

3649? Union Cattle

HERMOSA BEACH FIRE DEPT.
UNION CATTLE COMPANY
1301 MANHATTAN AVENUE, HERMOSA BEACH CA 90254
OCTOBER 26, 2007

DR #07-3679 CITATION # H 375877
2355 HOURS

**HAZARDOUS CONDITIONS / OVERCROWDING
INVESTIGATION REPORT**

SUMMARY OF INCIDENT

On October 26, 2007, at 2315 hours, Hermosa Beach Police Officers Sellan, Sullivan and Fire Investigator D. Powers responded to the Union Cattle Company for a Nighttime Life Safety Inspection. Upon entering the business, we observed overcrowding conditions present in the upstairs Banquet / Dance area. Citation # H 375877 was issued for violation of California Code of Regulations, Title 24, Part 9, California Fire Code, Section 2501.16.3- Overcrowding.

DETAILS

In the course of conducting routine Nighttime Life Safety Inspections, we entered the Union Cattle Company. After inspecting the downstairs portion of the business we continued our inspection by entering the multiple rooms upstairs. While walking up the stairwell, I observed fifteen patrons gathered in the exit pathway leading from the Banquet / outdoor patio area of the business. Continuing the inspection, I observed a large number of patrons gathered at the main exit door from the south outdoor patio area indicating that overcrowding conditions may be present.

INTERIOR EXAMINATION & OCCUPANT LOAD COUNT

As we entered the south outdoor patio area, we observed no visible exit pathways due to patrons standing in the aisles and no security personnel present to ensure that the aisles were maintained. I directed Officer Sellan to conduct an occupant load count of the south outdoor patio area, while I continued on with the inspection. Officer Sellan used a mechanical counter (clicker) to conduct the occupant load count. The south outdoor patio, located directly adjacent to the Banquet / Dance room, has a posted maximum occupant load of 85 persons. At the completion of his count, Officer Sellan reported to me that the south outdoor patio was at their maximum-posted occupant load of 85 persons.

When I entered the west end of the Banquet / Dance room, based on numerous visits to this bar in the course of my employment with the Hermosa Beach Fire Department and having previously observed this room both at and over their posted maximum occupant load, I observed what I considered to be gross overcrowding. In addition to the large

number of patrons present, I observed numerous persons standing in the established "roped-off" exit aisle path way and no security personnel maintaining the aisle ways. I conducted the occupant load count by using a mechanical counter (clicker).

The Banquet / Dance room of this business is three rooms within one, containing a main bar/dance area and two small adjacent private party dining rooms. Each individual room is required by Fire and Building Codes to have official posted maximum occupant load signs. The official posted maximum occupant load capacities for each of the three rooms that encompass the Banquet / Dance area are: Main room 65 persons maximum, south dining room 8 persons maximum and north dining room 10 persons maximum.

At the time of my inspection the posted maximum occupant load was 65 persons and only one room (bar/dance area) displayed the required signs. Upon completion of the occupant load count, I determined the count to be 95 persons total, thirty persons (46%) over the posted maximum occupant load. This count did not include employees present. If all three rooms had been posted at the time of my inspection with individual maximum occupant load signs, overcrowding conditions still would have been present. **At the time of my count, occupant loads for each individual room were: main bar area – 83 persons, south dining room – 0, and north dining area – 12 persons.** Upon completion of conducting the occupant load count at 2325 hours, I ordered the Manager BRIAN ENRIQUE MACIAS to reduce the occupant load to the posted maximum and meet me on the outside of the business for issuance of an overcrowding citation.

Approximately twenty minutes after I conducted the occupancy load count in the Banquet / Dance area, and while I was conducting an interview of MACIAS; Officer Sellan conducted a re-inspection of the same area to ensure compliance. When Officer Sellan performed the compliance count, he determined that the rooms were once again / still over the posted allowable occupant loads. Officer Sellan counted 67 persons in the main bar area and 16 persons in the north dining room.

MANAGER INTERVIEW

Once outside, I met with Manager **BRIAN ENRIQUE MACIAS, DOB [REDACTED]** regarding the overcrowding conditions. When I asked MACIAS to produce identification, he stated, "I don't have one." I once again asked MACIAS for his identification and he once again said, "I don't have one." I then explained to MACIAS in the presence of Officers Sellan and Sullivan that if he did not produce some form of identification that he would be arrested, booked and held in jail until his identity could be established. I then asked MACIAS if he drove to work? Macias said, "Yes." I then asked MACIAS if he drove to work without his driver's license? MACIAS responded, "No." When asked, MACIAS told me that his driver's license was in his car. I ordered MACIAS to retrieve his license from his vehicle. MACIAS complied and returned to my location a short time later.

Once MACIAS presented his identification to me and I began writing the citation, he began to dispute the accuracy of the occupant load count in the Banquet rooms. MACIAS requested that Officers Sellan, Sullivan and myself view the security video recordings as proof that our counts were wrong. In an effort to give him the benefit of the doubt, we spent approximately twenty minutes viewing security video in the managers office.

While viewing the videos, MACIAS rewound the tape to the point where I entered the room to conduct the count. During viewing, MACIAS counted the number of patrons in the main bar area while Officer Sellan recorded the number of patrons in the video by using a mechanical counter. **While counting the patrons on the video, Officer Sellan and myself both noted and brought to the attention of MACIAS that there were several "blind spots" in the room that were not recorded on the video.** After attempting to manipulate the recordings to show "all" areas of the room that I counted, MACIAS acknowledged that the security system does not record all areas of the room, specifically the blind spot areas and both dining rooms off of the main bar area. **Based on the available recorded video we reviewed in the presence of MACIAS, Officer Sellan counted 82 persons in the main bar / dance area alone, 22 persons over the posted maximum occupant load. This count did not include employees.** At that time, based on the security camera recordings, MACIAS acknowledged that they were over the posted maximum occupant load. We then returned to the exterior of the business where I continued issuance of the citation to MACIAS.

Prior to completion of the citation, MACIAS asked me if it was necessary to issue the citation because it was his understanding that, "We're allowed to be ten percent over our occupant load as long as we're under the total count for the entire bar." MACIAS continued by stating, **"Do you really need to give me a citation? Last time this happened, nothing even happened, the case was dismissed in court."** I asked MACIAS to clarify his statement. When I asked MACIAS a series of questions regarding the prior citation, he said, "The bar had been cited for overcrowding before, the case was dismissed by the City Prosecutor, no fines were paid and A.B.C. had not been notified."

VIOLATIONS OBSERVED

CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 9
2001 CALIFORNIA FIRE CODE
SECTION 2501.16.3
PERMITTING OVERCROWDING

CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 9
2001 CALIFORNIA FIRE CODE
SECTION 103.4.4
FAILURE TO ABATE HAZARD

PRIOR VIOLATIONS

A review of the Union Cattle Company's Fire Prevention File maintained at the Hermosa Beach Fire Department, revealed that on one previous occasion, a citation was issued for maintaining hazardous conditions and overcrowding.

Due to similar circumstances and reasons for justifying the overcrowding conditions by one of the co-owners, ALLEN [REDACTED] of Union cattle Company, a copy of the complete narrative report from the last overcrowding citation has been attached to this investigation report.

DATE: 10/29/06
DR#: 06-1827
COUNT: 157 (54 POSTED)- 103 PERSONS OVER
ARRESTING OFFICER: FIRE CAPTAIN B. SCOTT # 182
DEFENDANT: ALLEN JOSEPH SANFORD (CO-OWNER)

ATTACHMENTS

1. Photographs (3 each)- # 1 (Interior conditions after first occupant load count).
2-3 (Posted occupant load sign at time of count)
2. Citation # H375877- (Photocopy)
3. Narrative Report- Citation # H 368174 – 10/29/06

DISPOSITION

This case is being submitted to the Hermosa Beach City Prosecutors' Office for prosecution of the previously stated misdemeanor violations of the California Code of Regulations, Title 24, Part 9, 2001 California Fire Code.

D. POWERS, ID # 185
INVESTIGATOR
HERMOSA BEACH FIRE DEPARTMENT

CC: Hermosa Beach Fire Chief J. Gomez

