

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: June 15, 2009

MEMORANDUM

TO: ALRC Members

FROM: Steve Brist, Assistant City Attorney

RE: License Renewal of Grid, LLC

On June 2, 2009, the Common Council referred the license renewal for The Grid, LLC, back to the ALRC. State laws and City ordinances govern the nonrenewal process. Our ordinances require that the Council act on license renewal no later than June 15 of each year:

“(11) Time of Granting Licenses. No licenses shall be granted hereunder until and unless the Common Council shall by a vote of the majority of the members elect of the Council have authorized the same. The Common Council shall meet not later than May 15 of each year and be in session from day to day thereafter, so long as it may be necessary for the purpose of acting upon such applications for licenses as may be presented to them on or before April 15 and all applications for licenses so filed shall be granted or denied not later than June 15 for the ensuing license year.”

Under both state law and the corresponding city ordinances, a retail alcohol beverage license may only be nonrenewed pursuant to statutory procedures:

125.12(3) Refusals by local authorities to renew licenses. A municipality issuing licenses under this chapter may refuse to renew a license for the causes provided in sub. (2) (ag). Prior to the time for the renewal of the license, the municipal governing body or a duly authorized committee of a city council shall notify the licensee in writing of the municipality's intention not to renew the license and provide the licensee with an opportunity for a hearing. The notice shall state the reasons for the intended action. The hearing shall be conducted as provided in sub. (2) (b) and judicial review shall be as provided in sub. (2) (d). If the hearing is held before a committee of a city council, the committee shall make a report and recommendation as provided under sub. (2) (b) 3. and the city council shall follow the procedure specified under that subdivision in making its determination.

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Non renewal can only be done for cause, using proper notice of the intention to nonrenew and with the opportunity for the licensee to have formal hearing before the ALRC. The City cannot simply refuse to act on the renewal. The licensee has statutory due process rights that protect their interest in the license. The last scheduled meeting of the Common Council prior to June 15 was June 2, 2009. Under our procedures the window for license nonrenewal has passed. The City cannot refuse to renew the license in question. We are past the statutory deadlines.

The renewal of the license is a separate question from the request for a change in premises. The ALRC and the Common Council have the right to review that request and to impose conditions. The ALRC may deny the request for a change in premises if the record shows a rational basis for denial based on the health, safety or welfare issues.