

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

In the Matter of the Off-Sale Liquor License,  
Held by Kick's Liquor Store Inc.  
d/b/a Broadway Liquor Outlet

**FINDINGS OF FACT,  
CONCLUSIONS, AND  
RECOMMENDATIONS**

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This matter came on for a Technical Advisory Committee ("TAC") meeting on Wednesday December 7, 2005 at 12:30 p.m. in Room 1 of City Hall, 350 South Fifth Street, Minneapolis, MN 55415. The TAC meeting was held to discuss issues related to the operation of Kick's Liquor Store Inc., d/b/a Broadway Liquor Outlet, located at 2201 West Broadway Avenue, Minneapolis, Minnesota 55411 pursuant to a Notice to Appear, dated November 10<sup>th</sup>, 2005. Present at the TAC meeting were the following representatives of Broadway Liquor Outlet: Mr. William Rose (Owner), Dean Rose, Andrew Parker (Attorney for Broadway Liquor Outlet), Rustin Davis (Manager) and Travis Smith (Manager). Also 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), 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. Mr. William Rose is the sole shareholder of Broadway Liquor Outlet. Mr. Rose has been involved in the liquor industry in Minneapolis since 1948 and has owned a liquor

establishment under a Minneapolis liquor license in the City of Minneapolis since 1965 without any previous adverse incident.

2. 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.

3. On April 15, 2004 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Broadway Liquor Outlet. A 19 year old decoy was sent into the store at which point she purchased a bottle of Budweiser beer. The clerk working the front counter requested and obtained the decoy's actual and legal identification which indicated that the decoy was 19 years of age and ineligible to purchase alcohol. The clerk, nonetheless, then completed the sale of the beer to the underage decoy. This constituted Broadway Liquor Outlet's first alcohol compliance failure. As a result of the failure, an administrative citation was issued to Broadway Liquor Outlet in the amount of \$500.00 as detailed in a City Council resolution. Broadway Liquor Outlet paid the \$500.00 fine on May 3, 2004.

4. On July 2, 2005 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Broadway Liquor Outlet. A 20 year old decoy and an 18 year old decoy were sent into the store. The 18 year old decoy presented a 12 pack of Miller Lite beer for purchase to the Broadway Liquor Outlet employee behind the front counter. Without checking the decoy's identification, the employee sold the beer to the decoy. This constituted Broadway Liquor Outlet's second alcohol compliance failure. As a result of the failure, an administrative citation was issued to Broadway Liquor Outlet in the amount of \$1,000.00. A request for a meeting was made by Broadway Liquor Outlet, however, the meeting did not occur. On August 28, 2005 Broadway Liquor Outlet paid the fine.

5. On November 4, 2005 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Broadway Liquor Outlet. Two 20 year old decoys were sent into the store. They selected an 18 pack of Bud Light beer and presented it for purchase to the Broadway Liquor Outlet employee that was working behind the front counter. Without asking for identification she sold the beer to the decoys. This constituted Broadway Liquor Outlet's third alcohol compliance failure. As a result of the failure, an administrative citation was issued to Broadway Liquor Outlet in the amount of \$2,000.00.

6. Two of the three alcohol compliance violations have resulted in criminal convictions of the applicable Broadway Liquor sales clerks for the sale of alcoholic beverages to an underage person. Criminal charges are pending as a result of the November 4, 2005 failure.

### **CONCLUSIONS**

1. On three separate occasions employees of Broadway Liquor Outlet 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 nineteen months.

### **RECOMMENDATIONS**

That the Off-Sale Liquor License, issued to Broadway Liquor Outlet be subject to adverse license action up to and including revocation, with the commencement of such adverse license action stayed through and including November 4, 2007 subject to full compliance with the following conditions:

1. Broadway Liquor Outlet will require all customers to produce identification as listed in Minnesota State Statute 340A.503 Subdivision 6. This includes each and every customer, inclusive of known customers and those of obvious legal age to purchase

alcohol. A known customer or a customer of apparent or even obvious legal age must be refused service should they be unable to present valid and legal identification for each and every purchase of alcohol. Should the Licensee faithfully and successfully comply with all provisions of this Agreement including maintaining a record of no underage alcohol sale infractions through and including August 3, 2006 this requirement shall expire effective August 4, 2006 as it applies to known customers of legal age and those of obvious legal age. It shall remain the responsibility and duty of the Licensee to prevent sales of alcohol to underage customers and to comply with all related ordinances, statutes and regulations.

2. Broadway Liquor Outlet will purchase, install and begin utilizing an electronic identification card reader for all sales within two weeks of the effective date of this Agreement. Should the purchase or delivery of such a card reader system be delayed beyond two weeks based on legitimate reasons out of the reasonable control of the licensee, the Commander of the Police License Investigation Division may grant an extension of this deadline if promptly requested. Broadway Liquor Outlet will scan/swipe all U.S. state-government issued driver's licenses or identification cards, or Canadian provincial-government issued driver's licenses or identification cards that are presented as proof of age.
3. This electronic identification card reader will have the capability to do the following:
  - A. Recognize and read U.S. state-government issued driver's licenses or state-government issued identification cards.
  - B. The ability to show whether the above identification is valid.
  - C. The ability to differentiate between valid and counterfeit identification.

- D. Display the age and date of birth, as should be displayed on the identification, for the purposes of assuring the identification has not been altered.
- E. Ability to store gathered electronic data gathered by the card reader.
- F. Ability to download the above data to a personal computer.
  - i. The software used to achieve the download must be compatible with the suite of Microsoft products such as Access, Excel, and/or Word.
  - ii. The above data will be open for examination by authorized representatives of the City of Minneapolis during regular business hours and without prior notification. Authorized representatives include, but are not limited to, Minneapolis Police Officers and City of Minneapolis Office of Licenses and Consumer Services employees.
  - iii. The personal computer used to store the data will be equipped with a CD/DVD player that has the capability to record/download that data to a CD/R, CD/RW, DVD/R or DVD/RW disc.
  - iv. The above data will not be purged without the authorization of the Deputy Director of Licenses and Consumer Services, the Commander of the Police License Investigations Division or supervisors of the above officials.
- G. In the event that a customer presents legal identification that cannot be read by the card reader, i.e. a passport, Broadway Liquor Outlet will create a system to log each such sale and type of identification used. This log will record the name of the customer, the time and date of the transaction, and the type of identification presented and shall be open to the inspection described above.

- H. All actions taken by Broadway Liquor Outlet under this paragraph 3 are being taken at the direction and insistence of the City.
4. Broadway Liquor Outlet will immediately pay the outstanding \$2,000 administrative fine as a result of the administrative citation issued for the November 4, 2005 alcohol compliance failure. This payment must be received at the Minneapolis Police License Investigation Division, room 1A City Hall, 350 South Fifth Street, Minneapolis, Minnesota 55415. This payment must be received by Friday February 17, 2006 at 1:00 p.m.
  5. Broadway Liquor Outlet will pay \$2,000 in cost recovery to the City.
    - A. An installment of \$1,000.00 is due prior to 4:00 p.m. on February 28th, 2006. This installment must be received in the Police License Investigation Division office, Room 1 of City Hall, 350 South Fifth Street, Minneapolis.
    - B. An installment of \$1,000.00 is due prior to 4:00 p.m. on March 31, 2006. This installment must be received in the Police License Investigation Division office, Room 1 of City Hall, 350 South Fifth Street, Minneapolis.
    - C. If Broadway Liquor Outlet is unable to faithfully and promptly comply with the above referenced payment schedule, they must contact the Deputy Director of Licenses and Consumer Services or the Commander of the Police License Investigations Division in order to request an extension prior to the applicable installment due date. These two officials will have the final authority to grant or deny the requested extension for good cause.
  6. The Off-Sale Liquor License of Broadway Liquor Outlet is suspended for a period of 30 days. Imposition of 28 days of suspension will be stayed and 2 days will be imposed. The 2 days of suspension have been chosen by Broadway Liquor Outlet and will include

Monday February 20, 2006 and Tuesday February 21, 2006. Should the licensee violate any provision of this Agreement while it is in effect it shall be subject to additional adverse license action, including but not limited to the imposition of the remaining stayed license suspension period as well as the potential commencement of license revocation proceedings. 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.

7. All Broadway Liquor Outlet employees will attend professionally-presented alcohol server training. This training program must be approved by the City of Minneapolis Office of Licenses and Consumer Services. All managers and owners who participate in the day-to-day operations of the business will attend a retail alcohol management course. This training program must be approved by the City of Minneapolis Office of Licenses and Consumer Services. This training must be completed within 30 days of the date of the effective date of this Agreement. All employees, managers or owners hired or brought into the business after this initial training must attend an approved training class within thirty days of hire or approval as business owner.
8. A properly trained manager or owner must be on-site during business hours at all times.
9. This Agreement does not alter or preclude any previously imposed license conditions that may exist.
10. The licensee is aware that it will be subject to additional compliance checks during the term of this Agreement and further agrees that these compliance checks can and will be conducted by both minor-aged decoys as well as decoys of legal age. It shall be a violation of this Agreement for the licensee to sell alcohol to a legal-age decoy if that decoy is not required to present age identification to complete the sale of alcohol

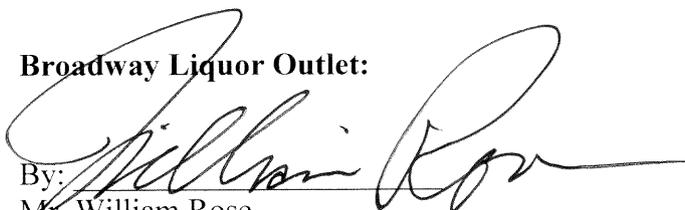
regardless of the actual age of the decoy, consistent with any limitations or stipulations as detailed in paragraph 1. As is the policy of the City of Minneapolis, the decoys will at all times respond truthfully to any questions asked of them by employees or sales clerks of the licensee and, if asked, will present their actual duly-issued age identification.

11. 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.

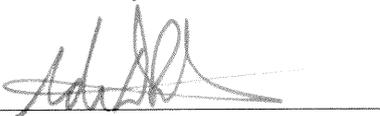
12. Term of Agreement. This Agreement shall remain in effect through and including November 4, 2007. The parties acknowledge that any violations existing as of Broadway Liquor Outlet's execution of this Agreement shall expire and have no effect two years following the date of the violation. In addition, Broadway Liquor Outlet's compliance with this Agreement during the term of this Agreement shall result in this Agreement and all violations referred to in this Agreement to not be used in any adverse license proceeding and after November 4, 2007 Licensee shall be allowed to operate with no conditions beyond those existing in applicable City ordinances for any licensed liquor establishment..

13. "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.

**Broadway Liquor Outlet:**

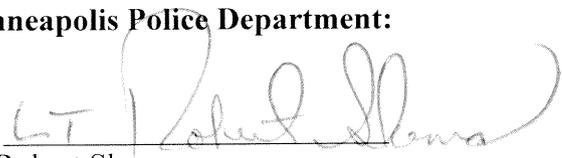
By:   
Mr. William Rose  
Owner

Date: February 9, 2006

By:   
Andrew Parker  
Attorney for the Licensee

Date: February 9, 2006

**Minneapolis Police Department:**

By:   
Lt. Robert Skomra  
Commander, License Division

Date: February 9, 2006

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

By:   
Ricardo Cervantes  
Deputy Director of License and Consumer  
Services

Date: February 9, 2006