

**CITY OF MINNEAPOLIS
CITY COUNCIL
PUBLIC SAFETY & REGULATORY SERVICE COMMITTEE**

In the Matter of the On-Sale Beer License,
Held by Cub Foods, 2850 26th Street East

**FINDINGS OF FACT
CONCLUSION AND
RECOMMENDATIONS**

This matter came on for a License Settlement Conference (“LSC”) meeting on Monday, August 20th, 2007 at 11:00 a.m. in Room 1 of City Hall, 350 South Fifth Street, Minneapolis, MN 55415. The LSC meeting was held to discuss issues related to the operation of Cub Foods, located at 2850 26th St. East, Minneapolis, Minnesota 55406 pursuant to a Notice to Appear, dated June 21st, 2007. Present at the LSC meeting was the following representative of Cub Foods: Curt Nesse, Director, and Jackie Bloden, Human Resources Specialist. Also present were the following representatives of the City of Minneapolis: Deputy Director of Licenses and Consumer Services Ricardo Cervantes, Sergeant Kent B. Warnberg of the Minneapolis Police License Investigation Division, and license inspector, Julie Casey.

Based upon the agreement between the parties and all files and records contained herein, the Committee makes the following recommendation:

FINDINGS OF FACT

1. 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.
2. On November 10th, 2005 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Cub Foods. A 19 year old

female was sent into the business in an attempt to purchase alcohol. The shopper brought a 12 pack of beer to the counter. The clerk scanned the beer and asked for identification. The shopper gave the clerk her MN driver's license, who looked at it, and then entered a birthdate into the cash register. The sale was completed and the business was considered to have failed the compliance check. As a result of the compliance failure, an administrative citation was issued to Cub Foods in the amount of \$500 as detailed in a City Council resolution. Cub Foods on Lake Street then paid the \$500 administrative fine.

3. On April 26^h, 2007 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Cub Foods. A twenty year old female was sent into the business in an attempt to purchase alcohol for the re-check. The shopper carried a 6-pack of beer to the counter. The clerk scanned the beer and asked the shopper for identification. The clerk then scanned the shopper's driver's license. The clerk then sold the beer to the minor, and the sale was completed. The shopper was 20 years of age, and it was so stated on her driver's license. This constituted Cub Foods second youth alcohol compliance failure within a 24 month period. As a result of the compliance failure, an administrative citation was issued to Cub Foods in the amount of \$1,000 as detailed in a City Council resolution. Cub Foods paid the \$1,000 administrative fine.

4. From the first alcohol sales, the server was charged out with Sales of Alcohol to a Minor, and the server pled guilty. The guilty plea entered was for the sale of alcoholic beverages to an underage person. Criminal charges are pending as a result of the April 26th, 2007 failure.

CONCLUSIONS

1. On two separate occasions, employees of Cub Foods 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 twenty four months.

RECOMMENDATIONS

That the Off-Sale Beer License, issued to Cub Foods shall be subject to adverse license action.

1. A \$3000 sanction for failing two alcohol compliance checks is imposed. \$1000 of the sanction is stayed pending no further alcohol compliance check failures. \$2000 will be paid upon signing this agreement.
2. CUB Foods agrees to make training their employees a priority. CUB Foods will update their employee handbook to include the Minnesota Statute that lists the sale of alcohol to minors a gross misdemeanor.
3. The CUB Foods store manager shall attend an alcohol server training program.
4. CUB Foods agrees to conduct their own alcohol compliance checks of their employees. This may include a check of their computer records showing the birthdates being entered by the employee.
5. This Agreement does not alter or preclude any previously imposed license conditions that may exist regarding any other licenses held by Cub Foods.
6. This Agreement shall not preclude any other adverse license action for subsequent violations of this Agreement, or for subsequent violations or subsequently-

discovered violations of any federal, state or local laws, ordinances, or regulations.

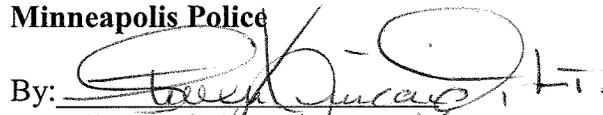
7. Term of Agreement. This Agreement shall remain in effect through and including August 20, 2009. It is understood between the parties that this Agreement shall bind only the present licensee and will not bind any subsequent, unrelated person or persons should the business be sold and a new license approved.
8. "Date of Agreement" shall be defined as the date that the licensee signs or otherwise executes this Agreement. This Agreement is subject to approval by the Minneapolis City Council; however should such approval be obtained after the execution of this Agreement the approval shall be retroactive to the date of execution.

CUB Foods

By: 
David Gerdes
Vice President, Human Resources

Date: 10-3-07

Minneapolis Police

By: 
Lt. Mike Keefe Lt. STEVEN KINCAID
Commander, License Division

Date: 10-9-07

**City of Minneapolis Office of
Licenses and Consumer Services**

By: 
Ricardo Cervantes
Deputy Director of Consumer
Services

Date: Oct 4, 07