

CITY OF MINNEAPOLIS
LICENSES AND CONSUMER SERVICES
350 SOUTH 5TH STREET, ROOM 1-C, CITY HALL
MINNEAPOLIS, MN 55415

**FINDINGS OF FACT
CONCLUSIONS, AND
RECOMMENDATIONS**

In the Matter of License No. L247 50054 CAVE VIN
for WINE E W/STRONG BEER

Held by:
FOOD FORWARD INC
Ken Wills
5555 XERXES AVE S
MINNEAPOLIS, MN 55410

10-0811541

This matter came before a License Settlement Conference hearing on Monday, December 20th, 2010. Appearing for the licensee was Ken Wills, owner, of Food Forward INC dba Cave Vin, and his Attorney, Matthew M. Johnson. Appearing for the Licenses and Consumer services were Deputy Director Grant Wilson and License Inspector Mohamed Ismail. Lieutenant Chris Hildreth and Sergeant Rolf Markstrom represented the Minneapolis Police Department. Based on the evidence presented at the hearing, the department makes the following findings of fact:

Findings of Fact

1. The Minneapolis Police Department License Investigative Division conducts youth alcohol compliance checks in an effort to assure retail-alcohol license holders are not serving alcohol to persons under the age of 21.
2. On March 30, 2009 the Minneapolis Police Department License Investigative Division conducted a youth alcohol compliance check at Cave Vin, located at 5555 Xerxes Ave S, in the City of Minneapolis. A 20 year old female shopper was sent into the business in an attempt to purchase alcohol. The shopper entered the establishment and sat at a table. The server walked up to the table and asked the shopper for her order. The shopper ordered a glass of white wine.

The server did not ask the shopper for her ID, nor did the server ask the shopper for her age. The server walked away from the shopper's table, returned with a glass of white wine and served it to the shopper. 3 plain clothes Minneapolis Police Officers were seated approximately 15 feet away from the shopper and observed the above transaction. The shopper picked up the glass of wine and handed it off to the officers. The transaction was completed, and the business was considered to have failed the compliance check. As a result of the compliance check failure, an administrative citation was issued to Cave Vin in the amount of \$500.00, as detailed in a City Council Resolution. Cave Vin has paid the \$500.00 administrative fine.

3. On May 18, 2009 the Minneapolis Police Department License Investigative Division conducted a youth alcohol compliance re-check at Cave Vin, pursuant to the above compliance check failure. 2 underage shoppers were sent into Cave Vin in an attempt to purchase alcohol. The underage shoppers were carded and refused service. The business passed the compliance re-check.
4. On November 9, 2010 the Minneapolis Police Department License Investigative Division conducted a youth alcohol compliance check at Cave Vin for the calendar year of 2010. A 20 year old female shopper and a 19 year old female shopper were sent into the business in an attempt to purchase alcohol. The shoppers took a seat at the bar. The server, who was tending bar, asked the shoppers for their orders. The 20 year old shopper ordered a bottle of Anchor Steam Beer. The 19 year old shopper did not order an alcoholic beverage. The server did not ask the 20 year old shopper for her ID, or did the server ask the 20 year old shopper for her age. The server opened a bottle of Anchor Steam Beer and served it to the 20 year old shopper. 2 plain clothes Minneapolis Police Officers were situated approximately 10 feet away from the shoppers and observed the transaction. The 20 year old shopper picked up the beer and handed it off to the officers. The transaction was completed, and the business was considered to have failed the compliance check. This constituted Cave Vin's second youth alcohol compliance check failure within a 24 month period. As a result of the second compliance check failure, an administrative citation was issued to Cave Vin in the amount of \$1000.00, as detailed in a City Council Resolution. Cave Vin paid the \$1000.00 fine with the \$100.00 late penalty (total of \$1100.00), on 12/20/2010.
5. From the first compliance check failure on March 30, 2009, the server was charged with Furnishing Alcohol to a Person Under 21, and the server plead guilty to said charge. Criminal charges against the server are pending as a result of the November 9, 2010 compliance check failure.

Conclusions

1. On two separate occasions, employees of Cave Vin 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 24 months.

2. The licensee has paid the \$500.00 administrative fine related to the first above stated compliance check failure. The licensee also paid the \$1000.00 administrative fine related to the second above stated compliance check failure.

RECOMMENDATIONS

Based on evidence presented at the hearing, the Department makes the following recommendations:

1. The City of Minneapolis will impose a sanction in the amount of \$15 00.00 for failing two alcohol compliance checks for sales to minors; \$1,200 of the sanction will be stayed for a period of one year pending no further alcohol compliance check failures. The remaining \$300 sanction must be paid upon signature of this agreement.
2. The business agrees to implement and maintain an alcohol sales policy. This policy is to include the following:
 - a. Signs limiting the sale of alcohol to persons above the age of 21 shall be posted at the entrance door and the cash register.
 - b. All employees will take alcohol server training within 30 days of the start of their employment.
 - c. The business agrees that they will establish a reward program for passing compliance checks.
 - d. The business agrees that a trained manager will be present at all times and will encourage employees to prevent alcohol sales to minors.
3. The business will purchase and use a calendar that shows day by the day the date when an individual reaches the age of twenty-one (21). The calendar must be purchased upon signature of this agreement. This condition can be removed if the business purchases and uses an age scanner system.

Cave Vin understands that the holding of a business or liquor license in the City of Minneapolis is both a privilege and a responsibility. Minimum standards shall be met in order to hold such a license. One minimum standard is that a license holder is responsible to ensure that its business operates in compliance with all applicable laws, ordinances, and regulations. It is understood and agreed that any violation of the above recommendations shall constitute just and proper cause for the immediate imposition of any stayed penalties. It is further understood that compliance with the above recommendations is a requirement for continuing to hold a license and that failure to comply with any of these conditions may result in additional adverse license action.

I have read and understand the above findings of fact, conclusions, and recommendations. I agree with their contents and I agree with the above noted Recommendations. I understand that the failure of my business to adhere to this agreement may be cause for further suspension, revocation, or denial of my license. I understand that this report must be accepted and approved by the Minneapolis City Council and Mayor.

Based upon the foregoing, this agreement is FREELY & VOLUNTARILY ENTERED INTO IN GOOD FAITH:

Business

Cave Vin

By: [Signature]
(signature)

Its: Owner/President
(title)

Dated: 12/27, 2010

For the City of Minneapolis:

[Signature]
Grant J. Wilson
Deputy Director of Licenses

Dated: 1-3-, 2011