

October 12, 2004

In the Matter of the Sidewalk Café Permit  
For 101 Blu LLC,  
3001 Hennepin Avenue South  
Minneapolis, MN

Findings of Fact  
Conclusions and  
Recommendations

This matter came to the attention of the Department following numerous complaints throughout the summer of 2004 concerning the sidewalk café being overextended into the main sidewalk area. A hearing was set before the Public Safety and Regulatory Services Committee to consider revocation of the sidewalk café permit. In response to the notice, Dwight Bonewell, one of the owners of 101 Blu, met with Business License Director James Moncur and Business License Inspector Julie Casey to discuss a resolution to the issues. Mr. Bonewell agreed to forego a hearing and stipulate to the following findings of fact.

#### FINDINGS OF FACT

1. On April 26, 2004, Inspector Phil Schliesman ordered the removal of tables and chairs placed against the street side of the sidewalk in front of 101 Blu. The table and chair placement exceeded the number of tables and chairs in the original plan submitted by 101 Blu.
2. On May 12, 2004, Inspector Carl Boeckmann inspected 101 Blu and discovered the number of tables and chairs on the sidewalk exceeded the number in their approved plan. Photos were taken of the number exceeded the plan. Inspector Boeckmann verbally ordered the tables and chairs be removed.
3. On June 11, 2004, a violation notice was sent to 101 Blu stating that the approved sidewalk café permit only allows six tables and twelve chairs against the wall of the building directing in front of 101 Blu. The order indicated tags would be issued for future violations.
4. On July 2, 2004, Inspector Angela Hugen inspected the sidewalk café at 101 Blu. She found 6 tables and fifteen chairs on the sidewalk. Two tables were partially blocking the sidewalk. Inspector Hugen ordered the waitress to move the tables and they complied with her verbal order.
5. On July 13, 2004, Inspector Hugen reinspected the sidewalk café at 101 Blu. She noted that eight tables were on the sidewalk. Two tables were against the street side of the sidewalk and six were against the building (extended beyond the building frontage for 101 Blu). Inspector Hugen issued a \$500 tag for violating the sidewalk café permit, Chapter 265.290. Photographs were also taken of this violation. This tag was later reduced to \$100 after Director Moncur agreed that the violation was a sidewalk café violation and not a liquor violation.
6. On Friday, August 6, 2004, Inspector Schliesman fielded a complaint concerning 101 Blu expanding their sidewalk café onto Hennepin Avenue during the Uptown Art Fair. MPD Sgt John Pielow took pictures of the sidewalk café expansion. Inspector Julie Casey issued a \$500.00 tag to 101 Blu for expansion of their liquor license without an approved application.
7. On Friday, August 13, 2004, Inspector Casey reinspected the sidewalk café at 101 Blu, LLC. Six tables were noted in front of 101 Blu. One table the chairs had been pulled directly into the main sidewalk area blocking the right of way. A tag for \$200 was written to 101 Blu for a second violation of the sidewalk café ordinance, 265.290.
8. The above fines were due by September 8, 2004. No appeals were received by this date.
9. A notice of hearing to consider revocation of the sidewalk café permit was sent to 101 BLU on Tuesday, October 5, 2004. On Thursday, October 7, 2004, Inspector Casey delivered the evidence packet to Dwight Bonewell at 101 Blu. Mr. Bonewell had not yet opened the hearing notice and thought it was a notice for an appeal hearing for his tags. He requested to speak with James Moncur, Director of License. A meeting was held the same day and a settlement

was reached. Mr. Bonewell agreed to forego a hearing before the Minneapolis City Council and settle the matter as follows.

## CONCLUSIONS

1. 101 Blu violated Minneapolis ordinance 265.290 by overextending their sidewalk café onto the city right of way beyond the original agreed areas.
2. 101 Blu violated Minneapolis ordinance 362.20 by extending their licensed liquor premises by expanding their liquor premises onto Hennepin Avenue.
3. 101 Blu failed to pay the fines issued to them on June 13, 2004 and August 20, 2004.

## RECOMMENDATIONS

1. 101 Blu agrees to immediately surrender their sidewalk café permit upon signing this agreement. The license can only be reinstated, after July 15, 2005, with the following conditions
  - a. A new plan must be submitted and approved by Business Licenses and Public Works before the sidewalk café can be reestablished.
  - b. A \$2500 fine must be paid in settlement of all violations from 2004 (this amount includes the three tags issued to them on June 13, 2004 and August 20, 2004). This fine would be due upon signing this agreement.
2. 101 Blu understands that any further violations of the sidewalk café permit or expanding their liquor premises without approval may be cause to revoke their sidewalk café license.

I have read the above report and recommendations. I agree with the report, and I agree with the above recommendations. I've been informed that failure on my part of the part of my business to adhere to this agreement with the Department may lead to further action against my license. I've been informed that the Minneapolis City Council must accept this report and signed by the Mayor. I've been informed that t future violations may put my license in jeopardy

Dwight Bonewell, as representative for 101 Blu

Date

Witness

Date

Witness

Date