

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

In the Matter of the On-Sale Wine with Strong Beer License,

Held by El Gaucho, LLC  
dba El Gaucho

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

---

This matter came on for a Technical Advisory Committee (“TAC”) meeting on Monday May 22, 2006 at 10:30 a.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 El Gaucho LLC., dba El Gaucho, located at 2401 East Franklin Avenue, Minneapolis, Minnesota 55406 pursuant to a Notice to Appear, hand delivered May 5<sup>th</sup>, 2006. Present at the TAC meeting were the following representatives of El Gaucho: Pablo Carbo (President). Also present were the following representatives of the City of Minneapolis: Grant Wilson (Manager-Licenses and Consumer Services), Sergeant Travis Glampe (Minneapolis Police License Investigation Division), Officer David Rodriguez (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. 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.

2. On February 16, 2006 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at El Gaucho. A 19 year old female decoy was sent into the business, where she sat at a table. The decoy ordered wine from an El Gaucho server. Without asking for identification from the decoy, the server returned with a glass of wine which he placed in front of the decoy. This constituted El Gaucho's first alcohol compliance failure. An administrative citation was issued to El Gaucho for sale of alcohol to a minor-1<sup>st</sup> Offense in the amount of \$500.00 as detailed in a City Council resolution. El Gaucho paid this administrative citation on April 5, 2006.

3. On April 26, 2006 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at El Gaucho. A 19 year old female decoy and 20 year female decoy were sent into the business where they sat at a table. The decoys ordered a Corona beer and a Samuel Adams beer from an El Gaucho server. The server requested the decoys' identification. The decoys provided their actual Minnesota driver's licenses which showed them to be 19 and 20 years respectively. The server then returned with the requested beers, serving them to the decoys. This constituted El Gaucho's second alcohol compliance failure. As a result of the failure, an administrative citation was issued to El Gaucho for sale of alcohol to a minor-2<sup>nd</sup> offense in the amount of \$1000.00 as detailed in a City Council resolution. As of May 22, 2006 this citation has not been paid.

4. The two alcohol compliance violations have resulted in a criminal conviction of one of the applicable El Gaucho servers. The guilty plea entered was for the sale of alcoholic beverages to an underage person. Criminal charges are pending as a result of the April 26, 2006 failure.

### **CONCLUSIONS**

1. On two separate occasions employees of El Gaucho provided 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 thirteen months.

### **RECOMMENDATIONS**

That the On-Sale Wine with Strong Beer License, issued to El Gaucho shall be subject to adverse license action up to and including revocation, with the commencement of such adverse license action stayed through and including February 26, 2008 subject to full compliance with the following conditions:

1. It is strongly suggested that El Gaucho require all customers who purchase alcohol to produce identification as listed in Minnesota Statute Section 340A.503, subdivision 6. El Gaucho has full knowledge of the consequences regarding any future incidents involving sale of alcohol to minors and understands that such incidents could lead to a revocation of their On-Sale Wine with Strong Beer License. El Gaucho agrees to take any necessary steps to assure persons under the age of 21 are properly identified when alcohol purchases are made.
2. El Gaucho will pay \$2,000 in financial sanctions to the City.

3. El Gaucho will pay the outstanding \$1,000 administrative fine from the April 26, 2006 youth alcohol compliance failure.
4. Payment of the above referenced fine (as documented in recommendation number 3) and financial sanctions (as documented in recommendation number 2) will be made over a period of 6 months. Payment of \$500 must be made prior to 2:00 p.m. on each of the below listed dates:
  - A. Monday June 19, 2006
  - B. Wednesday July 19, 2006
  - C. Monday August 21, 2006
  - D. Tuesday September 19, 2006
  - E. Thursday October 19, 2006
  - F. Monday November 20, 2006

These payments must be received in the offices of the Minneapolis Police Department License Investigation Division, room 1 City Hall, 350 South Fifth Street, Minneapolis, Minnesota 55415.

5. The On-Sale Wine with Strong Beer License of El Gaucho is suspended for a period of 10 days. Imposition of 8 days of suspension will be stayed and 2 days will be imposed. The date of this suspension has been chosen by El Gaucho and will include June 5, 2006 and June 6, 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 stayed license suspension period as well as the potential commencement of license revocation proceedings.

6. All El Gaucho 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. Proof of completion of training must be provided to the Minneapolis Police License Investigation Division within 35 days of the 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.
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. 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.
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. Term of Agreement. This Agreement shall remain in effect through and including February 16, 2006. It is understood between the parties that this Agreement shall bind only the present licensee and will not bind any subsequent, unrelated person or persons should the business be sold and a new license approved.
12. "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.
13. This document must be signed and returned to the offices of the Minneapolis Police Department License Investigation Division, room 1 City Hall, 350 South Fifth Street, Minneapolis, Minnesota 55415. This must be received by 1:00 p.m. on Tuesday May 30, 2006. If it has not been received by this time and date, the City will consider this document to be null and void.

**El Gaucho**

By: \_\_\_\_\_  
Pablo Carbo  
President  
Date: \_\_\_\_\_

**Minneapolis Police Department**

By: \_\_\_\_\_  
Lt. Robert Skomra  
Commander, License Division  
Date: \_\_\_\_\_

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

By: \_\_\_\_\_  
Ricardo Cervantes  
Deputy Director of Consumer  
Services  
Date: \_\_\_\_\_