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January 25, 2021

Barfly Inc.,
c/o Baret Lepejian, CEO
2623 West Magnolia Boulevard
Burbank, CA, 91505

SUBJECT: NOTICE OF DECISION REGARDING THE REVOCATION HEARING FOR TIN HORN FLATS BAR AND GRILL, 2623 W MAGNOLIA BOULEVARD, BURBANK, CA 91505

On January 20, 2021, a permit revocation hearing was held to provide you with an opportunity to discuss why your public health permit should not be revoked due to repeated violations of the applicable Health Officer Order for the Control of COVID-19, the Los Angeles County Code and the California Health and Safety Code. The Department of Public Health has the responsibility to ensure food facilities that operate within the County of Los Angeles do so in a manner that safeguards public health. Repeated violations of the Temporary Targeted Safer At Home Office Order for the Control of COVID-19 (HOO) constitutes an ongoing public nuisance and endangers the health of the public.

During the hearing the violations from the following inspection reports were discussed:

- **Between December 7 and December 10, 2020**, fifty-two (52) complaints were received regarding Tin Horn Flats Bar and Grill allowing outdoor dining in violation of the HOO.
- **December 10, 2020:** A complaint investigation regarding outdoor dining was conducted. At the time of the investigation customers were observed dining onsite at the outdoor tables. An Official Inspection Report (OIR) with a re-inspection date of 12/13/20 and an Administrative Citation for \$500 were issued.

- **December 12, 2020:** Seventy-two (72) additional complaints were received between the time of the initial complaint investigation on December 10 and December 12th. Due to the volume of complaints, and the justified complaint investigation conducted on December 10, 2020, Mr. Peter Keshishian, Chief Environmental Health Specialist for the Burbank District Office, telephoned the facility and spoke with Mr. Lucas Lepejian, who identified himself as the owner's son. Mr. Keshishian explained that the current Health Officer Order required the facility cease onsite dining and that continuing to operate in violation of the HOO would lead to a citation and a 7-day Health Officer closure. Mr. Lepejian indicated he would not cease operation, that he is doing a service to the community by providing food to patrons, and that unless the health department paid him \$10,000.00 a week for lost wages, he will not honor the HOO. Mr. Keshishian informed him Ms. Ngoc McShane Environmental Health Specialist (EHS) II, and Ms. Gayane Martirosyan, EHS II, will be conducting a site visit at the facility and issue a 7-day Health Officer notice to close if the facility is observed providing onsite dining. Mr. Lepejian was also advised to remain cordial and civil with the inspectors and allow them to conduct their job duties without interference from patrons or employees. Mr. Lepejian agreed to the request and indicated he knew Ms. McShane and she is welcome to come to the facility.

The site visit by Ms. McShane and Ms. Martirosyan revealed the facility continued to offer onsite dining outdoors and was subsequently issued a 7-day closure notice and an administrative citation. During the course of issuing the suspension notification to Mr. Lepejian, both inspectors were video taped by several patrons who expressed their dissatisfaction with the closure of the facility and later posted the video on various social media outlets. At no time did Mr. Lepejian attempt to discourage the patrons and allow for the inspectors to complete their job duties without obstruction. As a consequence, a security incident report was filed with the Department's Risk Management program.

- **December 13, 2020:** A joint inspection was conducted by Ms. McShane and Mr. Arman Manukyan, EHS I, to conduct a re-inspection to determine compliance with the public health permit suspension and adherence to the HOO. The facility remained non-compliant and continued to operate with a suspended public health permit. The facility was issued an administrative citation and was informed that a revocation hearing would be scheduled within the week. At the time of the inspection, once again patrons became disruptive, and at this time became confrontational with the inspectors, including destruction of County property such as tearing of the posted Notice of Closure sign, following the inspectors to their vehicles by car, and intimidating the inspectors by violating their personal space, getting within 12 inches to them, and questioning their skills/experience as inspectors. The inspectors were compelled to contact emergency assistance via 911, but later cancelled when the patrons stopped the harassment.

- **December 14, 2020:** A joint inspection was conducted by Mr. Ivan Harutyunyan, EHS II, and Mr. Josh Midtlyng, EHS II to determine compliance with the HOO and public health permit suspension. At the time of the inspection the facility was closed with a notice posted indicating the facility was closed on Monday but would re-open and welcome customers on Tuesday, 12-15-2020. A follow up inspection was scheduled for 12-15-2020.
- **December 15, 2020:** A joint inspection was conducted by Mr. Ivan Harutyunyan, EHS II, and Mr. Josh Midtlyng, EHS II to determine compliance with the HOO and public health permit suspension. At the time of the inspection the facility was operating and providing onsite dining. An OIR and citation were issued at the time of the inspection. Due to continued non-compliance and repeated violations of the HOO, a revocation hearing was scheduled for 12-21-2020.
- **December 16, 2020:** A joint inspection was conducted by Mr. Ivan Harutyunyan, EHS II, and Mr. Josh Midtlyng, EHS II to determine compliance with the HOO and public health permit suspension. At the time of the inspection the facility was operating and providing onsite dining. An OIR and citation were issued at the time of the inspection.
- **December 17, 2020:** A joint inspection was conducted by Mr. Ivan Harutyunyan, EHS II, and Mr. Josh Midtlyng, EHS II to determine compliance with the HOO and public health permit suspension. At the time of the inspection the facility was operating and providing onsite dining resulting in the issuance of an administrative citation in conjunction with the OIR. While performing their job duties, both inspectors were greeted with profanity from an employee behind the bar, were verbally accosted and yelled at by several customers, including one patron who yelled, "I am surprised one of your health inspectors hasn't been murdered yet!" which was followed with a comment from Ms. Talya Lepejian, the owner's daughter, "Yeah, why hasn't one of you been killed yet?" which further encouraged and exacerbated the hostile environment. Despite the threatening environment, the inspectors completed their inspection and issued the OIR and citation. However, as the inspectors were leaving the facility, a customer approached Mr. Midtlyng and asked, "Do you have a daughter?" At no time did either Mr. Lucas Lepejian or Ms. Talya Lepejian discourage the hostility from the customers and instead encouraged and exacerbated the hostility by actively participating in threatening comments. As a consequence, a security incident report was filed with the Department's Risk Management program.
- **December 21, 2020:** A revocation hearing was scheduled which was subsequently re-scheduled for 01/20/2021 at the request of Mr. Geragos on the basis he was just retained

as counsel that morning and needed additional time to prepare. The continuance was granted until 1/20/21 at 3:00pm.

- **December 22, 2020:** An inspection was conducted by Mr. Josh Midtlyng, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **December 23, 2020:** An inspection was conducted by Ms. Ngoc McShane, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **December 24, 2020:** An inspection was conducted by Ms. Gayane Grigoryan, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **December 29, 2020:** An inspection was conducted by Ms. Ngoc McShane, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.

- **December 30, 2020:** An inspection was conducted by Ms. Ngoc McShane, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **December 31, 2020:** An inspection was conducted by Ms. Ngoc McShane, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 4, 2021:** An inspection was conducted by Ms. Ngoc Mcshane, EHS II, to determine compliance with the HOO and PHP suspension. At the time of the inspection the facility was not observed in operation. The facility is closed on Mondays.
- **January 5, 2021:** An inspection was conducted by Mr. Ivan Harutyunyan, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 6, 2021:** An inspection was conducted by Mr. Josh Midtlyng, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.

- **January 7, 2021:** An inspection was conducted by Ms. Gayane Grigoryan, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 8, 2021:** An inspection was conducted by Mr. Tadeh Derhartounian, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 10, 2021:** An inspection was conducted by Ms. Jasmine Ter-Oganesyan, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 11, 2021:** An inspection was conducted by Ms. Ngoc Mcshane, EHS II, to determine compliance with the HOO and PHP suspension. At the time of the inspection the facility was not observed in operation. The facility is closed on Mondays.
- **January 12, 2021:** An inspection was conducted by Mr. Josh Midtlyng, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.

- **January 12, 2021: County Counsel issued a Cease and Desist order.**
- **January 13, 2021:** An inspection was conducted by Mr. Ivan Harutyunyan, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 14, 2021:** An inspection was conducted by Ms. Gayane Grigoryan, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 15, 2021:** An inspection was conducted by Mr. Tadeh Derhartounian, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 16, 2021:** An inspection was conducted by Ms. Sheila Lindsey, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.

- **January 17, 2021:** An inspection was conducted by Mr. Ivan Harutyunyan, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 18, 2021:** An inspection was conducted by Ms. Brittany Remo, EHS, to determine compliance with the HOO and PHP suspension. At the time of the inspection the facility was not observed in operation. The facility is closed on Mondays.
- **January 19, 2021:** An inspection was conducted by Ms. Ngoc McShane, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 20, 2021:** Revocation hearing rescheduled from 12-21-2020 was conducted by Michelle LeCavalier, EHSM and Mark Garagos, counsel for Tin Horn Flats Bar and Grill. Deputy County Counsel, Blaine McPhillips and Vanessa Miranda were on the telephonic hearing. Mr. Garagos requested a continuance of the hearing until February and the request was denied. Mr. Garagos stated that he wanted to provide a statement and evidence as to why the permit suspension was illegal and without cause and requested time through the weekend. A deadline was set for Monday, January 25, 2021 to submit the written statement and evidence to be considered in the revocation hearing process contingent on the facility being in full compliance with California Health and Safety Code and the current Health Officer Order and the permit suspension. Mark Geragos confirmed his client was in full compliance.
- **January 21, 2021:** A joint inspection was conducted by Mr. Peter Keshishian, Chief EHS, and Mr. Josh Midtlyng, EHS II, to determine compliance with the HOO and PHP suspension. At the time of the inspection the facility was operating and providing onsite dining. An OIR and citation were subsequently issued.

- **January 22, 2021:** An inspection was conducted by Mr. Tadeh Derhartounian, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 23, 2021:** An inspection was conducted by Ms. Sheila Lindsey, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 24, 2021:** An inspection was conducted by Ms. Jasmine Ter-Oganesyan, EHS II, to determine compliance with the HOO and public health permit suspension, however, to ensure the inspector's safety and security, the inspection was conducted via observation from across the street on Naomi Street and Magnolia Blvd. At the time of the inspection photographs were obtained depicting customers standing in line on Naomi Street waiting to be seated or to pick up orders, and/or eating and/or drinking as observed from the open patio door located on Naomi Street leading directly to the outdoor seating area. As a result, an OIR and administrative citation was issued.
- **January 25, 2021:** An inspection was conducted by Ms. Ngoc McShane, EHS II, to determine compliance with the HOO and PHP suspension. At the time of the inspection the facility was not observed in operation. The facility is closed on Mondays.

On January 25, 2021, I received the email correspondence from counsel Mark Geragos Re: Tin Horn Flats Bar and Grill Permit Revocation Hearing. Upon review of the documents submitted by counsel as evidence of Tin Horn Flats full compliance with California Health and Safety Code and Los Angeles County Code, I find that Mr. Geragos failed to supply any evidence as such. The legal arguments raised in Mr. Geragos' letter are beyond the purview and scope of assessment by the permit revocation hearing officer.

The facts are as follows:

November 25, 2020 the Los Angeles County Health Officer Order REOPENING SAFER AT WORK AND IN THE COMMUNITY FOR CONTROL OF COVID-19 BLUEPRINT FOR A SAFER ECONOMY-TIER 1 SURGE RESPONSE Revised Order Issued: November 25, 2020 was issued and prohibited onsite dining in all Los Angeles County food facilities. This order was in effect from November 25th through December 17, 2020

December 8, 2020, Judge Chalfant issued his ruling which *did not prohibit the enforcement of the County's prohibition on outdoor dining until 12/16/2020.*

December 9, 2020, the Los Angeles County REVISED TEMPORARY TARGETED SAFER AT HOME HEALTH OFFICER ORDER FOR THE CONTROL OF COVID-19 TIER 1 SUBSTANTIAL SURGE UPDATED RESPONSE WAS ISSUED and in effect from December 9, 2020 through December 27, 2020

After repeatedly violating the Health Officer Order, *your public health permit was suspended on December 12, 2020 for repeat violation of onsite dining.* The suspension of your public health permit was a lawful decision as allowed under Los Angeles County Code Title 11.

You continued to operate your food facility without a valid public health permit up to and beyond the date of the revocation hearing which is a violation of California Health and Safety Code 114381.

This letter serves as official notice that the Public Health Permit for Tin Horn Flats Bar and Grill located at 2623 W. Magnolia Boulevard, Burbank CA 91505 is hereby revoked. This action has been taken as a result of continued violations of Los Angeles County Code Section 11.02.060 regarding your refusal to obey any lawful order of the Health Office made in the performance of his duties within the power conferred upon him by state law or Division 1 of this title and California Health and Safety Code Section(s) 114381, 114387, 114390, and 114395 relating to the operating of a food facility without Public Health permit. Authority to revoke your permit is granted under Section 114405 of the California Health and Safety Code and Section 8.04.945 of the Los Angeles County Code.

Pursuant to the California Health and Safety Code, Section 114405 and Los Angeles County Code, Section 8.04.946, Tin Horn Flats Bar and Grill is not authorized to serve the public. **You are prohibited from conducting any form of retail food sales, including but not limited to, food storage and/or food preparation.**

You are to remain closed until you are issued a new permit. A new permit may be obtained after you provide proof that you:

1. Completed the litigation process, if the PHL/P was revoked due to interference with the duties of a Health Officer.
2. Apply for a new Public Health Permit from the County of Los Angeles.
3. Employ at least one Certified Food Protection Manager capable of communicating in the primary language of the food workers. The Certified Food Protection Manager (CFPM) is responsible for ensuring that all employees who handle food have sufficient knowledge to ensure the safe preparation of service of the food.
4. Demonstrate food safety knowledge. The CFPM, PIC, and food employees must be able to demonstrate the knowledge appropriate for their specific tasks.
5. Attain full compliance with the California Health and Safety Code and/or the Los Angeles County Code and the Temporary Targeted Safer At Home Health Office Order for the Control of COVID-19 and all other applicable codes.
6. Receive a Site Evaluation by Plan Check Program to determine if the food facility meets current structural requirements of the California Health and safety Code and/or the Los Angeles County Code. A new Public Health Permit may be issued upon determination that the facility is in full compliance, if the site evaluation determine plans are not necessary.
7. Pay all fees and costs associated with this enforcement action.

You have the right to appeal the revocation within 15 calendar days by submitting a written request to:

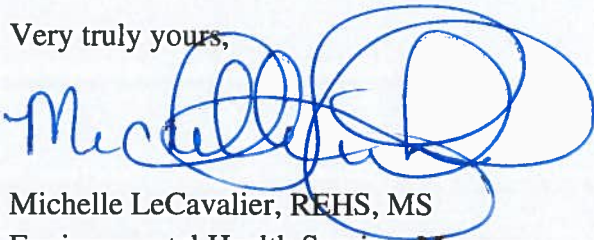
**Environmental Health Ombudsman,
Graceline Shin, Environmental Health Services Manager
5050 Commerce Drive
Baldwin Park, CA 91706**

Failure to request an appeal within 15 calendar days of the receipt of this notice shall be deemed a waiver of the right to a hearing. Failure to comply with this written notice will result in further legal action.

Baret Lepejian
Notice of Decision
January 27, 2021
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If you have any questions regarding this matter contact me at mlecavlier@ph.lacounty.gov or by telephone at (818) 672-2201.

Very truly yours,



Michelle LeCavalier, REHS, MS
Environmental Health Services Manager

ML:ml

c: Scott Abbott, Branch Director
Peter Keshishian, Chief Environmental Health Specialist
File