

Mascara's Closing Chapter

Summary: Fatal Mistake Yields An Opportunity

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The pivotal event: [On January 03, 2019 the controlling principal \(owner\) of Stadium Club, Inc](#) changed from Milton R Howard to Thomas H Shuman. Stadium Club, Inc is the Chapter 151 licensee, not Mr Howard or Mr Shuman.

At that time in 2019 Mr Shuman failed to seek a new distance-to-church-or-school Waiver. And, a Waiver transfer from Howard to Shuman was not permissible as [determined by the General Counsel](#) in 2015, although such a transfer might have been possible years earlier. [See the discussion of the General Counsel's opinion, below.](#)

Currently, Stadium Club, Inc (the licensee) is operating in violation of the zoning code. And, the licensee can NOT qualify for the required distance Waiver, if the Waiver criteria are interpreted correctly, as explained in the section: [Insurmountable Waiver Hurdles, below.](#)

The reasoning for this strategy is described in a series of emails between Zoning Administrator Sean Kelly and science professor Ann O. Miller. [That email set is downloadable here.](#)

Further, it is likely that a future Chapter 151 application by Mr Shuman will require compliance with new expanded [distance limits enacted in 2014](#). See [Severe Distance Limits](#), below.

Consequently, if the City proceeds carefully, it may be able to revoke Stadium Club, Inc's license for failure to comply with zoning standards.

The City's shuttering of Stadium Club, Inc (dba Mascara's) would save a vast Public treasure in litigation costs, investigations, board research and JSO calls for service ([numbering 200 per year](#)) – as well as lost residential property values, life quality and human life.

Insurmountable Waiver Hurdles, Revealed By 1999 Errors

Insurmountable Waiver Hurdles

The following factors will defeat a future distance waiver at the Mascara's site.

During the 1999 Planning and Development Department [evaluation of Gonzalez's distance Waiver application](#), the facility failed all Waiver criteria except one, criterion (iv). But, the facility actually failed criterion (iv), although the City evaluator listed criterion (iv) as "passed."

That blunder (when corrected) will defeat all future distance Waiver applications.

The City evaluator made a sentence syntax error. In the review of [criterion \(iv\), page-5](#), the evaluator incorrectly treated the word AND as if it means OR, when it means BOTH.

Thus, when the criterion is read correctly, the facility must be BOTH *"not directly visible"* AND *"physically separated from the church or school . . . ,"* in order to pass. Consequently, if the facility fails just one part of criterion (iv), then it has failed the entire criterion.

1. Future applicants will certainly fail the first part. The facility is "DIRECTLY visible," [as this photo shows, page 3](#). Whether the facility is "partially" or "fully" visible is not relevant. The Code text is "directly visible," meaning that no mirror, periscope or over-obstacle device is needed to see it.
2. No valid evaluation of the highly subjective *"physically separated"* was possible, since it took place during the vast [1998 – 1999 reconstruction](#) of the [Southside-Beach interchange](#). Now, the church and both schools are closer, within 1,350 feet walking distance, [shown in this aerial map, page 2](#), closer than the longstanding [§ 656.805 1,500-foot distance mandate](#).

The linked photo and map set must be downloaded before it can be viewed.

Thus, a future applicant will fail one (or likely both) parts of criterion (iv), meaning the facility will flunk all of criterion (iv). Plainly, the application fails fully, because it cannot meet *"one or more of the . . . [5] criteria,"* as specified on [page-4 of the evaluation](#), which is a code [§ 656.133](#) excerpt.

Gonzalez's 1999 ZDG, Inc application passed, because the City evaluator misapplied criterion (iv). Now, every future Chapter 151 application will fail criterion (iv) and all the other four Waiver criteria as well (as Gonzalez rightly failed in 1999), so a distance Waiver cannot be granted.

History & Background

2005

Sometime in early 2005 Milton R Howard acquired a business named "Stadium Club" from Diego L and Zora K Gonzalez, whose closely-held corporation was titled ZDG, Inc. Mr Howard on [June 05 2005 incorporated Stadium Club, Inc](#), naming himself as its principal.

In 2005 the corporation Stadium Club, Inc (not Mr Howard) became the licensee for all future local and State licenses. On June 09 2005 Howard sought and was granted a transfer of the alcohol Exemption and the distance-to-churches-and-schools Waiver obtained by Gonzalez in 1999. See [document E-99-121](#) and [document WLD-99-22](#).

The distance Wavier was imperative, allowing the distance-to-church to be reduced from 1,500 feet to less than 346 feet, just enough to exclude the nearby church, Calvary Worship Center, from critical distance limits. But, the Waiver was granted in error, an error not discovered until 2021. See the [Insurmountable Waiver Hurdles](#) discussion above.

The pivotal fact is that BOTH the Exception and the Waiver were granted PERSONALLY to Mr Gonzalez, and were subsequently transferred "personal to" Mr Howard, that is, to the person of Mr Howard so long as he remained corporation principal. The Exception and Waiver were NOT transferred to the corporation named Stadium Club, Inc.

So, (this is critical) if Mr Howard were to depart as corporation principal, the new principal of the corporation would NOT possess the transferred Exception and Waiver. No one would. The Waiver ceases to exist.

In July 2005 Howard was granted a State 4COP alcohol license. And, on November 08, 2005 [City Council created a new regulated entity, called a Chapter 151](#) "Dancing Entertainment Establishment" – a misleading title, since the fare can be nude or semi-nude exposition.

Under the ordinance the Sheriff issues the license, after other City agencies (and some State agencies) evaluate and assure local code and State statute compliance.

2006

In August 2006 or August 2007 Howard sought a Chapter 151 license for Stadium Club, Inc. But, before he acquired the license, Council enacted [Ordinance 2006-136-E](#) on February 28, 2006, which requires a more severe review of Chapter 151 applications, stating:

"The Planning . . . Department shall . . . investigate the proposed premises for compliance with Chapter 656," code (Sec 151.205); *"If . . . Planning . . . recommends disapproval, the application shall be disapproved by the Sheriff"* (Sec 151.206), and *"The Sheriff's approval . . . does not waive the City's zoning requirements . . ."* (Sec 151.206).

But, City planners apparently ignored those code mandates. And, the City honored the 1999 distance-to-church [Waiver, transferred from Gonzalez](#), apparently without question, without any required submittals, and without further evaluation – even though that Waiver was approved IN ERROR in 1999 during Gonzalez's ownership. [See the Waiver discussion, above](#).

2007

On July 31, 2007 a [Chapter 151 License was issued to Stadium Club, Inc](#), although the license might have been issued on July 31, 2006, but not sooner than July 31, 2006.

There is no evidence that the City (Sheriff's office or Planning and Development Department) ever reevaluated the distance Waiver. If such reevaluation had occurred, the [City's evaluation error, committed in 1999](#), might have been discovered, resulting in the Waiver and the license being denied, and years of Public suffering and Public costs avoided.

In error the license fails to identify the licensee, which may nullify the permit. Stadium Club, Inc's first Chapter 151 license, issued by JSO, identifies the licensee correctly as Stadium Club, Inc. However, all [subsequent licenses identify the licensee in error](#) as Mascaras, Mascara and Mascara's (not the required Stadium Club, Inc) and give erroneous addresses, including 3775 or 377 Southside Boulevard, when 3225 is correct.

2014

On March 25, 2014 more extensive distance limitations were mandated via [Ordinance 2014-164-E](#), which provides in § 151.202(c) that *“Each licensed premises shall comply with and be subject to the placement and distance limitation requirements set forth in [Part 11, Chapter 656, Ordinance Code.](#)”*

Consequently, after March 25, 2014 a Chapter 151 facility, by law, must be at least:

- *“1,000 feet from . . . another adult [or dancing] entertainment . . . facility, [§ 656.1103\(a\)\(1\)](#) . . . [and] 1,000 feet from an established school or church, [§ 656.1103\(a\)\(3\)](#).*
- *“500 feet from . . . a residential district, [§ 656.1103\(a\)\(2\)](#) . . . [and] 500 feet from . . . any business which has an on-premises consumption beverage license,” [§ 656.1103\(a\)\(4\)](#).*

The resulting Stadium Club, Inc distance violations are [shown in these downloadable maps](#) (download before viewing). Although a 1,000-foot separation is mandated, the distance to the Calvary complex is 457 feet, and the distance to Cornerstone is 815 feet. And, residential land (207 feet) and another alcohol facility (400 feet) are closer than the 500-foot mandate.

Even if these 2014 distance limitations are found not applicable, still in force are the longstanding [distance limits of § 656.805](#): 1,500 feet to church or school (for on-premises alcohol consumption and 500 feet (for off-premises alcohol consumption). These distance limits have existed long before Milton Howard sought a Chapter 151 license in 2006 or 2007.

2015

On [August 27, 2015 the General Council](#) issued an opinion which forbids the transfer of Waivers to a future principal of Stadium Club, Inc. In 2005 a distance Waiver could be transferred to Howard, but in 2019 it can NOT be transferred to Shuman. The 2015 opinion states:

“The Zoning Administrator does not have the authority to transfer the exception, variance or waiver to another entity if the original application came within the purview of . . . Section 656.1 36(c) . . . [that is] When the use requires licensure or other approvals by the State . . . such as a liquor license approval . . . ”

2019

The pivotal event occurred on January 03, 2019: [Thomas H Shuman replaced Milton R Howard](#) as controlling principal (owner) of Stadium Club, Inc. And, Howard's distance Waiver could not be transferred to Shuman. Yet, Mr [Shuman failed to seek a new Waiver](#).

Had the City initiated evaluations in 2019 and thereafter, an unattainable Waiver may have been discovered; the facility closed, sparing the Community 3 more years of mayhem.

Critically, for post-2014 license applications, the expanded [Ordinance 2014-164-E](#) distance limits ([described below](#)) may be enforceable, if the corporation's principal has changed.

Key Dates

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The foundings of [Calvary Worship Center](#) (1995) and [Calvary Christian Jr Academy](#) (2000) predate [Chapter 151 enactment](#) (2005) and [Howard's first Chapter 151 license](#) (2006 or 2007). The Calvary school ([VPK-certified on June 09, 2005](#)) is [regulated by the State of Florida](#) with tuition paid by the State. The [Appendix displays all dates](#) graphically.

Nearby Cornerstone Christian School was founded on January 31, 2014 at 9039 Beach Boulevard, although the address change was not [reported until June 23, 2014](#).

So, the church and the two schools predate the enactment of extensive distance limits within [Ordinance 2014-164-E](#), and before Stadium Club, Inc's ownership change in 2019.

Formerly at Cornerstone's site, Open Arms Baptist Church ([founded 2002, departed 2013](#)) predates [Chapter 151's enactment](#) (2005), Howard's [2005 acquisition of "Stadium Club"](#) and [Howard's first Chapter 151 license](#) (2006 or 2007).

Severe Distance Limits, Mandated In 2014

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It should be remembered that additional, more severe distance limitations were enacted on March 25, 2014 via [Ordinance 2014-164-E](#). These limits may now apply to Stadium Club, Inc, due to its [2019 ownership change](#). The 2014 ordinance certainly dooms any subsequent Chapter 151 application at the Mascara's site. [See the 2014 code revision section, above](#).

[Ordinance 2014-164-E](#) provides in Section 151.202(c) that *"Each licensed premises shall comply with and be subject to the placement and distance limitation requirements set forth in Part 11, Chapter 656, Ordinance Code."*

Consequently, after March 25, 2014 a Chapter 151 facility, by law, must be at least:

- *"1,000 feet from . . . another adult [or dancing] entertainment . . . facility, § 656.1103(a)(1) . . . [and] 1,000 feet from an established school or church, § 656.1103(a)(3).*
- *"500 feet from . . . a residential district, § 656.1103(a)(2) . . . [and] 500 feet from . . . any business which has an on-premises consumption beverage license," § 656.1103(a)(4).*

The Stadium Club, Inc distance violations are [shown in this downloadable map set](#), which must be downloaded to a hard drive before it can be viewed.

The downloadable aerial maps reveal the following:

1. The 457-foot distance to the Calvary church and school complex is far less than the mandated 1,000 foot separation. And, the distance to Cornerstone school, at 815 feet, is less than the mandated 1,000 feet.
2. Further, the residential district is 207 feet away, when a 500-foot separation is required. And, the distance to a separate beverage license establishment is less than 400 feet, when 500 feet is mandated.

Even if the 2014 distance mandates do not apply in this case, the longstanding [500-foot and 1,500-foot distance limits of § 656.805](#), dating back to 1991, are still in effect, dooming a Chapter 151 facility at this site. The above dates are [shown graphically in the Appendix](#).

Cost To The Community

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Too often, when debasing Chapter 151 facilities are evaluated by government agencies, the interest of the facility owner is feared and favored, while the degrading impact on nearby residential landowners is downplayed.

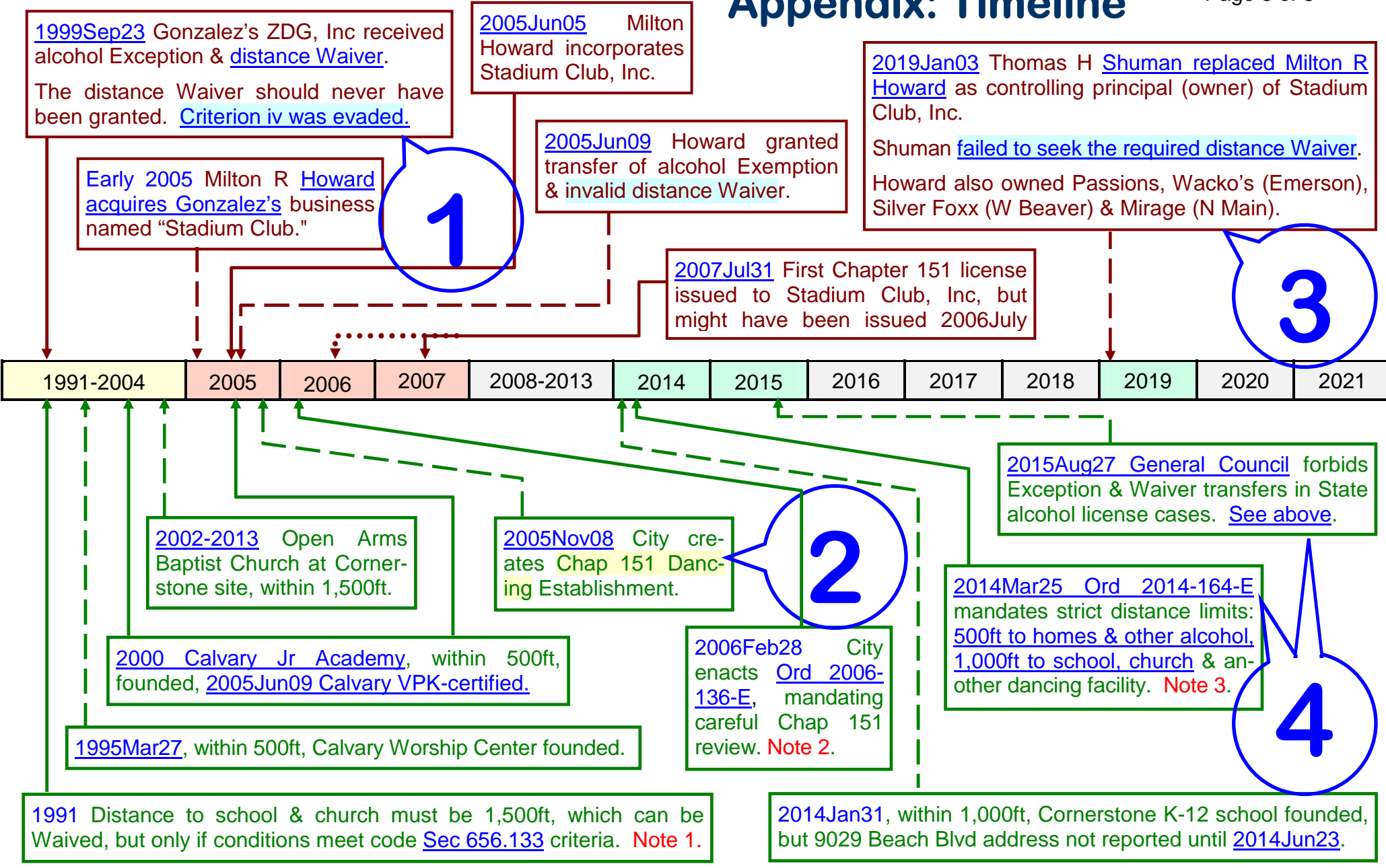
The results of capricious or biased City evaluations are calamitous, as in this case: Diminished property values and quality of life, blatant parking lot sex acts and masturbation in view of children's homes, repeated assaults and altercations, gun battles with small children in the line of fire, relentless noise and sleepless nights (which the City's noise abatement will not curb), and automobile speeding, car wrecks and illegal parking on public and residential property – a hell on earth.

The police calls for service are unending – [over 200 in the past 12 months](#). At \$100 per call, that's \$200,000 per year, enough to fund annually one sworn JSO officer or two.

Court actions by the State have cost tens of thousands of dollars, but the fines recovered are absurdly in the few hundreds. The City's litigation costs might extend into the high tens of thousands.

And, who pays for all of this? The taxpayers, and in part the residents of the nearby Community, who are also the victims of the constant bedlam.

Appendix: Timeline



Notes:

- [Ordinance 2000-743-E](#) reveals that Section [656.805 Distance limitations](#) existed prior to 2000Sep12.
- Before [Howard's Chapter 151 license](#) was granted, [Ordinance 2006-136-E](#) added extensive Planning Department input, namely: "The Planning . . . Department shall . . . investigate the proposed premises for compliance with Chapter 656," ([Sec 151.205](#)). "If . . . Planning . . . recommends disapproval, the application shall be disapproved by the Sheriff" ([Sec 151.206](#)). "The Sheriff's approval . . . does not waive the City's zoning requirements . . ." ([Sec 151.206](#)).
- More distance limits were [enacted 2014Mar25](#). Yet, the [§ 656.805 500ft & 1,500ft limits](#) existed prior to 1999, before Howard's [Chapter 151](#) license application.