

City of Las Vegas

CITY COUNCIL MEETING
CITY HALL, 400 STEWART AVENUE
COUNCIL CHAMBERS
NOVEMBER 3, 2010
9:00 AM

ADDENDUM:

58A Hearing and possible action to consider the appeal of the Notice of Violation to Abate Nuisance for property located at 628 South Las Vegas Boulevard (Weedz Alternatives).
PROPERTY OWNER: GARCES VENTURE LLC. BUSINESS OWNER: STEVEN J. VOGT - Ward 3 (Reese)

THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS:

City Clerk's Bulletin Board, City Hall Plaza, 2nd Floor Skybridge
Bulletin Board, City Hall Plaza (next door to Metro Records)
Las Vegas Library, 833 Las Vegas Boulevard North
Clark County Government Center, 500 S. Grand Central Parkway
Grant Sawyer Building, 555 E. Washington Avenue

AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: NOVEMBER 3, 2010

DEPARTMENT: LAS VEGAS METRO POLICE DEPT
DIRECTOR: AREA COMMAND

☐ Consent ☒ Discussion

SUBJECT:

Hearing and possible action to consider the appeal of the Notice of Violation to Abate Nuisance for property located at 628 South Las Vegas Boulevard (Weedz Alternatives). PROPERTY OWNER: GARCES VENTURE LLC. BUSINESS OWNER: STEVEN J. VOGT - Ward 3 (Reese)

Fiscal Impact

☒

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

The subject property was determined to be a nuisance as defined in Nevada Revised Statute 244.3603 along with other violations under various sections of the Nevada Revised Statutes and Las Vegas Municipal Code as cited in the Notice served upon the property owner and business owner. The property at 628 South Las Vegas Boulevard has been and continues to be a constant problem in the downtown area which has led to an unsafe environment for the customers on the property and the citizens of the community. This is believed to have been in part to inaction on the part of the management and ownership in taking care of problems on the property.

RECOMMENDATION:

That the City Council deny the appeal and approve the Notice of Violation to Abate Nuisance

BACKUP DOCUMENTATION:

1. Agenda Memo
2. Location Maps
3. Notice of Violation to Abate Nuisance
4. Appeal Letter from Appellant
5. Notice of Appeal

AGENDA MEMO

CITY COUNCIL MEETING DATE: November 3, 2010

DEPARTMENT: Metropolitan Police

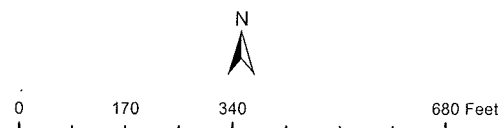
ITEM DESCRIPTION: Hearing and possible action to consider the appeal of the Notice of Violation to Abate Nuisance for property located at 628 South Las Vegas Boulevard (Weedz Alternatives). PROPERTY OWNER: GARCES VENTURE LLC. BUSINESS OWNER: STEVEN J. VOGT - Ward 3 (Reese)

The subject property was deemed to be a public nuisance as defined in Las Vegas Municipal Code, Title 9, dealing with public nuisance.

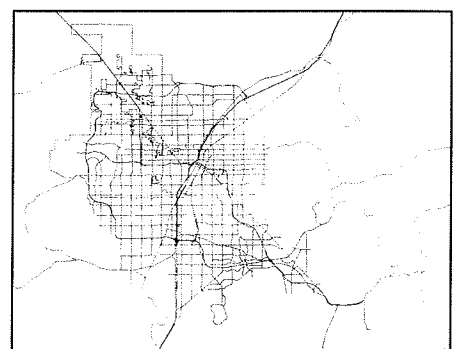
The subject property was determined to be a public nuisance as defined in Las Vegas Municipal Code, Title 9, dealing with nuisances. The property at 628 South Las Vegas Boulevard, Las Vegas, Nevada 89101, has been and continues to be a constant problem in the downtown area which has led to an unsafe environment for the customers on the property and the citizens of the community. This property continues to have violent calls for service/problems requiring police response. This is believed to have been in part to inaction on the part of the management and ownership in taking care of problems on their property.

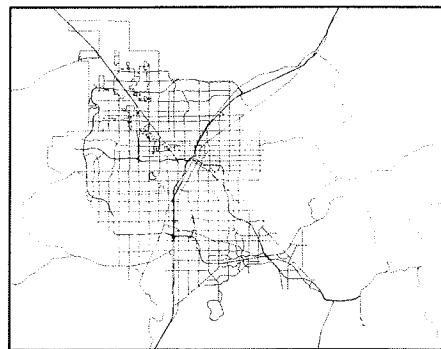
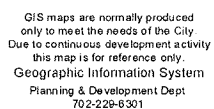
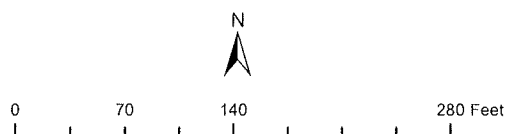
Today's hearing is to consider the appeal of the Notice of Violation To Abate Nuisance filed by Steven Vogt/Weedz Alternatives, by and through his council of record, David Lee Phillips, Esq. and the Law Offices of David Lee Phillips & Associates.

City of Las Vegas Vicinity Map



GIS maps are normally produced only to meet the needs of the City. Due to continuous development activity this map is for reference only. Geographic Information System Planning & Development Dept. 702-228-6301







Las Vegas Metropolitan Police Department
Downtown Area Command Chronic Nuisance Detail
621 N. 9th St, Las Vegas NV 89101

NOTICE OF VIOLATION TO ABATE NUISANCE

Date: 9/23/10
Location: Weedz Alternatives/Steven Vogt
628 S Las Vegas Blvd
Las Vegas, NV 89101

PLEASE TAKE NOTICE, the following conduct occurred on the premises commonly known as Weedz Alternatives, 628 S. Las Vegas Blvd., Las Vegas, NV 89101.

The property at 628 S. Las Vegas Blvd., Las Vegas, NV 89101, continues to have violent calls for service/problems requiring police response. This is believed to have been in part to inaction on the part of the management and ownership in taking care of problems on their property. The following is a breakdown of significant calls for service and specific problems on the property within the 30 day period of 7/03/10 to 08/03/10.

Event# 100224-2014: Officers were dispatched to the corner of Las Vegas and Garces reference to male subjects who appeared injured lying down on the sidewalk. The two individuals identified themselves as Matthew Carr and Christopher Donoughe. Donoughe vomited in front of officers, could not remember his social security number and misspelled his name when asked for it. Carr stated that they had purchased a substance at a nearby smoke shop and smoked it there on the premises. Officers went to Weedz Alternatives less than a block away and spoke to the owner Steven Vogt. Vogt stated that Carr and Donoughe had purchased "King Krypto" from his store for \$20. Both Carr and Donoughe were transported to Valley Hospital by LVFD Rescue 4.

Event# 100803-1806: On 8/3/10 a customer inside of business called/notified the police after business owner Steve Vogt began yelling and screaming at all the customers inside and reportedly began throwing ashtrays at them. All involved parties were gone upon police arrival.

Event# 100803-4228: On 8/3/10, Officers responded to a loud noise complaint to the business known as the Weedz Alternatives. Once arrived, store owner Steven Vogt and others inside refused to open the door to officers in order to investigate the complaint. Officers noticed Vogt's forearm was cut/bleeding and refused to answer any questions. Officers arrested Vogt for Obstructing a Police Officer and booked into city jail.

Business Licensing Violations - 8/12/10: Business License Officer Latania Webb attempted to conduct an inspection of the business along with Officers Thompson and Officer Klinger. During

said inspection, Vogt inventory had expanded to include tobacco, gifts and novelties which well exceeds the scope that his current license permits (i.e., Smoke Shop). During the inspection, Vogt's behavior was extremely erratic and at times would mutter to himself inferring Vogt was under the influence of some substance. When asked how long Vogt's behavior was this way, employee Dewey Belvin stated that Vogt has been in this condition for "2-3 weeks. He mixed some of the herbs together and has been this way ever since". When Latania attempted to inventory the rear of the business, Vogt became very irate and pushed Latania away blocking the entryway. Vogt screamed that she didn't have a right to inspect that area. Latania, fearful enough not to provoke him in that state, concluded the inspection.

The following are a summary of the ongoing business licensing violations at the property:

- Failure to obtain proper business licenses
- Operating outside the scope of issued business license (Smoke Shop)
- Failure to allow premises inspection by business licensing

Event# 100812-2995: On 8/12/10 customer "Brian" lost consciousness inside the business after consuming/smoking "King Krypto", a synthetic cannabinoid incense, and was transported to Valley Hospital by AMR. Witnesses state that Brian was provided with the King Krypto at Weedz Alternatives as a sample by Vogt from a smoking bong he had.

Event# 100816-2415: On 8/16/10 Steven Vogt was arrested for Robbery and Extortion after Vogt attempted to rob a homeless man at the near the corner of 4th St/Bonneville (within 100ft of the business). According to the victim, Vogt has been threatening the homeless for weeks. Vogt reportedly threatened physical harm if the victim didn't give him his "property". Video surveillance shows Vogt struggling with the victim over the victim's property before running into his business (Weedz). Vogt was later found inside the business and was arrested.

The property known as Weedz Alternatives, located at 628 S. Las Vegas Blvd., within the city of Las Vegas, NV, has been determined to be a "Nuisance" per Las Vegas Municipal Code 9.04 et seq., See, below:

9.04.010 - "Public nuisance," "nuisance," or "nuisance activity" means any of the following conditions:

- (1) Any area, structure or object which by its nature, location, or character would tend to attract and endanger the safety of any minor person.
- (2) Any violation of Title 16, including violations of the codes pertaining to building, construction, housing, and fire safety adopted thereunder.
- (3) Any body of water which by its nature or location constitutes an unhealthy or unsafe condition, including any accumulation of stagnant water that has become or is likely to become a breeding area for insects.
- (4) Any refuse, waste, litter or other material, regardless of its market value, which, by reason of its location or character, is unsightly or interferes with the reasonable use and enjoyment of adjacent properties, has a detrimental effect upon adjacent property values, or would hamper or interfere with the containment of fire upon the premises. Examples include, without limitation, decaying or non-decaying solid and semi-solid wastes, whether or not

combustible, such as old lumber, tin, wire, cans, barrels, cartons, boxes, rags, tires, inner tubes, brush, grass and hedge clippings, rocks, bricks, cinders, scrap iron, buckets, tubs, windows, screens, glass, bottles, wastepaper, bedsprings, mattresses, discarded furniture and appliances, bedding and material cleaned from animal or fowl pens, automobile parts, scrap paving material, and piles of earth mixed with other waste material which may harbor insect or rodent infestations or may become a fire hazard.

(5) Any violation of Title 19 or Title 20 of this Code.

(6) Operating a business without a current license as required by Title 6.

(7) Any other act or condition, other than those permitted by NRS 40.140 and 202.450, which, by reason of its nature, character or location, interferes with the reasonable use and enjoyment of adjacent properties, or which has a detrimental effect upon adjacent property values. Such nuisances include without limitation the following:

(a) Weeds, turf grass, or uncultivated plant growth exceeding eight inches in height, either on a vacant parcel or on a developed parcel at a location visible from public property;

(b) Dead trees, plants and other vegetation that present a fire hazard or are otherwise a threat to property or to the health and safety of the public or a segment thereof;

(c) Graffiti, as defined in LVMC 10.48.060, that is allowed to remain for more than twenty-four hours;

(d) Unpainted or painted buildings, walls, fences or other structures whose condition has become so deteriorated as to create a hazardous condition; threaten collapse, displacement, or other breakdown of structural integrity; permit decay, excessive cracking, peeling, chalking, dry rot, warping or termite infestation; or create a condition of blight visible from public right-of-way;

(e) Any vehicle that has been abandoned, or any vehicle in an obviously mechanically inoperable condition, that:

(i) Is parked within a multifamily residential parking lot, in a location that is visible from public property, including a street or alley;

(ii) Has been parked in the same location for more than seven consecutive days;

(f) Criminal activity on any lot or premises within the City.

(i) "Criminal activity" means any activity defined as a misdemeanor in the Las Vegas Municipal Code or as a misdemeanor, gross misdemeanor or felony in NRS Title 15.

9.04.030 - Penalty for maintaining or permitting a public nuisance to exist.

Every person who causes, maintains, allows, permits, procures, aids, fosters, promotes or solicits a public nuisance or chronic nuisance, or who wilfully omits or refuses to abate such a nuisance, is guilty of a misdemeanor. Every person who deliberately ignores the establishment or continuation of a public nuisance or chronic nuisance involving or upon property under the person's control is guilty of a misdemeanor if done either intentionally or in a criminally negligent manner. For purposes of this Section, deliberate ignorance is done in a criminally negligent manner if it jeopardizes another's health, safety or welfare; interferes with the objectively reasonable use and enjoyment of adjacent property or any public property; or has a detrimental effect upon adjacent property values. Each day that a violation continues constitutes a separate violation for purposes of criminal prosecution

9.04.040 - Liability.

(1) Pursuant to NRS 268.019, the City may proceed to impose civil liability, instead of a criminal sanction, against a person for causing or maintaining a public nuisance. The amount of liability that may be imposed may not exceed five hundred dollars, or one thousand dollars in the case of liability imposed against an owner of commercial property. Each day that a violation continues constitutes a separate violation for purposes of imposing civil liability.

(2) Proceedings instituted under this Section shall be as set forth in Sections 9.04.050 to 9.04.100, inclusive.

The following corrective actions must be taken immediately to abate the nuisance and avoid any civil liability and/or criminal charges:

- Immediately obtain the required business licenses
- Immediately allow business licensing to conduct the required inspections under LVMC Title 6
- A reduction of calls for service that address criminal or otherwise nuisance activity generated by the business
- Conduct thorough background checks on all employees and better screening for future employees
- More active role of the business owner in managing the property

The above conduct is a nuisance as defined by Las Vegas Municipal Code (LVMC) 9.04 et. seq., which describes the nuisance and abatement procedures. This conduct also violates Title 6 of LVMC. These violations constitute both a civil violation and a criminal misdemeanor.

The City may seek the following remedies to correct the nuisance activity on the property:

- Require any and all action necessary to abate the public nuisance
- Impose civil penalties, fines, late fees and interest charges
- Require compliance with all appropriate sections of LVMC to protect the public health, safety and welfare

Request for Abatement

YOU ARE HEREBY requested to take any and all steps necessary to abate the above nuisance IMMEDIATELY. You have until **October 3, 2010**, to correct and abate this nuisance. We can assist you with suggestions and alternatives that will abate this nuisance. Please contact me upon receipt of this Notice so that the appropriate corrective actions can be taken. Failure to abate this nuisance will result in the enforcement of any and all remedies available to the City of Las Vegas under LVMC Title 9 including court action, civil fines and possible criminal prosecution.

The City may proceed to impose civil liability instead of criminal sanctions against a person causing or maintaining a public nuisance. The amount of fines and civil penalties that may be imposed cannot exceed \$500 per day, or \$1,000 per day in the case of liability imposed against a owner of a commercial property. Each day that a violation continues constitutes a separate violation for purposes of imposing civil penalties.

If you wish to appeal this Notice you may do so as outlined in LVMC 9.04.070 below.

9.04.070 - Appeal procedures.

(1) Within ten days after service of the notice of violation, the owner or responsible party may appeal to the City Council. Such appeal shall be in writing and shall be filed with the City Clerk. Within fifteen days after the appeal has been filed, the appellant shall be given written notice of the procedure and time frame for the hearing of the

appeal. The appeal shall be heard by the City Council or by the Council's designee, with a right of final appeal to the Council. The decision of the City Council or the Council's designee, in cases where a designee hears an appeal and no further appeal is taken, shall be final and conclusive. Any owner or responsible party failing to appeal as provided in this Section shall be deemed to have waived any and all objections to the existence of a public nuisance and the abatement of such nuisance.

(2) Civil liability under Section 9.04.040 may be imposed by the City Council, or the Council's designee, in connection with:

(a) An appeal hearing held pursuant to this Section; or

(b) Another hearing to establish liability concerning which the owner or responsible party has been provided notice and an opportunity to be heard. Service of such notice is sufficient if in accordance with Subsection (B) of Section 9.04.050.

Please contact the Downtown Area Command / Chronic Nuisance Detail before the reinspection date of October 3, 2010, with any questions or concerns.



Officer A. Aguirre P#9645
DTAC Chronic Nuisance Detail
621 N. 9th St.
Las Vegas, NV 89101
(702) 828-4379
(702) 612-1249
a9645a@lvmpd.com

cc: Councilman Gary Reese
City Attorney's Office

DAVID LEE PHILLIPS & ASSOCIATES

LAWYERS

A PROFESSIONAL CORPORATION

700 SOUTH 4TH STREET

LAS VEGAS, NV 89101

702.386.6000 • FAX 702.386.6980

DAVIDLEEPHILLIPS@AOL.COM

RECEIVED

SEP 28 2010

BY: feh

September 28, 2010

Mr. Dan Still, DCA
Las Vegas City Attorneys Office
Las Vegas, NV 89101
Fax # 386-1749

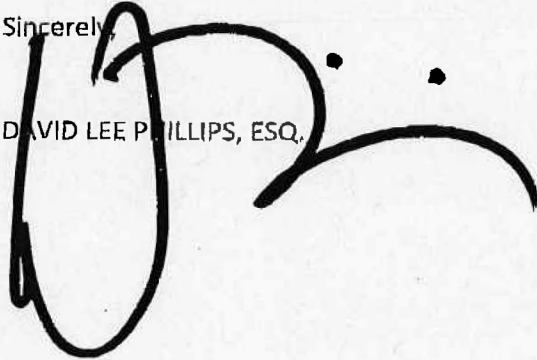
RE: NOTICE OF APPEAL Weedz Alternatives/Steven Vogt, 628 S Las Vegas Blvd, Las Vegas, NV 89101

Dear Mr. Stills;

Please be advised that my client above referenced hereby Appeals the action herein.

Sincerely,

DAVID LEE PHILLIPS, ESQ.





October 27, 2010

CERTIFIED & REGULAR MAIL

LAS VEGAS CITY COUNCIL

OSCAR B. GOODMAN
MAYOR

GARY REESE
MAYOR PRO TEM

STEVE WOLFSON

LOIS TARKANIAN

STEVEN D. ROSS

RICKI Y. BARLOW

STAVROS S. ANTHONY

Steven J. Vogt
628 Las Vegas Boulevard South
Las Vegas, NV 89101

Re: Appeal of the Notice of Violation to Abate Nuisance for property located at 628 South Las Vegas Boulevard (Weedz Alternative)

Dear Mr. Vogt:

You are hereby notified that a hearing has been scheduled for November 3, 2010 before the Las Vegas City Council at 400 Stewart Avenue, Las Vegas, Nevada, at the hour of 1:00 p.m. This hearing is in response to the Appeal received by the Las Vegas City Clerk on October 4, 2010, requesting the same, concerning the Notice of Violation to Abate Nuisance for property located at 628 South Las Vegas Boulevard.

You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.

Please disregard any previous correspondence. If you have any questions or need further information please do not hesitate to contact Devin Smith, Manager, Neighborhood Response at 229-6615.

Sincerely,

A handwritten signature in blue ink, reading "Beverly K. Bridges".

Beverly K. Bridges, MMC
City Clerk

BKB/vs

cc: Stephen Harsin, Director, Neighborhood Services
Devin Smith, Manager, Neighborhood Response
Daniel Still, Deputy City Attorney
Susie Martinez, Ward 3 Council Liaison

CITY OF LAS VEGAS
400 STEWART AVENUE
LAS VEGAS, NEVADA 89101

VOICE 702.229.6011

TTY 702.386.9108

www.lasvegasnevada.gov

FM-0044-08-09

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October 4, 2010

CERTIFIED & REGULAR MAIL

LAS VEGAS CITY COUNCIL

OSCAR B. GOODMAN
MAYOR

GARY REESE
MAYOR PRO TEM

STEVE WOLFSON

LOIS TARKANIAN

STEVEN D. ROSS

RICKI Y. BARLOW

STAVROS S. ANTHONY

ELIZABETH N. FRETWELL
CITY MANAGER

David Lee Phillips, Esq.
on behalf of Steven J. Vogt
David Lee Phillips & Associates
700 South Fourth Street
Las Vegas, NV 89101

Re: Appeal of the Notice of Violation to Abate Nuisance for property located at 628 South Las Vegas Boulevard (Weedz Alternative)

Dear Mr. Phillips:

You are hereby notified that a hearing has been scheduled before the Las Vegas City Council at 400 Stewart Avenue, Las Vegas, Nevada on the 3rd day of November, 2010, at the hour of 1:00 p.m. This hearing is in response to the Appeal received by the Las Vegas City Clerk on October 4, 2010, requesting the same, concerning the Notice of Violation to Abate Nuisance for property located at 628 South Las Vegas Boulevard.

You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you.

If you have any questions or need further information please do not hesitate to contact Devin Smith, Manager, Neighborhood Response at 229-6615.

Sincerely,

Beverly K. Bridges, MMC
City Clerk

BKB/vs

cc: Stephen Harsin, Director, Neighborhood Services
Devin Smith, Manager, Neighborhood Response
Daniel Still, Deputy City Attorney
Susie Martinez, Ward 3 Council Liaison

CITY OF LAS VEGAS
400 STEWART AVENUE
LAS VEGAS, NEVADA 89101

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