

To: Alcohol License Review Committee

From: Alcohol Policy Coordinator Katherine Plominski

Re: Requested Capacity Memo

Date: January 19, 2010

This memo was drafted in response to a request by members of ALRC at the November 18, 2009 meeting. It details the process by which establishments determine their capacity, i.e. occupancy level.

Agencies Involved in Capacity Review

Several departments are involved in the capacity review process and may look to different factors when settling on a final number. For example, ALRC may limit the capacity due to neighborhood concerns, Planning/Zoning may limit the capacity due to parking availability, and the Health Department may limit the capacity due to toilet capacity. In addition, the applicant may self-limit the capacity. The final capacity is the lowest of all capacity numbers.

The process is complicated by the fact that many establishments apply to the licensing board prior to obtaining finalized floor plans completed by an architect. Historically, applicants have supplied ALRC with a preliminary capacity estimate because architect fees to complete floor plans can range from several hundred to several thousand dollars. Many applicants do not want to undergo this expense prior to liquor license approval.

Thus, the estimate provided by the applicant may be different from code and/or the final approved capacity.

Factors That Influence Capacity

The above referenced factors may vary based on the type of establishment. For example, a tavern must have 1 toilet fixture for every 40 patrons whereas a restaurant must have 1 toilet fixture for every 75 people. The same concept applies for square footage. The square footage requirement ranges from 5 square feet per person to 15 square feet per person depending on the layout, number of tables and chairs, etc. The exit width requirement may vary depending on whether the building has been outfitted with sprinklers, etc.

Administrative safeguards

The Clerk's Office places agency HOLDs on each license that must be cleared prior to the license being issued. Alcohol Clerk Ronda Statz indicated that she has only been contacted once in almost two years of serving as the Alcohol Clerk by an agency expressing concern that an establishment significantly over-estimated its capacity. In addition, the establishment's capacity must be noted on the license renewal forms and if there is a difference from the paperwork submitted the previous year, Ronda will contact

the applicant to let them know they need to file for a Change of Licensed Premise in order to have the ALRC consider a change in the licensed capacity.

The Example of the Green Owl

Taking one real life example, the ALRC recently approved the liquor license for the Green Owl located at 1970 Atwood Avenue. Their estimated capacity was 50 patrons and the ALRC did not limit the estimated capacity in the form of a license condition. Upon subsequent submittal of architect rendered floor plans and additional review by other city agencies, it was determined that:

- the toilet facilities allow for 150 patrons
- the square footage of the restaurant allows for 92 patrons
- the exit width allows for 360 patrons

In the case of Green Owl, the lowest number is 92 patrons. Note that this number is substantially greater than their original estimate of 50. Unless ALRC placed a limit on the capacity via a license condition, their capacity automatically defaults to code allowance, or in this case 92.

Final Remarks/Recommendations

Unless the ALRC places a condition on the license limiting the capacity to a specific number, code will govern. The estimate provided by the applicant may be higher or lower than code and/or the final approved capacity.

The Agency Collaboration Team and the Alcohol Policy Workgroup has developed the following 5 recommendations:

Recommendation 1: Remove all capacity numbers from the actual liquor license unless the ALRC has specifically limited the capacity via a license condition and that license condition is stated in the premise portion of the liquor license.

Recommendation 2: Request that Building Inspection informs the Alcohol Clerk of the final approved occupancy. Request that the Alcohol Clerk review the final number, and in the event of a significant deviation from the estimate provided to ALRC, inform the ALRC of the deviation.

Recommendation 3: Add boilerplate language to each approved license that clarifies that ALRC retains authority to review capacity if significantly higher or lower than provided estimates.

Recommendation 4: Add a provision to Chapter 38 requiring licensed establishments to have and post capacity in accordance with code provisions.

Recommendation 5: Use the Agency Collaboration Team to come up with a long-term strategy to review all existing capacities.