



City of Minneapolis
Licenses and Consumer Services Division
350 South Fifth Street Room 1-C City Hall
Minneapolis, Minnesota 55415
www.minneapolismn.gov



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**FINDINGS OF FACT
CONCLUSIONS, AND
RECOMMENDATIONS**

In the Matter of License No. L247-50197 PAGODA
for WINE E W/STRONG BEER

Held by:
ASIAN PAN INC
ATTN: LING LIN
1417 4TH ST SE
MINNEAPOLIS, MN 55414

13-0973278

This matter came before the Division of Licenses and Consumer Services at a License Settlement Conference on Friday, April 19, 2013 in Room 1C, Minneapolis City Hall. Appearing on behalf of the Licensee was Justin Lin; Owner of Pagoda. Appearing for the City were Grant Wilson; Manager of Licenses and Consumer Services, Linda Roberts; District Supervisor and Michele Harvet; License Inspector. Based on information presented at the Conference, the Division makes the following findings of fact, conclusions, and recommendations:

FINDINGS OF FACT

1. Pagoda has held an On-Sale Wine and Strong Beer, Class E License, at this location since July, 2007.
2. The Minneapolis Police Department License Investigation Division conducts youth alcohol compliance checks in an effort to assure retail-alcohol license holders are not serving alcohol to persons under the age of 21.

3. On November 29, 2012 the Minneapolis Police Department License Investigation Division conducted a youth alcohol compliance check at Pagoda, located at 1417 4th Street SE, in the City of Minneapolis. A 19 year old female shopper and a 19 year old male shopper were sent into the business in an attempt to purchase alcohol. The shoppers entered the establishment and were seated at a table and then they handed their IDs to the female hostess where she looked at them and handed them back to the shoppers. The female hostess then walked away from the table and had a brief conversation with a male server. The male server then walked up to the shoppers table with four bottles of beer (the check was conducted during two for one happy hour). Two Minneapolis plain clothes officers were present, and they observed the female hostess card the shoppers and then walk away and speak to the male server who then returned and served the beers to the shoppers. The shoppers handed their respective beers off to the officers. The transaction was completed, and the business was considered to have failed the compliance check. As a result of the compliance check failure, an administrative citation was issued to Pagoda in the amount of \$500.00, as detailed in a City Council Resolution. Pagoda has paid the \$500.00 administrative fee.

4. On March 21, 2013 the Minneapolis Police Department License Investigation Division conducted a youth alcohol compliance re-check at Pagoda, located at 1417 4th Street SE, in the City of Minneapolis. A 20 year old female shopper was sent into the business in an attempt to purchase alcohol. The shopper entered the establishment and was seated at a table where she handed a male server her ID. The male server took the ID and wrote down the shoppers date of birth and walked over to a female employee at the cash register spoke with the female employee, showed her the date of birth and then returned with two bottles of beer and gave them to the shopper (the check was conducted during two for one happy hour). One of the bottles of beer was open. The shopper handed her beers to the officer. Two Minneapolis plain clothes officers were present, and they observed the male server card the shopper, write her date of birth down and then walk away and speak with the female employee, showing her the date of birth he had written down and then return with two bottles of beer. The transaction was completed, the business was considered to have failed the compliance check. As a result of the compliance failure, an administrative citation was issued to Pagoda in the amount of \$1000.00, as detailed in a City Council Resolution. Pagoda has paid the \$1000.00 administrative fee. After the transaction, the male server told Minneapolis plain clothes officers that he had written the shoppers date of birth down and then went and showed it to a female employee to ask if the shopper was old enough to buy alcohol and the female employee told him the girl was old enough to purchase alcohol and that he could bring her the beer. After speaking with the male employee the female employee walked over to Minneapolis plain clothes officers and on her own without being asked, told plain clothes officers the same story. This female employee was the same one who sold to the shopper on November 29, 2012 at Pagoda.

5. From the first compliance check failure on November 29, 2012, the female server was charged with the Sale of Liquor or Beer to Minors. Criminal charges against the same female are pending as a result of the March 21, 2013 compliance re-check failure.

CONCLUSIONS

1. On two separate occasions, employees from Pagoda sold alcohol to persons under the age of 21, in violation of Minneapolis City Ordinance 370.10, Minnesota Statute 340A.503 subd. 2(1), and the established compliance check policy and procedures of the City of Minneapolis. These compliance failures all occurred in a period of less than 24 months.
2. The licensee has paid the \$500.00 and \$1000.00 administrative fines related to the first and second above stated compliance check failures.

RECOMMENDATIONS

That the On-Sale Wine and Strong Beer, Class E License issued to Pagoda shall be subject to the following conditions and adverse license action:

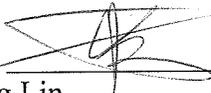
1. Pagoda shall post, on a daily basis, a notice on their alcohol cooler that states the birthdate a person needs to have been born by in order to be served alcohol and the penalties for serving alcohol to a minor.
2. Pagoda shall perform four (4) self audits for serving alcohol to persons under twenty-one (21) in the twelve (12) months following the approval of this agreement by City Council. Documentation of these self audits shall be made available to Licenses and Consumer Services upon request.
3. Pagoda shall complete one alcohol server training (with eARM) within six (6) months following the approval of this agreement by City Council.
4. In lieu of a three day suspension, the City shall impose a \$1500 sanction. \$1000 shall be stayed for a period of one year from the signing of this agreement. The licensee shall pay \$500 of this sanction due at the time of signing this agreement.

Pagoda understands that the holding of a business or liquor license in the City Of Minneapolis is both a privilege and a responsibility. A minimum standard shall be met in order to hold such a license. One minimum standard is that a license holder is responsible to ensure that its business operates in compliance with all applicable laws, ordinances, and regulations. It is understood and agreed that any violation of the above Recommendations shall constitute just and proper cause for the immediate imposition of any stayed penalties. It is further understood that compliance with the above Recommendations is a requirement for continuing to hold a license and that failure to comply with any of these conditions may result in additional adverse license action.

I have read and understand the above findings of fact, conclusions, and recommendations. I agree with their contents and I agree with the above noted Recommendations. I understand that the failure of my business to adhere to this agreement may be cause for further suspension, revocation, or denial of my license. I understand that this report must be accepted and approved by the Minneapolis City Council and Mayor.

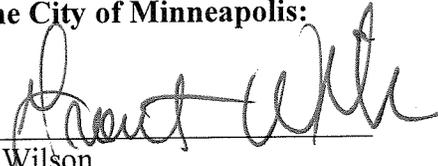
Based upon the foregoing, this agreement is FREELY & VOLUNTARILY ENTERED INTO IN GOOD FAITH:

For Asian Pan, Inc.
d/b/a Pagoda

By: 
Ling Lin
Owner

Date: 5/08/13

For the City of Minneapolis:

By: 
Grant Wilson
Manager
Licenses & Consumer Services

Date: 5-8-13