

Q&A – 25 March - Ned Levine (Ned@nedlevine.com)

1. Does Houston's lack of zoning affect results?

I don't think so. Houston does not have zoning, per se, but it has deed restrictions. Deed restrictions are private contracts by owners of homes in a sub-division that were established initially by the developer. Most sub-divisions created after World War II have restrictions against store-front businesses (Kapur, 2004). Further, most homeowner associations (HOA) throughout the United States have restrictions in their Covenants, Conditions and Restrictions (CCR), usually defined as "residential use only", that prevent store-front businesses (Findlaw, 2016). Few, if any, HOAs would allow a commercial establishment such as an alcohol-serving business (ABO) to be located within their sub-division.

In my earlier study of late night bar and drunk driving crashes, I modeled the degree of concentration that would occur if all residential parcels excluded alcohol-selling businesses and compared this to the actual concentration of ABOs. The latter was far more concentrated than the former, indicating that there is a 'pull' factor for concentration that is much stronger than the 'push' factor of being excluded from residential areas.

If you are interested in the analysis (which was never published), let me know at the address above and I will send you a copy.

References cited

Findlaw (2016). *Slaby v. Mountain River Estates Residential Association Inc.*, *FindLaw for Professionals*, <http://caselaw.findlaw.com/al-court-of-civil-appeals/1582524.html>.

Kapur, T. M. (2004). Land use regulation in Houston contradicts the city's free market reputation, *Environmental Law Reporter*, 34, 10046-10063.

2. Is there a regulatory timeframe for selling/ open hours in Houston or in the State of Texas?

The Texas alcohol code is a Byzantine-like system of complex rules that keeps changing. First, each county can decide whether to allow alcohol sales at all. As of last May, there were still 5 counties that were 'dry', 193 that were partly 'dry' (allowing off premise purchase but not on premise purchase), and 56 that were completely 'wet'. See:

<https://www.tabc.texas.gov/texas-alcohol-laws-regulations/local-option-elections/#:~:text=Most%20counties%20allow%20some%20types,and%20five%20completely%20dry%20counties>

Second, regarding hours of operation, those that are 'wet' or 'partly wet' have hourly restrictions for both on premise and off premise sales for Monday-Friday of 7 am – Midnight (I thought it was 6 am); 7 am – 1 am for Saturday; and Noon – Midnight for Sunday. However, the cities of Houston and Dallas are allowed to have on premise ABOs open till 2 am on Monday-Saturday. I'm not sure whether that has been applied to San Antonio and

Austin as I cannot find the rule in the TABC codebook. See section on “Hours of Sale and Consumption” in:

<https://www.tabc.texas.gov/faqs/#:~:text=Monday%20-%20Saturday%3A%20Before%207%20a.m.,of%20food%20to%20a%20customer>

and

<http://localalcohollaws.com/index/4835000/tx/houston>

The Texas Alcohol and Beverage Commission (TABC) code has siting rules, too. Alcohol-selling premises must be at least 300 feet from churches and schools and, if agreed to by the local jurisdiction, hospitals and day care center as well. Each jurisdiction can increase the distance up to 1000 feet. See:

<https://www.tabc.texas.gov/faqs/#:~:text=How%20far%20away%20does%20a,from%20a%20church%20or%20school%3F&text=Adopt%20a%20local%20ordinance%20prohibiting,1%2C000%20feet%20under%20certain%20circumstances>

As I said, the system is Byzantine!

3. Two related questions.

A. Have you been able to distinguish and analyze crimes occurring outdoors (rather than indoors)?

Not directly. But, I can approximate it (see below).

B. Can you distinguish domestic assaults from non-domestic assaults? The former are usually indoors. The latter are usually outdoors. The latter will reflect bars better.

That’s a possible way of doing it. Yes, I can distinguish domestic from non-domestic assaults, potentially. The Houston Police Department’s crime categories do distinguish different types of assault and family assault is one of those. The problem was that there were no domestic assaults listed for late at night (Midnight to 3:59 am) crimes within 300 feet of an alcohol-serving business.

An alternative way is to choose a narrow search distance around each alcohol-serving business, for example 10 feet. The accuracy of the geocoding by the Houston Police Department is very good; they keep improving their geocoder so I’m assuming the addresses are accurate. When I selected late night crimes within 10 feet of an alcohol-serving business, I found there were 16 assaults that occurred within 10 feet of such a business. If it is assumed that all of those occurred within the building itself, it still leaves 1246 assaults that occurred between 10 feet and 300 feet from the business late at night. So, that breaks

down into a 3% internal, 97% external distribution. Since thefts could also occur inside a business as well as outside, I looked at those crimes, too. There were 7 thefts that occurred within 10 feet compared to 568 that occurred between 10 feet and 300 feet away (a 1% v. 99% split).

Further, some of the other crimes that occurred within 10 feet of the business are clearly external. For example, there were 7 burglaries from vehicles; those would have occurred in either a parking lot behind the business or right in front of the business. Overall, 60 crimes occurred within 10 feet while 5,905 occurred between 10 feet and 300 feet away for late at night crimes (again, a 1% v. 99% split).

In short, one can produce rough estimates for the internal v. external split in crimes committed in and near alcohol-serving businesses. Obviously, if the police categorized crimes by that distinction, that would be more accurate.

C. Great presentation. Any interest in looking at changes in model during different stages of COVID pandemic?

A good and important point. Soon I will be getting a copy of the 2020 crimes and I can test that. One of the tests I have making is to model crimes by individual days of the year. I have good predictions for general categories of crimes (i.e., property v. violent v. social disorder). I can then extend that to crime around the alcohol-serving businesses and will be able to test whether the semi-lockdown (it was only 'semi' here in Houston because our governor kept trying to open up businesses before the pandemic receded) reduced the number of crimes around such businesses.

For alcohol-related crashes around such businesses, unfortunately I will have to wait a couple of years until the state transportation agency releases that data.