

REPORT OF:
ALCOHOL LICENSE REVIEW COMMITTEE
HEARINGS SUBCOMMITTEE
OF THE CITY OF MADISON

CITY OF MADISON,

Complainant,

ID# 44483
REVOCATION

vs.

RB SCHULTZY LLC
d/b/a "Baldwin Street Grille"
1304 E. Washington Avenue
Madison, WI 53703,

Respondent.

INTRODUCTION

On September 9, 2016, the City of Madison filed a complaint with the City Clerk alleging that the above-named licensee is unqualified for and was improperly issued an alcohol license in violation of the Alcohol Beverages regulations (Chapter 38, Madison General Ordinances) of the City of Madison. The licensee has admitted, on the record, having been properly served a copy of the summons and complaint in this matter.

On September 21, 2016, the licensee, by its owner, Mr. Ryan Schultz and by Attorney Rick Petri manager appeared before the City of Madison Alcohol License Review Committee (ALRC) for the purpose of answering the complaint. The licensee entered a denial to all charges alleged in the Complaint. The ALRC scheduled the matter for a hearing before its Hearings Subcommittee.

On October 5, 2016, the ALRC Hearings Subcommittee held an evidentiary Hearing. The hearing was transcribed by a certified Court Reporter and that transcript is attached (Exhibit A) and incorporated into this decision as though fully set forth herein. At the outset of that hearing the ALRC Chairperson, Mr. Thomas Landgraf, confirmed that the licensee was appearing by its owner and agent, Mr. Schultz and by Attorney Petri. Attorney Petri informed the Hearings Subcommittee that the licensee was changing their plea from a denial of the allegations in the complaint to an admission to all of the allegations in the complaint. Attorney Petri stated that his client desired the opportunity to present evidence as to why the license should not be revoked. The Hearings Subcommittee permitted Attorney Petri to present such evidence.

The evidentiary hearing then proceeded with the licensee calling three witnesses and the City did not call any witnesses. Both parties were permitted to make oral closing statements. The Hearings Subcommittee bases its decision below, not on the number of witnesses for either side, but rather, bases its decisions on the strength of the witness's testimony, the clarity of their recollections, their abilities to make firsthand personal observations of the events alleged in the Complaint and the consistency of their testimony.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Hearings Subcommittee unanimously reached the following decisions:

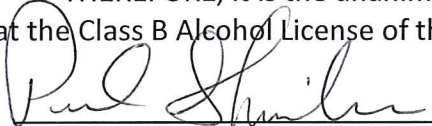
1. The Licensee was properly and timely served with the Summons and Complaint;
2. The Licensee understands and admits each of the allegations of the Complaint;
3. The Licensee understands that if the allegations are proven, the ALRC may revoke its license to sell/furnish alcohol beverages;
4. The transcript of the evidentiary hearing is attached hereto as Exhibit A;
5. The copy of the licensee's Class B Alcohol License is attached hereto as Exhibit B;
6. The evidence establishes that the licensee, Mr. Ryan Schultz, has been convicted of a felony, to wit, a fifth offense conviction for Operating a Motor Vehicle While under the Influence of an intoxicant (OMVWI) contrary to Wisconsin Statutes sec. 346.63;
7. The evidence further establishes that said conviction occurred on or about December 14, 2015 and that said conviction remains unreversed and the licensee has not received a pardon for said conviction;
8. The evidence further establishes, by any standard of proof that the licensee is guilty of each of the alleged violations set forth in the Amended Complaint;
9. The Subcommittee finds that the facts and circumstances of the licensee's fifth offense OMVWI substantially relate to the facts and circumstances of the licensed activity of operating a Class B licensed alcohol establishment and that the licensee is therefore disqualified from possessing such a license pursuant to MGO §§ 38.05(4)(a)1, 38.05(4)(c) and Wis. Stats. § 125.04(5)(b).
10. The Subcommittee makes no findings of whether the licensee's record of having five OMVWI convictions qualifies him to be considered a "habitual law offender" pursuant to MGO §§ 38.05(4)(a)1, 38.05(4)(c) and Wis. Stats. § 125.04(5)(b).

11. A suspension of the license would not adequately protect the community health, safety and welfare given that the licensee is not qualified to hold a Class B alcohol license in the first instance.

CONCLUSION AND RECOMMENDATION

The Hearings Subcommittee carefully reflected upon the licensing qualifications standards set forth in both the ordinances and the state statutes. The Hearings Subcommittee determined that the seriousness of the felony conviction, the clear relationship of this conviction to the licensed activity establish that the licensee was ineligible or disqualified to have been issued the Class B license that he now possesses. The Hearings Subcommittee considered whether placing conditions on the license or whether a suspension of the license would be an appropriate remedy. However, the Hearings Subcommittee determined that the only appropriate remedy for a license that has been issued to a disqualified person or corporation, is to revoke that license. To allow otherwise would present a most serious threat to the health, safety and welfare of the community.

THEREFORE, it is the unanimous recommendation of the ALRC Hearings Subcommittee that the Class B Alcohol License of the licensee be REVOKED.



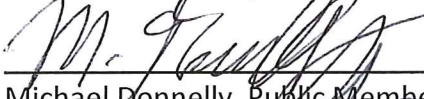
Paul Skidmore, Alder Member

19 Oct 16
Date



Fernando Cano-Ospina, Public Member

19 Oct 16
Date



Michael Donnelly, Public Member

18 OCT 16
Date



Thomas Landgraf, Chairperson

19 OCT 16
Date

Alcohol License Review Committee
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Drafted by Roger Allen, Assistant City Attorney
Wis. State Bar # 1010252