

TAB 2



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**BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF PALMETTO, FLORIDA**

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED
REGULAR MAIL**

CITY OF PALMETTO

A political subdivision of the
State of Florida

Petitioner,
vs.

CEB Case No. 10-01

Ashland 2 Partners, LLC
7321 Merchant Court
Sarasota, Florida 34240
Respondent

Re Violation Location: *The Hall, 1330 US 301 North
Palmetto, Florida 34221*

Legal Description: COM AT NW COR OF SE1/4 OF NE1/4 SEC 13; TH S 00 DEG 11 MIN 20 SEC W, ALG W LN OF SD SE1/4 OF NE1/4 A DIST OF 374.08 FT; TH S 89 DEG 50 MIN 19 SEC E, 20 FT TO E R/W LN OF 12TH AVE E; TH S 00 DEG 11 MIN 20 SEC W, ALG SD E R/W LN 815.52 FT; TH S 85 DEG 12 MIN 00 SEC E, ALG NLY R/W LN OF US HWY 301 A DIST OF 436.54 FT FOR POB; TH CONT S 85 DEG 12 MIN 00 SEC E, 39.14 FT TO PC OF A CURVE CONCAVE TO NE, HAVING A RADIUS OF 4070.94 FT, D/A 2 DEG 24 MIN 40 SEC, CHORD OF 171.30 FT & A CHORD BEARING OF S 86 DEG 24 MIN 20 SEC E; TH SELY ALG ARC OF SD CURVE 171.31 FT; TH N 00 DEG 09 MIN 42 SEC E ALG E LN OF W1/2 OF THE SD SE1/4 OF NE1/4 A DIST OF 650 FT; TH N 89 DEG 50 MIN 19 SEC W, 210 FT; TH S 00 DEG 09 MIN 42 SEC W, 636.58 FT TO POB, CONT 3.10 AC M/L & SUBJ TO A 10 FT EASMT OVER THE E 10 FT OF THE ABOVE (1011/2503); LESS: COM AT THE NW COR OF THE SE1/4 OF THE NE1/4 OF SEC 13; TH S 00 DEG 11 MIN 20 SEC W, ALG THE W LN OF SD SE1/4 OF THE NE1/4, A DIST OF 32.40 FT TO A PT ON THE S R/W LN OF THE SCL RR; TH N 89 DEG 55 MIN 24 SEC E, ALG SD R/W LN, A DIST OF 664.57 FT; TH S 00 DEG 09 MIN 42 SEC W, 558.68 FT FOR A POB; TH CONT S 00 DEG 09 MIN 42 SEC W, 100 FT; TH N 89 DEG 50 MIN 19 SEC W, 210 FT; TH N 00 DEG 09 MIN 42 SEC E, 100 FT; TH S 89 DEG 50 MIN 19 SEC E, 210 FT TO THE POB, (1084/3120) Township 34S, Range 17E, Section 13.

Parcel ID #: 25827.0005/6.

ADMINISTRATIVE ORDER IMPOSING LIEN

THIS MATTER came before the City of Palmetto Code Enforcement Board for Public Hearing on January 26 2010, at 6:00 p.m., at Palmetto City Hall, after due notice to the Respondent.

FINDINGS OF FACT:

The Code Enforcement Board of the City of Palmetto finds as a mater of fact that:

- The Hall is operated from 1330 US 301 North. The Palmetto Police Department has responded to two confirmed noise disturbances emanating from the Hall – Saturday, May 30, 2009 at 11:07pm (Case # 09-13201) and Friday, June 12, 2009 at 12:25am (case # 09-14155). Both of these complaints were initiated by area residents.

CONCLUSIONS OF LAW:

1. The Code Enforcement Board is properly convened. Notice has been given and all conditions precedent have been satisfied.
2. The Respondents have violated Palmetto Code of Ordinances, Chapter 5, Amusements, Article I, In General, Section 5-3 Definitions; Section 5-4, Prohibited Acts, (a) and (b); Section 5-5 Public Nuisances; and Section 5-8 Enforcement; Chapter 16, Health And Sanitation, Article II, Nuisances, Section 16-26 Definitions; Section 16-26(12); and Section 16-27(a), (b) & (c).

ORDER

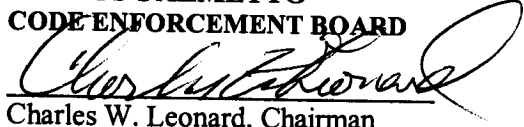
The Respondent, Ashland 2 Partners, LLC, is found in violation of the Palmetto Code of Ordinances as noticed. The Respondent is ordered to limit the volume of music and noise created and allowed from this property. If the Respondent does not comply with the Order, a fine of up to \$250.00 per day may be imposed at a Public Hearing on February 23, 2010. The Respondent is entitled to notice and an opportunity to be heard prior to a fine being assessed. **A Public Hearing will be held on February 23, 2010, to determine if the Respondent is complying with the Order. Administrative costs incurred by the City in the prosecution of this case in the amount of \$391.80, plus any applicable recording fees, are hereby assessed. Upon recording, such costs shall constitute a lien and shall continue with interest accruing.**

A certified copy of this Administrative Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors-in-interest or assigns if the violation concerns real property and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors-in-interest or assigns.

Any aggrieved party may appeal this Administrative Order to the Circuit Court in and for Manatee County. Such appeal shall not be a hearing *de novo*, but shall be limited to appellate review of the record created before the Code Enforcement Board. An appeal shall be filed within thirty (30) days of the execution of this Administrative Order

Done and ordered this 26th day of January, 2010.

**CITY OF PALMETTO
CODE ENFORCEMENT BOARD**

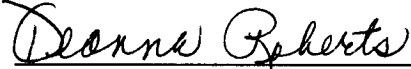

Charles W. Leonard, Chairman

Attest:


Diane Ponder, Deputy Clerk-Administration

Ashland 2 Partners, LLC
Administrative Order
January 26, 2010
Page 3 of 3

I hereby certify that a true copy of the foregoing Administrative Order Imposing Lien has been furnished to the Respondent by Certified Mail/ Return Receipt Requested and by Regular Mail this 27th day of January, 2010.


Deanna Roberts, Clerk of the Board

POINT PAPER
CODE ENFORCEMENT BOARD HEARINGS
January 26, 2010

Ashland 2 Partners, LLC, 7321 Merchant Court, Sarasota, Florida 34240:

The property that is the subject of this code enforcement action is located at 1330 US 301 North, Palmetto, Florida, Parcel ID # 25827.0005/6 Township 34S, Range 17E, Section 13.

The Respondent, Ashland 2 Partners, LLC, is identified as the owner of the property through the Manatee County Property Appraiser's and Manatee County Tax Collector's web sites. The property is a commercial enterprise named *The Hall* and the property owners hold Business Tax receipts with the City of Palmetto for bar and lounge and promoter.

On May 27, 2009 I received a notice from the Office of the Mayor regarding noise disturbances originating at *The Hall*. I contacted Lt. Tyler of the Palmetto Police Department who confirmed there had been noise complaints received by his Department on March 7, April 11, May 23 and May 24, 2009. Lt. Tyler stated that the first three complaints were handled by the responding Officer directing *The Hall* to lower the music; no valid noise complaint was determined by the Officer regarding the May 24, 2009 complaint. On June 6, 2009 one of the owners of Ashland 2 Partners, David Scalisi, contacted me by phone at my home regarding another matter pending before City Commission. During the conversation I advised Mr. Scalisi of the noise disturbances, requested he carefully control the volume of music emanating from *The Hall*, and warned him that the Palmetto Police would be issuing Code Enforcement citations for confirmed noise disturbances.

On June 15, 2009 the Palmetto Police advised me of two additional noise complaints regarding *The Hall* – June 12, 2009 and June 13, 2009. The June 12th complaint was resolved by the Officer directing *The Hall* to lower the volume of music; the June 13th complaint was not received by the Police until June 22, 2009. Based upon the additional complaints, a Notice of Violation was issued against the Respondents.

On September 10, 2009 I was advised by Assistant Chief Hannaford that over the preceding two weeks there were six incidents of noise complaints regarding *The Hall*. Assistant Chief Hannaford reported that all of these complaints were resolved by police Dispatch contacting the off-duty Officers providing security at *The Hall* and requesting they have the music lowered.

On September 26, 2009 Palmetto Police responded to another noise disturbance originating at *The Hall*. The responding Officer witnessed the noise from *The Hall* while he was inside of the complainant's 15th Avenue Drive East home. He also confirmed the noise emanated from *The Hall* and not from other bars in the area. As a result of their

investigation, the Palmetto Police issued a Code Enforcement citation against the club manager, Mario Valle, on October 1, 2009. Mr. Valle was found guilty in the Manatee County Court by Judge Mark Singer on December 2, 2009.

On October 15, 2009 the Palmetto Police responded to another noise complaint regarding *The Hall*. The responding Officer witnessed the noise from *The Hall* while he was inside the complainant's 900 9th Avenue East home in the Colonial Mobile Manor Park. He also confirmed the noise emanated from *The Hall* and not from other bars in the area. A Code Enforcement citation subsequently was issued to David Scalisi, one of the business owners, who was managing the club at that time. Mr. Scalisi was found guilty in the Manatee County Court by Judge Mark Singer on December 2, 2009.

Both of these cases were originally scheduled for hearings in Manatee County on November 4, 2009. I was present at that scheduled hearing time when Judge Singer adjourned the cases until December 2, 2009. I discussed the noise disturbances with co-owner Michael Plechy and manager Mario Valle following the November 4, 2009 court appearance. Although both individuals denied they were creating these noise disturbances through their business, *The Hall*, I directed them to assure no further noise disturbances occurred or the business owners would be referred to the Code Enforcement Board.

On November 14, 2009 the Palmetto Police responded to another noise disturbance from *The Hall*. The Officer witnessed the noise disturbance from the area of the complainant's house in Colonial Mobile Manor, but since the complainant refused to sign a complaint, the Police only directed staff at *The Hall* to lower the music.

On December 28, 2009 the Palmetto Police responded to another noise disturbance from *The Hall*. The Officer witnessed the noise disturbance outside and inside the complainant's Colonial Mobile Manor home. Another Officer confirmed the noise disturbance was not originating from other bars or vehicles in the area. The responding Officer issued a Code Enforcement citation against the manager at *The Hall* at the time, Patrick Duff. This citation has been filed in Manatee County Court and to date is uncontested.

Due to the continuing noise disturbances, the Respondent was scheduled for the January 26, 2010 Code Enforcement Board Hearings.

Recommendation:

It is recommended the Respondent, Ashland 2 Partners, LLC, be found in violation of City of Palmetto Code of Ordinances. It is further recommended that the City's costs of \$391.80 for processing this case, plus any applicable recording fees, be assessed against the respondent at this time. The Respondent should be ordered to assure no further noise disturbances emanate from their business.