



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

CITY OF PORTLAND, petitioner, vs. PHILLIP SANCHEZ JR., respondent

CASE NO. 2090007

PROPERTY: 12437 SE Division St., City of Portland, Multnomah County, Oregon

DATES OF HEARINGS: March 24, 2009 and April 21, 2009

**APPEARANCES:**

Ms. Ellen Osoinach, Representative for the City

Mr. Phillip Sanchez Jr., Respondent

HEARINGS OFFICER: Mr. Gregory J. Frank

**FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The Hearings Officer received a "Settlement Agreement Between The City Of Portland And Phillip Sanchez, Jr." (the "Stipulated Agreement") on April 28, 2009. The Hearings Officer finds it appropriate to incorporate the Stipulated Agreement into this Order with the following modifications:

- The Stipulated Agreement included no "date" of execution and effectiveness. A date of April 28, 2009 shall be considered the date of the Stipulated Agreement and it shall be considered effective on that date.

**ORDER AND DETERMINATION:**


1. The Stipulated Agreement between the parties is modified to include an effective date of April 28, 2009. The Stipulated Agreement, as modified, is attached hereto and incorporated herein by this reference, is hereby approved, as modified above, and made the order herein. The respondent is ordered and directed to comply with its terms.
2. This order has been mailed to the parties on May 4, 2009, and shall be final and effective immediately.
3. This case will be closed on April 28, 2010.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: May 4, 2009

GJF:rs

Enclosure

  
 Gregory J. Frank, Hearings Officer

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Complaint	Alarcon de Morris, Amalia	Received
2	Notification List	Alarcon de Morris, Amalia	Received
3	OLCC Liquor License Application	Alarcon de Morris, Amalia	Received
3a	OLCC Individual History, Phillip Gonzalez Sanchez	Alarcon de Morris, Amalia	Received
3b	OLCC Individual History, Mary Hernandez Pinedo	Alarcon de Morris, Amalia	Received
4	6/25/08 Letter, Sizer to Sanchez	Alarcon de Morris, Amalia	Received
5	7/3/08 Abatement Plan	Alarcon de Morris, Amalia	Received
6	10/28/08 Abatement Plan	Alarcon de Morris, Amalia	Received
7	PPB Special Report	Alarcon de Morris, Amalia	Received
8	PPB Special Report	Alarcon de Morris, Amalia	Received
9	PPB Investigation Report	Alarcon de Morris, Amalia	Received
10	PPB Property/Evidence Receipt	Alarcon de Morris, Amalia	Received
11	PPB Investigation Report	Alarcon de Morris, Amalia	Received
12	Noise log, Gary Franz	Alarcon de Morris, Amalia	Received
13	Noise Citation	Alarcon de Morris, Amalia	Received
14	1/6/09 e-mail to Marchetti, TrackIT Item	Alarcon de Morris, Amalia	Received
15	1/6/09 e-mail to Marchetti, TrackIT Item	Alarcon de Morris, Amalia	Received
16	PPB Special Report	Alarcon de Morris, Amalia	Received
17	PPB Special Report	Alarcon de Morris, Amalia	Received
18	Noise Citation	Alarcon de Morris, Amalia	Received
19	Mailing List	Hearings Office	Received
20	Hearing Notice	Hearings Office	Received
21	Notice of Rights and Procedures	Hearings Office	Received
22	Memo to Amalia Alarcon de Morris with 2 copies of returned mail	Hearings Office	Received
23	Updated mailing list	Hearings Office	Received
24	Mail returned memo	Hearings Office	Received
25	3/23/09 Request to reschedule	Osoinach, Ellen	Received
26	3/24/09 Reschedule notice to Tuesday, April 9, 2009	Marchetti, Theresa	Received
27	3/25/09 Reschedule notice	Marchetti, Theresa	Received
28	Letter	Osoinach, Ellen	Received
29	Settlement Agreement	Osoinach, Ellen	Received
30	Settlement Agreement	Osoinach, Ellen	Received

# SETTLEMENT AGREEMENT

Between  
THE CITY OF PORTLAND  
And  
PHILLIP SANCHEZ, JR.

RECEIVED

APR 28 2009

HEARINGS OFFICE *RS*

The parties agree that the following stipulations and remedies appropriately address Hearings Code Complaint No. 2090007 and, therefore, ask the hearings code officer to incorporate this stipulated agreement into his final order.

The City dismisses the following allegations contained in the complaint:

Between March 30 and April 27, 2008, at the establishment located at 12437 SE Division Street, an establishment that serves alcoholic beverages, three nuisance activities occurred that were related to or arising out of the establishment.

Mr. Sanchez admits the following allegations contained in the complaint:

- From March 30, 2008 to present Phillip Sanchez, Jr. was the liquor licensee and operator of the establishment located at 12437 SE Division Street.
- On July 3, 2008, he entered into a written nuisance abatement plan with the City concerning the location. Thereafter, he failed to adhere to the nuisance abatement plan and the nuisance activities persisted.
- Between September 21 and October 11, 2008 at the establishment located at 12437 SE Division Street, an establishment that serves alcoholic beverages, five nuisance activities occurred that were related to or arising out of the establishment.
- Between November 17, 2008 and December 16, 2008 at the establishment located at 12437 SE Division Street, an establishment that serves alcoholic beverages, nine nuisance activities occurred that were related to or arising out of the establishment.

The parties agree that the following time, place and manner restrictions are appropriate remedies to the admitted allegations:

1. Respondent Philip Sanchez is ordered to undertake all actions necessary and appropriate to prevent the reoccurrence of any noise, disorderly conduct, or business closing hour violations.
2. All of the following restrictions (numbers 3-8 below) on the business located at 12437 SE Division Street and known as Bora Bora/La Centenario, licensee Phillip Sanchez, Jr. shall apply for a one-year period.

The one-year restriction period shall begin on April 27, 2009 and shall last through and including 4:00 pm on April 27, 2010.

3. The business shall initiate an 11:30pm "soft" close with the business to be completely closed to all patrons at midnight all days of the week.
4. At no time shall the business permit live musicians to perform at the establishment.
5. After 10pm, the business shall not permit disc jockeys to perform.
6. After 10pm, the business shall not play any amplified background-type music that is audible to any person outside of the establishment.
7. The business shall maintain one DPSST certified security guard on site from 6:30pm to close.
8. The Hearings Officer retains jurisdiction in this case until 4:00pm on April 28, 2010.
9. At any time during the period during which the Hearings Officer retains jurisdiction, the City may set a hearing with the court to present evidence that this order has been violated. If the Hearings Officer finds that the order has been violated, the City and Mr. Sanchez agree that the appropriate remedies will include a \$2,500 fine for each proven violation and a mandatory closing time of 10:00pm.



City of Portland  
Ellen Osoinach



Phillip Sanchez