete ways to enhance the effectiveness of the

Licensing Office and the Board, as well as the Board's communications with the Solicitor's Office and the Department of Public Safety. In particular, the City Council should consider giving the Board and the Solicitor's Office the resources needed to appeal adverse rulings by the Department of Business Regulation to the Superior Court when the DBR's rulings clearly run contrary to the City's interest.

Finally, we need continue to work with clubs to reduce violence, enhance security and prevent illegal conduct. I have made a number of specific recommendations for improvement in these areas.