

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
LIQUID EXPERIENCE INC.,)
Appellant(s))
vs.)
DEPARTMENT OF PUBLIC HEALTH,)
Respondent)

Appeal No. **22-033**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on April 18, 2022, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the denial on April 12, 2022, of a Tobacco Sales Establishment Permit (Denial of a Retail Tobacco Sales Permit for the following reasons: (1) Per SF Health Code Sections 19H.4(f) and 19H.5(a), no new permit shall be issued in any supervisorial district that has 45 or more Establishments with Tobacco Sales Permits. The Business is located in Supervisorial District 5 which currently has 69 valid Retail Tobacco Sales Permits. (2) Per SF Health Code Section SFHC19H.4(f), no new permit shall be issued if the Applicant will be located within 500 feet of an existing Establishment (selling tobacco) or School. The Business is located within 500 feet of two other Establishments (Ashbury Tobacco Center and Puff Puff Pass) that have a valid Retail Tobacco Sales Permit and one School (Mark’s Family Home School). (3) Per SF Health Code Section 19H.2, a change of 50 percent or more of the ownership of the business within a 12-month period is deemed a “Change of Ownership”. Provided, however, that if the Permittee is a corporation, transferee of 25 percent of the stock ownership of the permittee shall be deemed to be a “Change of Ownership”. The Permittee, Liquid Experience Inc., is not able to amend the permit to the ownership percentages specified in the application since this would be considered a Change of Ownership) at 1589 Haight Street.

APPLICATION NO.: EHD ID No. 115224

FOR HEARING ON May 18, 2022

Address of Appellant(s):	Address of Other Parties:
Liquid Experience Inc., Appellant(s) c/o Firras Zawaideh, Agent for Appellant(s) 200 Rainier Avenue South San Francisco, CA 94080	N/A



Date Filed: April 18, 2022

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 22-033

I / We, **Liquid Experience Inc.**, hereby appeal the following departmental action: **ISSUANCE of the Notification of Tobacco Permit Denial (Case No. EHD ID No. 115224)** by the **Department of Public Health** which was issued or became effective on: **April 12, 2022**, for the property located at: **1589 Haight Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **April 28, 2022, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org and valerie.lopez@sfcityattty.org.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **May 12, 2022, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org and liquidexperiencesf@gmail.com.

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, May 18, 2022, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place**. The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

Not Submitted

Appellant or Agent:

Signature: Via Email

Print Name: Firras Zawaideh, agent for appellant



City and County of San Francisco
London N. Breed, Mayor

San Francisco Department of Public Health

Grant Colfax, MD
Director of Health

Notification of Tobacco Permit Denial

EFFECTIVE DATE: April 12, 2021

FACILITY NAME (DBA): Liquid Experience Inc

FACILITY ADDRESS & ZIP: 1589 Haight St, San Francisco, CA 94117

LEGAL OWNER NAME: Liquid Experience Inc

RESPONSIBLE PERSON NAME: Firras, Zawaideh, Nabaraj Raut, Ramhari KC

Mailing Address, City, State, Zip: 1589 Haight St, San Francisco, CA 94117

EHD ID#: 115224

Supervisory District: 5

Number of Tobacco Permits: 69

Dear Firras Zawaideh, Nabaraj Raut and Ramhari KC:

You are hereby notified that your application for San Francisco Department of Public Health (SFDPH) Retail Tobacco Sales Permit at 1589 Haight St, San Francisco, CA 94117 (“Business Location”) has been denied, in accordance with Article 19H of the San Francisco Health Code (SFHC) and San Francisco Department of Public Health Director’s Rules and Regulations for Retail Tobacco Sales, on the following basis:

You submitted an application for a Retail Tobacco Sales Permit on March 29, 2022. On April 12, 2022, your application was complete. Thank you for submitting a complete and accurate application.

Reasons for Denial of Retail Tobacco Sales Permit:

1. According to the SFHC 19H.4(f) and 19H.5(a), no new permit shall be issued in any supervisory district that has 45 or more Establishments with Tobacco Sales Permits.

The Business Location is located in Supervisory District 5 which currently has 69 valid Retail Tobacco Sales Permits.

2. According to SFHC 19H.4(f), no new permit shall be issued if the Applicant will be located within 500 feet of the nearest point of the property line of an existing Establishment or School as measured by a straight line from the nearest point of the property line on which the Applicant's Establishment will be located to the nearest point of the property line of the existing Establishment or School.

The Business Location is located within 500 feet of two other Establishments (Ashbury Tobacco Center and Puff Puff Pass) that have a valid Retail Tobacco Sales Permit and one School (Mark’s Family Home School). (Please see the attached map)

3. According to the SFHC 19H.2, a change of 50 percent or more of the ownership of the business within a 12-month period is deemed a “Change of Ownership”. Provided, however, that if the Permittee is a corporation, transfer of 25 percent of the stock ownership of the permittee shall be deemed to be a “Change of Ownership”.

The Permittee, Liquid Experience Inc. (Officers - Firras Zawaideh, Zena Zawaideh, and Fatin Zawaideh), is not able to amend the permit to ownership percentages of Firras Zawaideh at 50 percent, Nabaraj Raut at 26 percent, and Ramhari KC at 24 percent since this would be considered a Change of Ownership.

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all

grant.colfax@sfdph.org ♦ (415) 554-2526 ♦ 101 Grove Street, Room 308, San Francisco, CA 94102

In addition, we have reviewed all other exceptions under SFHC Article 19H.6 listed below, where SFDPH has determined that the applicant does not qualify for any exception. If you believe that you do qualify for one of the below exceptions, you are able to submit a new tobacco application with the \$111 nonrefundable processing fee.

EXCEPTIONS FOR CERTAIN NEW PERMITS

1. **New Buyer of a Retail Food Store or Tobacco Shop.** A Retail Food Store Establishment or Tobacco Shop Owner since January 18, 2010 and with a Tobacco Permit since January 18, 2015 may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sale Permit; (c) for at least five (5) consecutive years immediately before the submission of the affidavit; and (d) Direct Negotiations. Upon submission of the Permittee's affidavit, a New Buyer may apply for a Tobacco Sales Permit for the Permittee's Retail Food Store Establishment or Tobacco Shop.

The Permittee, Liquid Experience Inc. (Officers - Firras Zawaideh, Zena Zawaideh, and Fatin Zawaideh), at the Business Location was issued their Retail Tobacco Permit on October 10, 2014, therefore did not own and operate continuously from January 18, 2010 to January 18, 2015.

2. **Subsequent Buyer of a Retail Food Store or Tobacco Shop.** A Retail Food Store Establishment or Tobacco Shop New Buyer may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sales Permit; and (c) for at least ten (10) years. Upon submission of the New Buyer's affidavit, a Subsequent Buyer may apply for a Tobacco Sales Permit for the New Buyer's Retail Food Store Establishment or Tobacco Shop. A Subsequent Buyer applying for a new Tobacco Sales Permit must acquire a 100% ownership interest in the Establishment.

The Permittee at the Business Location is not the Original Owner as of January 18, 2015, and cannot be defined as a New Buyer.

3. **Child of Permittee.** A child of a Retail Food Store Establishment or Tobacco Shop Permittee may apply for a Tobacco Sales Permit for their parent's Establishment if their parent holds a Tobacco Sales Permit as of January 18, 2015. The child applying for a new Tobacco Sales Permit must have a 100% ownership interest in the Establishment.

The applicants, Nabaraj Raut and Ramhari KC, are not a child of the Permittee.

4. **Seismic Retrofitting Relocation.** A Retail Food Store Establishment or Tobacco Shop Permittee as of January 18, 2015, which must relocate from their Establishment due to seismic retrofitting under Chapter 34B of the Building Code may apply for a Tobacco Sales Permit for their Establishment. The Permittee's application is subject to further review including confirmation of seismic retrofitting by the Department of Building Inspection.

The Permittee at the Business Location is not relocating due to seismic retrofitting under Chapter 34B.

5. **New Buyer of a Tavern.** A Tavern Permittee since January 18, 2010, that seeks to demonstrate previous compliance with Section 1009.23(d) of Article 19F of SFHC (prohibition against smoking in enclosed areas), shall submit a copy of their previously approved SFDPH application which establishes that an area within the Tavern is a historically compliant semi-enclosed smoking room. Additionally, the Tavern Permittee may submit an affidavit to the Director attesting to: (a) their ownership of the

Establishment; (b) under the same Tobacco Sale Permit; (c) for at least five (5) consecutive years immediately before the submission of the affidavit; and (d) Direct Negotiations. Upon submission of the Tavern Permittee's affidavit, a New Buyer may apply for a Tobacco Sales Permit for the Permittee's Tavern.

The business Location is not a Tavern that is a cigar or smoking bar.

6. **Subsequent Buyer of a Tavern.** A New Buyer of a Tavern may submit an affidavit to the Director attesting to: (a) their continuous ownership of the Establishment; (b) under the same Tobacco Sales Permit; and (c) for at least ten (10) years. Upon submission of a New Buyer's affidavit, a Subsequent Buyer may apply for a Tobacco Sales Permit for the New Buyer's Tavern. A Subsequent Buyer applying for a new Tobacco Sales Permit must acquire 100% ownership of the Establishment.

The business location is not a Tavern that is a cigar or smoking bar.

7. **Death or Divorce.** A spouse or domestic partner may acquire the ownership from the Permittee of an Establishment through the death or divorce. The spouse or domestic partner applying for a new Tobacco Sales Permit must have a 100% ownership interest in the Establishment.

The applicant is not the spouse or domestic partner of the Permittee.

Appeal Process. You have the right to appeal this decision to deny your application for a tobacco retailer permit. *(Pursuant to Section 19H.24 and Article 1 of the San Francisco Business and Tax Regulations Code). Appeals must be filed in person with the San Francisco Board of Appeals within 15 calendar days of the date of this notice. The Board of Appeals is located at: 49 South Van Ness Ave., Suite 1475 (Telephone #: (628) 652-1150).*

The failure to file an appeal will waive your right to a hearing and shall deem SFDPH decision to deny your tobacco permit as final.

Cease and Desist All Tobacco Products Sales. Immediately discontinue the sales of tobacco products, including but not limited to, cigarettes, cigars, cigarillos, tobacco shisha, electronic smoking devices and juices, smokeless tobacco, and nicotine-containing containing products. No person may engage in or allow tobacco sales in any establishment without a valid SFDPH tobacco sales permit. *(Pursuant to SFHC §§ 19H.3, 19N.3, and 19N.5(a)).*

Imposition of Administrative Fines and Penalties. Selling tobacco products without a valid permit may result in an administrative penalty of up to five hundred dollars (\$500.00) per day for each day that tobacco product sales occur without a valid permit. *(Pursuant to SFHC §§ 19H.17(a), 19H.20, 19N.3(b)).*

Sincerely,

Patrick Fosdahl

For Director of Health Grant Colfax, MD

Patrick Fosdahl, MS, REHS Director of Environmental Health		
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cc: Jennifer Callewaert

BRIEF(S) SUBMITTED BY APPELLANT(S)

April 27, 2022

Appeal # 22-033

Dear Commissioners,

My name is Firras Zawaideh and my family has owned Liquid Experience, a retail tobacco and liquor store located in the Haight Ashbury, since 1989. We are a small family owned and operated business who have been long-standing members of the community. We have lived and worked in San Francisco since 1973, primarily in the Sunset District and the Haight Ashbury, and have opened multiple businesses across San Francisco. We come before you to respectfully request your approval of our appeal for the transfer of our tobacco license to the buyers of our establishment.

In November of 2021 the new buyers applied for a retail tobacco license for which they were denied. Shortly thereafter, we spoke to members of the San Francisco Department of Public Health and were given reasons for the denial. We then received a copy of the denial letter and a density map. When we approached the new buyers about the appeals process, they decided not to continue because they were under the assumption that the process would take too long, and with the holiday season approaching, both parties came to the agreement to revisit the matter at a later date.

In 2011, my mother Fatin Zawaideh, was diagnosed with a serious mental illness, and out of fear of possibly losing our family business we decided it would be in the best interest of the family to incorporate the business rather than continue as a sole proprietorship. We did so with the understanding that my parents were still the owners of the establishment, even though my

wife and I were added as 51% shareholders. The reason for incorporating was because of my mother's deteriorating mental health, and we were told that if she is admitted for psychiatric evaluation more than twice within the span of one year that the state would seize all assets.

We began the process of transferring the licenses to the corporation but because of my mother's mental state, and her refusal to sign any documents, the transfer was prolonged and tedious. We completed the process of transferring the licenses in 2014 shortly before the new law was passed. Once we became aware of the new law (Article 19-H) in January 2015, we didn't think anything of it because we didn't expect to ever sell the business or that the law applied to us because we kept the business in the family.

In March 2020, my parents asked if my wife and I were interested in purchasing the business due to underlying health issues, and the seriousness of the pandemic famously known as COVID-19. Neither of them could be present or involved in the operations of the business for many months because of the fear of contracting the virus. I took it upon myself to handle the day-to-day operations as well as being my parents' caretaker. Covid also made it increasingly difficult to retain our employees or hire new ones, as we lost both of our employees because of their fear of contracting the virus and the possibility of spreading it to their family members. It was then that we decided it is best to sell the business and move on.

In July 2021, we found a family who were interested in purchasing the business and we reached an agreement. They wanted to purchase the business, corporation and all, with the intent of keeping all the licenses provided. We opened escrow and began the process of transferring the licenses but cannot close escrow or sell the business until the matter regarding the tobacco permit is resolved. The process has taken a toll on my parents as they are still away from their business

and unsure of their future. This has also affected me because I cannot actively search for a job in the profession I am seeking due to having an ABC license in my name.

In closing I would like to thank all members of SFDPH and the Board of Appeals for your time and considerations in this matter. I look forward to our appeal date and resolving this matter once and for all.

Sincerely,

Firras Zawaideh

Liquid Experience Inc.

BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)

1 DAVID CHIU, State Bar #189542
City Attorney
2 JULIE VAN NOSTERN, State Bar #103579
Chief Attorney, Health & Human Services
3 HENRY LIFTON, State Bar #319005
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7 Attorneys for Respondent,
DEPARTMENT OF PUBLIC HEALTH
8

9 SAN FRANCISCO

10 BOARD OF APPEALS

11 49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103
12

13 LIQUID EXPERIENCE, INC.,

14 Appellant,

15 vs.

16 DEPARTMENT OF PUBLIC HEALTH,

17 Respondent.
18

Appeal No. 22-033

**RESPONDENT DEPARTMENT OF PUBLIC
HEALTH'S OPPOSITION BRIEF**

Hearing Date: May 18, 2022
Time: 5:00 p.m.
Place: City Hall, Room 416
1 Dr. Carlton B. Goodlett Place,
San Francisco, CA 94102

19
20
21 **INTRODUCTION**

22 In order to promote the public health and ensure that San Francisco businesses operate in
23 compliance with applicable laws regulating tobacco, Respondent, the Department of Public Health
24 (“Department”), is charged with evaluating Tobacco Sales permit applications, by conducting
25 thorough investigations to ensure that business operators are qualified to operate Tobacco Sales
26 establishments, and issue Tobacco Sales permits when appropriate.

27 In the instant appeal, Liquid Experience, Inc. (“Appellant”) submitted a Tobacco Sales permit
28 application for a liquor store located at 1589 Haight Street, San Francisco, California 94117. The

1 Department denied Appellant’s permit because the Health Code prohibits the Department from issuing
2 a Tobacco Sales permit to an establishment that, like Appellant’s, is located within 500 feet of another
3 permitted tobacco sales establishment, located within 500 feet of a school, and exceeds the Density
4 Cap for the applicable supervisorial district. Neither the Department nor the Board have discretion to
5 issue a permit. For these reasons, the Board must uphold the Department’s denial of the Tobacco
6 Sales permit.

7 **FACTUAL BACKGROUND**

8 On June 30, 2004, the Department issued a Tobacco Sales permit to Fatin Zawaideh, to sell
9 tobacco products at the property located at 1589 Haight Street. (*See* Declaration of Specialist Maribel
10 Rodriguez in Support of Respondent DPH’s Opposition Brief [hereinafter “Rodriguez Decl.”] ¶ 3,
11 Ex. A.) On September 30, 2014, Fatin Zawaideh and Firras Zawaideh submitted a change of
12 ownership application for a Tobacco Sales permit, and that application stated that a new entity, Liquid
13 Experience, Inc. (“Appellant”), would operate the tobacco establishment located at 1589 Haight Street.
14 (*Id.* ¶ 4, Ex. B.)

15 On October 10, 2021, Appellant applied, based on a change of ownership, for a new Tobacco
16 Sales permit at 1589 Haight Street. (*Id.* ¶ 5, Ex. D.) The Department’s Specialist, Maribel Rodriguez,
17 investigated Appellant’s eligibility for a Tobacco Sales permit. (*Id.* ¶ 6.) Specialist Rodriguez
18 reviewed the Department’s records, as well as records from the City Office of the Treasurer and Tax
19 Collector, the California Department of Tax and Fee Administration, and the California Secretary of
20 State. (*Ibid.*) Specialist Rodriguez also consulted the San Francisco Planning Department’s GIS tool
21 to determine whether 1589 Haight Street is located within 500 feet of another tobacco sales
22 establishment or school. (*Id.* ¶ 7.) The San Francisco Planning Department map disclosed that 1589
23 Haight Street was within 500 feet of two permitted tobacco establishments, Ashbury Tobacco Center
24 located at 1524 Haight Street and Puff Puff Pass located at 1467 Haight Street. (*Id.* ¶¶ 7–8, Ex. F.)
25 The map also revealed that 1589 Haight Street was located within 500 feet of Mark’s Family Home
26 School located at 1664 Haight Street. (*Ibid.*) Specialist Rodriguez also determined Liquid
27 Experience, Inc. is located in supervisorial district 5 and that district had 71 establishments with a
28 Tobacco Sales permit. (*Id.* ¶ 6.)

1 On November 27, 2021, the Director of the Department’s Environmental Health Branch issued
2 a Notification of Tobacco Permit Denial to Appellant. (*Id.* ¶ 10, Ex. H.) The Department denied
3 Appellant’s application for a Tobacco Sales permit because Health Code section 19H.4(f) bars
4 issuance of the permit since Appellant’s establishment is located within 500 feet of two establishments
5 with a valid Tobacco Sales permit, located within 500 feet of a school, and there were more than 45
6 permitted establishments in the supervisorial district. (*Ibid.*) Appellant did not meet any applicable
7 exceptions under section 19H.6. (*Ibid.*) Appellant did not appeal this denial. (*Id.* ¶ 11.)

8 On March 29, 2022, Appellant applied for a new Tobacco Sales permit and disclosed Liquid
9 Experience, Inc. again changed its ownership structure such that Firras Zawaideh owned 50 percent,
10 Nabaraj Raut owned 26 percent, and Ramhari KC owned 24 percent of Appellant. (*Ibid.*, Ex. I.)
11 Specialist Rodriguez determined that the establishment at 1589 Haight Street remained within 500 feet
12 of two permitted establishments and one school and there were 69 establishments with Tobacco Sales
13 permits in supervisorial district 5. (*Id.* ¶ 12.) Accordingly, on April 12, 2022, the Department issued a
14 Notification of Tobacco Permit Denial to Appellant. (*Ibid.*, Ex. J.)

15 Appellant subsequently submitted a notice of appeal dated April 18, 2022. On April 27, 2022,
16 Appellant filed an appeal letter (“Appeal Letter”).

17 ARGUMENT

18 **I. The Department Lacks the Authority to Issue Appellant a Tobacco Sales Permit Under** 19 **Article 19H.**

20 As a general matter, a Tobacco Sales permit may not be transferred or assigned. (Health Code
21 § 19H.8.) This includes a change of ownership and, according to the Department’s rules and
22 regulations, any change of ownership must be reported to the Department and the new establishment
23 owner must apply for a Tobacco Sales permit within 30 days of the change of ownership. (Rodriguez
24 Decl. ¶ 9, Ex. G.) The Health Code defines a change of ownership as “a change of 50 percent or more
25 of the ownership of the business within a 12-month period; provided, however, that if the Permittee is
26 a corporation, transfer of 25 percent of the stock ownership of the permittee shall be deemed to be a
27 Change of Ownership.” (Health Code § 19H.2.)

28 Here, Appellant disclosed in its application dated October 4, 2021 that Liquid Experience,

1 Inc.'s corporate structure changed. Liquid Experience, Inc.'s corporate ownership changed from
2 Firras Zawaideh holding 51 percent ownership and Fatin Zawaideh holding 49 percent ownership to
3 Nabaraj Raut holding 50 percent ownership and Ramhari KC holding 50 percent ownership.
4 (Rodriguez Decl. ¶ 4, Ex. B.) Appellant disclosed in its second application, at issue in this appeal, that
5 Liquid Experience, Inc.'s ownership structure changed again such that Firras Zawaideh retained 50
6 percent ownership, Nabaraj Raut owned 26 percent, and Ramhari KC owned 24 percent. (*Id.* ¶ 11,
7 Ex. I.) Both corporate reorganizations constituted a change of ownership since there was a transfer of
8 at least 25 percent of the stock ownership within a 12-month period. Accordingly, the Department's
9 rules and regulations required the new owners to submit an application for a new Tobacco Sales
10 permit.

11 Health Code section 19H.4(f) lays out eight separate grounds for which the Department must
12 deny issuance of a new permit. The Department determined that three separate provisions in
13 subsection (f) required denial of a new permit.

14 **A. Appellant's Place of Business is Located in a Supervisorial District with more than**
15 **45 Establishments with Tobacco Sales Permits.**

16 Health Code section 19H.4(f)(5) states that "[n]o new permit shall be issued in any
17 supervisorial district that has 45 or more Establishments with Tobacco Sales permits." (Health Code
18 § 19H.4(f)(5).) Here, the Department determined that, at the time Appellant submitted its April 2022
19 application, there were 69 establishments with Tobacco Sales permits in Supervisorial District 5, the
20 district in which Appellant is located. (Rodriguez Decl. ¶ 12, Ex. J.) Thus, there were 24 more
21 permits than the Density Cap allows for the supervisorial district. (*See* Health Code § 19H.5(a).)
22 Appellant has not challenged this finding.

23 **B. Appellant's Place of Business is Within 500 Feet of Two Tobacco Sales**
24 **Establishments with Valid Tobacco Sales Permits.**

25 Health Code section 19H.4(f)(4) provides: "No new permit shall be issued if the Applicant will
26 be located within 500 feet of the nearest point of the property line of an existing Establishment"
27 (Health Code § 19H.4(f)(4).) The San Francisco Planning Department's map confirmed that there are
28 two permitted tobacco establishments, Ashbury Tobacco Center located at 1524 Haight Street and Puff

1 Puff Pass located at 1467 Haight Street, within 500 feet of 1589 Haight Street. (Rodriguez Decl. ¶¶ 7–
2 8, Ex. F.) Appellant has not challenged this finding.

3 **C. Appellant’s Place of Business is Within 500 Feet of a School.**

4 Health Code section 19H.4(f)(3) provides: “No new permit shall be issued if the Applicant will
5 be within 500 feet of the nearest point of the property line of a School” (Health Code
6 § 19H.4(f)(3).) The San Francisco Planning Department’s map confirmed that 1589 Haight Street is
7 within 500 feet of Mark’s Family Home School located at 1664 Haight Street. (Rodriguez Decl. ¶¶ 7–
8 8, Ex. F.) Appellant has not challenged this finding.

9 **D. Appellant Does Not Qualify for Any Applicable Exception Under Section 19H.6.**

10 Section 19H.6 outlines certain one-time permit exceptions for new Tobacco Sales permits.
11 (See Health Code § 19H.6.) These exceptions are applicable only to certain establishments, such as
12 retail food store establishments as defined in the Planning Code or Tobacco Shops, which are tobacco
13 retailers whose principal business is selling tobacco products. (See, e.g., *id.* § 19H.6(a); see also
14 § 19H.2 [definition of “Tobacco Shop”].) And, each exception is discretionary whether the Director
15 may issue a permit. (See *id.* [“[T]he Director may issue”].)

16 As an initial matter, Appellant’s Appeal Letter does not argue that any exception applies or that
17 its business, a liquor store, constitutes a retail food store establishment or a Tobacco Shop.

18 Even if Appellant had sought such an exception, none applies. The first exception requires the
19 owner of the establishment to submit an affidavit attesting that the owner has been the same owner
20 since January 18, 2010 (five years before the effective date of the ordinance enacting section 19H.6).
21 (Health Code § 19H.6(a).) Appellant did not submit an affidavit with its application. Additionally, on
22 September 30, 2014, Fatin Zawaydeh filed a change of ownership application stating that Liquid
23 Experience, Inc. was the new legal owner of the establishment located at 1589 Haight Street.
24 (Rodriguez Decl. ¶ 4, Ex. B.) Because Liquid Experience, Inc. was not the owner until 2014, it could
25 not have been the same owner since January 18, 2010.

26 The Department determined that no other exception applied. This includes determinations that:
27 Liquid Experience, Inc. has not held a Tobacco Sales permit for at least 10 years after acquiring the
28 permit in accordance with the first exception (Health Code § 19H.6(b); Nabaraj Raut and Ramhari KC

1 did not state they were children of the current permittee (*id.* § 19H.6(c)); no seismic retrofitting has
2 occurred (*id.* § 19H.6(d)); the establishment is not a bar or tavern that is a cigar or smoking bar (*id.*
3 § 19H.6(e)–(f)); and no spouse or domestic partner has acquired ownership through death or divorce
4 (*id.* § 19H.6(g)). (*See* Rodriguez Decl. ¶ 13, Ex. L.)

5 Since no exception applies, the Director is bound by Health Code section 19H.4(f)’s
6 requirement to deny the Tobacco Sales permit since three separate provisions required such denial.

7 **II. Appellant’s Appeal Letter Does Not Merit Overturning the Department’s Decision.**

8 Appellant’s Appeal Letter outlines generally the same facts as described in Specialist
9 Rodriguez’s declaration. Appellant does not point to a particular defect in the Department’s
10 conclusions or a factual mistake. Nor has Appellant articulated the remedy it seeks.

11 If, for example, Appellant is asking for the Board to issue a permit, then that would not be
12 permissible since the Board of Appeals is bound by the same laws of the City and County of San
13 Francisco as the Department and may not grant a permit that is not otherwise authorized by the
14 Municipal Code. (*City & Cnty. of San Francisco v. Bd. of Permit Appeals* (1989) 207 Cal.App.3d
15 1099, 1109–10 [“[T]he board is not a lawmaking body and has no power to disregard or amend the
16 ordinances which define its authority.”].)

17 While the Department is cognizant of the burden on small businesses to comply with the
18 requirements of the Health Code, the Department lacks discretion in this instance. Moreover, the
19 Board of Supervisors has found and declared that tobacco use is the leading cause of preventable death
20 in the United States. (Health Code § 19H.1(a).) Higher tobacco retail density encourages smoking by
21 making cigarettes more accessible and available, by normalizing tobacco use, and through increasing
22 environmental cues to smoke. (*Id.* § 19H(i).) Accordingly, the Board found that “it is in the City’s
23 interest to reduce the disproportionate exposure to tobacco outlets that exists among supervisorial
24 districts and to minimize exposure in all supervisorial districts by limiting the number of new tobacco
25 permits issued.” (*Id.* § 19H.1(k).)

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27 ///

28 ///

1 **CONCLUSION**

2 The Department therefore respectfully requests that the Board uphold the Department's denial
3 of Liquid Experience, Inc.'s application for a Tobacco Sales permit at 1589 Haight Street.
4
5

6 Dated: May 12, 2022

7 DAVID CHIU
8 City Attorney
9 JULIE VAN NOSTERN
10 Chief Attorney, Health & Human Services

11 By: /s/ Henry L. Lifton
12 HENRY L. LIFTON
13 Deputy City Attorney
14 Attorneys for Respondent
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PROOF OF SERVICE

I, LILY KANG, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney’s Office of San Francisco, Fox Plaza Building, 1390 Market Street, Fifth Floor, San Francisco, CA 94102.

On May 12, 2022, I served the following document(s):

RESPONDENT DEPARTMENT OF PUBLIC HEALTH’S OPPOSITION BRIEF

on the following persons at the locations specified:

boardofappeals@sfgov.org	Board of Appeals
julie.rosenberg@sfgov.org	SF Board of Appeals
liquidexperiencesf@gmail.com	Appellant, Firras Zawaideh

in the manner indicated below:

BY ELECTRONIC MAIL: Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the person(s) at the electronic service address(es) listed above. Such document(s) were transmitted *via* electronic mail from the electronic address: lily.kang@sfcityatty.org in portable document format ("PDF") Adobe Acrobat.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed May 12, 2022, at San Francisco, California.

Lily Kang

LILY KANG

1 DAVID CHIU, State Bar #189542
City Attorney
2 JULIE VAN NOSTERN, State Bar #103579
Chief Attorney, Health & Human Services
3 HENRY LIFTON, State Bar #319005
Deputy City Attorneys
4 Fox Plaza
1390 Market Street, 5th Floor
5 San Francisco, California 94102-5408
Telephone: (415) 554-3915
6 E-Mail: henry.lifton@sfcityatty.org

7 Attorneys for Respondent,
DEPARTMENT OF PUBLIC HEALTH

9 SAN FRANCISCO

10 BOARD OF APPEALS

11 49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103

13 LIQUID EXPERIENCE, INC.,

14 Appellant,

15 vs.

16 DEPARTMENT OF PUBLIC HEALTH,

17 Respondent.

Appeal No. 22-033

**DECLARATION OF SPECIALIST MARIBEL
RODRIGUEZ IN SUPPORT OF RESPONDENT
DEPARTMENT OF PUBLIC HEALTH'S
OPPOSITION BRIEF**

Hearing Date: May 18, 2022
Time: 5:00 p.m.
Place: City Hall, Room 416
1 Dr. Carlton B. Goodlett Place,
San Francisco, CA 94102

21 I, MARIBEL RODRIGUEZ, declare as follows:

23 1. I have personal knowledge of the facts stated in this declaration, and if called upon to
24 testify, I could and would testify competently as the truth of the facts stated herein.

25 2. I am an Environmental Health Specialist Trainee of the San Francisco Department of
26 Public Health's Environmental Health Branch (the "Department"). I work in the Department's Retail
27 Tobacco and Smoking Program, where I review and process applications for Sale of Tobacco Product
28

1 Permits and conduct inspections to confirm compliance with Article 19H of the San Francisco Health
2 Code.

3 3. On June 30, 2004, the Department issued a Tobacco Products Permit to Fatin
4 Zawaideh, doing business as Liquid Experience and located at 1589 Haight Street, San Francisco,
5 California 94117. A true and correct copy of the 2004 permit is attached hereto as **Exhibit A**.

6 4. On September 30, 2014, Fatin Zawaideh and Firas Zawaideh submitted a change of
7 ownership application for a Tobacco Products Permit stating that a new entity, Liquid Experience, Inc.
8 (“Appellant”), would operate the tobacco establishment located at 1589 Haight Street. A true and
9 correct copy of the 2014 application is attached hereto as **Exhibit B**. The Department issued a permit
10 to Appellant on October 10, 2014. A true and correct copy of the permit is attached hereto as
11 **Exhibit C**.

12 5. On October 4, 2021, Appellant applied for the Sale of Tobacco Products Permit. The
13 application was completed with all supporting documents on November 10, 2021. The application
14 was submitted under a new corporate structure. Corporate ownership changed from Firas Zawaideh at
15 51 percent ownership and Fatin Zawaideh at 49 percent ownership to Nabaraj Raut at 50 percent
16 ownership and Ramhari KC at 50 percent ownership. A true and correct copy of the application is
17 attached hereto as **Exhibit D**.

18 6. I was assigned to evaluate Appellant’s application. I personally investigated
19 Appellant’s eligibility for a Tobacco Sales Permit through a review of Department files and other the
20 agencies including files from the City & County of San Francisco’s Office of the Treasurer and Tax
21 Collector, California Department of Tax and Fee Administration, and California Secretary of State. I
22 determined that under the new corporate structure, the approval of a permit must be denied based on
23 the City’s “Density Cap” law. Under the “Density Cap” law enacted by the Board of Supervisors in
24 December 2014, the Department may not issue new tobacco sales permits to businesses that are
25 located in supervisorial districts that have 45 or more existing permitted establishments. I determined
26 that there were 71 establishments with Tobacco Sales permits in supervisorial district 5, where 1589
27 Haight Street is located.

1 7. I searched the San Francisco Planning GIS tool available at
2 <https://sfplanninggis.org/tobacopermits/> to determine that 1589 Haight Street was within 500 feet of
3 two permitted tobacco establishments, Ashbury Tobacco Center located at 1524 Haight Street and Puff
4 Puff Pass located at 1467 Haight Street. The map also revealed that 1589 Haight Street was located
5 within 500 feet of Mark’s Family Home School located at 1664 Haight Street. Article 19H also does
6 not allow a permit to be issued to businesses that are located within 500 feet of another permitted
7 tobacco sales establishment or school. There are very limited exceptions to this rule that are available
8 only to Grocery Stores, Tobacco Shops (which are stores that primarily sell tobacco products), Cigar
9 or Smoking Bars, and establishments that are acquired by a spouse or domestic partner through
10 divorce or death.

11 8. I processed Appellant’s application using the Department’s Tobacco Application
12 Review Checklist, a true and correct copy of which is attached hereto as **Exhibit E**. That checklist
13 showcases that Liquid Experience, Inc. does not meet all of the Density Law requirements since
14 Appellant is in a Supervisorial District with at least 45 permitted establishments, it is within 500 feet
15 of two permitted establishments, and it is within 500 feet of a school. I used the Retail Tobacco Sales
16 Permit Density Map, a true and correct copy of which is attached hereto as **Exhibit F**, illustrates the
17 proximity of other permitted establishments and school.

18 9. I also evaluated whether any exceptions to the “Density Law” rules (19H.6(a)-(g))
19 applied and determined that Appellant did not qualify. Primarily because there was what the
20 Department considers a change of ownership under the Rules and Regulations when a corporation
21 transfers 25% or more of the stock ownership within a 12-month. A true and correct copy of the
22 Department’s Rules and Regulations are attached hereto as **Exhibit G**.

23 10. When the business incorporated as Liquid Experience, Inc. and Firras Zawaideh was
24 added on as an owner, Fatin Zawaideh was no longer the “Original Owner”. Because Liquid
25 Experience, Inc. had not continuously owned and operated the establishment for five years before the
26 Density Cap law was enacted, Appellant could not meet the exception in Health Code section
27 19H.6(a). I also determined that no other exceptions applied. A true and correct copy of the
28

1 Notification of Tobacco Permit Denial, which was issued on November 27, 2021, is attached hereto as
2 **Exhibit H.**

3 11. Although there was a conversation about contesting the Department’s decision, Liquid
4 Experience, Inc. did not file for an appeal within the 15-day period. Appellant then submitted a new
5 application on March 29, 2022, in which it disclosed that Firras Zawaideh retained 50 percent
6 ownership, Nabaraj Raut owned 26 percent, and Ramhari KC owned 24 percent. A true and correct
7 copy of the 2022 application is attached hereto as **Exhibit I.**

8 12. I processed Appellant’s 2022 application using the Department’s Tobacco Application
9 Review Checklist, a true and correct copy of which is attached hereto as **Exhibit J.** That checklist
10 showcases that Liquid Experience, Inc. does not meet all of the Density Law requirements since
11 Appellant is in a Supervisorial District with at least 45 permitted establishments, it is within 500 feet
12 of two permitted establishments, and it is within 500 feet of a school. I used the Retail Tobacco Sales
13 Permit Density Map, a true and correct copy of which is attached hereto as **Exhibit K,** illustrates the
14 proximity of other permitted establishments and school.

15 13. Because more than 25 percent of the corporation’s ownership changed within a 12-
16 month period, Appellant was still considered a new applicant requiring a new Tobacco Sales permit.
17 On April 12, 2022, the Department again issued a Notification of Tobacco Permit Denial to Appellant
18 because Appellant was disqualified under the Density Cap provision and no exception applied. I
19 determined that there were 69 establishments with Tobacco Sales permits in supervisorial district 5,
20 where 1589 Haight Street is located. The date on the Notification of Tobacco Permit Denial is
21 erroneously listed as April 12, 2021, rather than 2022. A true and correct copy of the 2022 denial
22 letter is attached hereto as **Exhibit L.**

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1 I declare under penalty of perjury and the laws of the State of California that the foregoing is
2 true and correct and that this document was executed on the 10th of May 2022, in San Francisco,
3 California.

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6 MARIBEL RODRIGUEZ
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EXHIBIT “A”

FRAME AND HANG IN PLAIN VIEW

PERMIT TO OPERATE

AND CERTIFICATE OF SANITARY INSPECTION

Issued according to the provisions of the San Francisco Health Code

T- 02075

AUTHORIZING conduct of the following class of
TOBACCO PRODUCT SALES ESTABLISHMENT

ISSUED ON:

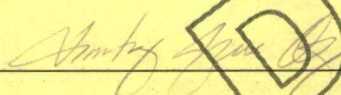
June 30, 2004

OPERATOR: Fatin Zawaydeh
DBA: Liquid Experience
ADDRESS: 1589 Haight Street
San Francisco, CA 94117

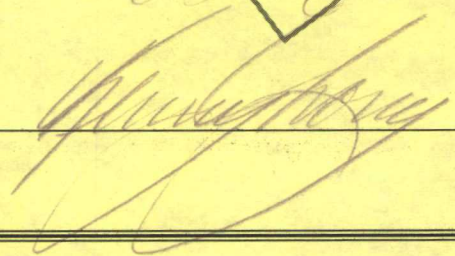
Valid only when accompanied by a receipt from the Tax Collector showing payment of current license fee. THIS PERMIT TO OPERATE MAY BE REVOKED OR SUSPENDED FOR CAUSE AND IS NOT TRANSFERABLE. CHANGE OF OWNERSHIP must be reported immediately.

DEPARTMENT OF PUBLIC HEALTH

Environmental Health Section
City & County of San Francisco


Inspector

Director of Consumer Protection Programs


Principal Inspector

Director of Public Health

EXHIBIT “B”

74

Application for the Sale of Tobacco Products and/or E-Cigarettes

Date of Application: 9/30/14

Please Check One: New Application Ownership Change Info Update Only

Please Check (if applicable):
 Facility **will not** be classified as a tobacco paraphernalia shop, per attached Planning Dept handout. **(Before checking a box, see attached handout titled: "Tobacco Paraphernalia Establishments")**
 Facility will operate as a tobacco paraphernalia shop, and will obtain Planning Dept approval before opening.
 This Business does **NOT** sell tobacco (no BOE* permit required)

Business Address: 1589 HAIGHT ST

Business Name: LIQUID EXPERIENCE INC Business Registration Certificate #: 0487471

Business Phone #: 415-255-6718

BOE* Registrant Name: LIQUID EXPERIENCE INC BOE* Tobacco License #: 91364204

*California State Board of Equalization (BOE): Cigarette & Tobacco product retailer license is currently not required for retailers selling only E-cigarettes.

***PLEASE NOTE* You MUST have a Business Registration Certificate. Permit will ONLY be issued to owner of the Business Registration Certificate. Ownership must also match BOE registrant name, if applicable.**

Contact Person: MIKE R FARRIS Phone #: 415-255-6718

Email: _____

Signature(s) of Applicant(s):*

X _____ X _____

*If partnership, all partners must sign. If Corporation, authorized Officer must sign.

For Department of Public Health Office Use Only		
BOE and Business Registration Name Match: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable		
Owner Name on Business Registration Certificate:		
Filing Fee: <u>74</u>	Receipt Number: <u>57727</u>	
Inspector's Report		
After reviewing this application on _____, 20____		
<input type="checkbox"/> I recommend the issuance of a New Permit to operate		
<input type="checkbox"/> I disapprove the issuance of a New Permit to operate, for the following reasons:		
X _____	X _____	
Principal Inspector	Inspector	
Location ID: <u>80748</u>	Permit # <u>T-80748</u>	Type of Permit/Classification/Account #: <u>H31-</u>



CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH SECTION

ID 7351

APPLICATION FOR THE SALE OF TOBACCO PRODUCTS

Date of Application: Feb - 16 - 2004

Please Check One:

- This Business Will Be Selling Tobacco Products
- This Business Will Not Be Selling Tobacco Products

Please Check One:

- New Application
- Ownership Change
- Reclassification
- Information Update Only

Business Address: 1589 HAIGHT ST

Cross Street: CLAYTON

Business Name: LIQUID EXPERIENCE

Type Of Business: Retail Liquor

Business Tel. No. 415-255-6718

- Sole Owner
- Partnership
- Corporation

Permit to be issued in the Name(s) of, or if Corporation (Specify Corporation Name and List Principal Officers) <p style="font-size: 1.2em; margin: 0;"><i>LIQUID EXPERIENCE</i></p> <p style="font-size: 1.2em; margin: 0;"><i>FATIN ZAWAYDEH</i></p> <p style="text-align: right; font-size: 0.8em; margin: 0;"><i>DEH</i></p>	Home or Corporation Address (Print): <p style="font-size: 1.2em; margin: 0;"><i>2543 37th ave</i></p> <p style="font-size: 1.2em; margin: 0;"><i>SF - CA - 94116</i></p>
Emergency Notification:	Contact Person: <i>MIKE</i>
	Home Tel./ Mobile Tel: <i>681-6925</i>

*SIGNATURE(S) OF APPLICANT(S)

x *Fatin Zawaydeh* x _____

x _____ x _____

*If Partnership, all partners must sign. If Corporation, authorized Officer must sign.

Submit the application to the Environmental Health Section, 1390 Market St., Suite 210, SF, CA 94102 to the Attention of: Tobacco Sales Permits, with a check in amount of \$50 payable to: SFDPH

FOR OFFICE USE ONLY

Filing Fee: \$50 *check # 4847* Receipt No. 54076 *dd 3/16/04*

ENVIRONMENTAL HEALTH SECTION REPORT	
After having reviewed this application on _____	• 20 _____
I RECOMMEND the issuance of a new Permit For Tobacco Sales <input type="checkbox"/>	
I DISAPPROVE the issuance of a new Permit For Tobacco Sales <input type="checkbox"/> for the following reasons:	
Principal Inspector	Inspector

DISTRICT NO.	CENSUS TRACT	PERMIT NO.	TYPE / CLASSIFICATION
<i>5</i>	<i>166</i>	<i>T2075</i>	

EXHIBIT “C”



PERMIT TO OPERATE

AND CERTIFICATE OF SANITARY INSPECTION

Issued according to provisions of the San Francisco Health Code

T 80748

AUTHORIZING conduct of the following class of

TOBACCO PRODUCT SALES ESTABLISHMENT

ISSUED: 10/10/2014

Type of Operation: Tobacco Only Shop

Tax Code: 131

DPH Code:

CERT No. 487471

Name and Address Below:

Owner: Liquid Experience, Inc.
 DBA: Liquid Experience
 Street Address: 1589 Haight St
 San Francisco, CA 94117

DEPARTMENT OF PUBLIC HEALTH

Bureau of Environmental Health
City and County of San Francisco

Valid only when accompanied by a receipt from the Tax Collector showing payment of current license fee. THIS PERMIT TO OPERATE MAY BE REVOKED OR SUSPENDED FOR CAUSE AND IS NOT TRANSFERABLE. CHANGE OF OWNERSHIP must be reported immediately.

Director of Environmental Health

Inspector

Principal Inspector

Director of Public Health

EXHIBIT “D”



City and County of San Francisco
 Department of Public Health Population Health Division
 Environmental Health Branch
 49 South Van Ness Ave. Suite 600 San Francisco, CA 94103
 (415) 252-3800
<https://www.sfdph.org/dph/EH/Tobacco/default.asp>



Application for the Sale of Tobacco Products

Application Date: 10.04.2021 First Date of Tobacco Sales: 01.01.2022

Business Information Official correspondence from SFDPH will be sent to the mailing address on record with the San Francisco Office of the Treasurer and Tax Collector (SFTTX)

Business Name (DBA): LIQUID EXPERIENCE INC. San Francisco Business Account # (BAN):

Business Address including zip code: 1589 Haight Street, San Francisco, CA, 94117 CDTFA Cigarette Retailer License #:

Establishment Type: a) Grocery/Market b) Liquor Store c) Tobacco/Vape Shop
 d) Gas/Service Station e) Restaurant/Bar f) Gift/Novelty Store g) Other

Legal Owner Information Legal Owner Structure: Sole Proprietor Partnership Corporation Other

Legal Owner Name: LIQUID EXPERIENCE INC. Legal Owner Email Address: nawarajraut@gmail.com

Legal Owner Address including zip code: 1589 Haight Street, San Francisco, CA, 94117 Legal Owner Phone Number: 415-255-6718

List all Owners or Principal Officers and Ownership Percentages: (Print Name(s)) Attach additional sheets if necessary

Nabaraj Raut	50 %		%
Ramhari KC	50 %		%

Main Contact's Name: Nabaraj Raut Same as Legal Owner Manager Legal Agent Other

Main Contact's Email: nawarajraut@gmail.com Main Contact's Phone Number: 510-674-4798

Incomplete applications cannot be processed and will be returned to the Applicant. The application will be deemed abandoned if the Applicant fails to submit a complete and accurate application with all required documentation within 30 days from the date the application is returned to the Applicant. After 30 days, the Applicant will be required to submit a new application and non-refundable processing fee.

Signature of Applicant(s): All Owners and Corporate Officers must sign. Attach additional sheets if necessary.

I/We declare under penalty of perjury the information on this application and in other materials submitted in support of this application are true and correct. I/We hereby consent to all necessary inspections made pursuant to the SF Health Code and incidental to the issuance of any exception, permit, and operation of this business. I/We understand that once submitted, the application processing fee is nonrefundable. I/We acknowledge that I am/we are responsible for complying with all local, state, and federal laws, codes, and rules and regulations relating to tobacco products, tobacco control, and the prohibition of smoking in enclosed establishments and certain unenclosed areas. If SFDPH staff discovers false or misleading information, I/we understand that the tobacco permit may be denied or revoked by SFDPH. **I/We may not sell any tobacco products, including but not limited to, cigarettes, electronic nicotine delivery systems, and nicotine-containing products without first obtaining a valid SFDPH Tobacco Sales Permit.** I/We understand selling tobacco products without a valid SFDPH permit may result in the denial of a SFDPH Tobacco Sales Permit.

x Date: 10-04-2021 X Date: _____
 x Date: 2021 Date: _____
 10-04- X

Instructions for the Application for the Sale of Tobacco Products

Application Date: The date the legal owner submits the application.

First Date of Tobacco Sales: The date the legal owner intends to begin selling tobacco products. If tobacco sales have occurred prior to the submittal of the application, put the date of the first tobacco sale. If the applicant is only amending the permit, you may leave this blank.

Legal Owner Structure: If the legal owner structure is not a sole proprietorship (one person owned), the ownership percentages must be disclosed. Legal documentation providing the ownership percentages and signatures of all owners must be submitted with this application. An application will be considered incomplete if this legal documentation is not submitted.

Legal Owner Name: The legal owner is the applicant and the entity that the Permit to Operate will be issued to. The legal owner name must be the same name used with the San Francisco Office of the Treasurer and Tax Collector (SFTTX) and the California Department of Tax and Fee Administration (CDTFA).

Legal Owner Email, Address, and Phone Number: Official correspondence from SFPDH will be sent through these points of contact.

List all Owners or Principal Officers and Ownership Percentages: The owners/principal officers must match the corporate records filed with the California Secretary of State.

Business Name (DBA): The name of the establishment where tobacco sales will take place. The business name must be the same with SFTTX and CDTFA.

Business Address: The address of the establishment where tobacco sales will take place. This address must be the same with SFTTX and CDTFA.

CDTFA Cigarette Retailer License #: To sell tobacco products in the City and County of San Francisco, an establishment must have both a Cigarette Retailer License from the CDTFA and a Permit to Operate a Tobacco Sales Establishment from SFPDH. SFPDH will not issue a Permit to Operate without a valid CDTFA Cigarette Retailer License. **This is not the same as the Seller's Permit from the CDTFA.**

San Francisco Business Account # (BAN): Your account with SFTTX. Once your tobacco permit is approved, SFTTX will bill you through this account to pay for the H31 Tobacco License. The annual H31 Tobacco License validates your SFPDH Tobacco permit.

Establishment Type: Based on the San Francisco Zoning Code, provide the business establishment primary business type and operation.

Main Contact's Name: The primary point of contact between SFPDH and the business.

Relation to Legal Owner: Title of Responsible Person in relation to the Legal Owner.

Main Contact's Email and Phone Number: Official correspondence from SFPDH will be sent through these points of contact.

Signature of Applicant(s): The application will be signed by all Legal Owners and/or Principal Officers under penalty of perjury that the information provided is complete, true, accurate and correct.

For Department of Public Health Office Use Only

Final Review	Required Items Submitted with Application:
<input type="checkbox"/>	Non-refundable Processing Fee
<input type="checkbox"/>	Declaration of Healthy and Safe Working Conditions
<input type="checkbox"/>	Proof of Partnership or Incorporation (if applicable)
<input type="checkbox"/>	Retail Tobacco Permit Affidavit (if applicable)
<input type="checkbox"/>	19H.6 Exception Documentation (if applicable)

Information from CDTFA and SFTTX match what is on this application? <input type="checkbox"/> Yes <input type="checkbox"/> No		Filing Fee Amount: \$	Payment Date: / /	Receipt Number:
Applicant Qualifies as:	Owner Type: <input type="checkbox"/> Original Owner <input type="checkbox"/> Subsequent Buyer <input type="checkbox"/> New Owner <input type="checkbox"/> Owner under Density	Permit Type: <input type="checkbox"/> Amended Permit <input type="checkbox"/> New Permit		

To the Director of Public Health, after reviewing this application on / /

I **recommend** the issuance of a Permit to Operate. I **disapprove** the issuance of a Permit to Operate (Note: See attached review and/or letter).

Inspector	Principal Inspector
Location ID:	Permit #: T- _____ Type of Permit/Classification:



Declaration of Healthy and Safe Working Conditions
Declaración de Condiciones de Trabajo Sanas Y Seguras
健康及安全工作條件聲明
Deklarasyon ng Mabuti at Ligtas na Kondisyon sa Trabaho

The Department of Public Health is responsible for ensuring healthy and safe conditions for those working and living in San Francisco. Establishments permitted by the Department must remain compliant with all laws.

El Departamento de Salud es responsable de asegurar condiciones saludables y seguras para las personas que trabajan y viven en San Francisco. Establecimientos permitidos por el Departamento deben cumplir con todas las leyes.

衛生署是負責確保於三藩市工作及居住的人士有一健康和安全的環境。從衛生署取得許可營運的設施/場所必須保持遵守所有法律。

Ang Kagawaran ng Pamublikong Kalusugan ay may pananagutan para sa pagtiyak ng mabuti at ligtas na mga kondisyon para sa mga nagtatrabaho at naninirahan sa San Francisco. Ang mga establisyemento na pinahihintulutan ng Kagawaran ay dapat manatiling sumusunod sa lahat ng mga batas.

Owner/Operator:	Nabaraj Raut / Ramhari KC	
DBA/Name of Business:	Liquid EXPERIENCE INC.	
Business Address:	1589 Haight Street	San Francisco, CA 94117

翻譯及你的簽署聲明在本頁後面。

¡Ojo! La traducción y firma de su declaración se encuentra en la parte posterior de esta página.

Ang pagsasalin at paglagda ng iyong deklarasyon ay nasa likod ng pahinang ito.

1. I understand that this business must comply with all local, state, and federal labor laws in order to obtain and maintain a valid Permit To Operate from the Department. I affirm that as an operator of the above business, I am aware of and agree to comply with the following laws when applicable to my business:		
• San Francisco Labor Codes	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
• California Labor Code Division 4—Have and maintain Workers Compensation Insurance or be self-insured)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
• California Labor Code Division 2—Employment Regulation and Supervision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
• California Labor Code Division 5—Occupational Health and Safety	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
• All other federal, state, and local labor codes	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. I will request my provider of Workers Compensation Insurance to designate as a “Certificate Holder” the SF Environmental Health Branch at 49 South Van Ness Ave, #600, San Francisco, CA 94103.		
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

I am the owner or authorized agent of the owner of this business. I declare under penalty of perjury that the information on this Declaration of Healthy and Safe Working Conditions is true and correct.

Nabaraj Raut		10-04-2021
Print Name	Signature	Date

I acknowledge that failure to comply with all applicable federal, state, and local labor laws may result in suspension or revocation of my Permit To Operate issued by the San Francisco Department of Public Health or a referral to the applicable federal, state, or local agency for enforcement.

Ramhari KC		10-04-2021
Print Name	Signature	Date

EXHIBIT “E”



City & County of San Francisco
 Department of Public Health
 Environmental Health Branch
 Tobacco & Smoking Program
 49 S Van Ness Ave. Suite 600 SF, CA 94103
 (415) 252-3800
<https://www.sfdph.org/dph/EH/Tobacco/default.asp>



Tobacco Application Review Checklist

Staff Name: Maribel Rodriguez
Staff Phone #: 415-252-3912
Staff Email: maribel.rodriguez1@sfdph.org

Initial Review Date: 10/19/2021
Final Review Date: 11/16/2021
Permit Notification Date: 11/17/2021

Section 1: Application Overview	
Business Name/DBA: Liquid Experience Inc	Date Received: 10/14/2021 11/04/2021 <i>received all supporting docs me</i>
Business Address: 1589 Haight St	Legal Owner Name: Liquid Experience Inc
Establishment Type: Liquor Store	Legal Owner Structure: Corporation
SFTTX BAN: 0487471	CDTFA Cigarette Retailer License #: 091364204
Main Contact Name: Nabaraj Raut	EHD Location ID: 112320
Contact Phone #: 510-674-4798	Email Address: nawarajraut@gmail.com
Supervisory District: 5	# of Tobacco Permits: 71 As of this date: 06/24/2021
1. Are all Owners/Corporate Officer names and their ownership percentages filled out on the application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is the application signed by all Owners/Corporate Officers? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
3. Is the Declaration of Healthy & Safe Working Conditions completed, signed, and dated? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Section 2: Application Type	
1. Does the DBA, Legal Owner Name, and Business Address match on the Application, SFTTX BAN, and CDTFA License?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. For Corporations: Do all corporate officers listed on the Application appear on the Secretary of State documents?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Is the business type changing?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Is the applicant applying for a new permit or an amended permit? Note: A change of ownership is defined as a 50% or more change within a 12-month period for sole proprietors/partnerships (25% for corporations.)	<input checked="" type="checkbox"/> New Permit <input type="checkbox"/> Amended Permit

Section 3: Amended Permit

What is the applicant amending/updating for the SFDPH Tobacco Permit?

- Legal Owner Name
- DBA
- Increase/Decrease Partners/Officers
- Increase/Decrease Ownership Percentages
- Contact Information

Section 4: New Permit Under Density Rules

- 1. Has this location not previously been occupied by a Tobacco permitted Establishment? Yes No
- 2. Is this business applying to operate with on-site consumption of food or beverage? (i.e. restaurant or bar) Yes No
- 3. Is this business applying to operate as a Tobacco Shop? Yes No
- 4. Is the # of Tobacco Permits in the Supervisorial District above or equal to 45? Yes No
- 5. Is there an existing SFDPH Tobacco Permit within 500 feet of this business? Yes No
- 6. Is the business located within 500 feet of a school? Yes No

Section 5: New Permit Under One-Time Exception

- 1. Does the applicant qualify for a SFHC 19H.6 exception? Yes No
- 2. Did the applicant submit a signed affidavit? Yes No
- 3. Did the applicant submit supporting documentation for 19H.6 exception? Yes No N/A

Application Status: Complete Incomplete as of this date: 10/19/21

Comments:

10/19: need correct DBA on CDTFA, SOS officer list
10/26: received SOS officer list
11/4: received notification of corrected DBA on CDTFA
11/17: called applicant of denial (U. Prado)

Submit Corrections / Documents By This Date:

Notification Email/Letter Sent Date:

10/20/21

EXHIBIT “F”

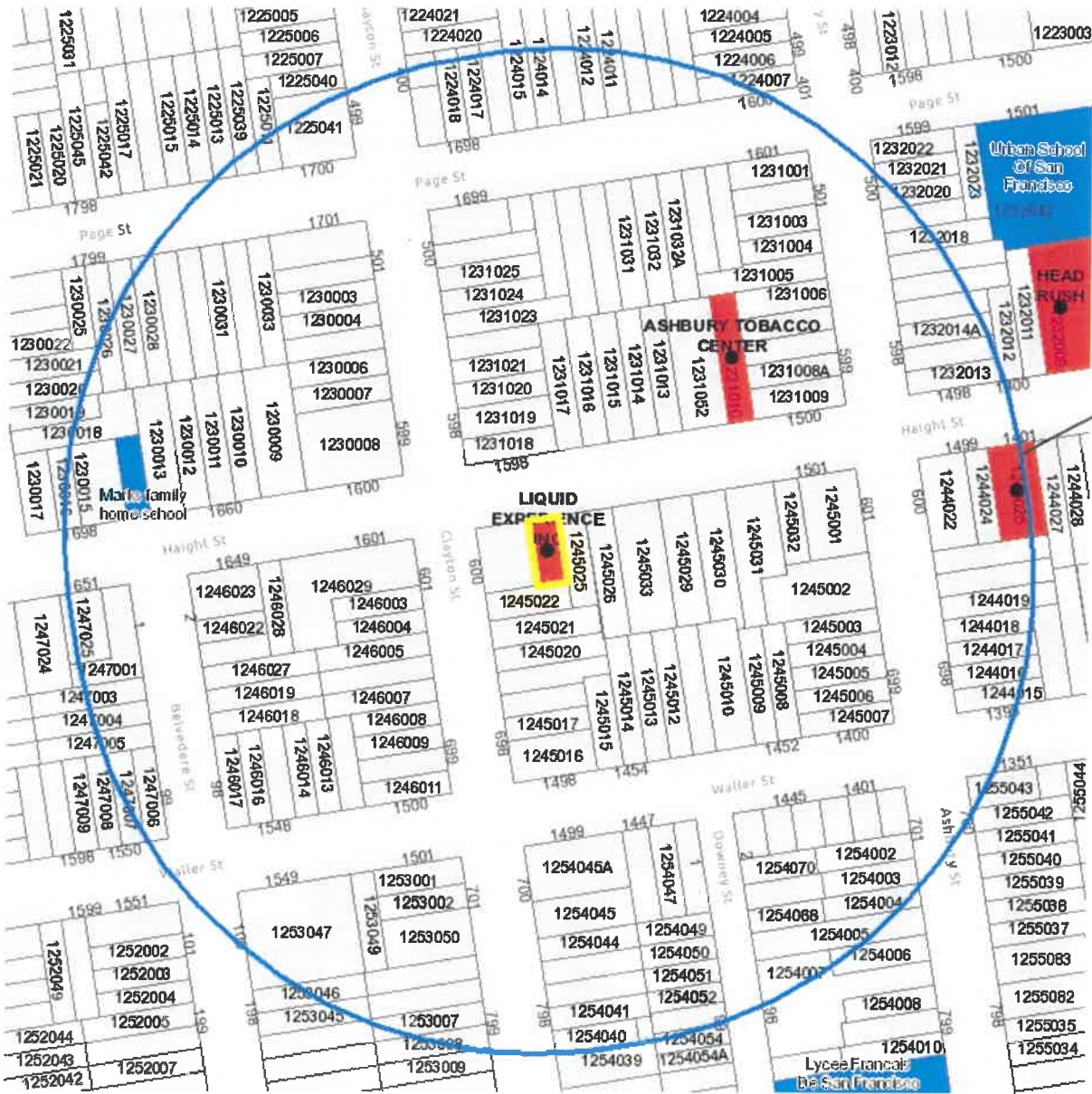
MR

Retail Tobacco Sales Permit Density - Block Lot 1589 HAIGHT ST

Legend

- Public or Private School
 - Active Tobacco Sales Permit
 - Proposed Retail Tobacco Location
- 500 foot buffer

- Trade Name: LIQUID EXPERIENCE INC
- Supervisor District: SUPERVISORIAL DISTRICT 5
- Exempt : No



Ruff Ruff Pass

EXHIBIT “G”



San Francisco Department of Public Health Director's Rules and Regulations for Retail Tobacco Sales

January 29, 2020

Chapter 1. Authority

The San Francisco Health Code (SFHC) sets forth laws regulating the sale, distribution, and use of tobacco and tobacco products. Sections 19H.26, 19Q.5, 19R.3, and 19S.3 authorize the Director of the San Francisco Department of Public Health (SFDPH) to adopt rules and regulations to implement Article 19H (permits for the sale of tobacco), Article 19Q (prohibiting the sale of flavored tobacco products), Article 19R (prohibiting the sale of electronic cigarettes lacking Food and Drug Administration premarket approval), and Article 19S (prohibiting the sale and distribution of tobacco products in San Francisco), respectively.

These Rules and Regulations for Retail Tobacco Sales (Rules) shall apply to all Establishments and Persons that sell or distribute Tobacco Products in the City and shall supersede any existing rules and regulations relating to Article 19H, 19Q, 19R, and 19S. The Director may amend these Rules from time to time.

Chapter 2. General Permitting

SEC 1. Definitions

As used in these Rules, the following words or phrases shall have the meanings set forth below.

"Advertisement" means a written or visual message dedicated to promoting a specific tobacco product(s) inside the Establishment or on the Establishment's storefront, including but not limited to signage, promotional displays, penny trays, shopping baskets, and any other product identification other than the actual Tobacco Product for sale.

"Applicant" means a Business Owner applying for a SFDPH Tobacco Sales Permit to operate in the City and County of San Francisco.

"Bar" means an area, whether a separate, stand-alone business or part of a larger business which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is incidental to the consumption of such beverages.

"Change of Ownership" means a change of 50 percent or more of the ownership of the business within a 12-month period; provided, however, that if the Permittee is a corporation, transfer of 25 percent or more of the stock ownership of the permittee shall be deemed to be a Change of Ownership.

"Characterizing Flavor" means a distinguishable taste or aroma or both, other than the taste or aroma of tobacco, imparted by a Tobacco Product or any byproduct produced by the Tobacco Product. Characterizing Flavors include, but are not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. A Tobacco Product shall not be

determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma or both, as described in the first sentence of this definition that constitutes a Characterizing Flavor.

“Displayed” means in public view.

“Electronic Cigarette” or “E-cigarette” means any device with a heating element, a battery, or an electronic circuit that provides nicotine or other vaporized liquids to the user in a manner that simulates smoking tobacco.

“Employee” means any person who performs work for a Permittee at an Establishment.

“Establishment” means any store, stand, booth, concession or any other enterprise that engages in the retail sale of Tobacco Products, including stores engaging in the retail sale of food items.

“Labeling” means written, printed, pictorial, or graphic matter upon any Tobacco Product or any of its Packaging.

“Packaging” means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for sale to a consumer.

“Permittee” means a person or business entity who holds a Tobacco Sales Permit from the Department for a specific location.

“School” means a public or private preschool, kindergarten, elementary school, middle school, junior high school, high school, or a school combining some or all of the above school grades.

“Self-service Merchandising” means the open display of Tobacco Products to which the public has access without the intervention of the vendor or a store employee.

“Tavern” means cigar or smoking bar.

“Tobacco Products” means (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, or sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, dipping tobacco, pipe tobacco, bidis or snuff; (2) any device or component, part, or accessory that delivers nicotine alone or combined with other substances to the person using the device including but not limited to electronic cigarettes, cigars, or pipes, whether or not the device or component is sold separately. Tobacco Product does not include any product that has been approved by the United States Food and Drug Administration for use as a tobacco cessation product where such product is marketed and sold solely for such an approved purpose.

“Tobacco Sales Permit” means a SFDPH permit issued by the Director under Article 19H.

“Transferable” means conveyable from one person or entity to another person or entity.

SEC. 2. Permit Application

An Applicant may request a consultation meeting with the Department before submitting an application to review requirements set forth in these Rules. The Department's consultation fee is based on the inspector's hourly rate, which can be found at:

https://www.sfdph.org/dph/files/EHSdocs/ehsFees/SF_EHB_Fees.pdf.

A complete Permit Application includes all of the following:

- (a) A Tobacco Sales Permit Pre-Application, Affidavit, and Planning Referral;
- (b) An Application for the Sale of Tobacco Products and/or E-Cigarettes;
- (c) A Copy of the Business Registration Certificate from the San Francisco Office of the Treasurer & Tax Collector;
- (d) A Copy of the California Department of Tax and Fee Administration Retail Tobacco Products License (with a License Number);
- (e) Names of all Owner(s), Principal Officer(s), trust beneficiaries, and Ownership Percentage(s) for each Person identified on the Application;
- (f) Legal documentation listing all the owners of the Establishment;
- (g) Disclosure of any date(s) that the Department suspended or revoked a SFDPH Permit to Operate a Retail Tobacco Establishment issued to any owner or officer disclosed on the application;
- (h) Non-refundable Application Fee;
- (i) A signed copy of the Health and Safety Working Conditions document provided by the Department;
- (j) When applying for an Exception under Article 19H.6, documentation of Direct Negotiations as set forth in Chapter 3, Section 2 of these Rules;
- (k) When applicable, non-refundable Planning Department Zoning Referral Fee; and
- (l) When applicable, Establishment's lease agreement between Establishment's owner and property owner.

An application will be deemed abandoned if the Applicant fails to submit all required items within 30 days from the date SFDPH returns the application to the Applicant. After 30 days, the Applicant will be required to submit a new application and non-refundable application fee or request for a one-time 45 day extension to submit all necessary documents to complete the application.

SEC. 3 Change of Ownership

A Tobacco Sales Permit may not be transferred or assigned.

(1) Upon the sale of an Establishment holding a Tobacco Sales Permit, the Tobacco Sales Permit shall be forfeited and considered null and void.

(2) Any Change of Ownership shall be reported to the Department and shall require the new Establishment owner to apply for a Tobacco Sales Permit with the Department within 30 days.

(3) A completed Tobacco Sales Permit Application must be received by the Department within 30 days of a Change of Ownership.

SEC. 4. Grounds for Permit Denial

(1) The Department will deny an application for a Tobacco Sales Permit for any of the following reasons:

- (a) The Establishment is located in a Supervisorial District that has 45 or more Establishments with Tobacco Sales Permits;
- (b) The Establishment is within 500 feet of a School;
- (c) The Establishment is within 500 feet of another Establishment who holds a valid Tobacco Sales Permit;
- (d) The Establishment's whose main purpose is offering food or beverage consumption on the premises, including Bars and Restaurants;
- (e) The Establishment is a Tobacco Shop;
- (f) The Department never issued a Tobacco Sales Permit at the Establishment's specific location;
- (g) The Establishment is a Pharmacy;
- (h) The Applicant has submitted fraudulent or misrepresentative information in their Application;
- (i) The current Permittee for whom the applicant is purchasing the business from is delinquent in paying their Tobacco Sales Permit H-31 license fee; or
- (j) The owner at the Establishment is in violations of SFHC Article 19, Police Code Section 4600.3 (regulating the self-service merchandising of Tobacco Products), or the California Labor Code.

(2) Appeal of School and/or Other Tobacco Sales Permit distance determinations

- (a) The Department shall determine the distance between School and Establishment property lines using the San Francisco Planning Department's online GIS mapping system.
- (b) If the Applicant appeals the denial of a permit application because the applicant disputes SFDPH's 's determination of the property's distance to a School or permitted Establishment, the Applicant may request a 30-day Tobacco Sales Permit application extension from the date of the application denial. The Applicant shall submit a report including the experience of the mapping company, surveyor, or individual conducting the analysis; method(s) used to verify distance between properties and data used; and its contents are submitted under penalty of perjury to the Director for approval.

SEC. 5. Permit Conditions

All Permittees, Permittee's agents, or employees shall comply with all local, state, and federal laws applicable to Tobacco Products and Tobacco Sales.

(1) Permittee shall pay all Tobacco Sales Permit fees.

(a) All annual license fees, including the retail tobacco license issued by the San Francisco Office of the Treasurer and Tax Collector and the tobacco products license fee issued by the State of California, must be paid in full.

(b) File and pay to San Francisco Treasurer and Tax Collector's Office on a quarterly basis the Cigarette Litter Abatement Fee as required by Chapter 105 of the San Francisco Administrative Code.

(2) Permittee shall not sell Tobacco Products to persons under 21 years of age.

Prevent the sales of tobacco products to all persons under 21 years of age by:

(a) Requesting a current and valid government issued photo identification to comply with state and federal laws.

(b) Posting readable San Francisco and California Tobacco 21 signage in a location near the point of sales for Tobacco Products and visible to all customers.

(3) Permittee shall not sell Tobacco Products with a Characterizing Flavor.

(4) Permittee shall properly display packaged Tobacco Products.

(a) Keep Tobacco Products out of reach of customers and behind the counter or in locked display cases at all times.

(b) Permittee may not sell any cigarette except in a sealed manufacturer's package that complies with federal labeling requirements. This prohibits the selling of individual cigarettes or "loosies" which is a violation of Federal law, State law, and the local San Francisco permit.

(5) Permittee shall prohibit indoor smoking.

No Permittee shall allow indoor smoking of tobacco/nicotine products or any other weed or plant in any enclosed building, including all hookah lounges/bars, restaurants, bars, taverns, and tobacco shops

(6) No Smoking signage shall be posted on Establishment's storefront and within the Establishment that is in accordance with Article 19F, Section 1009.22(i).

(7) Permittee shall designate an on-site employee for complaints or inspections.

An on-site employee shall be designated for each shift as the contact person for any complaints or inspections related to Tobacco Product Sales.

(8) Allow inspection.

Any employee or agent of the Department may enter and inspect the premises of a Permittee during Business hours, without prior notice, if the Department staff has reasonable cause to believe that a public nuisance exists. Upon presentation of proper credentials, the Department staff may enter and inspect at any time during regular business hours any Establishment that is engaging in Tobacco Sales, or is suspected by the Director of engaging in such sales.

(9) Permittee shall display permits and licenses.

A Permittee shall display all permits and licenses in a conspicuous place within their Establishment so that the permits and licenses may be readily seen by individuals entering the Establishment.

SEC. 6. Health Inspection

Health Inspections may be conducted with or without an appointment as determined by Department staff. Department staff may perform activities to ensure compliance with these Rules and any other applicable laws including, but not limited to:

- (1) Review valid permits and licenses;
- (2) Review annual tobacco control training records;
- (3) Conduct a walk-through of the Establishment including behind cashier's counter, kitchen, prep areas, storage rooms, cabinets, restrooms, offices and other rooms associated with the Establishment;
- (4) Take photographs and/or video of tobacco products;
- (5) In collaboration with the San Francisco Police Department, use decoy operations to verify compliance with age restrictions or type of products sold to customers;
- (6) Use decoy operations to determine if the Establishment is selling Tobacco Products without a Health Permit or selling Flavored Tobacco Products;
- (7) Interview any person related to the Establishment including but not limited to the Permittee, employees, or customers; and
- (8) Issue educational materials, an Inspection Report, Notice of Violation, Notice of Correction, and/or Notice of Initial Determination.

SEC. 7. Violations and Penalties

The Director may revoke or suspend a Tobacco Sales Permit, or impose administrative penalties if the Director determines that an Applicant, Permittee, Permittee's agent, or Permittee's employee has engaged in any conduct that violates local, state, or federal law applicable to Tobacco Products and/or Tobacco Sales. SFDPH shall issue a Notice of Violation to the Establishment and follow the Enforcement Procedures as set forth in Appendix A of these Rules.

- (1) Suspension Periods: The Director may suspend the Tobacco Sales Permit set forth in Article 19H section 19H.19:
 - (a) Suspension Periods for Sales of Tobacco Products to Persons under the Age of 21 shall result in a suspension of the Tobacco Sales Permit according to Table 1.

Table 1: Tobacco Sales Permit Suspension Periods for sales of Tobacco Products to persons under the age of 21

Number of Times the Violation Occurred	Permit Suspension Period
1 st violation	20 days
2 nd violation within 1 year of 1 st violation	60 days
3 rd violation within 1 year of the 2 nd violation	180 days
4 th violation that occurs within 1 year of 3 rd violation	180 days
2 nd violation that occurs more than 1 year after the 1 st violation	40 days
3 rd violation that occurs more than 1 year after the 2 nd violation	60 days
4 th violation that occurs more than 1 year after the 3 rd violation	90 days

(b) Permit suspension periods shown in Table 1 may be reduced upon written agreement with SFDPH through the mitigation strategies shown in Table 2 which may be amended from time to time:

Table 2: Tobacco Sales Permit Suspension Reduction Mitigations¹ for Violation of sales of Tobacco Products to persons under the age of 21

Mitigation Strategy		Suspension Reduction Period
1.	Training	
1a.	The Permittee trains all employees regarding state and local tobacco laws and provides SFDPH proof of training through a sign-in sheet.	-5 days
2.	Equipment and Display(s)	
2a.	Install a scanner or other age verification device (only applicable for an Establishment without an age verification device when violation occurred).	-5 days
2.	Equipment and Display(s) Continued	
2b.	Remove all Displayed Tobacco Product advertisements for as long as the Permittee owns the Establishment (only applicable for an Establishment that currently has Tobacco Product Advertisements in the public view prior to when violation occurred).	-10 days

2c.	Cover all Tobacco Products with Permanently Installed Opaque Covering which means a built-in cabinet, shelf, or storage container which cannot be removed easily and does not display tobacco to the public when a tobacco sale is not in progress (only applicable for an Establishment that currently has Tobacco Products in the public view prior to when violation occurred).	-10 days
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¹ The Permittee shall be offered mitigation strategies to reduce a permit suspension only once per year. Each suspension reduction mitigation strategy is available to Permittees once in the lifetime of their Tobacco Sales Permit.

The Equipment and Display Mitigation Strategies shall remain in effect permanently for the life of the Tobacco Sales Permit.

The written agreement will put the Permittee on notice that failure to comply with the agreed upon mitigation strategies will result in a 20-day minimum suspension.

The Permittee shall pay a reinspection fee based on the inspector's hourly rate as noted in Section 1 of these Rules, above, for all inspections and trainings conducted by the Department resulting from any violations.

SEC. 8. Permit Decisions: Right to Appeal

Decisions regarding a permit denial, suspension, revocation, and penalties are subject to appeal under Section 19H.24.

Chapter 3. Density Cap Exception

SEC 1. Definitions

For the purposes of the Density Cap Exceptions in Section 19H.6, the following words or phrases shall have the meanings set forth below.

"Density Cap Exception" means the exceptions defined in Article 19 SFHC Section 19H.6.

"Direct Negotiations" means an Original Owner is in direct negotiations with a New Buyer OR a New Buyer is in direct negotiations with aimed at reaching an agreement for the sale of the Original Owner's Retail Food Store Establishment, Tobacco Shop, Bar, or Tavern to the New Buyer.

"Effective Date" of Section 19H.6 means January 18, 2015.

"Five Years as of the Effective Date" means since January 18, 2010.

"New Buyer" means an individual or entity who is purchasing or acquiring an Establishment from the Original Owner and is applying for a SFDPH Tobacco Sales Permit seeking to continue the sales of tobacco at the Establishment's specific location.

"Original Owner" means an individual or entity who owned an Establishment and was the holder of the SFDPH Tobacco Sales Permit on January 18, 2015 and was in business at the specific location from January 18, 2010 to January 18, 2015.

“Retail Food Store Establishment” means an Establishment that sells foods, such as beverages, dairy, dry goods, fresh produce, other perishable items, beer, wine, and/or liquor sales for consumption.

“Subsequent Buyer” means an individual or entity who is purchasing an Establishment from a New Buyer and is applying for a SFDPH Tobacco Sales Permit seeking to continue the sales of tobacco at the Establishment’s specific location.

“Tobacco Shop” means any tobacco retailer whose principal business is selling Tobacco Products, tobacco paraphernalia, or both, as evidenced by any of the following: 50% or more of floor area and display area is devoted to the sale or exchange of Tobacco Products, tobacco paraphernalia, or both; 70% or more of gross sales receipts are derived from the sale or exchange of Tobacco Products, tobacco paraphernalia, or both; or 50% or more of completed sales transactions include a Tobacco Product or tobacco paraphernalia.

SEC 2. Exceptions for Certain New Permits

The Department will deny an application for a Tobacco Sales Permit for any of the reasons listed in Sections 19H.4(f) and 19.H5. (See Grounds for Permit Denial in Chapter 2, Section 4 of these Rules.)

Notwithstanding Sections 19H.4(f)(3), (4), (5), and (7) and Section 19H.5, the Director is authorized to issue a Tobacco Sales Permit on a one-time basis in the following limited circumstances under Section 19H.6:

- (1) **New Buyer of a Retail Food Store or Tobacco Shop.** A Retail Food Store Establishment or Tobacco Shop Permittee since January 18, 2010, may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sale Permit; (c) for at least five (5) consecutive years immediately before the submission of the affidavit; and (d) Direct Negotiations. Upon submission of the Permittee’s affidavit, a New Buyer may apply for a Tobacco Sales Permit for the Permittee’s Retail Food Store Establishment or Tobacco Shop.
- (2) **Subsequent Buyer of a Retail Food Store or Tobacco Shop.** A Retail Food Store Establishment or Tobacco Shop New Buyer may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sales Permit; and (c) for at least ten (10) years. Upon submission of the New Buyer’s affidavit, a Subsequent Buyer may apply for a Tobacco Sales Permit for the New Buyer’s Retail Food Store Establishment or Tobacco Shop. A Subsequent Buyer applying for a new Tobacco Sales Permit must acquire a 100% ownership interest in the Establishment.
- (3) **Child of Permittee.** A child of a Retail Food Store Establishment or Tobacco Shop Permittee may apply for a Tobacco Sales Permit for their parent’s Establishment if their parent holds a Tobacco Sales Permit as of January 18, 2015. The child applying for a new Tobacco Sales Permit must have a 100% ownership interest in the Establishment.
- (4) **Seismic Retrofitting Relocation.** A Retail Food Store Establishment or Tobacco Shop Permittee as of January 18, 2015, which must relocate from their Establishment due to seismic retrofitting under Chapter 34B of the Building Code may apply for a Tobacco

Sales Permit for their Establishment. The Permittee's application is subject to further review including confirmation of seismic retrofitting by the Department of Building Inspection.

- (5) **New Buyer of a Tavern.** A Tavern Permittee since January 18, 2010, that seeks to demonstrate previous compliance with Section 1009.23(d) of Article 19F of SFHC (prohibition against smoking in enclosed areas), shall submit a copy of their previously approved SFDPH application which establishes that an area within the Tavern is a historically compliant semi-enclosed smoking room. Additionally, the Tavern Permittee may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sale Permit; (c) for at least five (5) consecutive years immediately before the submission of the affidavit; and (d) Direct Negotiations. Upon submission of the Tavern Permittee's affidavit, a New Buyer may apply for a Tobacco Sales Permit for the Permittee's Tavern.
- (6) **Subsequent Buyer of a Tavern.** A New Buyer of a Tavern may submit an affidavit to the Director attesting to: (a) their continuous ownership of the Establishment; (b) under the same Tobacco Sales Permit; and (c) for at least ten (10) years. Upon submission of a New Buyer's affidavit, a Subsequent Buyer may apply for a Tobacco Sales Permit for the New Buyer's Tavern. A Subsequent Buyer applying for a new Tobacco Sales Permit must acquire 100% ownership of the Establishment.
- (7) **Death or Divorce.** A spouse or domestic partner may acquire the ownership from the Permittee of an Establishment through the death or divorce. The spouse or domestic partner applying for a new Tobacco Sales Permit must have a 100% ownership interest in the Establishment.

If an owner or entity is applying for an Exception set forth in 19H.6, proof of documentation of a Direct Negotiation is required and shall be submitted with the Permit Application, including but not limited to: escrow documents, notarized letter regarding sale of the business with the Permittee and New Buyer or Subsequent Buyer, and/or alcohol license sales contract. Other documentation may be required by the Department in order to confirm any Exceptions for Certain New Permits listed in Chapter 3, Sec 2.

Chapter 4. Favored Tobacco Products (Article 19Q of the SFHC)

SEC 1. Definitions

As used in these Rules, the following words or phrases shall have the meanings set forth below.

"Marketing" means the process or technique of promoting, selling, and distributing a product or service.

SEC 2. Penalties for Violation of Article 19Q

- (1) Abatement opportunity.

For a first time violation of Article 19Q (Prohibiting the Sale of Flavored Tobacco Products), a Permittee will be afforded the opportunity to remove Tobacco Products with a Characterizing Flavor from their Establishment in lieu of a permit suspension or

administrative penalty. Failure to remove such products within 72 hours shall result in the suspension of the Tobacco Sales Permit for 10 days. SFDPH shall issue a Notice of Violation to the Establishment and follow the Enforcement Procedures as set forth in Appendix A of these Rules.

- (2) Violations of Article 19Q (Prohibiting the Sale of Flavored Tobacco Products) shall result in a suspension of the Tobacco Sales Permit according to Table 3.

Table 3: Tobacco Sales Permit Suspension Periods for Sales or Distribution of Tobacco Products with a Characterizing Flavor: second or subsequent violations

Number of Times the Violation Occurred	Permit Suspension Period
1 st violation	10 days
2 nd violation	20 Days
3 rd violation	40 Days
4 th and each violation afterwards	90 Days

SEC 3. Flavored Tobacco Products List

- (1) SFDPH will develop and maintain a non-exhaustive Flavored Tobacco Products List to facilitate compliance with and enforcement of Article 19Q. The Flavored Tobacco Products List will be maintained on SFDPH's website:

<https://www.sfdph.org/dph/EH/Tobacco/flavoredtobacco.asp>

- (2) The Flavored Tobacco Products List will include:

- (a) Tobacco Products that SFDPH has determined to be Flavored Tobacco Products based on their taste or aroma.
- (b) Tobacco Products SFDPH presumes to be Flavored Tobacco Products based on their Labeling, Packaging, or Marketing. SFDPH will presume that a Tobacco Product is a Flavored Tobacco Product if the Manufacturer or any of the Manufacturer's agents or employees has made a statement or claim directed to consumers or to the public that the Tobacco Product has or produces a Characterizing Flavor, including, but not limited to, text, color, and/or images on the product's Labeling or Packaging that are used to explicitly or implicitly communicate that the Tobacco Product has a Characterizing Flavor. SFDPH will presume that a Tobacco Product is flavored if its Labeling, Packaging, or Marketing include descriptive terms such as "spicy" and "sweet" that imply or evoke Characterizing Flavors. SFDPH will not presume that a Tobacco Product is a Flavored Tobacco Product if the only descriptors that appear on its Labeling, Packaging, or Marketing are "strong," "mild," or "plain," where those descriptors appear to be referring to the taste of tobacco.
- (c) Tobacco Products that have been found by an administrative law judge to be Flavored Tobacco Products, following an administrative hearing. SFDPH will

update the Flavored Tobacco Products List to include such products within 14 days of the issuance of an administrative decision.

SEC 4. Permittee Inquiry about Flavored Tobacco Products

A Permittee may inquire of SFDPH whether a Tobacco Product is a Flavored Tobacco Product for purposes of Article 19Q by sending an inquiry to 1390 Market Street, Suite 210, San Francisco, CA 94102 or SF-FlavoredTobacco@sfdph.org. Such inquiry must include the brand, product name, product type, and either (1) a photocopy, photograph, or digital image of the products packaging and labeling, or (2) a web link to digital images of the product's packing and labeling. If SFDPH determines that the Tobacco Product is Flavored based on its aroma or taste, or that it is presumed to be flavored based on its Packaging, Labeling, or Marketing, SFDPH will update the Flavored Tobacco Products List within 45 days of the receipt of the inquiry, and will advise the Permittee of its conclusions within the same time frame.

Chapter 5. Electronic Cigarettes that Require but Lack Authorization from the U.S. Food and Drug Administration (Articles 19R and 19S of the SFHC)

SEC. 1. Background

On June 25, 2019, the Board of Supervisors passed Ordinance No. 122-19, which amends the SFHC to add new Articles 19R and 19S. These articles prohibit the sale and distribution of Electronic Cigarettes that require premarket review under the federal Family Smoking Prevention and Tobacco Control ("Tobacco Control Act") but have not received a Premarket Tobacco Product Marketing Order from the U.S. Food and Drug Administration ("FDA") authorizing their sale.

In addition, Articles 19Q and 19S of the SFHC prohibit the sale and distribution of Tobacco Products—including Electronic Cigarettes—that contain constituents that impart a characterizing flavor. (See Chapter 4 of these Rules discussing the prohibition on the sale of Flavored Tobacco Products.)

SEC. 2. Definitions

For purposes of enforcement of Articles 19R and 19S, the following terms shall have the following meanings:

"Director" means the Director of Health, or the Director's designee.

"Distributor" means any Person other than a common carrier who transfers an Electronic Cigarette or Flavored Tobacco Product, whether domestic or imported, at any point from the original place of manufacture to the Person who sells or distributes the Electronic Cigarette or Flavored Tobacco Product to individuals for personal consumption.

"Electronic Cigarette" has the meaning set forth in Section 30121 of the California Revenue and Taxation Code, as may be amended from time to time. As of the date these Rules were last updated (noted on Page 1), Section 30121 defined the term "Electronic Cigarette" to mean:

“any device or delivery system sold in combination with nicotine which can be used to deliver to a person nicotine in aerosolized or vaporized form, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic cigarettes include any component, part, or accessory of such a device that is used during the operation of the device when sold in combination with any liquid or substance containing nicotine. Electronic cigarettes also include any liquid or substance containing nicotine, whether sold separately or sold in combination with any device that could be used to deliver to a person nicotine in aerosolized or vaporized form. Electronic cigarettes do not include any device not sold in combination with any liquid or substance containing nicotine, or any battery, battery charger, carrying case, or other accessory not used in the operation of the device if sold separately. Electronic cigarettes shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use. As used in this subdivision, nicotine does not include any food products as that term is defined pursuant to Section 6359.”

Electronic Cigarette includes any device or delivery system sold in combination with nicotine for a single price.

"Establishment" means any store, stand, booth, concession or any other enterprise that engages in the retail sale of tobacco products, including stores engaging in the retail sale of food items.

"Exemption from Substantial Equivalence Marketing Order" means an order issued by the FDA under the authority of 21 U.S.C. § 387j(a)(2)(A)(ii) that a tobacco product is exempt from the requirements of 21 U.S.C. § 387(e) or pursuant to a regulation issued under 21 U.S.C. § 3873e(j)(3).

"Flavored Tobacco Product" shall have the meaning set forth in SFHC Section 19Q.2. -

"List of Approved Electronic Cigarettes Pending FDA Posting" means a list to be maintained by SFDPH of tobacco products that are the subject of a Tobacco Product Marketing Order that has been issued by the FDA, but that has not yet been posted on the FDA's website.

"Manufacturer" means any Person who manufactures, fabricates, assembles, processes, or labels an Electronic Cigarette or imports a finished Electronic Cigarette for sale or distribution in the United States.

"New Tobacco Product" has the meaning set forth in 21 U.S.C. § 387j(a)(1), as may be amended from time to time. As of the date these Rules were last updated (noted on Page 1), Section 387j defined the term "new tobacco product" to mean:

(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of February 15, 2007; or

(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after February 15, 2007.

“Permittee” means a Person who holds a Tobacco Sales Permit from the Department for a specific location.

“Person” means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

“Premarket Tobacco Product Marketing Order” means an order issued by the FDA under the authority of 21 U.S.C. § 387j(c)(1)(A)(i) that a tobacco product may be introduced or delivered for introduction into interstate commerce.

“Sell,” “Sale,” and “to Sell” means any transaction, including but not limited to transactions over the phone, in person, or online, where, for any consideration, ownership of a Tobacco Product is transferred from one Person to another, including but not limited to any transfer of title or possession for consideration, exchange, or barter, in any manner or by any means.

“Substantial Equivalence Marketing Order” means an order issued by the FDA under the authority of 21 U.S.C. § 387j(a)(2)(A)(i) that a tobacco product is substantially equivalent to an eligible predicate tobacco product and in compliance with the requirements of the Tobacco Control Act.

“Tobacco Product Marketing Order” means a Substantial Equivalence Marketing Order, an Exemption from Substantial Equivalence Marketing Order, or a Premarket Tobacco Product Marketing Order.

SEC. 3. Electronic cigarettes that may lawfully be sold in San Francisco

Articles 19R and 19S prohibit the sale of Electronic Cigarettes that: (1) are New Tobacco Products; (2) require premarket review under 21 U.S.C. § 387j; and (3) do not have a premarket review order under 21 U.S.C. § 387j(c)(1)(A)(i).

According to the FDA, there are no Electronic Cigarettes on the market today that do not qualify as New Tobacco Products.

Therefore, the only Electronic Cigarettes that may lawfully be sold in San Francisco or to a Person in San Francisco consistent with Articles 19R and 19S of the SFHC are: (1) Electronic Cigarettes that do not require premarket review, as evidenced by the fact that they are the subject of a Substantial Equivalence Marketing Order or an Exemption from Substantial Equivalence Marketing Order; and (2) Electronic Cigarettes that are the subject of a Premarket Tobacco Product Marketing Order.

The FDA posts on its website:

- (1) A list of Substantial Equivalence Marketing Orders issued by the FDA. <https://www.fda.gov/tobacco-products/substantial-equivalence/marketing-orders-se>
- (2) A list of Exemption from Substantial Equivalence Marketing Orders issued by the FDA. <https://www.fda.gov/tobacco-products/exemption-substantial-equivalence/marketing-orders-exemption-se>
- (3) A list of Premarket Tobacco Product Marketing Orders issued by the FDA. <https://www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-orders>

In some instances, there may be a delay between the date that the FDA issues a Tobacco Product Marketing Order to a Manufacturer and its posting of such order on the FDA website. A Manufacturer or Distributor that possesses a Tobacco Product Marketing Order that has been issued by the FDA—but that has not yet posted on the FDA's website—may send a true and correct copy of such Tobacco Product Marketing Order to SFDPH. Upon receipt and confirmation that the Tobacco Product Marketing Order is valid, SFDPH shall add the name of the Electronic Cigarette to the List of Approved Electronic Cigarettes Pending FDA Posting. SFDPH will post such list on its website at <https://www.sfdph.org/ecigs>.

Electronic Cigarettes that do not appear on any one of the FDA's three Marketing Order lists, or on SFDPH's List of Approved Electronic Cigarettes Pending FDA Posting, may not lawfully be sold in San Francisco or to a Person in San Francisco. Distributors, retailers, and consumers seeking to confirm whether an Electronic Cigarette may lawfully be sold in San Francisco, or to a Person in San Francisco, must consult these lists.

In addition, Articles 19Q and 19S of the SFHC prohibit the sale and distribution of any and all Tobacco Products that have a Characterizing Flavor as defined in Chapter 2 of these Rules. So, even if an Electronic Cigarette appears on one of the three FDA lists or on the List of Approved Electronic Cigarettes Pending FDA Posting, it may not lawfully be sold or distributed in San Francisco if it has a Characterizing Flavor. (For more information about Flavored Tobacco Products, see Chapters 2 and 4 of these Rules.)

SEC 4. Penalties for Violation of Article 19R

(2) Abatement opportunity.

For a first time violation of Article 19R (Prohibiting the Sale of Electronic Cigarettes Lacking FDA Pre-Market Approval), a Permittee will be afforded the opportunity to remove from display and/or its Establishment all Electronic Cigarettes that may not lawfully be sold in San Francisco, in lieu of a permit suspension. Failure to remove such products within 72 hours shall result in the suspension of the Tobacco Sales Permit for 10 days. SFDPH shall issue a Notice of Violation to the Establishment and follow the Enforcement Procedures as set forth in Appendix A of these Rules prior to the imposition of such suspension.

(3) Violations of Article 19R (Prohibiting the Sale of Electronic Cigarettes Lacking FDA Pre-Market Approval) shall result in a suspension of the Tobacco Sales Permit according to Table 4.

Table 4: Tobacco Sales Permit Suspension Periods for Sales or Distribution of Electronic Cigarette in Violation of Article 19R

Number of Times the Violation Occurred	Permit Suspension Period*
1 st violation	10 days (unless product(s) have been removed within 72 hours)
2 nd violation	20 Days
3 rd violation	40 Days
4 th and each violation afterwards	90 Days

SEC 5. Penalties for Violation of Article 19S

SFDPH shall issue administrative penalties for violations of Article 19S consistent with Chapter 100 of the Administrative Code. Prior to issuing a citation for a first violation of Article 19S, SFDPH shall issue a Notice of Correction advising the Person of the violation and affording them the opportunity to recall all Electronic Cigarettes and/or Flavored Tobacco Products that they sold or distributed in violation of Article 19S, in lieu of an administrative penalty. If the violator chooses to recall all such Electronic Cigarettes and/or Flavored Tobacco Products, the violator shall submit to SFDPH an affidavit declaring that it has recalled all of the Electronic Cigarettes that it sold or distributed to Persons in San Francisco in violation of Article 19S and will not engage in any future sales or distributions of such products to Persons in San Francisco. If the violator fails or refuses to recall all Electronic Cigarettes and/or Flavored Tobacco Products sold in violation of Article 19S, SFDPH shall issue a citation for administrative penalties and shall make a referral to the City Attorney for enforcement.

EXHIBIT “H”



City and County of San Francisco
London N. Breed, Mayor

San Francisco Department of Public Health

Grant Colfax, MD
Director of Health

Notification of Tobacco Permit Denial

EFFECTIVE DATE: November 27, 2021

FACILITY NAME (DBA): Liquid Experience Inc **FACILITY ADDRESS & ZIP:** 1589 Haight St, San Francisco, CA 94117

LEGAL OWNER NAME: Liquid Experience Inc **RESPONSIBLE PERSON NAME:** Nabaraj Raut & Ramhari KC

Mailing Address, City, State, Zip: 1589 Haight St, San Francisco, CA 94117

EHD ID#: 112320 **Supervisory District:** 5 **Number of Tobacco Permits:** 71

Dear Nabaraj Raut and Ramhari KC:

You are hereby notified that your application for San Francisco Department of Public Health (SFPDH) Retail Tobacco Sales Permit at 1589 Haight St, San Francisco, CA 94117 ("Business Location") has been denied, in accordance with Article 19H of the San Francisco Health Code (SFHC) and San Francisco Department of Public Health Director's Rules and Regulations for Retail Tobacco Sales, on the following basis:

You submitted an application for a Retail Tobacco Sales Permit on October 12, 2021. On November 10, 2021, your application was complete.

Thank you for submitting a complete and accurate application.

Reasons for Denial of Retail Tobacco Sales Permit:

1. According to the SFHC 19H.4(f) and 19H.5(a), no new permit shall be issued in any supervisory district that has 45 or more Establishments with Tobacco Sales Permits.
The Business Location is located in Supervisory District 5 which currently has 71 valid Retail Tobacco Sales Permits.
2. According to SFHC 19H.4(f), no new permit shall be issued if the Applicant will be located within 500 feet of the nearest point of the property line of an existing Establishment or School as measured by a straight line from the nearest point of the property line on which the Applicant's Establishment will be located to the nearest point of the property line of the existing Establishment or School.
The Business Location is located within 500 feet of two other Establishments (Ashbury Tobacco Center and Puff Puff Pass) that have a valid Retail Tobacco Sales Permit and one School (Mark's Family Home School). (Please see the attached map)
3. According to SFHC 19H.6.C, a child of a Retail Food Store Establishment or Tobacco Shop Permittee may apply for a Tobacco Sales Permit for their parent's Establishment if their parent holds a Tobacco Sales Permit as of January 2015.
The applicants, Nabaraj Raut and Ramhari KC, are not a child of the Permittee.

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.
We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~
~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all

grant.colfax@sfdph.org ♦ (415) 554-2526 ♦ 101 Grove Street, Room 308, San Francisco, CA 94102

In addition, we have reviewed all other exceptions under SFHC Article 19H.6 listed below, where SFDPH has determined that the applicant does not qualify for any exception. If you believe that you do qualify for one of the below exceptions, you are able to submit a new tobacco application with the \$100 nonrefundable processing fee.

EXCEPTIONS FOR CERTAIN NEW PERMITS

1. **A Retail Food Store Establishment or Tobacco Shop Owner since January 18, 2010 and with a Tobacco Permit since January 18, 2015** may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sale Permit; (c) for at least five (5) consecutive years immediately before the submission of the affidavit; and (d) Direct Negotiations. Upon submission of the Permittee's affidavit, a New Buyer may apply for a Tobacco Sales Permit for the Permittee's Retail Food Store Establishment or Tobacco Shop.

The Permittee, Liquid Experience Inc. (Officers - Firrad Zawaideh, Zena Zawaideh, and Fatin Zawaideh), at the Business Location was issued their Retail Tobacco Permit on October 10, 2014, therefore did not own and operate continuously from January 18, 2010 to January 18, 2015.

2. **Subsequent Buyer of a Retail Food Store or Tobacco Shop.** A Retail Food Store Establishment or Tobacco Shop New Buyer may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sales Permit; and (c) for at least ten (10) years. Upon submission of the New Buyer's affidavit, a Subsequent Buyer may apply for a Tobacco Sales Permit for the New Buyer's Retail Food Store Establishment or Tobacco Shop. A Subsequent Buyer applying for a new Tobacco Sales Permit must acquire a 100% ownership interest in the Establishment.

The Permittee at the Business Location is not the Original Owner as of January 18, 2015, and cannot be defined as a New Buyer.

3. **Seismic Retrofitting Relocation.** A Retail Food Store Establishment or Tobacco Shop Permittee as of January 18, 2015, which must relocate from their Establishment due to seismic retrofitting under Chapter 34B of the Building Code may apply for a Tobacco Sales Permit for their Establishment. The Permittee's application is subject to further review including confirmation of seismic retrofitting by the Department of Building Inspection.

The Permittee at the Business Location is not relocating due to seismic retrofitting under Chapter 34B.

4. **New Buyer of a Tavern.** A Tavern Permittee since January 18, 2010, that seeks to demonstrate previous compliance with Section 1009.23(d) of Article 19F of SFHC (prohibition against smoking in enclosed areas), shall submit a copy of their previously approved SFDPH application which establishes that an area within the Tavern is a historically compliant semi-enclosed smoking room. Additionally, the Tavern Permittee may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sale Permit; (c) for at least five (5) consecutive years immediately before the submission of the affidavit; and (d) Direct Negotiations. Upon submission of the Tavern Permittee's affidavit, a New Buyer may apply for a Tobacco Sales Permit for the Permittee's Tavern.

The business Location is not a Tavern that is a cigar or smoking bar.

5. **Subsequent Buyer of a Tavern.** A New Buyer of a Tavern may submit an affidavit to the Director attesting to: (a) their continuous ownership of the Establishment; (b) under the same Tobacco Sales Permit; and (c)

for at least ten (10) years. Upon submission of a New Buyer's affidavit, a Subsequent Buyer may apply for a Tobacco Sales Permit for the New Buyer's Tavern. A Subsequent Buyer applying for a new Tobacco Sales Permit must acquire 100% ownership of the Establishment.

The business location is not a Tavern that is a cigar or smoking bar.

6. **Death or Divorce.** A spouse or domestic partner may acquire the ownership from the Permittee of an Establishment through the death or divorce. The spouse or domestic partner applying for a new Tobacco Sales Permit must have a 100% ownership interest in the Establishment.

The applicant is not the spouse or domestic partner of the Permittee.

Appeal Process. You have the right to appeal this decision to deny your application for a tobacco retailer permit. *(Pursuant to Section 19H.24 and Article 1 of the San Francisco Business and Tax Regulations Code). Appeals must be filed in person with the San Francisco Board of Appeals within 15 calendar days of the date of this notice. The Board of Appeals is located at: 49 South Van Ness Ave., Suite 1475 (Telephone #: (628) 652-1150).*

The failure to file an appeal will waive your right to a hearing and shall deem SFDPH decision to deny your tobacco permit as final.

Cease and Desist All Tobacco Products Sales. Immediately discontinue the sales of tobacco products, including but not limited to, cigarettes, cigars, cigarillos, tobacco shisha, electronic smoking devices and juices, smokeless tobacco, and nicotine-containing containing products. No person may engage in or allow tobacco sales in any establishment without a valid SFDPH tobacco sales permit. *(Pursuant to SFHC §§ 19H.3, 19N.3, and 19N.5(a)).*

Imposition of Administrative Fines and Penalties. Selling tobacco products without a valid permit may result in an administrative penalty of up to five hundred dollars (\$500.00) per day for each day that tobacco product sales occur without a valid permit. *(Pursuant to SFHC §§ 19H.17(a), 19H.20, 19N.3(b)).*

Sincerely,

Patrick Fosdahl

For Director of Health Grant Colfax, MD

Patrick Fosdahl, MS, REHS Director of Environmental Health		
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cc: Jennifer Callewaert

USPS TRACKING#



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 1268 5246 5921 25

United States
Postal Service



• Sender: Please print your name, address, and ZIP+4® in this box•

Attn: Maribel Rodriguez
Environmental Health Branch
Retail Tobacco & Smoking Program
49 South Van Ness, Ste 600
San Francisco CA 94103

Tobacco Permit Denial Letter

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Liquid Experience
c/o Nabaraj Raut
1589 Haight St
San Francisco CA 94117



9590 9402 1268 5246 5921 25

2. Article Number (Transfer from service label)

7004 2510 0004 1742 7774

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

R. R. R. R. R.

C. Date of Delivery

- D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

EXHIBIT “I”



City and County of San Francisco
 Department of Public Health Population Health Division
 Environmental Health Branch
 49 South Van Ness Ave. Suite 600 San Francisco, CA 94103
 (415) 252-3800
<https://www.sfdph.org/dph/EH/Tobacco/default.asp>



Application for the Sale of Tobacco Products

Application Date: 3-29-2022 First Date of Tobacco Sales:

Business Information Official correspondence from SFDPH will be sent to the mailing address on record with the San Francisco Office of the Treasurer and Tax Collector (SFTTX)

Business Name (DBA): LIQUID EXPERIENCE, INC San Francisco Business Account # (BAN): 0487471

Business Address including zip code: 1589 HAIGHT ST. SF CA 94117 CDTFA Cigarette Retailer License #: 091364204

Establishment Type: a) Grocery/Market b) Liquor Store c) Tobacco/Vape Shop
 d) Gas/Service Station e) Restaurant/Bar f) Gift/Novelty Store g) Other

Legal Owner Information Legal Owner Structure: Sole Proprietor Partnership Corporation Other

Legal Owner Name: ~~XXXXXXXXXXXX~~ LIQUID EXPERIENCE, INC Legal Owner Email Address: NAWARAJRAUT@GMAIL.COM

Legal Owner Address including zip code: 4319 Center Ave Richmond, CA 94804 Legal Owner Phone Number: (510) 674-4798

List all Owners or Principal Officers and Ownership Percentages: (Print Name(s)) Attach additional sheets if necessary

FIRRAS ZAWAIDEH	50 %	NABARAJ RAUT	26 %
RAMHARI KC	24 %	-	%

Main Contact's Name: NABARAJ RAUT Same as Legal Owner Manager Legal Agent Other

Main Contact's Email: NAWARAJRAUT@GMAIL.COM Main Contact's Phone Number: (510) 674-4798

Incomplete applications cannot be processed and will be returned to the Applicant. The application will be deemed abandoned if the Applicant fails to submit a complete and accurate application with all required documentation within 30 days from the date the application is returned to the Applicant. After 30 days, the Applicant will be required to submit a new application and non-refundable processing fee.

Signature of Applicant(s): All Owners and Corporate Officers must sign. Attach additional sheets if necessary.

I/We declare under penalty of perjury the information on this application and in other materials submitted in support of this application are true and correct. I/We hereby consent to all necessary inspections made pursuant to the SF Health Code and incidental to the issuance of any exception, permit, and operation of this business. I/We understand that once submitted, the application processing fee is nonrefundable. I/We acknowledge that I am/we are responsible for complying with all local, state, and federal laws, codes, and rules and regulations relating to tobacco products, tobacco control, and the prohibition of smoking in enclosed establishments and certain unenclosed areas. If SFDPH staff discovers false or misleading information, I/we understand that the tobacco permit may be denied or revoked by SFDPH. **I/We may not sell any tobacco products, including but not limited to, cigarettes, electronic nicotine delivery systems, and nicotine-containing products without first obtaining a valid SFDPH Tobacco Sales Permit.** I/We understand selling tobacco products without a valid SFDPH permit may result in the denial of a SFDPH Tobacco Sales Permit.

X *Firas* Date: 03/29/22 X *Nabaraj Raut* Date: 03/29/22
 X *Raut* Date: 03/29/22 X _____ Date: _____



Declaration of Healthy and Safe Working Conditions
Declaración de Condiciones de Trabajo Sanas Y Seguras
健康及安全工作條件聲明
Deklarasyon ng Mabuti at Ligtas na Kondisyon sa Trabaho

The Department of Public Health is responsible for ensuring healthy and safe conditions for those working and living in San Francisco. Establishments permitted by the Department must remain compliant with all laws.

El Departamento de Salud es responsable de asegurar condiciones saludables y seguras para las personas que trabajan y viven en San Francisco. Establecimientos permitidos por el Departamento deben cumplir con todas las leyes.

衛生署是負責確保於三藩市工作及居住的人士有一健康和安全的環境。從衛生署取得許可營運的設施/場所必須保持遵守所有法律。

Ang Kagawaran ng Pamublikong Kalusugan ay may pananagutan para sa pagtiyak ng mabuti at ligtas na mga kondisyon para sa mga nagtatrabaho at naninirahan sa San Francisco. Ang mga establisyemento na pinahihintulutan ng Kagawaran ay dapat manatiling sumusunod sa lahat ng mga batas.

Owner/Operator:	NABARAJ RAUT & RAMHARI KC LIQUID EXPERIENCE, INC
DBA/Name of Business:	LIQUID EXPERIENCE
Business Address:	1589 HAIGHT ST., SF CA 94117 San Francisco, CA 94117

翻譯及你的簽署聲明在本頁後面。

¡Ojo! La traducción y firma de su declaración se encuentra en la parte posterior de esta página.

Ang pagsasalin at paglagda ng iyong deklarasyon ay nasa likod ng pahinang ito.

1. I understand that this business must comply with all local, state, and federal labor laws in order to obtain and maintain a valid Permit To Operate from the Department. I affirm that as an operator of the above business, I am aware of and agree to comply with the following laws when applicable to my business:	
• San Francisco Labor Codes	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
• California Labor Code Division 4—Have and maintain Workers Compensation Insurance or be self-insured)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
• California Labor Code Division 2—Employment Regulation and Supervision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
• California Labor Code Division 5—Occupational Health and Safety	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
• All other federal, state, and local labor codes	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. I will request my provider of Workers Compensation Insurance to designate as a "Certificate Holder" the SF Environmental Health Branch at 49 South Van Ness Ave, #600, San Francisco, CA 94103.	

I am the owner or authorized agent of the owner of this business. I declare under penalty of perjury that the information on this Declaration of Healthy and Safe Working Conditions is true and correct.

NABARAJ RAUT/RAMHARI KC [Signature] FIRRAS ZAWAIDEH 03/29/22
 Print Name Signature Date

I acknowledge that failure to comply with all applicable federal, state, and local labor laws may result in suspension or revocation of my Permit To Operate issued by the San Francisco Department of Public Health or a referral to the applicable federal, state, or local agency for enforcement.

FIRRAS ZAWAIDEH [Signature] 03/29/22
 Print Name Signature Date
NABARAJ RAUT [Signature] RAMHARI KC

EXHIBIT “J”



City & County of San Francisco
 Department of Public Health
 Environmental Health Branch
 Tobacco & Smoking Program
 49 S Van Ness Ave. Suite 600 SF, CA 94103
 (415) 252-3800
<https://www.sfdph.org/dph/EH/Tobacco/default.asp>



Tobacco Application Review Checklist

Staff Name: Maribel Rodriguez
Staff Phone #: 415-252-3912
Staff Email: maribel.rodriguez@sfdph.org

Initial Review Date: 3/28/22
Final Review Date: 4/12/22
Permit Notification Date: 4/13/22

Section 1: Application Overview	
Business Name/DBA: Liquid Experience, Inc	Date Received: 4/8/22
Business Address: 1589 Haight St	Legal Owner Name: Liquid Experience Inc
Establishment Type: Liquor Store	Legal Owner Structure: Corporation
SFTTX BAN: 0487471	CDTFA Cigarette Retailer License #: 091364204
Main Contact Name: Nabaraj Raut	EHD Location ID: 115224
Contact Phone #: 510-674-4798	Email Address: nawarajraut@gmail.com
Supervisory District: 5	# of Tobacco Permits: 69 As of this date: 10/28/21
1. Are all Owners/Corporate Officer names and their ownership percentages filled out on the application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is the application signed by all Owners/Corporate Officers? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
3. Is the Declaration of Healthy & Safe Working Conditions completed, signed, and dated? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Section 2: Application Type	
1. Does the DBA, Legal Owner Name, and Business Address match on the Application, SFTTX BAN, and CDTFA License? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
2. For Corporations: Do all corporate officers listed on the Application appear on the Secretary of State documents? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
3. Is the business type changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
4. Is the applicant applying for a new permit or an amended permit? Note: A change of ownership is defined as a 50% or more change within a 12-month period for sole proprietors/partnerships (25% for corporations.) <input type="checkbox"/> New Permit <input checked="" type="checkbox"/> Amended Permit 	

Section 3: Amended Permit	
What is the applicant amending/updating for the SFDPH Tobacco Permit?	
<input type="checkbox"/> Legal Owner Name	<input checked="" type="checkbox"/> Increase/Decrease Ownership Percentages
<input type="checkbox"/> DBA	<input type="checkbox"/> Contact Information
<input checked="" type="checkbox"/> Increase/Decrease Partners/Officers	

Section 4: New Permit Under Density Rules		
1. Has this location not previously been occupied by a Tobacco permitted Establishment?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Is this business applying to operate with on-site consumption of food or beverage? (i.e. restaurant or bar)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Is this business applying to operate as a Tobacco Shop?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Is the # of Tobacco Permits in the Supervisorial District above or equal to 45?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. Is there an existing SFDPH Tobacco Permit within 500 feet of this business?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6. Is the business located within 500 feet of a school?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Section 5: New Permit Under One-Time Exception		
1. Does the applicant qualify for a SFHC 19H.6 exception?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Did the applicant submit a signed affidavit?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Did the applicant submit supporting documentation for 19H.6 exception?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> N/A

Application Status: Complete Incomplete as of this date: 4/8/22

Comments:	
3/28: Spoke to applicant (Firras) about legal ownership information on application 3/29: Received updated application 4/4: New location ID created 4/6: Spoke to Firras about needing to submit proof of partnership (all applicants need to be on the SOS) 4/8: Email sent to make corrections 4/8: SOS was updated	
<input checked="" type="checkbox"/> Submit Corrections / Documents By This Date: 5/9/22	<input checked="" type="checkbox"/> Notification Email/Letter Sent Date: 4/8/22

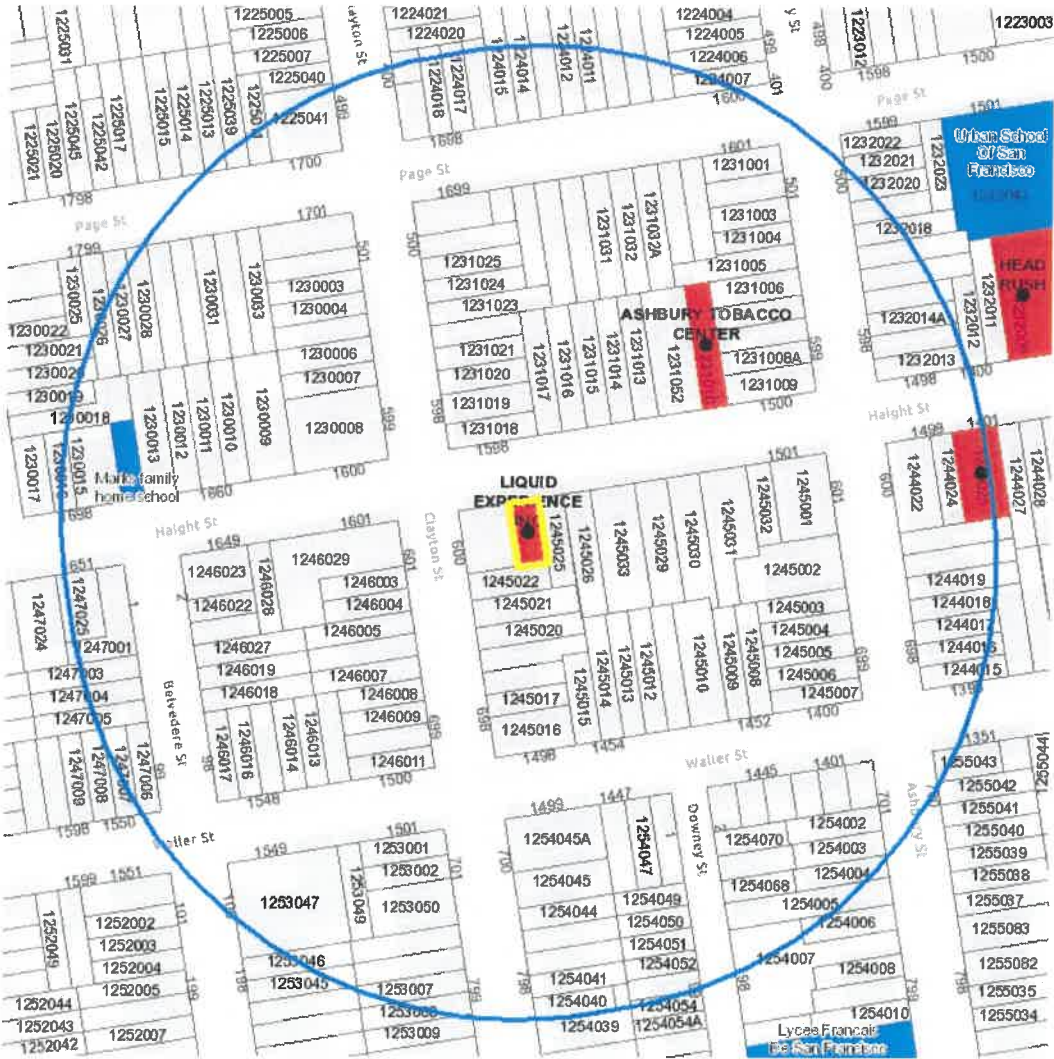
EXHIBIT “K”

Retail Tobacco Sales Permit Density - Block Lot 1589 HAIGHT ST

Legend

- Public or Private School
 - Active Tobacco Sales Permit
 - Proposed Retail Tobacco Location
- 500 foot buffer

- Trade Name: LIQUID EXPERIENCE INC
- Supervisor District: SUPERVISORIAL DISTRICT 5
- Exempt : No



MJR
4/6/22

EXHIBIT “L”



City and County of San Francisco
London N. Breed, Mayor

San Francisco Department of Public Health

Grant Colfax, MD
Director of Health

Notification of Tobacco Permit Denial

EFFECTIVE DATE: April 12, 2021

FACILITY NAME (DBA): Liquid Experience Inc

FACILITY ADDRESS & ZIP: 1589 Haight St, San Francisco, CA 94117

LEGAL OWNER NAME: Liquid Experience Inc

RESPONSIBLE PERSON NAME: Firras, Zawaideh, Nabaraj Raut, Ramhari KC

Mailing Address, City, State, Zip: 1589 Haight St, San Francisco, CA 94117

EHD ID#: 115224

Supervisorial District: 5

Number of Tobacco Permits: 69

Dear Firras Zawaideh, Nabaraj Raut and Ramhari KC:

You are hereby notified that your application for San Francisco Department of Public Health (SFDPH) Retail Tobacco Sales Permit at 1589 Haight St, San Francisco, CA 94117 (“Business Location”) has been denied, in accordance with Article 19H of the San Francisco Health Code (SFHC) and San Francisco Department of Public Health Director’s Rules and Regulations for Retail Tobacco Sales, on the following basis:

You submitted an application for a Retail Tobacco Sales Permit on March 29, 2022. On April 12, 2022, your application was complete. Thank you for submitting a complete and accurate application.

Reasons for Denial of Retail Tobacco Sales Permit:

1. According to the SFHC 19H.4(f) and 19H.5(a), no new permit shall be issued in any supervisorial district that has 45 or more Establishments with Tobacco Sales Permits.

The Business Location is located in Supervisorial District 5 which currently has 69 valid Retail Tobacco Sales Permits.

2. According to SFHC 19H.4(f), no new permit shall be issued if the Applicant will be located within 500 feet of the nearest point of the property line of an existing Establishment or School as measured by a straight line from the nearest point of the property line on which the Applicant's Establishment will be located to the nearest point of the property line of the existing Establishment or School.

The Business Location is located within 500 feet of two other Establishments (Ashbury Tobacco Center and Puff Puff Pass) that have a valid Retail Tobacco Sales Permit and one School (Mark’s Family Home School). (Please see the attached map)

3. According to the SFHC 19H.2, a change of 50 percent or more of the ownership of the business within a 12-month period is deemed a “Change of Ownership”. Provided, however, that if the Permittee is a corporation, transfer of 25 percent of the stock ownership of the permittee shall be deemed to be a “Change of Ownership”.

The Permittee, Liquid Experience Inc. (Officers - Firras Zawaideh, Zena Zawaideh, and Fatin Zawaideh), is not able to amend the permit to ownership percentages of Firras Zawaideh at 50 percent, Nabaraj Raut at 26 percent, and Ramhari KC at 24 percent since this would be considered a Change of Ownership.

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all

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In addition, we have reviewed all other exceptions under SFHC Article 19H.6 listed below, where SFDPH has determined that the applicant does not qualify for any exception. If you believe that you do qualify for one of the below exceptions, you are able to submit a new tobacco application with the \$111 nonrefundable processing fee.

EXCEPTIONS FOR CERTAIN NEW PERMITS

1. **New Buyer of a Retail Food Store or Tobacco Shop.** A Retail Food Store Establishment or Tobacco Shop Owner since January 18, 2010 and with a Tobacco Permit since January 18, 2015 may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sale Permit; (c) for at least five (5) consecutive years immediately before the submission of the affidavit; and (d) Direct Negotiations. Upon submission of the Permittee's affidavit, a New Buyer may apply for a Tobacco Sales Permit for the Permittee's Retail Food Store Establishment or Tobacco Shop.

The Permittee, Liquid Experience Inc. (Officers - Firras Zawaideh, Zena Zawaideh, and Fatin Zawaideh), at the Business Location was issued their Retail Tobacco Permit on October 10, 2014, therefore did not own and operate continuously from January 18, 2010 to January 18, 2015.

2. **Subsequent Buyer of a Retail Food Store or Tobacco Shop.** A Retail Food Store Establishment or Tobacco Shop New Buyer may submit an affidavit to the Director attesting to: (a) their ownership of the Establishment; (b) under the same Tobacco Sales Permit; and (c) for at least ten (10) years. Upon submission of the New Buyer's affidavit, a Subsequent Buyer may apply for a Tobacco Sales Permit for the New Buyer's Retail Food Store Establishment or Tobacco Shop. A Subsequent Buyer applying for a new Tobacco Sales Permit must acquire a 100% ownership interest in the Establishment.

The Permittee at the Business Location is not the Original Owner as of January 18, 2015, and cannot be defined as a New Buyer.

3. **Child of Permittee.** A child of a Retail Food Store Establishment or Tobacco Shop Permittee may apply for a Tobacco Sales Permit for their parent's Establishment if their parent holds a Tobacco Sales Permit as of January 18, 2015. The child applying for a new Tobacco Sales Permit must have a 100% ownership interest in the Establishment.

The applicants, Nabaraj Raut and Ramhari KC, are not a child of the Permittee.

4. **Seismic Retrofitting Relocation.** A Retail Food Store Establishment or Tobacco Shop Permittee as of January 18, 2015, which must relocate from their Establishment due to seismic retrofitting under Chapter 34B of the Building Code may apply for a Tobacco Sales Permit for their Establishment. The Permittee's application is subject to further review including confirmation of seismic retrofitting by the Department of Building Inspection.

The Permittee at the Business Location is not relocating due to seismic retrofitting under Chapter 34B.

5. **New Buyer of a Tavern.** A Tavern Permittee since January 18, 2010, that seeks to demonstrate previous compliance with Section 1009.23(d) of Article 19F of SFHC (prohibition against smoking in enclosed areas), shall submit a copy of their previously approved SFDPH application which establishes that an area within the Tavern is a historically compliant semi-enclosed smoking room. Additionally, the Tavern Permittee may submit an affidavit to the Director attesting to: (a) their ownership of the

Establishment; (b) under the same Tobacco Sale Permit; (c) for at least five (5) consecutive years immediately before the submission of the affidavit; and (d) Direct Negotiations. Upon submission of the Tavern Permittee's affidavit, a New Buyer may apply for a Tobacco Sales Permit for the Permittee's Tavern.

The business Location is not a Tavern that is a cigar or smoking bar.

6. **Subsequent Buyer of a Tavern.** A New Buyer of a Tavern may submit an affidavit to the Director attesting to: (a) their continuous ownership of the Establishment; (b) under the same Tobacco Sales Permit; and (c) for at least ten (10) years. Upon submission of a New Buyer's affidavit, a Subsequent Buyer may apply for a Tobacco Sales Permit for the New Buyer's Tavern. A Subsequent Buyer applying for a new Tobacco Sales Permit must acquire 100% ownership of the Establishment.

The business location is not a Tavern that is a cigar or smoking bar.

7. **Death or Divorce.** A spouse or domestic partner may acquire the ownership from the Permittee of an Establishment through the death or divorce. The spouse or domestic partner applying for a new Tobacco Sales Permit must have a 100% ownership interest in the Establishment.

The applicant is not the spouse or domestic partner of the Permittee.

Appeal Process. You have the right to appeal this decision to deny your application for a tobacco retailer permit. *(Pursuant to Section 19H.24 and Article 1 of the San Francisco Business and Tax Regulations Code). Appeals must be filed in person with the San Francisco Board of Appeals within 15 calendar days of the date of this notice. The Board of Appeals is located at: 49 South Van Ness Ave., Suite 1475 (Telephone #: (628) 652-1150).*

The failure to file an appeal will waive your right to a hearing and shall deem SFDPH decision to deny your tobacco permit as final.

Cease and Desist All Tobacco Products Sales. Immediately discontinue the sales of tobacco products, including but not limited to, cigarettes, cigars, cigarillos, tobacco shisha, electronic smoking devices and juices, smokeless tobacco, and nicotine-containing containing products. No person may engage in or allow tobacco sales in any establishment without a valid SFDPH tobacco sales permit. *(Pursuant to SFHC §§ 19H.3, 19N.3, and 19N.5(a)).*

Imposition of Administrative Fines and Penalties. Selling tobacco products without a valid permit may result in an administrative penalty of up to five hundred dollars (\$500.00) per day for each day that tobacco product sales occur without a valid permit. *(Pursuant to SFHC §§ 19H.17(a), 19H.20, 19N.3(b)).*

Sincerely,

Patrick Fosdahl

For Director of Health Grant Colfax, MD

Patrick Fosdahl, MS, REHS Director of Environmental Health		
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cc: Jennifer Callewaert

PROOF OF SERVICE

I, LILY KANG, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney’s Office of San Francisco, Fox Plaza Building, 1390 Market Street, Fifth Floor, San Francisco, CA 94102.

On May 12, 2022, I served the following document(s):

DECLARATION OF SPECIALIST MARIBEL RODRIGUEZ IN SUPPORT OF RESPONDENT DEPARTMENT OF PUBLIC HEALTH’S OPPOSITION BRIEF

on the following persons at the locations specified:

boardofappeals@sfgov.org	Board of Appeals
julie.rosenberg@sfgov.org	SF Board of Appeals
liquidexperiencesf@gmail.com	Appellant, Firras Zawaideh

in the manner indicated below:

BY ELECTRONIC MAIL: Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the person(s) at the electronic service address(es) listed above. Such document(s) were transmitted *via* electronic mail from the electronic address: lily.kang@sfcityatty.org in portable document format ("PDF") Adobe Acrobat.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed May 12, 2022, at San Francisco, California.

Lily Kang

LILY KANG