

**VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH  
CITY OF VIRGINIA BEACH,**

**Plaintiff,**

v.

**CASE NO. CL08-\_\_\_\_\_**

**JNP MANAGEMENT, INC. D/B/A  
ENCORE RESTAURANT,**

**NOTICE**

**TAKE NOTICE** that on December 30, 2008, at, at 11:00 a.m., or as soon thereafter as counsel may be heard, the undersigned will move this Honorable Court *ore tenus* to rule on the City's request for an injunction and ancillary relief pursuant to § 48-17.1 of the Code of Virginia.

CITY OF VIRGINIA BEACH

By Mark D. Stiles  
Of Counsel

Leslie L. Lilley (VSB No. 18196)  
City Attorney  
Mark D. Stiles (VSB No. 30683)  
Deputy City Attorney  
Christopher S. Boynton (VSB No. 34731)  
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VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

CITY OF VIRGINIA BEACH,  
a Virginia Municipal Corporation

Plaintiff,

V.

CASE NO. \_\_\_\_\_

JNP MANAGEMENT, INC.  
D/B/A ENCORE RESTAURANT,

Defendant.

**SERVE: JAMES N. PHIPPS, PRESIDENT  
1889 VIRGINIA BEACH BOULEVARD  
VIRGINIA BEACH, VIRGINIA 23454**

**JAMES N. PHIPPS, PRESIDENT  
446 OCEANA BOULEVARD  
VIRGINIA BEACH, VIRGINIA 23454**

**JAMES N. PHIPPS, PRESIDENT  
5905 ATLANTIC AVENUE  
VIRGINIA BEACH, VIRGINIA 23451**

**COMPLAINT FOR INJUNCTIVE RELIEF**

COMES NOW the City of Virginia Beach, by counsel, and files its Complaint for Injunctive Relief against JNP Management, Inc., d/b/a Encore Restaurant, Inc., stating as follows:

1. The City of Virginia Beach (“City”) is a municipal corporation duly authorized and existing under the laws of the Commonwealth of Virginia.
2. JNP Management, Inc., d/b/a Encore Restaurant owns and/or operates Encore Restaurant (hereinafter “Encore”), an establishment located at 1889 Virginia Beach Boulevard, Virginia Beach, Virginia.

3. Jurisdiction and venue exist in this Court pursuant to Virginia Code §§ 48-17.1 and 8.01-262.

4. This is an action brought under Virginia Code § 48-17.1, which authorizes a circuit court to temporarily enjoin the sale of alcohol at any establishment licensed by the Alcohol and Beverage Control Board where the operator of the establishment has allowed it to become a meeting place for persons committing serious criminal violations of the law on or immediately adjacent to the premises so frequent and serious as to be deemed a continuing threat to public safety.

5. Encore is located at 1889 Virginia Beach Boulevard in the City of Virginia Beach.

6. Encore serves alcoholic beverages to its patrons pursuant to licenses issued by the Virginia Alcoholic Beverage Control Commission.

7. Between January 1, 2008 and the December 21, 2008, there have been 116 calls for police service at this location. During the same time period, there have been at least 24 separate instances of violence, disorderly conduct, firearms violations and/or other offenses against public safety, all of which occurred inside Encore or in the immediate vicinity of Encore and involved patrons and/or staff members of Encore.

8. As a result of the recurring pattern of violence and criminal activity occurring at or in the immediate vicinity of Encore, A. M. Jacocks, Jr., Chief of Police for the City of Virginia Beach and its chief law enforcement officer, has determined that its owners and/or operators have allowed Encore to become a meeting place for persons committing serious criminal violations of the law on or immediately adjacent to the premises so frequent and serious

as to be deemed a continuing threat to public safety. See Affidavit of Chief A. M. Jacocks, Jr., ¶ 3, a copy of which is attached hereto as Exhibit 1 and incorporated herein.

9. The documentary evidence relied upon by Chief Jacocks includes a listing of calls for service as well as official Incident Based Reports and other records relating to the incidents occurring at or adjacent to the establishment. These documents are attached as Attachments A and B to Chief Jacocks affidavit and are incorporated herein by reference.

10. The City of Virginia Beach has notified the Virginia Department of Alcoholic Beverage Control of the incidents and conduct set forth herein and has requested that its representatives conduct an investigation. However, it is anticipated that an ABC investigation and any resulting hearing could take weeks or months to be completed.

11. The severity and frequency of the violence and criminal activity at and in the immediate vicinity of Encore and involving its patrons and staff has increased over time and has reached a level such that the public health and safety is at risk unless immediate action is taken.

12. Virginia Code Section 48-17.1(A) provides that the Court shall issue a temporary injunction, without bond, enjoining the sale of alcohol at an establishment if it finds, following a hearing, that the threat to public safety complained of exists and is likely to continue if such injunction is not granted.

Wherefore, the City of Virginia Beach moves this Court to:

- 1) conduct an evidentiary hearing;
- 2) issue a declaration that the operators of Encore have allowed it to become a meeting place for persons committing serious criminal violations of the law on or immediately

adjacent to the premises so frequent and serious as to be deemed a continuing threat to public safety;

- 3) grant a temporary injunction, without bond, and enjoining the sale of alcohol at the establishment because the threat to public safety complained of exists and is likely to continue if such injunction is not granted; and
- 4) award such other and further relief as the Court deems proper.

CITY OF VIRGINIA BEACH

By: Mark D. Stiles  
Of Counsel

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**CASE NO. CL08-\_\_\_\_\_**

**JNP MANAGEMENT, INC. D/B/A  
ENCORE RESTAURANT,**

**Defendant.**

**AFFIDAVIT OF ALFRED M. JACOCKS, JR.**

THIS DAY, personally appeared before me, **Alfred M. Jacocks, Jr.**, who having first been duly sworn deposes and states as follows:

1. My name is Alfred M. Jacocks, Jr. I am the Chief of Police for the City of Virginia Beach and have served in that position at all times pertinent to this proceeding. As Chief of Police, I am the chief law enforcement officer for the City of Virginia Beach.
2. Upon information and belief, JNP Management, Inc. is the owner and operator of a restaurant and nightclub commonly known as Encore. Encore is located at 1889 Virginia Beach Boulevard in the City of Virginia Beach, Virginia. Encore is licensed by the Virginia Alcoholic Beverage Control Board to sell alcoholic beverages for the consumption of its patrons while on Encore's premises.
3. In connection with my duties, I have evaluated information available to me regarding the conduct of the staff and patrons of Encore. Based upon this information, I have determined that the owner and operators of Encore have allowed that establishment to become a meeting place for persons committing serious criminal violations of the law on or immediately

adjacent to its premises so frequent and serious as to be deemed a continuing threat to public safety as provided in Virginia Code § 48-17.1.

4. My determination is based upon the review of various documents and records prepared and maintained by the Virginia Beach Police Department in the ordinary course of its operations. These records include a listing of calls for police services at, or immediately adjacent to, Encore's business address for the period January 1, 2008 through December 21, 2008 (a true and correct copy of this document is attached hereto as Attachment A); as well as police reports and other records relating to criminal incidents and activities occurring at or adjacent to Encore's business premises during the same time period. (A true and correct copy of the pertinent police reports are collectively attached hereto as Attachment B.)

5. A review of the documents referenced in the preceding paragraph reveals that there were 116 calls for police service at Encore between January 1, 2008 and December 21, 2008. During the same time period, at least twenty-four (24) separate instances of violence, disorderly conduct, weapons violations or other incidents adversely impacting public safety were observed or reported. Each of these incidents occurred inside Encore or in the immediate vicinity of Encore and each involved either patrons and/or staff members of Encore.

6. A month by month review of the incidents reveals the following:

a. In January of 2008, Officers responded to a shots fired call at Encore. The victim told police that the suspect, a patron, pointed a handgun at him while they were in Encore's parking lot. The suspect admitted to having, but not pointing, the gun at the victim. The suspect was arrested and a Glock Model 21 (.45 caliber) handgun was later recovered at the scene (IBR # 2008 – 004701).

b. In February of 2008, the following incidents occurred:

i) Officers located an illegally concealed handgun in a vehicle in the parking lot of Encore and arrested an Encore patron for the weapons violation (IBR # 2008-005958);

ii) There were two different hit and run collisions at Encore (IBR # 2008 - 007278 and 2008 -009531); and

iii) Officers responded to Highway Lane and Virginia Beach Boulevard, two blocks east (or about 1,960 feet east) of Encore, for the report of an individual who was shot in an alleged drive-by shooting. The victim, a security guard at Encore, was transported to the hospital. The investigation revealed that the shooting took place behind Encore when one employee was playing with a handgun and accidentally shot the security guard (IBR # 2008 – 009536).

c. In March of 2008, Police received a report of shots fired at Encore. Officers arrived on scene and found a female had been assaulted by two other females. During the assault, a male patron recovered a handgun from his vehicle and fired two shots. The shooter was arrested and the weapon was recovered (IBR # 2008 – 011057).

d. In May of 2008, an officer arrested a suspect during a concealed weapons sweep of cars parked in the Encore parking lot. The suspect was charged with Possession of a Firearm by a Convicted Felon, Concealed Firearm, Possession of Marijuana, Open Container and Drunk in Public (IBR # 2008 - 024973).

e. The following events occurred in June of 2008:

i) A citizen reported he was assaulted by two subjects inside Encore (IBR # 2008 – 031617); and

ii) An officer heard a gunshot from the parking lot of Encore. The suspect fled the area avoiding apprehension (IBR # 2008 – 034392).

f. In August of 2008, a juvenile was assaulted during an Encore teen night event. The victim reported she was jumped by a group of girls as she was leaving the club (IBR # 2008 – 046349).

g. The following events occurred in September of 2008:

i) An Encore patron reported that he was assaulted while in his vehicle parked in the parking lot of Encore (IBR # 2008 – 070796);

ii) Another Encore patron, parked in the Encore lot, was robbed and shot in the head while in his vehicle. The suspect also shot another person before fleeing (IBR # 2008 – 052144);

iii) Officers responded to the area in response to a report of gunshots. (IBR # 2008 – 0056161);

iv) While investigating a complaint of a large fight at Encore, police recovered a small amount of marijuana (IBR # 2008 -0056383).

h. In October of 2008, an officer heard shots fired at Encore. During the subsequent investigation an illegal handgun was found in the car of an Encore patron. The suspect was arrested (IB # 2008 -057858).

i. The following events took place in November of 2008:

i) A citizen reported seeing another person remove a machine gun from the trunk of a parked car at Encore and put the gun in his lap as he got in the car. By the time police arrived on scene, the suspect had driven off and could not be found (call for service 083060164 and CADS Report);

ii) A citizen reported a large fight at Encore with people (possibly security) spraying mace (call for service 083081118 and CADS Report);

iii) Another citizen reported another large fight at Encore. The citizen stated she was at Encore to pick up her daughter and another juvenile (16 and 14 years old) when she saw the fight break out. The citizen saw one female hit another with a white pipe and observed the fight escalate until it involved an estimated 50 persons before the police arrived. The citizen reported seeing an unidentified person fire five shots into the air before fleeing on foot. She also reported seeing what she thought were security guards spraying the crowd with mace and holding drawn firearms (call for service 083090015 and 0015; IBR # 2008 – 063669);

iv) A complainant was returning to his car in the Encore parking lot when someone crashed into his car and fled (IBR # 2008 – 063675);

v) While investigating a shot fired call at Encore, an officer heard a shot fired in the back lot of Encore. While attempting to arrest the shooter, the officer observed a person in the area of the shooter throw a bottle. The officer arrested the person he thought was the shooter and recovered a recently fired handgun and a spent shell casing (IBR # 2008 – 066726).

j. The following events took place in December of 2008:

i) An officer was approached by a member of Encore's security staff reporting rioting inside the club on December 13. As the officer exited his vehicle, he observed a large group of individuals fighting near the front entrance of Encore. The officer heard and reported three gunshots coming from near the front door of Encore. The officer observed large crowds of people congested in that area and was unable to identify the shooter. Two vehicles located in the parking lot of Encore were struck by the gun fire and extensively damaged.

While approaching the business during this incident, the responding officers encountered an assault victim covered in blood. Another assault victim was located inside the business. This victim had been struck by a liquor bottle the bartender had thrown at another patron. This victim also reported being taken into an isolated area by club employees and being offered cash by Encore staff as an inducement not to report the assault to police. Subsequently, another victim presented at Bayside Hospital for a stab wound resulting from the incident at Encore. Yet another assault victim presented at Virginia Beach General Hospital

for treatment for injuries allegedly sustained at Encore. Three additional victims, reportedly received lacerations from assaults at Encore but did not require hospital treatment (IBR # 2008 -070023);

ii) An Encore valet identified someone whom he believed to be the shooter from the early morning hour incident on December 13, 2008. This person was parked directly across the street from Encore when located by responding officers. Officers arrested this individual after learning there were outstanding misdemeanor arrests warrants on file for him. Two handguns were recovered during this arrest (internal correspondence dated 12/14/08);

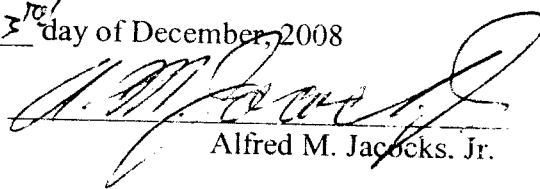
iii) In the early morning hours of Saturday, December 20, a large fight broke out inside Encore; the fight inside the bar resulted in one male patron being transported to the hospital for treatment. Other individuals inside Encore reported seeing the victim being beaten by as many as 15 different people inside the club. Police arrived on the scene to find the primary access to the club blocked because staff had apparently locked the front doors preventing police from entering. After almost 20 minutes officers were able to gain entry into the club. Upon entrance, the police observed evidence that liquor bottles from behind the bar had been thrown into the crowd. Later the same morning, while monitoring the perimeter of Encore, officers encountered a patron attempting to fight several other patrons in the parking lot. Officers arrested the patron for a disturbing the peace violation (internal correspondence dated 12/20/08; IBR # 2008 – 071240); and

iv) On December 21, an officer outside Encore observed a patron yelling and threatening the security guards. The patron refused to move along and continued the threatening behavior. Officers arrested the patron for disturbing the peace and resisting arrest. The arrested patron explained being upset because Encore staff had pushed his pregnant sister while she was inside the business (internal correspondence dated 12/21/08).

7. The Virginia Beach Police Department has provided the foregoing information to the Virginia Department of Alcoholic Beverage Control for further investigation. Upon information and belief, the ABC investigation and hearing process could take weeks or months to be completed. Given the severity and frequency of the violence and criminal activity at and adjacent to Encore, it is my opinion that immediate action is necessary to adequately protect public health and safety.

Further, the Affiant sayeth not.

GIVEN under my hand this 23<sup>rd</sup> day of December, 2008

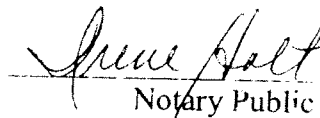
  
Alfred M. Jacobs, Jr.

STATE OF VIRGINIA  
CITY OF VIRGINIA BEACH, to-wit:

The above Affidavit was subscribed and sworn to before me this 23<sup>rd</sup> day of December, 2008 by Alfred M. Jacobs, Jr. in the city and state aforesaid.

My Commission Expires:

August 31, 2010

  
Notary Public

