

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

In the Matter of the On-Sale Liquor License,
D'Amico Cucina, Inc.
dba D'Amico Cucina

**BUSINESS LICENSING
PRE-ENFORCEMENT
RECOMMENDATIONS**

This matter came on for a Business Licensing Pre-Enforcement meeting on Wednesday February 1, 2006 at 9:00 a.m. in Room 1 of City Hall, 350 South Fifth Street, Minneapolis, MN 55415. The meeting was held to discuss issues related to the operation of D'Amico Cucina, Inc. dba D'Amico Cucina ("D'Amico Cucina"), located at 100 North Sixth Street, Minneapolis, Minnesota 55403 pursuant to a Notice to Appear, dated January 19th, 2006. Present at the meeting were the following representatives of D'Amico Cucina: Barbara Schultz, D'Amico Partners-Director of Operations-Restaurant Division; Ian Kita, General Manager-D'Amico Cucina; and Tammera Ericson Diehm, Counsel for D'Amico Cucina-Winthrop Weinstine. Present were the following representatives of the City of Minneapolis: Ricardo Cervantes, Deputy Director of Licenses and Consumer Services; Lieutenant Robert Skomra, Commander of the Minneapolis Police License Investigation Division; Sergeant Travis Glampe, Minneapolis Police License Investigation Division; Officer Thomas Hendrickson, Minneapolis Police License Investigation Division; and Joel Fussy, Assistant City Attorney.

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 liquor license holders are not serving alcohol to persons under the age of 21.

2. D'Amico Cucina undertakes frequent and thorough training of its employees to reinforce the importance of not serving alcohol to persons under the age of 21. In addition, D'Amico Cucina has voluntarily implemented a "zero tolerance" policy under which any employee who serves alcohol to an obviously intoxicated person or a person under the age of 21 is immediately terminated and ineligible for re-hire at any D'Amico location.

3. On May 19, 2005 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at D'Amico Cucina. A 20 year old female was sent into the business. The decoy entered the business and went to the bar. She ordered a Heineken from the bartender. The bartender asked the decoy for identification. The decoy produced her actual Minnesota driver's license which showed her to be 20 years old. The bartender looked at the driver's license, returned it, and served the decoy a bottle of Heineken beer. As a result of the compliance failure, an administrative citation was issued to D'Amico Cucina in the amount of \$500.00 as detailed in a City Council resolution. D'Amico Cucina paid the citation on June 1, 2005.

4. On January 13, 2006 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at D'Amico Cucina. A 20 year old male decoy and a 19 year old female decoy were sent into the business. The decoys entered the business and sat at the bar. They requested wine from the bartender. Without asking

their ages or for their identification, the bartender served them glasses of wine. This constituted D'Amico Cucina's second alcohol compliance failure. As a result of the failure, an administrative citation was issued to D'Amico Cucina in the amount of \$1000.00 as detailed in a City Council resolution. D'Amico Cucina paid the \$1,000.00 fine on January 25, 2006.

5. The two alcohol compliance violations have resulted in a criminal conviction of one of the applicable D'Amico Cucina's servers. The guilty plea entered was for the sale of alcoholic beverages to an underage person. Criminal charges are pending as a result of the January 13, 2006 failure.

CONCLUSIONS

1. Despite the training provided by D'Amico Cucina, on two separate occasions in the bar area, employees of D'Amico Cucina 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 eight months.

RECOMMENDATIONS

That the On-Sale Liquor License, issued to D'Amico Cucina shall be subject to adverse license action up to and including revocation, with the commencement of such adverse license action stayed through and including January 25, 2007 subject to full compliance with the following conditions:

1. It is strongly suggested that D'Amico Cucina require all customers who purchase alcohol to produce identification as listed in Minnesota Statute Section 340A.503,

- subdivision 6. D'Amico Cucina agrees to use its best efforts to take any necessary steps to assure persons under the age of 21 are properly identified when alcohol purchases are made.
2. Should the licensee violate any provision of this Agreement while it is in effect it shall be subject to additional adverse license action by the City Council, including license suspension or license revocation. Any sales of alcohol completed by the licensee occurring during a prescribed suspension period hereunder shall be considered unlicensed sales of alcohol in violation of state statute and Minneapolis ordinance.
 3. A properly trained manager or owner must be on-site during business hours at all times.
 4. This Agreement does not alter any previously imposed license conditions.
 5. The licensee is aware that it will be subject to additional compliance checks during the term of this Agreement. As is the policy of the City of Minneapolis, the decoys will at all times respond truthfully to any questions asked of them by employees or sales clerks of the licensee and, if asked, will present their actual duly-issued age identification.
 6. This Agreement shall not preclude any other adverse license action, including but not limited to suspension or revocation, 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 January 25, 2007. 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. Other licenses. It is understood between the parties that the terms of this Agreement shall apply only to operations at D'Amico Cucina and not other establishments that may be owned or operated by the principals of the license holder. Additional adverse licensing action taken against D'Amico Cucina will not, in and of itself, be sufficient grounds for adverse licensing action against other establishments owned or operated by the license holder.
9. The licensee's prior payment of \$1,500 administrative fines constitutes the full monetary penalty imposed in this matter.
10. "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.

D'Amico Cucina, Inc.

By: _____

Paul Smith, CFO

Minneapolis Business Licensing

By: _____

Rocco S. Forte
Assistant City Coordinator
Regulatory Services

Date: _____

7-11-06

Date: _____

7-14-06