

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

In the Matter of the On-Sale Liquor License,
D'Amico Cucina LLC, D'Amico Cucina, Inc.,
d/b/a D'Amico Cucina

**STAFF RECOMMENDATION
FOR ADVERSE LICENSE
ACTION**

This matter comes on for a license hearing on Wednesday May 17, 2006 at the regularly-scheduled meeting of the Public Safety & Regulatory Services Committee. The license hearing has been called to determine the imposition of adverse license sanctions related to the operation of D'Amico Cucina LLC, d/b/a D'Amico Cucina, located at 100 North Sixth Street, Minneapolis, Minnesota 55403, based on license violations as detailed and established below.

Based upon the violations previously established in the record the Police Licensing Division in conjunction with the Division of Licenses & Consumer Services hereby make the following recommendation of adverse license action.

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 May 19, 2005 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at D'Amico Cucina. A 20 year old female was sent into the business. The decoy entered the business and went to the bar. She ordered a Heineken from the bartender. The bartender asked the decoy for identification. The decoy produced her actual Minnesota driver's license which showed her to be 20

years old. The bartender looked at the driver's license, returned it, and served the decoy a bottle of Heineken beer. As a result of the compliance failure, an administrative citation was issued to D'Amico Cucina in the amount of \$500.00. D'Amico Cucina paid the citation on June 1, 2005 and by doing so conceded that the license violation had occurred.

3. On January 13, 2006 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at D'Amico Cucina. A 20 year old male decoy and a 19 year old female decoy were sent into the business. The decoys entered the business and sat at the bar. They requested wine from the bartender. Without asking their ages or for their identification, the bartender served them glasses of wine. This constituted D'Amico Cucina's second alcohol compliance failure. As a result of the failure, an administrative citation was issued to D'Amico Cucina in the amount of \$1000.00. D'Amico Cucina paid the \$1,000.00 citation on January 25, 2006 and by doing so conceded that the second license violation had occurred.

4. The two alcohol compliance violations have resulted in a criminal conviction of one of the applicable D'Amico Cucina's 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 January 13, 2006 failure.

CONCLUSIONS

1. On two separate occasions employees of D'Amico Cucina 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. The Licensee admitted to the occurrence of each

violation by satisfying the administrative citation issued for each violation pursuant to Chapter 2 of the Minneapolis Code of Ordinances without appeal. These two compliance failures occurred in a period of less than eight months.

RECOMMENDATION

That the City Council impose the following adverse license sanctions upon the Licensee pursuant to its authority derived from Charter Chapter 4, Section 16 (providing for revocation and adverse license action upon good cause), MCO § 362.500 (providing that any violation of state law shall be a violation of the Code), MCO § 362.360 (providing for suspension and revocation for convictions of any employee of a licensee for violating liquor laws including up to a 10-day suspension for a single conviction, up to a 30-day suspension for two such convictions and a mandatory revocation for three such convictions) and MCO § 259.250 (providing for adverse license action based on failure to comply with business license management responsibilities):

1. The on-sale liquor license held by D'Amico Cucina shall be suspended for a period of ten (10) days. Eight (8) days of suspension shall be stayed through and including May 19, 2007 upon the condition that the Licensee comply with all conditions imposed in this adverse license action proceeding. Two (2) days of suspension shall be served by the Licensee and shall be served consecutively from and including the first Tuesday after adoption and publication of this action through and including the Wednesday of that week.
2. D'Amico Cucina shall pay a \$3,000 financial sanction to the City of Minneapolis. This shall be delivered to the Minneapolis Police License Investigation Division in room 1 of City Hall, 350 South Fifth Street, Minneapolis, Minnesota 55415.

Payment must be received by 1:00 p.m. on the first Friday after the adoption and publication of this action by the full City Council.

3. D'Amico Cucina will continue thorough and regular training of its employees by continuing to require all employees who sell or serve alcohol to customers as part of their duties to attend professionally-presented alcohol server training. This training program shall 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 shall 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 adoption and publication of this action. All employees, managers or owners hired or brought into the business after this initial training must attend an approved training class within ninety (90) days of hire or approval as business owner.
4. A properly trained manager or owner must be on-site during business hours at all times.
5. The licensee shall be aware that it will be subject to additional compliance checks during the term of this action. 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.
6. This action shall not preclude any other adverse license action, including but not limited to suspension or revocation, for subsequent violations of this action, or for

subsequent violations or subsequently-discovered violations of any federal, state or local laws, ordinances, or regulations.