

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

In the Matter of the Off-Sale Liquor License,
Held by Brothers Greer Inc.
dba Witt's Liquor

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

This matter came on for a Technical Advisory Committee (“TAC”) meeting on Friday December 2, 2005 at 9:00 a.m. in Room 230 of City Hall, 350 South Fifth Street, Minneapolis, MN 55415. The TAC meeting was held to discuss issues related to the operation of Brothers Greer Inc., dba Witt's Liquor, located at 19 South Seventh Street, Minneapolis, Minnesota 55402 pursuant to a Notice to Appear, dated November 10th, 2005. Present at the TAC meeting was the following representative of Witt's Liquors: Mr. Justin Greer (Shareholder). Also present were the following representatives of the City of Minneapolis: Deputy Director of Licenses and Consumer Services Ricardo Cervantes, Lieutenant Robert Skomra, Commander of the Minneapolis Police License Investigation Division, Sergeant Travis Glampe of the Minneapolis Police License Investigation Division, Officer Tom Hendrickson of the Minneapolis Police License Investigation, Officer Dave Rodriguez of the Minneapolis Police License Investigation, and Assistant City Attorney Joel Fussy.

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. Greer is a 25% shareholder in Witt's Liquors. The following individuals were not present at the meeting, but are also listed shareholders: P. Seth Greer, Jan P. Greer, and Leslie B. Daniels. Mr. Justin Greer possesses authority from the other shareholders to enter into this agreement and to the bind the licensee as a whole.

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 February 12, 2004 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Witt's Liquor. A 19 year old decoy was sent into the store at which point he purchased a can of Budweiser beer. The clerk working the front counter did not request identification from the underage decoy, nor did he ask the decoy his age. The clerk who failed the compliance check identified himself as the manager. This constituted Witt's first alcohol compliance failure. As a result of the failure, an administrative citation was issued to Witt's Liquors in the amount of \$500.00 as detailed in a City Council resolution. Witt's Liquors paid the \$500.00 fine on March 15, 2004.

4. On September 1, 2005 the Minneapolis Police License Investigation Division conducted a second youth alcohol compliance check at Witt's Liquors. A 20 year old decoy was sent into the store at which point the decoy presented a 12 pack of Rolling Rock beer for purchase to the Witt's Liquor employee behind the front counter. Without checking the decoy's identification, the employee sold the beer to the decoy. This constituted Witt's Liquors' second alcohol compliance failure. As a result of the failure,

an administrative citation was issued to Witt's Liquors in the amount of \$1,000.00. On November 09, 2005 Witt's Liquors paid the fine.

5. On November 4, 2005 the Minneapolis Police License Investigation Division conducted a third youth alcohol compliance check at Witt's Liquors. Two 20 year old decoys were sent into the store. They selected a 12 pack of Coors Light beer and presented it for purchase to the Witt's Liquors' employee that was working behind the front counter. This was the same employee that failed the compliance check on September 1, 2005. Without asking for identification he sold the beer to the decoys. This constituted Witt's Liquors third alcohol compliance failure. As a result of the failure, an administrative citation was issued to Witt's Liquors in the amount of \$2,000.00. Mr. Greer requested an administrative hearing on the citation pursuant to Chapter 2 of the Minneapolis Code of Ordinances. On November 30, 2005 a hearing was held before an administrative hearing officer. The hearing officer found for the City and held that the citation was properly issued. The hearing officer ordered Witt's Liquor to pay \$1,000.00, staying imposition of the remaining \$1,000.00.

6. Two of the three alcohol compliance violations have resulted in criminal convictions for sale of alcoholic beverages to an underage person against Witt's Liquors' employees. Criminal charges are pending as a result of the November 4, 2005 failure.

CONCLUSIONS

1. On three separate occasions employees of Witt's Liquors 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 one months.

RECOMMENDATIONS

That the Off-Sale Liquor License, issued to Witt's Liquors be revoked, with the revocation stayed through and including January 1, 2007 under the following conditions:

1. Witt's Liquors 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.
2. Witt's Liquors 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. Witt's Liquors 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 Assistant Director of 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, Witt's Liquors 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.
4. Witt's Liquors will pay \$3,000 in cost recovery to the City.
- A. An installment of \$1,500.00 is due prior to 4:00 p.m. on January 31, 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 \$1,500.00 is due prior to 4:00 p.m. on February 28, 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 Witt's Liquors is unable to faithfully and promptly comply with the above referenced payment schedule, they must contact the Assistant Director of 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.

5. The Off-Sale Liquor License of Witt's Liquors is suspended for a period of 30 days. Imposition of 27 days of suspension will be stayed and 3 days will be imposed. The three days of suspension have been chosen by Witt's Liquors and will include Monday January 2, 2006, Tuesday January 3, 2006 and Tuesday January 10, 2006. Should the licensee violate any provision of this Agreement it shall immediately surrender its liquor license upon verbal or written notification from the Police License Investigation Division or City of Minneapolis Office of Licenses and Consumer Services to commence service of the remaining 27-day suspension. The City of Minneapolis reserves the right to additionally and simultaneously commence license revocation proceedings. Any sales of alcohol completed by the licensee after being notified of a violation of this Agreement and during a prescribed suspension period hereunder shall be considered unlicensed sales of alcohol in violation of state statute and Minneapolis ordinance.
6. All Witt's Liquors' 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 agreement. All employees, managers or owners brought into the business after this initial training must attend an approved training class within 30 days of hire or approval as business owner.

7. A properly trained manager or owner must be on-site during business hours at all times.
8. This Agreement does not alter or preclude any previously imposed license conditions that may exist.
9. 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.
10. 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.
11. "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.

Witt's Liquors

By: _____
Mr. Justin Greer
Shareholder

Date: December 6, 2005

Minneapolis Police Department

By: _____
Lt. Robert Skomra
Commander, License Division

Date: December 6, 2005

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

By: _____
Ricardo Cervantes
Deputy Director of Consumer
Services

Date: December 6, 2005