

February 18, 2005

**In the Matter of the On-Sale
Liquor License Class B w/Sunday Sales
Of The Lakes Restaurant, Inc.
dba: Tonic of Uptown (Tonic)
1400-02 West Lake Street
Minneapolis, MN 55408**

**Findings of Fact,
Conclusions of Law, and
Recommendations**

This matter came before the Minneapolis Licenses and Consumer Services Division (LCS) on April 28, 2004 in a Technical Advisory Committee meeting (TAC). Based upon the evidence presented at the TAC meeting and during subsequent settlement meetings, the committee makes the following:

FINDINGS OF FACT

1. Based upon an inspection of Tonic performed on April 30, 2004, LCS Inspector Angela Hugen issued an administrative citation (#BL A04-020376) to Tonic for alleged violation of Minneapolis Code of Ordinances (MCO) Chapter 362.395 (a) (2) prohibiting a premises from maintaining a bar area.
2. Based upon an inspection of Tonic performed on April 30, 2004, LCS Inspector Kenneth Ziegler issued an administrative citation (#BL A04-020377) to Tonic for alleged violation of Minneapolis Code of Ordinances (MCO) Chapter 362.395 (b) failure to maintain gross sales revenue from sale of food and beverages not containing alcohol in an amount of not less than 60% of total gross revenue from the sale of food and beverages.
3. Based upon an inspection of Tonic performed on May 8, 2004, LCS Inspector Linda Roberts issued an administrative citation (#BL A04-020003) to Tonic for alleged violation of Minneapolis Code of Ordinances (MCO) Chapter 360.100 prohibiting a premises from maintaining a bar other than a service bar in an outdoor area.
4. Based upon an inspection of Tonic performed on May 8, 2004, LCS Inspector Linda Roberts issued an administrative citation (#BL A04-020401) to Tonic for alleged violation of Minneapolis Code of Ordinances (MCO) Chapter 362.395 (a) (2) prohibiting a premises from maintaining a bar area.
5. Based upon an inspection of Tonic performed on April 30, 2004, LCS Inspector Kenneth Ziegler issued an administrative citation (#BL A04-020403) to Tonic for alleged failure to notify and gain approval for a change of Tonic's business plan.
6. Tonic subsequently appealed all of the above-cited administrative citations and on July 21, 2004, LCS and Tonic received notice that all of the citations had been upheld by Administrative Hearing Officer, Fabian Hoffner.
7. On August 19, 2004, TonicTonic appealed the Findings of Fact, Conclusions of Law and Order of the Administrative Hearing Officer to the Minnesota Court of Appeals and oral arguments are scheduled for February 23, 2005.
8. On November 9, 2004, the City of Minneapolis issued a Notice and Order for Pre-Hearing Conference with the Office of Administrative Hearings a recommendation with regard to adverse license action against Tonic. This

Notice was subsequently amended on February 4, 2005. The Notice alleged that on April 30, 2004; May 8, 2004; May 15, 2004; May 17, 2004; May 21, 2004; June 13, 2004; July 2, 2004; July 7, 2004; July 13, 2004; August 8, 2004; August 13, 2004; January 15, 2005 and January 28, 2005 Tonic did violation Minneapolis Code of Ordinance § 362.395 (a) (2) by maintaining a bar area where prohibited and that Tonic did materially deviate from their business plan without seeking prior approval of that change from the Minneapolis City Council.

9. On December 14, 2004, a pre-conference hearing was held before the Administrative Law Judge and a hearing date was set for March 7, 2005.

RECOMMENDATIONS

Representatives of the City of Minneapolis LCS and City Attorney's office have met on several occasions in an effort to settle this matter to the satisfaction of both parties. Below are the terms of an agreed upon settlement and all parties recommend approval.

1. That LCS shall dismiss all of the above-cited administrative citations and Tonic shall withdraw its Court of Appeals action, with prejudice, as simultaneously as possible subsequent to the signing of this Agreement.
2. That Tonic shall reimburse the City of Minneapolis Department of Regulatory Services in an amount of five thousand (\$5,000.00) for investigative and administrative costs incurred.
3. That the City of Minneapolis will dismiss the adverse license action filed on November 9, 2004 and amended on February 5, 2005, pending before the Office of Administrative Hearings.
4. That the Management Agreement between the Premier Development Group, LLC and idein, LLC remain in effect for the a period of not less than one (1) year after Minneapolis City Council approval of that agreement.

I have read and understood the above report and recommendations. I agree with the above noted recommendations. I understand that these recommendations become effective only upon City Council approval and that such approval may be withheld at the Council's discretion. I also understand that I have a right to appeal these findings and recommendations to the City Council. I also understand, however, that on appeal the City Council is in no way limited by the recommendations herein contained and may impose more severe penalties should it deem them warranted. I further understand that failure on my part or on the part of my business to adhere to this agreement or any of the recommendations contained herein shall be grounds for further suspension, revocation or non-renewal of my license.

Signature-- **President**
The Lakes Restaurant, Inc.

Date

Signature- For the City of Minneapolis, LCS Division

Date