

Maxwell's legal hammer may wind up with a red-ink budget

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measure's title, the Deemed Approved Ordinance. It sets standards for owners to follow and comes with an administrative process all its own. If owners don't comply, they can land in hearings and have conditions imposed on their business. They can be fined and possibly lose their "status" to sell at that location, an action imposed with the second violation. The ABC doesn't revoke a license until the third strike.

OWNERS' ALLY: SUPERVISOR MA

The measure passed on its final reading 8-1, averting for the second week an amendment by Supervisor Fiona Ma that Maxwell said would gut it. Supervisors Gerardo Sandoval and Jake McGoldrick were absent, and Sean Elsbernd voted no.

The Arab grocers opposed it all the way. The grocers had gotten Ma to support an amendment that made an owner responsible for litter, proper lighting and graffiti outside their stores but not drug dealing, gun sales, drinking, drunkenness, gambling, prostitution, selling or receiving stolen property, disturbing the peace and harassing passers-by. Maxwell



Grand Liquors owner Kareem Rantisi has been in business on the corner of Turk and Taylor for 20 years.

had earlier cut loitering from the list at the request of Supervisor Chris Daly.

The first-reading debate, sometimes impassioned, ran for a half hour before Ma's amendment was voted down 7-4. Daly was among the four in favor. Ma surprised the board by bringing it back for Maxwell's final reading March 7. "You're watering it down," Maxwell said. "Why would you do that?" Ma's measure failed again, 6-3. Daly, Ma and Supervisor Ross Mirkarimi voted yes.

'A POX ON THE PROPERTY'

Mirkarimi had led another debate the week before. He questioned the "unintended consequences" of a violation that stays with the store when it is sold. Deputy City Attorney Mary Ellen Hines, called on to comment, said it was to "protect against the ability to wipe the slate clean" for a new owner who might be lax.

"It is to assure it is sold to somebody truly new who will clean house," Hines said.

"It's a pox on the property, and it affects the value when selling it," Mirkarimi said. "It's a little bit backwards. After bad actors put a pox on it we're not encouraging the sale of that building."

Supervisor Bevan Duffy said if there is "pernicious" fallout, it can be corrected in 18 months when the board gets a progress report, a provision first suggested by Rescue Mission Pastor Earl Rogers at the February Tenderloin Futures Collaborative meeting when a Maxwell aide explained the ordinance. "There are some very bad apples," Duffy said, growing impatient, "and it's time to turn this situation around."

BE A GOOD NEIGHBOR . . . OR ELSE

Maxwell says the ordinance is really an exercise in neighborliness.

"We're trying to educate all of the liquor store owners on how to be good neighbors," she said at a sidewalk press conference in front of the Empire Grocery at Eddy and Leavenworth on Feb. 2. It was the day after the Budget and Finance Committee approved her measure. The Youth Leadership Institute, a lobbying and youth training group that worked with Maxwell on the ordinance, had several youths speak in favor, as did the store owner, Muhammad Alhaj.

Maxwell said if the owners don't become good neighbors, "then we have a little stick, and that stick is local control." Alhaj believes it will be easy to comply. He said, if you don't sell to the guys hanging around outside, they'll go away.

Within six months, education materials designed by the Department of Public Health will be mailed to the 914 owners of off-sale licenses, 62 in the Tenderloin. The materials will explain the standards, violations, processes and sources to contact, including Arabic, according to Virginia Smyly, DPH deputy director of Community Programs.

DPH's \$111,000 budget for the job will pay for a half-time employee. Police will play a part in educating store owners, too, she says. But that's not in the budget.

"It will take us more than 20 hours a week to make this work," Smyly said. "We'll end up hiring a full-time employee." And the other time demands on departments, their overhead and computers aren't taken into account. "There are hidden costs that departments will have to accommodate," she said.

OAKLAND'S EXPERIENCE

That may be an understatement. Oakland has had a similar ordinance since 1993 and its

experience suggests San Francisco's \$240,000 from fees will fall far short of covering costs, though the ordinance calls the program self-supporting.

"Yours is way underfunded," says Jacob Graef, a planner who serves on Oakland's seven-member Alcoholic Beverage Action Team that oversees the ordinance administration and enforcement. "It's ridiculous. We have half the stores you do and almost three times your budget."

Three years ago, Oakland charged its 400 licensed liquor stores, bars and groceries \$600 a year to cover deemed approved ordinance costs. That \$240,000 budget wasn't enough, Graef says, and the city repeatedly dipped into the General Fund. In 2003, Oakland hiked the fee to \$1,500 and that \$600,000 budget isn't enough.

"Even now we're understaffed," says Sgt. Bob Crawford, who chairs the alcohol action team.

San Francisco's ordinance anticipates that \$60,000 will cover the city attorney's time for reviewing complaints and another \$28,000 for preparing for two hearings the first year.

By contrast, a third of Oakland's budget, about \$200,000, goes to the city attorney, an amount that's further enhanced by grants, Graef says. The city attorney's office gets help from the Neighborhood Law Corps, created in 2002 to respond to community complaints.

Building cases and verifying complaints is what takes the time, Graef says.

"We have 40 cases we're working on now, and I expect 100 by April," he told The Extra.

HOW CITY ESTIMATED THE COSTS

The San Francisco city attorney's office estimated 30 complaints a year and that it would take 20 hours to review them; at \$100 an hour, that would cost \$60,000.

"I looked at it from the enforcement aspect," said Deputy City Attorney Hines. "I spent almost two years intermittently working on this and I figured not many hearings per year." At the supervisors' first hearing of the ordinance, Hines estimated there were "five to 10" problem liquor stores citywide. Tenderloin police Capt. Brown estimates that many are in her jurisdiction.

Once verified, some Oakland cases will be sent to ABC, Graef says, about 10% will go to hearings and others will settle with the city attorney. Settlements have included owner agreements such as closing earlier and not selling fortified wine and 40-ounce beers.

After a slow start, Oakland, with a bigger budget and more aggression, has improved compared with several years ago when complaining witnesses were too intimidated by threats to go to City Hall hearings, says Joan Kiley, director of the Alcohol Policy Network in Berkeley, who lobbied for the ordinance. "Some were retaliated against," she said in an interview. "And the field to cover was too big for the police — it took too much time. Building a case was overwhelming."

"But the upside is it's changing. And there are some dedicated people on ABAT that help educate store owners — if they are willing to learn how to run a responsible business. Some have cleaned up and painted. And neighborhoods have been grateful."

Graef says 63 stores have closed since 1999. The majority shut their business for longer than 90 days, automatically losing their use status under the ordinance and did not try to get it back. (San Francisco has the same revocation clause.) Most of the rest quit because of the fee, ABC trouble and selling to minors violations, Graef says.

A spokesman for the Neighborhood Law Corps said it completed 16 cases in 18 months. Five stores went out of business, and the others accepted restrictions.

"It doesn't seem like a lot but it is compared to what Oakland had done in the past," says Law Corps Executive Director Alex Nguyen. "I'm happy with the results but frustrated at how difficult it has been. It's bureaucracy. And it takes political will, so people understand it's a priority."

HOW THE LAW WORKS

San Francisco's off-sale stores will start off with a "deemed approved" status. To keep it, a store owner can't allow illegal activities inside, of course, but outside as well on the sidewalk within the property line to the curb, or loud noise, or litter and graffiti, and their windows and glass

doors can't be more than one-third covered.

Under the ordinance, the police, Planning, DPH or the Department of Building Inspection can move quicker than the city attorney and the ABC, Maxwell says. Any of these agencies can request an administrative hearing on use violations. It's a straight shot.

The last time the city attorney filed a successful suit for a business not controlling its customers and hangers-on was in 2002 against the El Dorado Market and Liquor Store at 124 Jones St., Deputy City Attorney Neli Palma says. The El Dorado was a haven for drug peddlers and sold cheap alcohol to falling-down drunks, according to Palma, who has worked with TL code violations for five years. Faced with a suit, the owner sold his store and license — out of district.

Palma acts after receiving "many" public nuisance complaints and police reports and goes to the targeted owner asking for "voluntary corrective measures" such as lighting and cameras. "It has been fairly successful," she says. "But this ordinance is an additional hammer and would put them under restrictions."

In some cases, what has enabled other cities' deemed approved ordinances to work as well as they have, experts say, is direct communication with store owners. It's an approach San Francisco decided it couldn't afford.

DPH wanted to visit each off-sale store owner as part of the "use" education but it was too costly, DPH's Smyly told The Extra. "The compromise," she said, "was to have mass meetings with the owners in their neighborhood every other year. But every grocer paying the fee is entitled to a face-to-face. That will be tough. We can't visit each one."

Starting each March, Oakland's alcohol action team inspects all 450 stores and talks with the owners.

In Vallejo, one office inspects the city's 185 liquor outlets and is aided by a volunteer, seven-member Alcohol Advisory Board. The 1998 use ordinance created the board to deal with alcohol problems quicker than the ABC could. Sgt. Rick Florendo, who chairs it, says outreach has been so successful the city hasn't had a hearing in seven years.

"It's been our experience that meeting with



PHOTOS BY JOHN NULTY

Mayor honors liquor store owner

Abed Eid, owner of G & H Liquor and Grocery at Jones and Turk for 23 years, receives a mayor's office Certificate of Honor from Nicholas Thornton (center). Congratulating Eid at the Feb. 28 TL police community meeting for his "excellent efforts" at being a good neighbor is Capt. Kathryn Brown. Eid says he has "zero tolerance" for nuisances outside his store and that his basic creed is honesty — plus making sure "my clients are safe." That day he saw an elderly customer, Bob Oeffinger, being hassled by a young man across the street. Eid left the store with his brother and ran over and told the guy to mind his own business. "He has helped me a lot in the past," Oeffinger said. "I bought him dinner."

the owner — with a hammer in our pocket — is usually sufficient to solve the problem," says Michael Sparks, board member and director of the nonprofit Vallejo Alcohol Policy Coalition.

When fee nonpayment comes up, San Francisco could look at Oakland's approach. After pressure from the Arab grocers, Maxwell revised the ordinance to waive the \$264 annual fee if a store has a clean slate for three years. But if it fails to ever pay the fee, the Office of the Treasurer and Tax Collector must notify DPH, which "may request that the city attorney pursue collection." In Oakland, if a business doesn't pay, it doesn't get inspected: no inspection, no use permit. ■

Daly's new bill: License violations must be revealed

Owners of problem liquor stores must inform interested buyers in writing of any violation of off-sale license use standards by their stores in the last three years under an ordinance passed unanimously by the Board of Supervisors on March 7.

The measure introduced by Supervisor Chris Daly is a companion to Supervisor Sophie Maxwell's under which a violation stays with the property when changing hands, and a second violation can revoke the off-sale use and stop sales.

Daly said his measure was in response to a coalition of store owners in committee hearings.

"The owners wanted the strikes to be cleared, but I couldn't support that," Daly told The Extra. "But I am trying to be responsive to them. To me, this is fair. It's a bad situation of never being told there's a mark against (a property) and it can affect the value."

Daly said the ordinance is similar to one he authored requiring landlords of two units or more to disclose any tenant evictions to prospective buyers, which was vetoed by the mayor. Daly is submitting the issue to the voters on the June ballot.

The mayor must decide whether to approve the disclosure measure or veto it.

Daly's bill closes a research gap. State law requires escrow for an off-sale liquor license sale and a search for liens but not for violations. More than half of California's license sales are handled by brokers, according to Jon C. Majia, head broker at American Liquor License Exchange in Southern California. The brokers do a thorough search, Majia says, but not necessarily those who who do it themselves.

"If the applicant thinks there may be community opposition, we'll spend a lot of time talking to police, zoning staff, homeowners groups, so the applicants knows the problems," Majia says.

— TOM CARTER

View from a tough corner: Store owner speaks out

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up to \$1,000 for liquor store owners who fail to take steps to curtail illegal behavior.

Kareem Rantisi is not exactly opposed to the law. "I love San Francisco to be the best," he proclaims.

Raised in San Francisco, Rantisi is a long-time Tenderloin businessman. "I've been on this corner 20 years." He says his business is 30% liquor, beer and wine, and 70% deli, frozen food, a small amount of tomatoes, lettuce, lemons and limes, and juice, milk and bread.

Describing his efforts to keep his patch clean, he says: "Every day. Every day. I sweep outside. Sometimes we clean up with water."

"I hope our police, our station, our captain help us chase bad people because I don't want to put myself in bad position or I'll get killed, because [the business] is not worth it."

"If they [police] have the power, I will help," he offers. But neither does he wish to place himself in the line of fire. "I would rather [the police] do it most of the time," he states frankly.

Capt. Brown says she has "six to 10" TL stores that police visit an average of seven times a month for a range of what would be violations of the use standards. "Most common is fighting," she says. "Second is drug dealing."

Three stores she mentioned are Ellis Produce at Ellis and Jones, Barah's Market at Turk and Leavenworth, two doors from

Hospitality House, and Grand Liquors at Turk and Taylor. In answering calls from Grand Liquors, the police made seven trips to the store in January, she said.

"But I have no idea how the ordinance will affect our work load," she said. "To be blunt, most owners in the Tenderloin are very responsible and respond very well to suggestions I have. But we are putting another responsibility on them."

The steps Rantisi takes to keep his corner clear include a 4-foot-square sign at eye level that forbids any illegal behavior. Yet deviant personalities rarely are big readers.

As a more practical gesture, Rantisi also installed a bell outside, actually an air horn. "I push the bell to move [the crowd] out of my corner. That's all I can do to them."

The new law requires each liquor store owner to have a clear view of the outside of his or her store, so no more than a third of the windows and doors can be covered with signs. Rantisi has two functioning security cameras on each side of his store and a monitor behind the counter.

He is most fearful of outsiders. "If I do not understand that crowd, I will call the police right away."

Like everyone else, Rantisi blames outsiders. "The Tenderloin people, they are good, they understand. The most problem coming to the Tenderloin are from Oakland, San Pablo, wherever."

Asked if he or his employees have been personally threatened, he says: "I get threat-

ened from drug dealers. They try to trouble me, they try to fight with me. And I try to get rid of them in a nice way, because I have no power to do what you have to do [use force]."

As a member of the Arab American Grocers Association, Rantisi harbors an underlying uneasiness toward city officials. "They squeeze us more than enough, our supervisors, our mayor," he says, adding a healthy dose of defensiveness. "The owners of the liquor stores, they are good, they are honest, they do the job right. They do not play games. But the people coming out of the area, they hang on each corner. It doesn't matter, liquor, grocery, deli or whatever. They hang on each corner. They love the corner."

"Poison covered with sugar," is how Arab American Grocers President Kamel Karagah characterizes Maxwell's legislative hammer.

The 425-store association had tried to pull some of the teeth out of the legislation by limiting parts that could lead to fines if nuisance activities such as drug dealing, drinking and drunkenness persisted outside the business. Supervisor Fiona Ma carried the amendment at hearings before the Board of Supervisors on Feb. 28 and March 7. It failed 7-4 and 6-3, respectively.

One of the sorest points for owners is how Maxwell's legislation would change the conditions of the liquor license. Shakib Kailah, board member of the Arab American Grocers, told The Extra: "The ABC gives you three strikes before you lose your license. But this, you lose after two."



Grand Liquors carries more than booze and beer — here are dry goods and kitchen items.