

City of Hermosa Beach NOTICE TO APPEAR

Traffic Nontraffic Misdemeanor **H 377133**

DATE OF VIOLATION **2/23/08** TIME **2:20** A.M. P.M. DAY OF WEEK **3** CASE NO. **08-568**

NAME (First, Middle, Last) **GREGORY ALAN** Owner's Responsibility (Veh. Code, § 40001)

ADDRESS [REDACTED]

CITY **PALMS VERDES, CA** STATE **CA** ZIP CODE **90274** JUVENILE (Phone No.)

DRIVER LICENSE **CA C** STATE CLASS Yes No COMMERCIAL Yes No AGE **4** BIRTH DATE **1/1**

HAIR **BRN** EYES **BLU** HEIGHT **6'00** WEIGHT **230** RACE **W** OTHER DESCRIPTION **OWNER**

VEH. LIC. NO. or VIN STATE REG. MO/YR COMMERCIAL VEHICLE (Veh. Code, § 152188)

YR. OF VEH. MAKE MODEL BODY STYLE COLOR HAZARDOUS MATERIAL (Veh. Code, § 352)

EVIDENCE OF FINANCIAL RESPONSIBILITY POLICY NUMBER

REGISTERED OWNER OR LESSEE SAME AS DRIVER

ADDRESS SAME AS DRIVER

CITY STATE ZIP CODE

Correctable Violation (Veh. Code, § 40810) Booking Required (see reverse) Misdemeanor or Infraction (Circle)

107.6 CFC / 15.20.010 HBMC (M) I

OVERCROWDING M I

107.5 CFC / CREATING (M) I

ALLOWING HAZARDOUS COND. M I

WEATHER Dry Wet Fog Road Cond. Heavy IRRADIATION Flight

Location of Violation City/County of Occurrence **CLUB SUSHI, HERMOSA BEACH**

Violations not committed in my presence, declared on information and belief.

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

Executed at (please) **D. POWERS** Violation location **185**

Arresting or Citing Officer **D. POWERS** Serial No. **185** Dates Off

Signature [REDACTED]

WHERE, ON OR BEFORE THIS DATE: **2/23/08** 08:15 AM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.

WHERE: 325 Maple Ave., Torrance 90508 (213) 742-8888

County Seat 505 E. Centre, San Pedro 90731 (213) 742-1600

Juvenile Traffic Court, Apper 08:30 AM or 1:30 PM at 3221 Torrance Blvd., Torrance, CA 90503 (310) 222-0576

Parent or guardian must accompany juvenile to court.

Other To be notified You may arrange with the clerk to appear at a night session of the court.

Barcode ***H377133*** 1929

Judicial Council of California Form SEE REVERSE
Rev. 09-20-06 (Veh. Code §§ 40500(b), 40513(b), 40522, 40800; Penal Code, § 863.9) TR 138

COURT COPY

BUSINESS SYSTEMS CORP. (800) 969-9706

**IN THE SUPERIOR COURT OF THE SOUTHWEST JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA**

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
 Plaintiff,)
)
)
 GREGORY ALAN v.)
)
)
)
 Defendant,)
)
 DR# H377133 (08-0568))

M. C. No.
D. A. No.
Citation No.

COMPLAINT-MISDEMEANOR

COUNT I

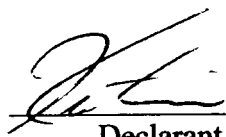
The undersigned declarant and complainant states that he is informed and believes and upon such information and belief declares that on or about FEBRUARY 23, 2008 at and in the above named Judicial District, in the County of Los Angeles, State of California, the crime of **OVERCROWDING**

IN VIOLATION OF SECTION 107.6 OF THE CALIFORNIA FIRE CODE
AS ADOPTED BY SECTION 15.20.010 OF THE HERMOSA BEACH MUNICIPAL CODE

a misdemeanor, was committed by GREGORY ALAN

who did unlawfully allow overcrowding and admittance of persons beyond the approved capacity of a place of assembly.

Executed on March 13, 2008 in the County of Los Angeles, State of California.
I declare under penalty of perjury that the foregoing is true and correct.



Declarant and Complainant

INVESTIGATING AGENCY: HERMOSA BEACH POLICE DEPARTMENT

WITNESSES

W-POWERS #185

**IN THE SUPERIOR COURT OF THE SOUTHWEST JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA**

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
) Plaintiff,)
)
) v.)
)
) GREGORY ALAN)
)
)
)
) Defendant,)
)
) DR# H377133 (08-0568))

M. C. No.
D. A. No.
Citation No.
COMPLAINT-MISDEMEANOR

COUNT II


The undersigned declarant and complainant states that he is informed and believes and upon such information and belief declares that on or about **FEBRUARY 23, 2008** at and in the above named Judicial District, in the County of Los Angeles, State of California, the crime of **MAINTAINING A HAZARD**

**IN VIOLATION OF SECTION 107.5 OF THE CALIFORNIA FIRE CODE
AS ADOPTED BY SECTION 15.20.010 OF THE HERMOSA BEACH MUNICIPAL CODE**

a misdemeanor, was committed by **GREGORY ALAN**

who did unlawfully, while operating or maintaining an occupancy, premises or vehicle subject to the California Fire Code, allow a hazard to exist or fail to take immediate action to abate a hazard on such occupancy, premises or vehicle when ordered or notified to do so.

Executed on **March 13, 2008** in the County of Los Angeles, State of California.
I declare under penalty of perjury that the foregoing is true and correct.



Declarant and Complainant

INVESTIGATING AGENCY: **HERMOSA BEACH POLICE DEPARTMENT**

WITNESSES

**IN THE SUPERIOR COURT OF THE SOUTHWEST JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA**

The People of the State of California,)	MC No.
Plaintiff,)	CP No.
)	DR#
v.)	
GREGORY ALAN)	
)	
Defendant,)	
<u>DR# H377133 (08-0568)</u>)	

INFORMAL DISCOVERY NOTICE

TO THE ABOVE-NAMED DEFENDANT(S) AND/OR ATTORNEY(S) FOR DEFENDANT(S):
Plaintiff, The People of the State of California, Hereby Requests Discovery/Disclosure From the
Defendant(s) and his or her Attorney(s) in this case pursuant to Penal Code Section 1054.3 and 1054.5.

YOU ARE HEREBY NOTIFIED that if complete Disclosure is not made within 15 days of this request,
Plaintiff will seek on or before the next court date, or as soon as practicable thereafter a Court Order
enforcing the Provisions of Penal Code Section 1054.5, Subdivision (B) and (C). This is an ongoing
request for any of the listed items which become known to the Defendant(s) and his or her Attorney(s)
after the date of Compliance.

Office of the City Prosecutor

HERMOSA BEACH FIRE DEPT.
CLUB SUSHI
1200 HERMOSA AVENUE, HERMOSA BEACH, CA. 90254
FEBRUARY 23, 2008

DR #08-0568 CITATION # H 377133
2120 HOURS

**OVERCROWDING / HAZARDOUS CONDITIONS
INVESTIGATION REPORT**

SUMMARY OF INCIDENT

On February 23, 2008, at 2120 hours, Hermosa Beach Police Officer D. Sellan and Fire Investigator D. Powers responded to Club Sushi for a Nighttime Life Safety Inspection. Upon entering the business, overcrowding conditions were observed. **After an occupant load count established there were 179 persons in the business, it was determined that Club Sushi was 65% (70 persons) over the posted maximum allowable occupant load of 109 persons.** Citation number H 377133 was issued to Club Sushi Owner Gregory Alan, for violation of California Fire Code section 107.6- Overcrowding.

DETAILS

In the course of conducting Nighttime Life Safety Inspections, while driving past Club Sushi, our attention was drawn to the business by the large number of patrons we observed through the windows of the establishment. Upon exiting our vehicle and entering the business, Officer Sellan and I observed overcrowding conditions.

After entering Club Sushi, Officer Sellan and I, contacted the hostess stationed at the podium located directly next to the main entrance door. We identified ourselves, stated that we were there to conduct a Fire Code inspection and requested to speak to the manager on-duty. Shortly thereafter, Manager **SAMANTHA PANARESE, DOB: [REDACTED]**, responded to our location at the main entrance.

I repeated the purpose of our visit to Manager Panarese and asked if she knew what the current occupant load count was. **Panarese responded, "I have no idea! The girl upstairs has the counters."** Panarese then walked away from us and returned with Manager **KIMBERLY MC LAUGHLIN, DOB: [REDACTED]**

I asked Mc Laughlin what the current occupant load count was and she responded by producing two counters and stated, **"Thirty-two upstairs and seventy-eight downstairs."** According to the count provided by Mc Laughlin, there should have been 110 persons inside the establishment. Officer Sellan and I advised both Panarese and Mc Laughlin that the restaurant appeared to be overcrowded and well over the count presented by Mc Laughlin. Officer Sellan and I then advised both managers that we would be conducting an occupant load count. Prior to counting, I asked Panarese and Mc Laughlin to point out the presence of the legally required maximum occupant load signs,

[Handwritten signature] 7 P

neither manager could locate the signs. Further investigation by Officer Sellan and I, revealed that no maximum occupant load signs were posted in the restaurant.

OCCUPANT LOAD COUNT

Officer Sellan and I conducted an occupant load count using mechanical counters. Officer Sellan stayed at the main entrance / exit door to count any exiting patrons and he was also joined there by Managers Panarese and Mc Laughlin. I counted the upper seating and lower levels of the restaurant.

At the conclusion of my occupant load count, I responded back to Officer Sellan's location at the main exit / entrance door to calculate the occupant load count we had obtained. Officer Sellan advised me that he had counted thirty-two patrons exiting the restaurant during the time I was counting the rest of the establishment. Officer Sellan presented his counter to me for verification of the thirty-two number. After viewing my counter, it was determined that I had counted one hundred forty-five persons combined on the upper and lower levels of the restaurant. These persons, were either seated at the bar or dining and do not include the thirty-two persons that Officer Sellan counted exiting the establishment. Upon completing the occupant load count, Officer Sellan and I, determined the total occupant load present to be 179 persons total, 70 persons (65%) over the maximum legally allowed occupant load of 109 persons.

I re-contacted Managers Panarese and Mc Laughlin, who were standing at the front entrance with Officer Sellan, and advised them that I would be issuing a citation to both of them for overcrowding. I requested identification from both Panarese and Mc Laughlin, which they provided to Officer Sellan. In the process of gathering identification information from Panarese and Mc Laughlin, I asked Panarese if the owner of Club Sushi was present. Panarese said, "Yes, Greg is here." I then asked Panarese to bring Club Sushi Owner GREG ALAN to my location just outside the main entrance on Hermosa Avenue. A short time later, Panarese returned with Club Sushi Owner Alan.

I advised Alan of the overcrowding present and requested his identification for issuance of a citation, in place of Managers Panarese and Mc Laughlin. Alan provided his identification when asked to do so. I issued citation # H 377133 to Club Sushi Owner Greg Allan for allowing hazardous conditions and overcrowding.

MANAGER (S) STATEMENTS

SAMANTHA PANARESE, DOB [REDACTED], CDL [REDACTED]
[REDACTED] REDONDO BEACH, CA 90278

In addition to the previously detailed statements made by Panarese, she also stated during the time I was issuing the citation to Club Sushi Owner Greg Alan the following:

“ Why couldn’t you guys just have come later and we would have been okay.” This statement was in response to hearing the occupant load counts Officer Sellan and I, had obtained.

Also, during the time I was issuing Alan the citation, Panarese came to our location and said, “We need to change our occupancy, because I just counted 150 chairs, and we have 30 employees, so on an average night we’re automatically over.”

At one point during the citation issuance process, Club Sushi Owner Alan felt that all he needed was a “warning” to correct any overcrowding problems. At that time, in the presence of Alan, Panarese and myself, Officer Sellan reminded Panarese that he had “warned” her just four weeks prior when the business was at least three times over the maximum allowable occupant load. As Allan contested Officer Sellan’s statement, I heard Panarese acknowledge Officer Sellan’s statement with “Yes,” and also observed her nodding her head “yes.”

It should be noted; these statements were digitally recorded By Officer Sellan and downloaded into the HBPD computer system.

**KIMBERLY MC LAUGHLIN, DOB [REDACTED] CDL [REDACTED]
Hermosa Beach, CA. 90254**

Mc Laughlin made no further statements beyond our request for the current occupant load count upon initial entry into the business.

OWNER STATEMENTS

**GREG ALAN, DOB [REDACTED] CDL [REDACTED]
VERDES, CA., 90274**

Alan made numerous spontaneous statements during the time period I was issuing Citation # H 377133.

After Alan was advised of the occupant load count Officer Sellan and I had obtained (179 persons), he did not dispute the count but stated, “This is dinner guys, when it rains, we can’t let these people stand in the rain, we keep all the pathways clear, we keep all the exits clear, and I have my fire extinguishers checked and the Ansul System.”

I then asked Allan about the occupant load signs not being posted, Allan responded, “I didn’t get signs, we only got this letter from the Chief.” Alan then produced a letter dated 1999, from the Chief at that time, Fire Chief J. Ysais, in which the stated maximum occupant load was set at 109 persons maximum. **Further investigation and review of Club Sushi’s Fire Prevention file maintained at the Hermosa Beach Fire**

Department, revealed that on July 4th, 2005, Alan had also been advised by Captain Garofano, to post the legally required occupant load signs.

When I showed Alan Officer Sellan's and my counters after completing the occupant load count, Alan said, " I guess I'm going to have to go to the city and get my occupancy changed. The people that come here make Hermosa happy; I've been the "number one taxpayer" down here for fourteen years. **I've never had a problem.** When it rains, these people are gonna come inside, they love us, we're happy they love us. **What it is was, we had about forty reservations, what are we going to do? We didn't want them to stand in the rain.**" Alan then continued by adding, "You don't want to drive these people away guys, I was at the Planning Commission meeting Tuesday and I understand, but this is not good for Hermosa, you gotta have a better solution, your gonna drive the sales back down and that's it, your done!" Alan's last comment to being shown the occupant load count we had obtained was, "It's gonna go back to being a Biker town like when I got here."

Upon completion of the citation writing process, I presented it to Alan for his signature. Before signing the citation, Alan asked, "If I don't sign the citation, are you going to take me to jail?" Officer Sellan advised Alan that if he did not sign the citation he would be arrested. Alan then turned to me and stated, "**This is like handcuffing somebody already, I'm ready, let the games begin, say good-bye to the City, that's all I can say! It's gonna get bad down here now.**"

It was at this point, that Alan told Officer Sellan and I, " A warning is all you have to give us, a warning is all." Then, as previously written, Officer Sellan advised Alan that they had in-fact been warned on a previous occasion. Alan then turned to Manager Panarese and asked, "You mean we were more crowded than this?" **Panarese responded to Alan's question by saying, "Yes", and then explained to Alan, "We have 150 seats and 30 employees."** Officer Sellan explained to Alan once again, on that night, he cut them a break by allowing them to reduce the hazard, but gave them a warning to not let it occur again or they would receive a citation. Alan's response was, "The Fire Chief before would just say get some people out of here."

When Alan eventually signed the citation I had issued, I asked him if he had ever been cited before for overcrowding. Alan told me, "**About four years ago, on July 4th, we were 18 people over and I got taken to jail for that. I said, this is a little ridiculous, that was completely out-of line. Even the Police department said you were wrong, in front of Sol. Even the City Prosecutor said, I don't know why you're here, sorry about this, I didn't even go to court.**"

Alan's last statement to Officer Sellan and I prior to leaving the location was, "We just want to do a good job, if people want to eat here, what are we gonna do?"

While reviewing Club Sushi's Fire Prevention file, maintained at the Hermosa Beach Fire Department, I also reviewed DR # 05-1018 narrative report written by Fire Captain M. Garofano. **Captain Garofano's narrative report indicated that on July 4th, 2005,**

Greg Alan was cited for being 60 – 69 persons over on the lower level of the restaurant alone, not for being 18 persons over, as stated by Alan to me. Additionally, Alan was not arrested for being 18 persons over the maximum occupant load in his establishment. Rather, he was arrested after refusing to sign the misdemeanor citation, even after numerous requests by Fire Captain Garofano and HBPD Officer L. Philips to do so (see attached DR #05-1018 narrative report).

It should be noted; these statements were digitally recorded By Officer Sellan and downloaded into the HBPD computer system.

VIOLATIONS OBSERVED

2007 CALIFORNIA FIRE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 9
SECTION 107.6
PERMITTING OVERCROWDING

2007 CALIFORNIA FIRE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 9
SECTION 107.5
CREATING AND ALLOWING HAZARDOUS CONDITIONS – OWNER
RESPONSIBLE

PRIOR CITATIONS

A review of Club Sushi's Fire Prevention File maintained at the Hermosa Beach Fire Department revealed that one prior citation had been issued for maintaining hazardous conditions and/or overcrowding.

<u>DATE:</u>	07/04/05
<u>DR#:</u>	07-1018
<u>COUNT:</u>	154 & 145 (109 ALLOWED)-65 PERSONS (AVG.) OVER
<u>ARRESTING</u>	
<u>OFFICER:</u>	CAPTAIN M. GAROFANO
<u>DEFENDANT:</u>	GREG ALAN (OWNER)
<u>DISPOSITION:</u>	UNKNOWN

ATTACHMENTS

1. Occupant Load Signs w/ Delivery Confirmation (3 pages).
2. Citation # H 377133 (copy).
3. DR # 05-1018 Narrative Report & Citation (3 pages).

DISPOSITION

This case is being submitted to the Hermosa Beach City Prosecutors' Office for prosecution of the previously stated misdemeanor violations of the 2007 California Fire Code, California Code of Regulations, Title 24, Part 9.

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

CC: Hermosa Beach Fire Chief J. Gomez



MAXIMUM OCCUPANCY LOAD

85 Lower Level 24 Upper Level

Club Sushi OCCUPANT LOAD APPROVED

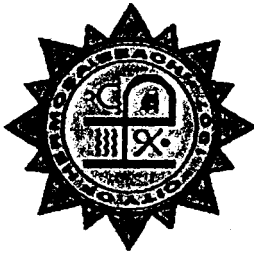
111 Pier Avenue *JY* ~~PH~~
Fire Dept. ~~Comm. Dev. Dept.~~

HERMOSA BEACH FIRE DEPARTMENT COMMUNITY DEVELOPMENT DEPARTMENT

POST IN CONSPICUOUS PLACE NEAR MAIN EXIT

OCTOBER 25, 1999

MAXIMUM OCCUPANCY LOAD 24 Upper Level



Club Sushi OCCUPANT LOAD APPROVED

111 Pier Avenue

[Signature]
Fire Dept. *[Signature]*
Comm. Dev. Dept.

HERMOSA BEACH FIRE DEPARTMENT

COMMUNITY DEVELOPMENT DEPARTMENT

POST IN CONSPICUOUS PLACE NEAR MAIN EXIT

OCTOBER 25, 1999



City of Hermosa Beach

Civic Center, 1315 Valley Drive, Hermosa Beach, California 90254-3885

March 14, 2000

Dear business owner;

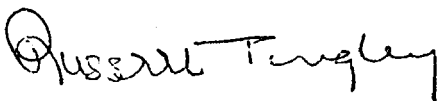
The City of Hermosa Beach is providing you with signage designating the maximum occupant load for your establishment as determined in standard practice consistent with the 1997 Uniform Building and Fire Codes.

This placard shall be posted in a conspicuous place near the main exit from the room. It shall be maintained legible and in clear view at all times.

Overcrowding or admittance of persons beyond the approved capacity is prohibited. Upon finding overcrowding conditions or obstructions in the aisles, passageways or other means of egress, or upon finding a condition which constitutes a serious menace, the business or operation shall be stopped until such condition or obstruction is corrected and at such time may also necessitate the issuance of a citation.

No change in occupancy use nor increase in occupancy load shall be made without the specific approval of the Community Development Department.

Every effort has been made to insure accuracy and completeness in the calculation of the occupant load. Total compliance with these orders is imperative.



Russell Tingley, Fire Chief

Delivered to
business on 03/27/00

by _____
Date

HERMOSA BEACH FIRE DEPARTMENT

REPORT OF OVERCROWDING

DATE: 07/04/05
TO: Watch Commander
FROM: Capt. Garofano
RE: Occupancy violation, Club Sushi
CC: Chief Tingley, Asst. Chief Gomez

DR # 1018

On 07-04-2005 at approx. 12:40am personnel from E11, E12, R11 and A12 arrived at Club Sushi 1200 Hermosa Ave., Hermosa Beach CA to complete a calendared occupancy check.

Summary

On arrival I observed the interior of the establishment appeared to be over occupancy load limits. The interior of the establishment appeared to be crowded in the dining area, had been converted into a dance floor or open space. I requested the doorman and a person that identified herself as the manager for a count of the premises. They did not have mechanical counters and could not supply any accurate count. I instructed fire department personnel to enter the business and give me two (2) separate head counts on the interior using mechanical counters. Resulting in counts from FF/PM Hawkins 154, FF/PM Ward 145. The current occupant load for the interior 1st level is 85 and the upstairs is 26. The upstairs was roped off and appeared to have restricted admittance. The manager stated that no one was up there. The establishment did have a posted occupancy load certification that corresponded with the information I had of their occupant load.

I found them in violation of Section 2501.16.3 of the uniform fire code. Overcrowding and admittance of people beyond the approved capacity of a place of assembly is prohibited.

Interior Inspection

Upon inspection the establishment had a high concentration of people in one area. Free movement was not impeded, with aisles and means of egress were mostly unobstructed.

Issuance of the Citation

Greg Allen who was pointed out to me as an owner, by the said manager, was notified that the establishment was being cited. He was verbally abusive in tone and threats against my job during the issuance of the site prompting his employees to apologize for his demeanor. He would not agree to accept the citation. I informed him declining to sign the cite would result in his arrest. He requested HBPD. I informed him that the fire department was the agency that was issuing the ticket. He continued to refuse to sign the ticket and I called for HBPD. Officer Landon Phillips arrived on scene and I explained to him the nature of the call. Phillips then questioned Mr. Allen on his version of the problem. Phillips then informed Mr. Allen about the policies and procedures surrounding the event. Mr. Allen was short and slightly aggressive in his rebuttal to Phillips. Phillips asked him several times to sign the citation, Mr. Allen was evasive in his answers until it was clear that he did not intend on signing the citation at that time. Mr. Allen was handcuffed and placed in a squad car.

Phillips informed me that the conversation was being taped and later informed me he downloaded the tape if it was needed in the future. Mr. Allen signed the citation prior to being booked and was released per Phillips.

Violations Observed

Permitting Overcrowding
Uniform Fire Code
Section 2501.16.3

Attachments

Fire Department Incident Report
Photo Copy of Occupant load Sign on File

Michael Garofano
Captain
Hermosa Beach Fire Department

CC:
Fire Chief Tingley
Asst. Fire Chief Gomez