

March 4, 2005

**In the Matter of
On-Sale Wine w/ Strong Beer, Class D
Johnnie Entertainment LLC
Sportsman's Pub
Joe Radaich
2124 Como Ave. SE**

**Findings of Fact,
Conclusions and
Recommendations**

This matter came before the Department at a Technical Advisory Committee hearing on Wednesday, February 9, 2005 at 1:00 p.m. in Room 1-C, Minneapolis City Hall. Appearing on behalf of the business was Joe Radaich, sole shareholder and CEO. Appearing for the City were Lt. Janee Harteau, Police Licensing Unit; Steve Hanson and Jared Ellingson, Construction Inspection Services; Tom Deegan, Problem Property Unit; License Inspectors Linda Roberts, Ken Ziegler, Phil Schliesman, and Angie Hugen; and James Moncur and Ricardo Cervantes, Deputy Directors of Licenses and Consumer Services. Based on information presented at the hearing, the Department makes the following findings of facts:

FINDINGS OF FACT

1. That on January 7th, 2005 at 8:30 pm, Inspectors Roberts and Hugen were inspecting the business due to a complaint of an incorrect bill showing food the customer did not order.
2. That on January 7th, 2005, Inspectors ordered four strong beers without being required to order any food. No food was brought to the table with the strong beers. A sign on the wall advertised Coronas as being \$3.50 per bottle.
3. That on January 7th, 2005, Inspectors walked through the entire bar. No food of any type was being served and a buffet was not present. Approximately 30 people were present drinking beer from bottles or pitchers. None were eating.
4. That on January 7th, 2005, the bill was presented to Inspector Roberts for payment and listed \$11 as french fries and \$3 for alcohol. Tax was listed as \$0. The total bill was \$14 which was the cost of only the alcohol. Inspector Roberts paid the bill and left with the receipt.
5. That on June 12, 2003, Inspector Jared Ellingson inspected the make-up air system at the bar and found it to be in disrepair. Additionally, Inspector Ellingson found a new air-conditioner and furnace installed without a permit being pulled.
6. Since June 12, 2005, Inspector Ellingson made approximately 20 inspections to try to get all the orders into compliance at this location. Finally, on October 4, 2004, a summons was issued to Mr. Radaich by the City Attorney. Work was finally started by a licensed contractor on January 10, 2005 and completed on February 7, 2005.
7. That on September 4, 2004, Mike Raeker, Minneapolis Fire Department, issued a second notice of Fire Code violations for the bar. The most serious violation was that the new hood system did not have a fire suppression function. As of February 9, 2005, no plans have been submitted for this prior to the installation and a final inspection was still not completed.

CONCLUSIONS

1. The owner failed to require patrons seated for regular dining to order or be served a meal before serving them wine, intoxicating malt liquor, or 3.2 percent malt liquor which is in violation of Minneapolis Ordinance 363.42 (c) & (f).
2. The owner created incorrect receipts and bookkeeping methods by not accurately reflecting alcohol purchases. Listing alcohol sales as part food and part alcohol was the common business practice at this establishment for the past two years in an effort to reach food to alcohol 70/30 ratio requirements.
3. The owner misrepresented his food to alcohol ratio by reporting alcohol as food for more than two years.
4. Proper sales tax on the alcohol portion of the bill was not paid for more than two years.
5. The owner did not complete building orders in a timely manner causing City staff to spend a tremendous amount of time to gain compliance.
6. Plans for the Fire Suppression function were not submitted to the Minneapolis Fire Department which also caused a delay in staff making a final inspection.

RECOMMENDATIONS

The Department acknowledges the business's interest to resolve the issues at 2124 Como Ave. SE. Due to the willingness of all to bring the property into compliance with all ordinances, the Department makes the following recommendations:

1. Effective immediately, all purchases will be accurately entered into the cash register and will indicate whether they are food or alcohol. Proper sales tax will be calculated for purchases and shown on the bill.
2. By March 25, 2005, the owner will submit an amended Sales Tax return to the MN Department of Revenue which accurately reflects his true alcohol sales for the past two years. A copy of the return will also be given to Licenses.
3. The owner will withdraw his On-sale Wine w/Strong Beer license and downgrade to a 3.2% beer license effective as of February 18, 2005 and shall remain in full compliance with Minneapolis Ordinance 363.42. As of April 1, 2005, only 3.2% beer will be sold.
4. The owner will not pursue an upgrade of either the 3.2% beer license or the class of entertainment at this location for a period of three years from the signing of this agreement.
5. The owner shall be assessed a civil penalty of \$6000 of which \$3000 will be stayed for a period of 1 year from the signing of this agreement. The remaining amount of \$3000 is due on March 11, 2005. If any of the above conditions are not met by their respective deadlines, the stayed portion of the penalty is due immediately.

I have read the above report and recommendations. I agree with the report and I agree with the above noted recommendations. I understand that failure on my part to adhere to this agreement with the Department may be cause for further suspension, revocation, or denial of my license. I understand that this report must be accepted by the Minneapolis City Council and signed by the Mayor. I also understand that future violations may put my license in jeopardy.

Signature

Date

Printed Name