



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** September 16, 2008

**TO:** Mayor and Councilmembers

**FROM:** Chief's Staff, Police Department

**SUBJECT:** Appeal Of The Fire And Police Commission's Denial Of The Dance Permit For Madison's Grill And Tavern

### **RECOMMENDATION:**

That Council uphold the appeal of Those Guys Inc, represented by stockholders Diane and Derek Harding, for a dance permit for Madison's Grill and Tavern at 525 State Street, and subsequently issue a nightclub dance permit with conditions.

### **EXECUTIVE SUMMARY:**

On February 22, 2008, the Police Department received a citizen complaint questioning the validity of Madison's dance permit. The complaint prompted an investigation into the ownership of Madison's Grill and Tavern, which resulted in the determination that a significant ownership change had occurred since the dance permit was issued in 2001. The new owners of Madison's, Diane and Derek Harding, were notified of the finding, and subsequently applied for a nightclub dance permit.

On May 22, 2008, the Board of Fire and Police Commissioners ("the Commission") denied the dance permit application for Madison's Grill and Tavern. Prior to making their decision, Commissioners considered comments from members of the public in opposition to the permit, comments from the applicant's security manager in support of the permit, information provided by Police Department staff, including premise-specific incidents over the past two years and results of an investigation pertaining to ownership changes at Madison's, and the input of the applicant as to why Madison's Grill and Tavern should be granted a dance permit.

### **DISCUSSION:**

The subject appeal involves the denial of an application for a dance permit for Madison's Grill and Tavern at 525 State Street. On May 22, 2008, the Commission denied the dance permit application based on reported criminal offenses, noise concerns from the neighbors, and the fact that the new owners allowed dancing in Madison's without a current dance permit. The applicant, Those Guys Inc, owned and operated by Diane and Derek Harding, appealed the decision to deny the permit. (See Attachment 1.)

**BACKGROUND:**

Based on a citizen complaint from February 22, 2008, the Police Department investigated the status of the most recently issued dance permit associated with Madison's Grill and Tavern, 525 State Street. Police Department records indicated that the most recent dance permit was issued on February 26, 2001 to Luigi DiVicente and Lawrence DeSimone. At that time Lawrence DeSimone was the primary shareholder of "Those Guys Inc." The citizen complaint indicated that the business had since changed ownership, thus rendering the 2001 dance permit invalid. Detective Jensen investigated the matter which included all the documentation currently retained by the Police and Finance Departments, documents on file with ABC, and interviews with previous and present owners. The investigation indicated that as of May 2006, neither DiVicente nor DeSimone were owners of Madison's Grill and Tavern, and as of May 2006 various other ownership changes have occurred. At the present time, and as of November 2006, Diane and Derek Harding are the current majority shareholders of Those Guys Inc, dba Madison's Grill and Tavern, with DeSimone holding a 10% share.

As a result of the investigation, the City determined that the dance permit issued on February 26, 2001 was out of compliance. To remedy the situation, the Hardings were advised that they needed to apply immediately for a new nightclub dance permit; however, in light of due process concerns, they were allowed to continue dancing in Madison's until the May 22, 2008 Fire and Police Commission meeting.

On May 1, 2008, Diane and Derek Harding submitted an application for a nightclub dance permit for Madison's Grill and Tavern. All the necessary Municipal Code requirements for a nightclub dance application were completed.

On May 12, 2008, Police Department staff conducted a walkthrough of Madison's Grill and Tavern at 525 State Street. Diane Harding was present for this site visit. During the site visit, the following premise-related facts were verified:

- ◆ Multiple security cameras are utilized throughout the premise: 3 outside in the front, 1 in the front dining area, 3 over the bar area, 2 at the dance floor/stage area; and 6 in the rear of the building which is not accessible to the public;
- ◆ Speakers are located throughout the premise: 4 speakers built into the ceiling over dance area, 2 large mounted speakers directed toward the dance floor, 4 speakers in the bar area, and 2 small speakers in the front exterior;
- ◆ Front folding doors are kept open during hours of operation for air circulation; and
- ◆ The rear section of the premise, beyond the patron restrooms, is closed to the public. This area is comprised of an office, storage, the kitchen, and an employee changing room; the rear door is used by staff and for deliveries only.

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During the visit, Mrs. Harding related the following business plan information to Police Department staff:

- ◆ Owners would like Madison's to be recognized as a restaurant as much as being recognized as a sports bar or dance establishment. To boost restaurant recognition, Madison's recently began a catering/delivery food service;
- ◆ Currently, dancing occurs on Thursday, Friday, and Saturday nights until 1:30 am, during which time a DJ is used;
- ◆ On Sunday and Tuesday nights, Madison's offers karaoke;
- ◆ Speakers to the front of the bar area are turned off after 10:00 pm unless there is a major sporting event on television, in which case the volume of all front speakers is lowered;
- ◆ Speakers are set up so that the front speakers can simulcast sports at the same time as the rear speakers are used to amplify the disc jockey's music;
- ◆ Four security guards are on duty on Fridays, and five guards are on duty on Thursdays and Saturday;
- ◆ Security guards are provided a training manual on appropriate security techniques, and undergo an orientation with the Security Manager;
- ◆ To address noise concerns, General Manager, Lance King, purchased a decibel reader to ensure that Madison's has reasonable noise levels at all times;
- ◆ Owners have attempted to work with neighbors, including Hotel Santa Barbara's General Manager, Tamara Erickson, to mitigate concerns and build a good-neighbor rapport.

Prior to the Fire and Police Commission meeting, crime statistics were run for the specific location of 525 State Street for the preceding two-year period. These statistics revealed that there were 27 reported criminal offenses related to this specific location in that period. Of these, seven were physical altercations/fights between patrons or patrons and security staff; one was a narcotics arrest; one was an ABC violation involving a minor in possession of alcohol; four were thefts in which patrons or employees were victims; one was a sexual battery; one was a graffiti incident and twelve were incidents in which security personnel notified SBPD of subjects with false ID's or informed SBPD of intoxicated individuals attempting to gain entry into the establishment - both of which are practices that the Police Department encourages.

Over the past several years, the noise from Madison's has been a source of complaints from neighbors, specifically the Hotel Santa Barbara which is located adjacent to Madison's. The hotel's General Manager, Tamara Erickson, and her staff, reported that hotel guests complained on a number of occasions about the loud music from Madison's.

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The Entertainment District does have a high concentration of ABC licenses and dance permits as compared to other areas of the City. As such, it requires considerable Police resources on most evenings from approximately 10:00 pm to 3:00 am. Incidents of reported crime and arrests are higher in that area than in other areas of the City. Over the last three years, from the hours of 10:00 pm to 3:00 am, 32% of the City's criminal offenses and 49% of all alcohol-related offenses occurred in the Entertainment District. This area also accounted for 36% of the Police Department's arrests. However, from 2005 to 2007, the City's Entertainment District experienced a 3% reduction in reported criminal offenses, which indicates that enforcement, prevention, and education efforts can be successful in reducing some of the negative aspects.

Presently there are five dance permits in the 500 block of State Street, including the Madison's permit. Granting this Nightclub Dance Permit will not increase the number of dance permits in the Entertainment District.

#### Fire and Police Commission Action:

At the Fire and Police Commission meeting, held on May 22, 2008, members of the public, Tamara Erickson of the Hotel Santa Barbara, represented by John C. Greer, Jr., Attorney at Law, and Kay Morter of the Holiday Inn Express spoke in opposition to the permit. Letters of opposition to the permit were also submitted to the Commission by John C. Greer, Jr. and by Susie Thompson, a resident of the 500 block of Fig Avenue. The primary concerns of those opposing the dance permit pertained to the frequency of crime in the area and at Madison's in particular, noise issues, and the existing high concentration of ABC licenses and dance permits within the immediate area.

Diane and Derek Harding addressed the Commission with the following points:

- ◆ During the buyout, the Hardings did not realize they needed to apply for a dance permit because the company name, Those Guys Inc, remained the same. Derek Harding stated that if he had known about the requirement, he would have applied immediately.
- ◆ Since acquiring the business, they have changed the business plan and model from previous owners to include changes such as catering services.
- ◆ The Hardings have taken measures to reduce noise levels, such as turning front speakers off at 10:00 pm, utilizing a decibel meter to monitor noise levels, and efforts to work with Hotel Santa Barbara staff to mitigate complaints.

Lance King, the security manager at Madison's, explained security issues and procedures, as well as efforts to mitigate noise and work with Hotel Santa Barbara staff.

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Following the discussion, the Commission considered imposing a six-month suspension on the dance permit, whereby the dance permit would be granted but would not go into effect until six months from the date of the Commission meeting. However, upon clarification from the City Attorney's office that such a suspension was not an option at that time, the Commission voted 3-to-1 to deny the dance permit. The applicants were then informed that, in accordance with the Municipal Code, they could reapply for the dance permit in a year, or they could appeal to City Council.

#### Appellants' Position:

On May 23, 2008, Diane Harding timely filed an appeal requesting a hearing before the City Council. (See Attachment 2.) Due to the timely filing of the appeal, the Commission's decision was suspended pending a decision by the City Council regarding the appeal.

On August 27, 2008, attorney for the Hardings, Randall Fox, submitted a letter in which he requests the issuance of a dance permit to the Hardings. (See Attachment 7.) According to Fox, the Hardings relied upon representations by DeSimone that all permits associated with the purchase agreement (including the dance permit) were valid. Once the Hardings became aware of the problem with the dance permit, they immediately sought to obtain a dance permit.

#### Staff's Position:

Presently there are five dance permits in the 500 block of State Street. Granting this nightclub dance permit will not increase the number of dance permits in the 500 block of State Street or the Entertainment District.

In the late 1990's, under the previous owner and management of Madison's Grill and Tavern, the Police Department experienced periods of higher-than-normal criminal offenses and noise issues at that location. In October 2000, Madison's dance permit was revoked. In 2001, the permit was re-issued in the name of Lawrence DeSimone. Following the re-issuance, noise complaints continued, but crime statistics for the property dropped. More recently, the Hardings took over ownership as primary shareholders. The new owners and management have operated the establishment responsibly and with an effort to mitigate area concerns, a fact supported by crime statistics and NET officers. Crime statistics reflect a decrease in reported criminal offenses within the past year, and NET officers report a decrease in the noise levels from Madison's Grill and Tavern under the new ownership and new security manager.

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Tamara Erickson, General Manager of the Hotel Santa Barbara which is located adjacent to Madison's, has informed Police Department staff that some hotel guests complain about the loud music from Madison's. The Hardings, as new owners of Madison's Grill and Tavern, informed Police Department staff that although they have taken numerous steps to address noise concerns, complaints from the Hotel Santa Barbara still exist. This conflict is not unique to these two businesses; the Police Department is aware of similar conflicts with other mixed use properties throughout the Entertainment District.

Santa Barbara Municipal Code Section 5.20.070(C)(4)(a) requires that nightclub permit holders "provide adequate noise control necessary to restrict the noise of the dance club to within the structure...." Understandably, businesses with front patios, such as Madison's, inevitably have exterior noise from patrons on the patio areas, as well as some low-level noise emanating from the interior of the business through patio doors and/or the front door. Furthermore, the upward emanation of noise through roof vents, skylights, etc, is a reasonable expectation in buildings with adequate noise control in all other areas. City staff, therefore, allow for a reasonable expectation of low-level exterior noise in their interpretation of this section of the Municipal Code.

The City formally recognizes the Entertainment District as a mixed-use area in which nightlife-related businesses are prevalent. Many of these businesses, particularly those in the 400 to 600 blocks of State Street, were granted dance permits by the City, under both the previous and current dance permit ordinances, with the understanding that low-level exterior noise is to be expected in such an environment. However, in an effort to mitigate the cumulative effect of the noise from dance establishments, dance permits are often issued with conditions limiting any exterior noise to a certain radius from the permitted premise. Premises in the Entertainment District without dance permits are bound only to comply with the City's noise ordinance and any noise-related conditions that may be imposed by the State on ABC licenses.

### **CONCLUSION:**

Staff recommends that the Council uphold the appeal and issue a nightclub dance permit with the following conditions to Diane and Derek Harding for Madison's Grill and Tavern at 525 State Street:

- ◆ Music shall not be audible beyond 50 feet from the premise in any direction;
- ◆ Speakers to the front of the bar area are not to be used after 10:00 pm;
- ◆ A minimum of four (4) security guards must be on duty during hours of dancing;
- ◆ Front doors must be closed but unlocked during hours of dancing;
- ◆ The rear door must be kept closed, but unlocked, during hours of dancing;

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- ◆ Except in the case of emergency, no patrons shall enter or exit the premise through the rear doors;
- ◆ All staff must undergo Responsible Beverage Server (RBS) training;
- ◆ Dancing shall not be permitted under any circumstances between the hours of 1:30 am and 8:00 am.

- ATTACHMENTS:**
1. Letter of appeal by Diane Harding dated May 23, 2008
  2. Minutes from the May 22, 2008 Fire and Police Commission meeting
  3. Letter from Susie Thompson to Fire and Police Commission dated May 21, 2008
  4. Letter from John C. Greer, Jr, to Fire and Police Commission dated May 22, 2008
  5. Copy of ABC license for Madison's Grill and Tavern
  6. Letter to Hardings from Fire and Police Commission Secretary dated May 23, 2008
  7. Letter from Randall Fox, attorney for the Hardings, to Mayor Blum dated August 27, 2008

**PREPARED BY:** Robert Lowry, Police Captain

**SUBMITTED BY:** Camerino Sanchez, Chief of Police

**APPROVED BY:** City Administrator's Office

THOSE GUYS, INC.,  
A California Corporation  
525 STATE STREET  
SANTA BARBARA CA 93101

May 23, 2008

RECEIVED

MAY 23 2008  
2:39 p.m., BA  
CITY CLERK'S OFFICE  
SANTA BARBARA, CA

City of Santa Barbara  
735 Anacapa Street  
Santa Barbara CA 93101

Re Dance Permit - Madison's Grill and Tavern, 525 State Street

To whom it may concern:

THOSE GUYS, INC., dba Madison's Grill and Tavern, hereby appeals from the decision of the Fire and Police Commission dated May 23, 2008, denying its application for revised dance permit at Madison's Grill and Tavern, 525 State Street and request a full hearing before the City Council as provided for in Santa Barbara Municipal Code, § 1.30.050, et seq. and 5.20.090, et seq.

Please advise as to when the appeal shall be heard. Additionally, please send copies of all notices associated with the appeal to our legal counsel, Michael P. Ring at 1234 Santa Barbara Street, Santa Barbara CA, 93101

Dated: May 23, 2008

  
Diane Harding, Pres.

**CITY OF SANTA BARBARA  
FIRE & POLICE COMMISSION MINUTES**

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Thursday May 22, 2008 @ 4:30  
Santa Barbara Police Department  
215 E. Figueroa St.

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**REGULAR MEETING**

**1. CALL TO ORDER/ROLL CALL:**

Present: Commissioners: Rodriguez, Lennon, Signor, Atkins (Lauritsen excused absence)

Staff Present: Deputy Chief Rich Glaus, Captain Bob Lowry, Assistant City Attorney Michelle Montez, Councilmember Iya Falcone, Fire Chief Ron Prince, Police Technician Holly Michels, Barbara Sansone Secretary, Lieutenant Martel, Sergeant Baker

**2. APPROVAL OF MINUTES:**

**MOTION:** Lennon to approve minutes of April 24, 2008

**VOTE:** Unanimous voice vote: Motion passed

**3. PUBLIC COMMENT:**

Any member of the public may address the Fire & Police Commission for up to one minute on any subject within the jurisdiction of the Commission that is not scheduled for a public hearing before the Commission. The total time for this item is 10 minutes. If you wish to address the Commission under this item, please complete and deliver to the Commission Secretary before the meeting is convened, a "Request to Speak" form, including a description of the subject you wish to address.

**4. SUBCOMMITTEE REPORTS:**

Commissioners Signor and Atkins stated that they attended the James Joyce Appeal Hearing

**5. OLD BUSINESS:**

None

**6. NEW BUSINESS:**

None

**7. DANCE PERMIT – Madison’s Grill and Tavern - 525 State St.**

Present: Owners, Diane and Derrick Harding and their Manager, Lance King. Hotel Manager Kay Morter, Tamara Erickson, hotel owner and her attorney, John Greer, spoke against granting the permit

**MOTION:** Signor to deny permit for 1 year

**VOTE:** Motion passed; 3 – 1 (Signor, Rodriguez, Lennon aye/Atkins nay)

**NOTE:**

- On May 23, 2008, after the Hardings filed an appeal with the City Clerk, the City Attorney's Office suspended the Commissioners decision, thus allowing dancing at Madison's until their appeal can be heard before City Council.

**8. FIRE CHIEF'S REPORT**

**Points of Discussion:**

- Academy is going well 6 candidates attending
- Mitch Vaughn retired after 29 years
- Busy fire season ahead
- Fire in Santa Cruz, 2000+ acres
- Mitch Vaughn's retirement on June 17 at Dargan's

**9. POLICE CHIEF'S REPORT:**

**Points of Discussion:**

- Arrests of 7 suspects for homicide committed on the Westside
- 6 of the suspects have had murder charges filed against them for and 1 for 32 PC Accessory After the Fact
- Budget presented to Council by Fire and Police Departments; budget has been streamlined;
- Part 1 crimes (major crimes) have been reduced, lowest in the past 10 years
- 6 cadets in the Academy will be graduating in June
- Staffing level is over the funded amount
- Councilmember Falcone stated that Council is 100% behind public safety

**11. ADJOURN: 5:33**

5/21/08

Santa Barbara Police Department  
Police & Fire Commission  
215 East Figueroa Street  
Santa Barbara, Ca. 93101

RE: MADISON'S, 525 STATE STREET DANCE PERMIT APPLICATION

Dear Police & Fire Commissioners:

I, Susie Thompson am addressing you in regards to the Dance Permit Madison's is requesting. Due to work I am not able to attend the meeting.

When run as a dance club, this location has been a long time problem for both residents and the Hotel Santa Barbara. The music is excessively loud. When Madison's is run as a restaurant, there is not the same noise problem. The dancing encourages patrons to stay longer and music is always louder at the clubs with dance permits than the ones that do not have dancing.

After Madison's restaurant is closed and the setting is a dance club, the patron capacity enlarges, due to clearing of tables and chairs. This creates a larger problem for the police to manage. It appears the police force is being reduced for nightlife enforcement due to budget cuts as I was told on Saturday night, May 10. I called the Police Department to request a police officer to write a report to give to the ABC in regards to Brick's having a band with amplified music. I was told there was not a Nightlife Enforcement Team on duty for the weekend due to budget cuts and that staff was being placed elsewhere in the City.

If the small police force we have for the area is being reduce and the two ABC investigators (for both Ventura and Santa Barbara counties) are so limited they cannot be out to oversee this extreme concentration of ABC licenses, this does not seem to be a time for dance permits to be issued.

Madison's has a history of crime problems, which recently includes about a fight a month. The ABC has violations on their license, including a Suspension of their ABC license for 10 days for sales to a minor. (see attachment) It takes several offenses for a Suspension of an ABC license.

With Madison's crime stats and ABC disciplinary history issuing a dance permit to them seems a bit reckless.

I respectfully request this dance permit be denied.

Susie Thompson  
511-1/2 Fig Ave.  
Santa Barbara, CA 93101

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John C. Greer, Jr.  
Attorney at Law

May 22, 2008

Fire and Police Commission  
% Camerino Sanchez, Police Chief  
215 E. Figueroa Street  
Santa Barbara, California 93101

Re: Request to Deny Dance Permit for Madison's Grill and Tavern  
525 State Street

Dear Chairman and Members:

I represent Hotel Santa Barbara (Hotel) and respectfully request that the Commission deny the dance permit requested by Those Guys Inc., dba Madison's Grill and Tavern (Madison's). This request comports with the third recommendation from the Commission's staff that states:

"Or

3) Deny the application based on reported criminal offenses and noise concerns from the neighbors, specifically the Hotel Santa Barbara."

This permit should be denied in accordance with Chapter 5.20 of the Santa Barbara Municipal Code (SBMC), section 5.20.070 (C) 3, 4 and 5. The Commission should also deny the permit because of past violations of Section 5.20.150 (E) that are grounds for suspension or revocation of a Dance Permit. Finally, the Permit should be denied because the applicant knowingly operated the establishment for several years without a dance permit as required by the SBMC.

Specifically, number three of section 5.20.070 of Chapter 5.20 of the SBMC, page 119 states, "The operation of a nightclub at the proposed permit location will interfere with the peace and quiet of a substantial number of persons living in residential dwellings in the vicinity of the dance permit location, such that it would deprive the occupants of such dwellings of the reasonable use and enjoyment of their residential property." My client rents rooms on a nightly and extended stay basis to visitors and business representatives who reside in rooms directly adjacent to Madison's. In fact, only three inches separate the two buildings. The noise emanating from the music at Madison's is not and cannot be contained within their structure as it permeates their walls and intrudes on the residents of the Hotel depriving them of the reasonable use and enjoyment of their residence.

Aside from the noise from Madison's permeating the Hotel, Madison's is proposing to leave the front and patio doors open according to their noise mitigation plan. Leaving the doors open will only exacerbate the noise problem, not mitigate it. If Madison's cannot restrict the noise of the dance club to within their structure they are in violation of

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Re: Request to Deny Dance Permit for Madison's Grill and Tavern  
525 State Street

number four of section 5.20.070 of Chapter 5.20 of the SBMC, page 119. Specifically, the SBMC states:

“ . . . 4. The building within which the nightclub will be located is inappropriate or unworkable for its intended nightclub use because it will be inadequate for some or all of the following reasons: a. it will not provide adequate noise control necessary to restrict the noise of the dance club to within the structure. . . .”

Number five of section 5.20.070 of Chapter 5.20 of the SBMC, page 119 provides grounds for denying the requested dance permit if:

“ . . . 5. The proposed plan for maintaining security at the nightclub is inadequate.”

Madison's security plan of five (5) security guards on Thursday, four (4) on Friday and five (5) on Saturday is inadequate on its face based on their prior history. Attachment one is a list of fifty-seven (57) cases identified by the Santa Barbara Police Department from January 2006 through April 2008 pertaining to violations of the Municipal Code, the State Penal Code or the Business and Professions Code. Twenty-Three (23) of those cases were in 2007 and so far this year there have been 8 cases. The cases include Battery, Battery with bodily injury, assault, sexual battery, disturbing the peace fighting, drunk in public and drugs. Attachment two identifies that more than 25% of the cases were for Battery/Fighting/Assault.

Additionally, if Madison's had obtained a valid dance permit in accordance with the SBMC it should have been revoked under Section 5.20.150 (E) which states:

“The suspension or revocation of a dance permit shall be based on a written finding, supported by adequate evidence, that one or more of the following circumstances has occurred with respect to the operation of the establishment holding the dance permit:

1. That the Permittee has allowed repeated violations of any provision of this Chapter, the Municipal Code, or any statute, ordinance, or regulation relating to his or her permitted business activity to occur; or
2. That the Permittee has allowed repeated violations of state Penal Code Section 415 or the City's Noise Control Ordinance (SBMC Chapter 9.16) to occur within or immediately adjacent to the real property upon which the permitted premises is located; or
3. That the Permittee has engaged in violations of the state statutes or regulations related to the sale or distribution of alcohol (particularly with respect to the

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- sale of alcohol to persons under 21 years of age) as determined by the ABC;  
or
4. That the Permittee has failed to take reasonable measures to control the security of the establishment's patrons with appropriate crowd control measures such that instances of overcrowding in violation of Uniform Fire Code occupancy requirements have occurred on more than one occasion; or
  5. That the Permittee has repeatedly failed to comply with the permit conditions imposed pursuant to this Chapter; or
  6. That the Permittee has substantially altered or changed the approved interior site plan floor configuration.

Specifically, with the exception of number 6 above, Madison's has violated every provision of this section of the SBMC thereby providing grounds for revocation of a dance permit. It stands to reason that if there are grounds to revoke a permit, one should not be granted.

Finally, on April 15, 2008, a letter, Attachment three, was sent to Diane and Derek Harding, president and vice president, respectively, of Those Guys, Inc. dba Madison's Grill and Tavern indicating they were in violation of the SBMC 5.20 because they were operating without a dance permit. The original permit was issued to Luigi DiVicente and Lawrence DeSimone on February 22, 2001, Attachment four. The letter to Mr. DiVicente and Mr. DeSimone clearly states that the dance permit is not to be transferred to any successor interest in the business. The Harding's have been the corporate officers of Those Guys, Inc. at least since May 2002 and have been operating without a valid dance permit for six (6) years or more.

This fact is confirmed by reviewing the California Department of Alcoholic Beverage Control (ABC) License Query System Summary as of May 20, 2008, Attachment five. Most recently, the ABC cited Madison's on August 7, 2004 for sale to a minor ( Business and Professions Code, section 25658(a)) and failure to take reasonable steps to correct any objectionable conditions on the premises (24200(a&b)). Madison's was previously cited on May 7, 2002 by the ABC for violation of Section 24200(a&b) and for Penal Code section 148(a)(1) obstruction of an official investigation.

Hence, it is incongruent for the City to grant a permit to the Harding's and Madison's when they have knowingly operated their business without a dance permit in violation of the SBMC for an extended period of time.

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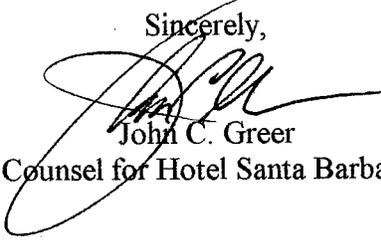
John C. Greer, Jr.  
Attorney at Law

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Re: Request to Deny Dance Permit for Madison's Grill and Tavern  
525 State Street

For all the above reasons, my client respectfully requests that the Commission support Staff's recommendation number three and deny the dance permit.

Sincerely,



John C. Greer  
Counsel for Hotel Santa Barbara

# Attachment ONE

15-MAY 2008 07:00

Santa Barbara Police Department - S.U.S.T.E.D.

Crime Linking Utility

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ALL OFFENSES 525 STATE ST: 010136\_051508

CASE NUMBER	OFFENSE	LOCATION	DTMOCC	TIME
00/18/06	15B12-PT OTHER >200 484PC	STATE ST 0525	01/24/06	2030
00/37/06	12C01-BATTERY 242PC	STATE ST 0525	02/17/06	0030
00/45/06	22A09-POSS/USE FALSE I.D.	STATE ST 0525	02/26/06	0047
00/47/06	22E07-DISTURB THE PEACE, OTHER	STATE ST 0525	03/01/06	0115
00/51/06	12C01-BATTERY 242PC	STATE ST 0525	03/04/06	2330
00/57/06	15D12-PT OTHER 50-200 484PC	STATE ST 0525	03/12/06	1200
00/97/06	22F12-THREATS	STATE ST 0525	03/24/06	0130
00/67/06	12C01-BATTERY 242PC	STATE ST 0525	03/25/06	1620
00/72/06	22A04-DRUNK 647(F)PC	STATE ST 0525	04/02/06	0145
00/77/06	12C01-BATTERY 242PC	STATE ST 0525	04/08/06	2345
00/87/06	12C01-BATTERY 242PC	STATE ST 0525	04/14/06	0001
00/91/06	22F11-MISC MISDEMEANORS/OTHER	STATE ST 0525	04/27/06	0035
01/01/06	15B13-PT W/PRIOR JAIL < \$50	STATE ST 0525	05/09/06	1300
01/02/06	22A04-DRUNK 647(F)PC	STATE ST 0525	05/11/06	1415
01/08/06	24A09-OPEN CONTAINER 0905010 MC	STATE ST 0525	05/19/06	0140
01/27/06	22A04-DRUNK 647(F)PC	STATE ST 0525	06/11/06	0146
01/32/06	18F03-VEH CODE VIOLATION, OTHER	STATE ST 0525	06/15/06	2345
01/43/06	24A09-OPEN CONTAINER 0905010 MC	STATE ST 0525	06/29/06	2358
01/44/06	22A09-POSS/USE FALSE I.D.	STATE ST 0525	07/02/06	0105
01/75/06	22A09-POSS/USE FALSE I.D.	STATE ST 0525	08/05/06	2345
01/75/06	22A04-DRUNK 647(F)PC	STATE ST 0525	08/06/06	0140
01/94/06	23C01-LOST PROPERTY	STATE ST 0525	08/28/06	0000
02/20/06	12C03-BATTERY W/BODILY INJ	STATE ST 0525	09/29/06	0130
02/37/06	12A02-ADW,KNIFE	STATE ST 0525	10/22/06	0053
02/76/06	12C03-BATTERY W/BODILY INJ	STATE ST 0525	12/15/06	2345
02/77/06	22E04-DISTURB THE PEACE,BARS	STATE ST 0525	12/16/06	2320
00/14/07	17E07-ALTERATION EDL	STATE ST 0525	01/20/07	2113
00/29/07	23C01-LOST PROPERTY	STATE ST 0525	01/20/07	0000
00/23/07	12C03-BATTERY W/BODILY INJ	STATE ST 0525	01/20/07	0030
00/37/07	22F12-THREATS	STATE ST 0525	01/26/07	2330
00/31/07	21F10-WAND,RESI, 6400-4999 594(03) (3)	STATE ST 0525	02/04/07	2000
00/30/07	22E04-DISTURB THE PEACE,BARS	STATE ST 0525	02/09/07	2130
00/43/07	15B07-PT BLDG >300 484PC	STATE ST 0525	02/26/07	2100
00/41/07	22E09-DISTURB THE PEACE, FIGHT	STATE ST 0525	02/25/07	0125
00/54/07	23C01-LOST PROPERTY	STATE ST 0525	03/09/07	0000
00/78/07	22F01-DEFRAUD INNKEEPER < \$400	STATE ST 0525	04/14/07	1700
01/04/07	20E09-POSS AMPHETAMINES 11377HS	STATE ST 0525	05/19/07	0045
01/18/07	15A12-OT OTHER 487(A)PC	STATE ST 0525	06/05/07	1100
01/21/07	22A04-DRUNK 647(F)PC	STATE ST 0525	06/10/07	0005
01/36/07	22A09-POSS/USE FALSE I.D.	STATE ST 0525	06/28/07	2255
01/48/07	22A09-POSS/USE FALSE I.D.	STATE ST 0525	07/13/07	0305
01/50/07	11D03-SEXUAL BATTERY 241.4PC	STATE ST 0525	07/28/07	2350
01/67/07	22A04-DRUNK 647(F)PC	STATE ST 0525	08/04/07	0134
01/67/07	22A04-DRUNK 647(F)PC	STATE ST 0525	08/04/07	0135
02/21/07	15B12-PT OTHER >200 484PC	STATE ST 0525	10/11/07	2130
02/21/07	22F05-SUSPICIOUS CIRCUMSTANCES	STATE ST 0525	10/22/07	0215
02/45/07	22F05-SUSPICIOUS CIRCUMSTANCES	STATE ST 0525	11/04/07	1700
04/14/07	22A04-DRUNK 647(F)PC	STATE ST 0525	12/08/07	0115
04/31/07	12C01-BATTERY 242PC	STATE ST 0525	12/17/07	0044
02/17/08	12A04-ADW,HANDS & FEET	STATE ST 0525	02/05/08	0030

Attachment ONE

Santa Barbara Police Department - B.U.S.T.E.D

15-MAY-2008 07:00

Crime Linking Utility

Page 2

ALL OFFENSES 525 STATE ST: 010106\_051508

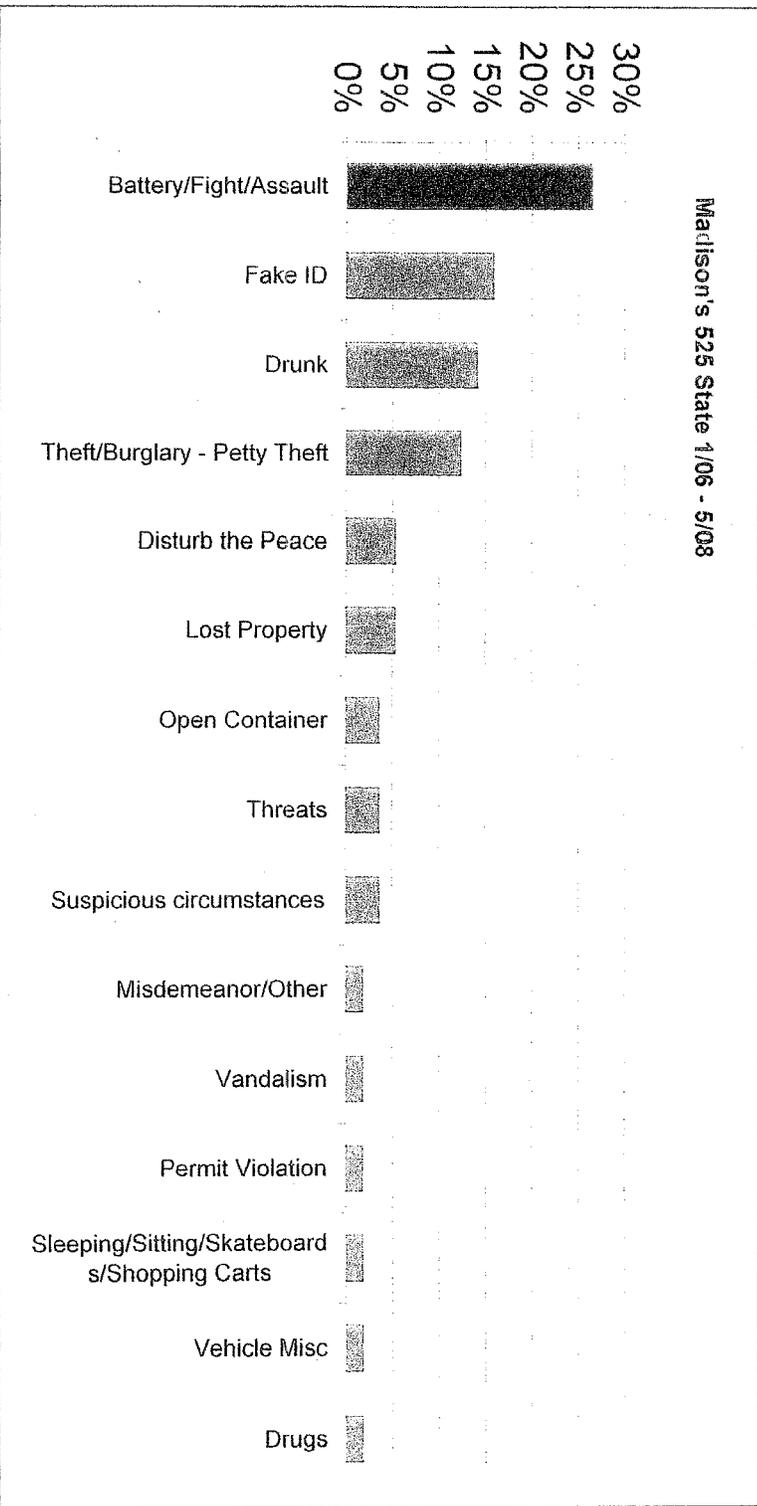
CASE NUMBER	OFFENSE	LOCATION	DTEOCC	TIME
01/43/08	22A09-POSS/USE FALSE I.D.	STATE ST 0525	02/29/08	0059
01/63/08	24001-MISC B&P VIOLATIONS	STATE ST 0525	03/07/08	2330
01/77/08	22A21-POSS OF SHOPPING CART	STATE ST 0525	03/13/08	2200
01/77/08	17E07-ALTERATION DDL	STATE ST 0525	03/14/08	0005
02/16/08	12C01-BATTERY 241PC	STATE ST 0525	03/29/08	1147
02/35/08	22E09-DISTURB THE PEACE, FIGHT	STATE ST 0525	04/04/08	2345
02/88/08	22A09-POSS/USE FALSE I.D.	STATE ST 0525	04/26/08	0130

Total record count: 57

**Madison's 525 State Street  
4/1/06 - 5/8/08 Crime Stats**

*A. Hackman 7/12*

Battery/Fight/Assault	26%
Fake ID	16%
Drunk	14%
Theft/Burglary - Petty Theft	12%
Disturb the Peace	5%
Lost Property	5%
Open Container	4%
Threats	4%
Suspicious circumstances	4%
Misdemeanor/Other	2%
Vandalism	2%
Permit Violation	2%
Sleeping/Sitting/Skateboards/Shopping Carts	2%
Vehicle Misc	2%
Drugs	2%





# City of Santa Barbara

## Police Department

www.sbpd.com

April 15, 2008

Diane and Derek Harding  
c/o Madison's Grill and Tavern  
525 State St.  
Santa Barbara, CA 93101

Re: Dance Permit Issued February 26, 2001

Chief's Office  
805.897.2395

Mr. and Mrs. Harding:

General Information  
805.897.2300

Based upon a citizen complaint, the Santa Barbara Police Department recently investigated the status of the dance permit dated February 26, 2001 associated with 525 State Street and Madison's Grill and Tavern, issued to Luigi DiVicente and Lawrence DeSimone. According to our investigation, as of May 2006, neither DiVicente nor DeSimone were owners of Madison's. Since May 2006, various ownership changes have occurred. According to the issued dance permit, "[i]f the business changes ownership or address, a new permit must be obtained from this Commission (Fire and Police Commission)... [t]his permit may not be transferred to any successor interest in the business." (See enclosed copy of the dance permit dated February 26, 2001.) Furthermore, Santa Barbara Municipal Code section 5.20.130 prohibits the transfer of dance permits. Based on the foregoing, the dance permit issued on February 26, 2001 is technically void.

Animal Control  
805.963.1513

Business Office  
805.897.2400

Community Services  
805.897.3717

To remedy the situation, you must apply for a new dance permit. A completed Nightclub Dance Permit Application (enclosed) must be submitted, along with a check for all applicable fees, to the Police Technician in the Police Department Annex, at 222 E. Anapamu Street, **no later than 4:00 p.m. on May 1, 2008.** Applicants will be required to undergo and complete all steps of the application process as mandated by Santa Barbara Municipal Code Chapter 5.20. The Santa Barbara Police Department will make every effort to process the application expeditiously. Barring any unforeseen delays, if the application is submitted by 4:00 p.m. on May 1<sup>st</sup>, it will be scheduled to be heard at the Fire and Police Commission meeting on Thursday, May 22, 2008, at which your attendance is highly recommended. **If you fail to timely submit the dance permit application, the City will be forced to commence enforcement against you.**

Dispatch  
805.897.2410

Office of Emergency Services  
805.897.3725

Parking  
805.897.2360

Please be advised that you may continue to have dancing at Madison's until your permit application is heard by the Fire and Police Commission on May 22, 2008.

Patrol  
805.897.2392

Enclosed for your convenience is a copy of Chapter 5.20 of the Santa Barbara Municipal Code pertaining to dance permits, as well as a Nightclub Dance Permit Application. If you have any further questions, please contact Police Technician Holly Michels via phone (805) 897-2333 or via email: [hmichels@sbpd.com](mailto:hmichels@sbpd.com).

Records  
805.897.2355

Sincerely,

215 E. Figueroa St.  
Santa Barbara, CA  
93101

ROBERT LOWRY  
Commander  
Investigative Division

PO Box 539  
Santa Barbara, CA  
93102



# Fire and Police Commission

City of Santa Barbara

215 EAST FIGUEROA  
MAIL: P.O. BOX 539  
SANTA BARBARA  
93102

February 26, 2001

Mr. Luigi Divecente  
Mr. Lawrence DeSimone  
Madison's Grill & Tavern  
525 State Street  
Santa Barbara, California 93101

RE: Dance Permit Approval for Madison's Grill & Tavern, 525 State Street

Dear Mr. Divecente and Mr. DeSimone:

On February 22, 2001, the City of Santa Barbara Fire and Police Commission issued a Dance Permit at 525 State Street to *Madison's Grill & Tavern*. This permit is issued with the following conditions:

This permit is strictly limited to allow only the occupant load for the premises as is approved by the Santa Barbara City Fire Department. Business shall be conducted in a manner that will not violate any provisions of the California Alcoholic Beverage Control Act, providing against the sale of alcohol to minors (§25658); maintaining the public health, morals, convenience and safety (§25601); and taking reasonable steps to correct any objectionable conditions on the premises and immediately adjacent to the premises (§24200).

For the protection of public health and safety, no dancing shall take place in or upon any location, area or surface other than those locations, areas and surfaces that have been approved for occupancy load/dancing by the Fire Department or Building and Safety Department. Dancing in or upon an unapproved location, area or surface shall be deemed a violation of the terms and conditions of the permit and cause for the review, suspension, amendment or revocation of this permit at the discretion of the Fire & Police Commission Board. If a change in the location of approved dancing areas is desired, the applicant must re-apply to the Fire and Police Commission for approval of these changes. Such application shall require approval of the Fire Department and Building and Safety prior to being accepted for review by the Fire and Police Commission Board.

Any complaints about noise, litter, traffic problems, disturbances, damage to property, injuries to persons, or failure to cooperate with peace officers under circumstances related to the operation of this business will subject this permit to review, amendment, suspension, or revocation, at the discretion of this Commission. If the business changes ownership or address, a new permit must be obtained from this Commission and a new permit must be obtained from the Tax and Permit Office at City Hall. This permit may not be transferred to any successor interest in the business. Any other change must be reported in writing to the Commission.

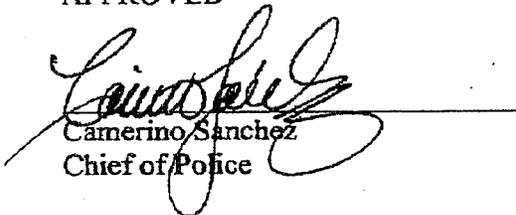
This permit is issued under the authority of the Santa Barbara Municipal Code, Chapter 5.20, §5.20.010 through §5.20.090, inclusive, and subject to all other applicable City, County and State laws, ordinances, rules, and regulations.

FIRE & POLICE COMMISSION

APPROVED



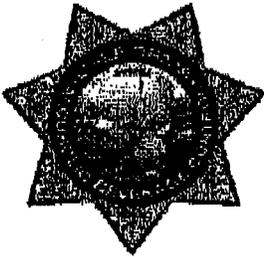
Jill B. Gordon  
Secretary to the Commission

  
Camerino Sanchez  
Chief of Police

Attachment

- cc: Tax & Permit Office
- City Attorney
- Police Special Investigations
- Fire & Police Commissioners

*Attachment Five*



**California Department of Alcoholic  
Beverage Control  
License Query System Summary  
as of 5/20/2008**

<b>License Information</b>	
<b>License Number:</b> 346845	<b>Status:</b> ACTIVE
<b>Primary Owner:</b> THOSE GUYS INC	
<b>ABC Office of Application:</b> VENTURA	
<b>Business Name</b>	
<b>Doing Business As:</b> MADISONS GRILL & TAVERN	
<b>Business Address</b>	
<b>Address:</b> 525 STATE ST <b>Census Tract:</b> 0009.	
<b>City:</b> SANTA BARBARA <b>County:</b> SANTA BARBARA	
<b>State:</b> CA <b>Zip Code:</b> 93101-1601	
<b>Licensee Information</b>	
<b>Licensee:</b> THOSE GUYS INC	
<b>Company Officer Information</b>	
<b>Officer:</b> HARDING DIANE ELIZABETH, PRESIDENT/TREASURER	
<b>Officer:</b> HARDING DEREK MARK, VICE PRESIDENT/SECRETARY	
<b>License Types</b>	
<b>1) License Type:</b> 47 - ON-SALE GENERAL EATING PLACE	
<b>License Type Status:</b> ACTIVE	
<b>Status Date:</b> 31-JAN-2000	<b>Term:</b> 12 Month(s)
<b>Original Issue Date:</b> 31-JAN-2000	<b>Expiration Date:</b> 31-DEC-2008
<b>Master:</b> Y <b>Duplicate:</b> 0 <b>Fee Code:</b> P40	
<b>2) License Type:</b> 30 - TEMPORARY PERMIT	
<b>License Type Status:</b> ISSUE	
<b>Status Date:</b> 21-SEP-1998	<b>Term:</b> 0 Month(s)
<b>Original Issue Date:</b>	<b>Expiration Date:</b>
<b>Master:</b> Y <b>Duplicate:</b> 0 <b>Fee Code:</b> NA	
<b>3) License Type:</b> 58 - CATERER PERMIT	
<b>License Type Status:</b> ACTIVE	
<b>Status Date:</b> 31-JAN-2000	<b>Term:</b> Month(s)
<b>Original Issue Date:</b> 31-JAN-2000	<b>Expiration Date:</b> 31-DEC-2008
<b>Master:</b> N <b>Duplicate:</b> 1 <b>Fee Code:</b> NA	
<b>4) License Type:</b> 30 - TEMPORARY PERMIT	
<b>License Type Status:</b> ISSUE	
<b>Status Date:</b> 01-OCT-1999	<b>Term:</b> 0 Month(s)

California ABC - License Query System - Data Summary

*Attachment Five*

<b>Original Issue Date:</b>	<b>Expiration Date:</b>
<b>Master: Y</b>	<b>Duplicate: 0</b>
<b>Fee Code: NA</b>	
<b>Current Disciplinary Action</b>	
... <i>No Active Disciplinary Action found</i> ...	
<b>Disciplinary History</b>	
<b>Violation Date: Reg. Number: 00049952 Cleared On: 07-MAY-2002</b>	
<b>Reporting Agency: SANTA BARBARA P.D.</b>	
<b>1) Charge Date:</b>	<b>Section Violated: 24200(a&amp;b)</b>
<b>Charge: GROUNDS FOR ACTION</b>	
<b>2) Charge Date:</b>	<b>Section Violated: PC148(a)(1)</b>
<b>Charge: DELAYED AND OBSTRUCTED INVESTIGATION</b>	
<b>Proceeding Status: COMPLETE Decision:</b>	
<b>Suspension Days: Stayed Days POIC/Fine:</b>	
<b>Suspension Start Date: Suspension End Date:</b>	
<b>Proceeding Status: COMPLETE Decision: REJECTED</b>	
<b>Suspension Days: Stayed Days POIC/Fine:</b>	
<b>Suspension Start Date: Suspension End Date:</b>	
<b>Proceeding Status: COMPLETE Decision: DISMISSED</b>	
<b>Suspension Days: Stayed Days POIC/Fine:</b>	
<b>Suspension Start Date: Suspension End Date:</b>	
<b>Violation Date: 07-AUG-2004 Reg. Number: 04058293 Cleared On: 18-JAN-2005</b>	
<b>Reporting Agency: ABC</b>	
<b>1) Charge Date: 07-AUG-2004</b>	<b>Section Violated: 24200(a&amp;b)</b>
<b>Charge: GROUNDS FOR ACTION</b>	
<b>2) Charge Date: 07-AUG-2004</b>	<b>Section Violated: 25658(a)</b>
<b>Charge: SALE TO MINOR</b>	
<b>Proceeding Status: COMPLETE Decision: SUSPENDED</b>	
<b>Suspension Days: 10 Stayed Days 10 POIC/Fine:</b>	
<b>Suspension Start Date: Suspension End Date:</b>	
<b>Hold Information</b>	
... <i>No Active Holds found</i> ...	
<b>Escrow</b>	
... <i>No Escrow found</i> ...	

--- End of Report ---

For a definition of codes, view our [glossary](#).

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

ATTACHMENT 5

**IN THE MATTER OF THE APPLICATION OF**

THOSE GUYS INC.  
525 State Street  
Santa Barbara, CA. 93101

FILE 346845

**PETITION FOR CONDITIONAL  
LICENSE**

**For Transfer of an On Sale General license**

**Under the Alcoholic Beverage Control Act**

**WHEREAS**, petitioner(s) has/have filed an application for the issuance of the above-referred-to license(s) for the above-mentioned premises; and,

**WHEREAS**, the premises to be licensed is located in an area in which there is a significant law enforcement problem, and,

**WHEREAS**, the issuance of the applied-for license without conditions would result in or add to an undue concentration of licenses; and,

**WHEREAS**, the issuance of an unrestricted license without conditions would not serve public convenience or necessity; and,

**WHEREAS**, the issuance of an unrestricted license would be contrary to public welfare and morals;

**NOW, THEREFORE**, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit:

1. The premises shall be maintained as a bona fide American Style food restaurant and shall provide a menu containing an assortment of foods normally offered in such restaurants.
2. The premises shall be equipped and maintained in good faith and shall possess, in operative condition, such convenience for cooking foods as stove, ovens, broilers, or other devices as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed.
3. The licensee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned code section.
4. The sale of Alcoholic Beverages for consumption off the premises is strictly prohibited.
5. The petitioner(s) shall be responsible for maintaining free of liter the area adjacent to the premises over which they have control.

This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

Petitioner(s) agree(s) to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.



**California Department of Alcoholic  
Beverage Control**  
*License Query System Summary*  
*as of 8/28/2008*

<b>License Information</b>		
<b>License Number:</b> 346845	<b>Status:</b> ACTIVE	
<b>Primary Owner:</b> THOSE GUYS INC		
<b>ABC Office of Application:</b> VENTURA		
<b>Business Name</b>		
<b>Doing Business As:</b> MADISONS GRILL & TAVERN		
<b>Business Address</b>		
<b>Address:</b> 525 STATE ST <b>Census Tract:</b> 0009.		
<b>City:</b> SANTA BARBARA <b>County:</b> SANTA BARBARA		
<b>State:</b> CA <b>Zip Code:</b> 93101-1601		
<b>Licensee Information</b>		
<b>Licensee:</b> THOSE GUYS INC		
<b>Company Officer Information</b>		
<b>Officer:</b> HARDING DIANE ELIZABETH, PRESIDENT/TREASURER		
<b>Officer:</b> HARDING DEREK MARK, VICE PRESIDENT/SECRETARY		
<b>License Types</b>		
<b>1) License Type:</b> 47 - ON-SALE GENERAL EATING PLACE		
<b>License Type Status:</b> ACTIVE		
<b>Status Date:</b> 31-JAN-2000		<b>Term:</b> 12 Month(s)
<b>Original Issue Date:</b> 31-JAN-2000		<b>Expiration Date:</b> 31-DEC-2008
<b>Master:</b> Y	<b>Duplicate:</b> 0	<b>Fee Code:</b> P40
<b>2) License Type:</b> 30 - TEMPORARY PERMIT		
<b>License Type Status:</b> ISSUE		
<b>Status Date:</b> 21-SEP-1998		<b>Term:</b> 0 Month(s)
<b>Original Issue Date:</b>		<b>Expiration Date:</b>
<b>Master:</b> Y	<b>Duplicate:</b> 0	<b>Fee Code:</b> NA
<b>3) License Type:</b> 58 - CATERER PERMIT		
<b>License Type Status:</b> ACTIVE		
<b>Status Date:</b> 31-JAN-2000		<b>Term:</b> Month(s)
<b>Original Issue Date:</b> 31-JAN-2000		<b>Expiration Date:</b> 31-DEC-2008
<b>Master:</b> N	<b>Duplicate:</b> 1	<b>Fee Code:</b> NA
<b>4) License Type:</b> 30 - TEMPORARY PERMIT		
<b>License Type Status:</b> ISSUE		
<b>Status Date:</b> 01-OCT-1999		<b>Term:</b> 0 Month(s)

<b>Original Issue Date:</b>	<b>Expiration Date:</b>
<b>Master: Y</b>	<b>Duplicate: 0</b> <b>Fee Code: NA</b>
<b>Current Disciplinary Action</b>	
... <i>No Active Disciplinary Action found</i> ...	
<b>Disciplinary History</b>	
<b>Violation Date: Reg. Number: 00049952 Cleared On:07-MAY-2002</b>	
<b>Reporting Agency: SANTA BARBARA P.D.</b>	
<b>1) Charge Date:</b>	<b>Section Violated: 24200(a&amp;b)</b>
<b>Charge: GROUNDS FOR ACTION</b>	
<b>2) Charge Date:</b>	<b>Section Violated: PC148(a)(1)</b>
<b>Charge: DELAYED AND OBSTRUCTED INVESTIGATION</b>	
<b>Proceeding Status: COMPLETE Decision:</b>	
<b>Suspension Days: Stayed Days POIC/Fine:</b>	
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<b>Proceeding Status: COMPLETE Decision: REJECTED</b>	
<b>Suspension Days: Stayed Days POIC/Fine:</b>	
<b>Suspension Start Date: Suspension End Date:</b>	
<b>Proceeding Status: COMPLETE Decision: DISMISSED</b>	
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<b>Suspension Start Date: Suspension End Date:</b>	
<b>Violation Date: 07-AUG-2004 Reg. Number: 04058293 Cleared On:18-JAN-2005</b>	
<b>Reporting Agency: ABC</b>	
<b>1) Charge Date: 07-AUG-2004</b>	<b>Section Violated: 24200(a&amp;b)</b>
<b>Charge: GROUNDS FOR ACTION</b>	
<b>2) Charge Date: 07-AUG-2004</b>	<b>Section Violated: 25658(a)</b>
<b>Charge: SALE TO MINOR</b>	
<b>Proceeding Status: COMPLETE Decision: SUSPENDED</b>	
<b>Suspension Days: 10 Stayed Days 10 POIC/Fine:</b>	
<b>Suspension Start Date: Suspension End Date:</b>	
<b>Hold Information</b>	
... <i>No Active Holds found</i> ...	
<b>Escrow</b>	
... <i>No Escrow found</i> ...	

--- End of Report ---

For a definition of codes, view our [glossary](#).

May 23, 2008

Diane Harding  
5130 Calle Real  
Santa Barbara, CA 93111

RE: Dance Permit – Madison’s Grill & Tavern – 525 State St.

Dear Ms. Harding:

This letter is to officially notify you that, at their regular meeting of May 22, 2008, the City of Santa Barbara Fire & Police Commission voted 3-1 in favor of denying your application for a revised dance permit at Madison’s Grill & Tavern located at 525 State St.

Pursuant to Santa Barbara Municipal Code §1.30.050 (copy attached), if you wish to appeal the decision of the Commission to the City Council, you have ten (10) days from the date of this letter to file such appeal, in writing, with the City Clerk’s Office. Should you elect to appeal the Commission’s decision in a timely fashion to the City Council in accordance with SBMC section 5.20.090(A), the Commission’s decision will be suspended pending a decision by the City Council on your appeal.

If you have any questions or concerns regarding this notification, please contact Deputy Chief Glaus @ 897-2390.

---

Barbara Sansone  
Secretary to the Commission

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Cam Sanchez  
Chief of Police

Attachment

cc: Tax & Permit Office  
City Attorney  
Police Special Investigations  
Fire & Police Commissioners

LAW OFFICES  
REETZ, FOX & BARTLETT LLP  
116 EAST SOLA STREET  
SANTA BARBARA, CALIFORNIA 93101  
TELEPHONE: (805) 965-0523 • FAX: (805) 564-8675  
E-MAIL: admin@reetzfox.com

August 27, 2008

Mayor Marty Blum  
Members of the City Council  
Post Office Box 1990  
Santa Barbara, CA 93102-1990

SEPTEMBER 16, 2008 AGENDA  
DANCE PERMIT – MADISON'S GRILL & TAVERN – 525 STATE STREET

Dear Mayor Blum and Members of Council,

My office has represented Madison's Grill & Tavern in the past, and in particular in 2006 when the Corporation's existing major shareholder, Lawrence and Josephine DeSimone, sold their then remaining shares to Derek and Diane Harding, who already owned 15 percent of the corporation's shares and had served for a number of years as onsite managers. The remaining shares were to be sold to another third party, however, because of issues that arose between the Hardings and the third party, the Hardings wound up acquiring 90% of the corporation's stock and Lawrence and Josephine DeSimone retained 10% ownership. This is the situation currently.

Importantly, in 2006, when DeSimones sold to Harding the purchase agreement contained the following representation and warranty:

"2.6 Governmental Approvals and Filings. Other than the consent of the California Alcoholic Beverage Control Board regarding transfer of liquor licenses, no consent, approval or action of, filing with or notice to any capital Governmental or Regulatory Authority on the part of seller or the company is required in connection with the execution, delivery and performance of this agreement or the consummation of the transactions contemplated hereby."

It has now come to light that the dance permit for the premises was never held by the corporation, but instead had been held by the DeSimones. Derek and Diane Harding did not know that the dance permit was issued to Mr. DeSimone individually, and relied on Mr. DeSimone's representation and warranty that all of the permits to conduct business as had been occurring in the past were in good order.

REETZ, FOX & BARTLETT LLP

Mayor Marty Blum  
Members of the City Council  
August 27, 2008  
Page 2

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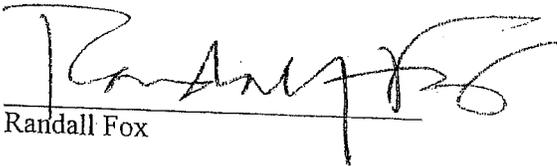
In April, the Hardings learned that that the corporation did not hold the permit and immediately sought approval to dance at the premises consistent with their past and existing operations. They are surprised to learn that Mr. DeSimone's representation and warranty to them was not correct, and ask that you not penalize them because of their good faith reliance on the transaction to acquire Madison's Grill and Tavern.

Please issue a dance permit for Madison's Grill and Tavern and 525 State Street to the corporation known as Those Guys, Inc. which has owned and operated the property since 1996.

Thank you for your courtesy and cooperation in this matter.

Sincerely,

REETZ, FOX & BARTLETT LLP

  
Randall Fox

RF/aml

Harding\Mayor 08.08.26

cc. Iya Falcone, Council Member  
Dale Francisco, Council Member  
Grant House, Mayor Pro Tempore  
Roger Horton, Council Member  
Helene Schneider, Council Member  
Das Williams, Council Member  
Barbara Sansone,  
Executive Assistant to Fire and Police Commission  
Derek & Diane Harding, Those Guys, Inc.