

CITY OF MADISON,

Complainant,

Non-renewal of “Class B” Combination
Alcohol Beverage License and City of
Madison Entertainment License

v.

RED ROOSTER MADISON, LLC

d.b.a Red Rooster

Timothy R. Payne, Liquor/Beer Agent

Respondent.

REPORT OF THE ALCOHOL LICENSE REVIEW COMMITTEE OF THE CITY OF MADISON

INTRODUCTION

On May 22, 2025, the City of Madison, represented by Assistant City Attorney (ACA) Jennifer Zilavy, filed a Summons and Complaint with the City Clerk alleging that the Respondent (Red Rooster) had violated various provisions of Chapter 38, Madison General Ordinances (Alcohol Beverages Regulated) and various provisions of Chapter 125 of Wisconsin state statutes (Alcohol Beverages). The City requested that pursuant to MGO 38.10(1)(e), the Common Council non-renew the “Class B” Combination Alcohol License and Entertainment License issued to Red Rooster. The Complaint contained a number of allegations to support the City’s charge that the Respondent was in violation of MGO 38.01(1)(a) through its multiple City of Madison and state violations.

On May 29, 2025, the Respondent, by its Liquor/Beer Agent and Owner, Timothy R. Payne, appeared before the City of Madison Alcohol License Review Committee (ALRC) for the purpose of answering the complaint. The Respondent acknowledged he was properly served the Summons and Complaint. Assistant City Attorney Amber McReynolds, the attorney advising the ALRC, explained the procedure for a nonrenewal complaint hearing at the request of ALRC Chair Colin Barushok. Specifically, ACA McReynolds said that per MGO 38.10(1)(b), the Respondent could deny the Complaint and then have a separate evidentiary hearing about the allegations in the complaint. The Respondent chose to deny allegations in paragraphs 9 and 14 of the complaint relating to a specific date (November 27, 2024). However, the Respondent admitted to all other allegations in the Complaint.

ACA Zilavy dismissed the denied allegations and proceeded with the complaint based on the facts that the respondent had admitted. Due to the admissions, the ALRC was able to take the allegations as true and decide on the Complaint without an evidentiary hearing. The ALRC determined that the allegations were sufficient to not renew the licenses after a motion to approve the nonrenewal passed 3-1 with the Chair not voting.

The ALRC recommends that the licenses NOT BE RENEWED.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Respondent was properly and timely served with the Summons and Complaint;
2. The Respondent appeared in front of the ALRC on May 29, 2025 and admitted to the allegations of violations in the following paragraphs of the Complaint: 10, 11, 12, 13, 15, and 16;
3. The Respondent specifically denied the allegations in paragraphs 9 and 14. The City dismissed those paragraphs from the complaint and the ALRC did not consider the allegations in those paragraphs when making its recommendation;
4. The Respondent admitted paragraph 10 of the complaint which describes how no person working at the Red Rooster on December 6, 2024 held an operator's license, violations of MGO 38.06(2) and Wis. Stat. 125.68(2);
5. The Respondent admitted paragraph 11 of the complaint which describes when the Red Rooster was open after hours and had patrons who were not employees on the premises after hours on December 7, 2024, violations of MGO 38.06(7)(b) and (d) and Wis. Stat. 68(4)(c);
6. The Respondent admitted paragraph 12 of the complaint which describes when the Red Rooster served alcohol between the prohibited hours of 2:15am and 6am on December 7, 2024, a violation of MGO 38.06(7)(a);
7. The Respondent admitted paragraph 13 of the complaint which describes permitting intoxicated persons at the Red Rooster on December 6 and December 7, 2024, a violation of MGO 38.04(1)(a)3;
8. The Respondent admitted paragraph 15 of the complaint, which describes "overserving" an intoxicated person on December 6 and December 7, 2024, violations of MGO 38.04(1)(a)(2) and Wis. Stat. 125.07(2). Paragraph 15 of the complaint describes in detail a video showing the times, amounts and types of alcohol provided to an intoxicated employee of the Red Rooster, and shows when

that employee stumbles to his vehicle before he later crashed into two vehicles, killing the occupant of one of the vehicles;

9. The Respondent admitted paragraph 16 of the complaint, which describes alcohol violations discovered from an inspection by the Wisconsin Division of Alcohol Beverages on April 15, 2025, violations of MGO 38.031, Wis. Admin Code 8.43, Wis. Stat. 125.33(9) and Wis. Stat. 125.69(6);
10. The ALRC concludes that due to the Respondent's admissions, the allegations in paragraphs 10, 11, 12, 13, 15, and 16 in the complaint can be taken as true;
11. The ALRC concludes that the Respondent committed multiple violations of MGO Chapter 38 and Wisconsin State Statute Chapter 125, thus violating various provisions of MGO 38.10(1)(a);
12. The ALRC concludes that the multiple City of Madison and state violations described above are sufficient to recommend nonrenewal of Red Rooster's licenses.

CONCLUSION AND RECOMMENDATION

The ALRC carefully considered how the facts admitted in the Complaint were violations of alcohol laws in City ordinances and Wisconsin state statutes. Specifically, they found violations of the following: "no licensed operator on duty," "open after hours and non-service personnel on premises after hours," "no sale or service of alcohol beverages between the hours of 2:15 a.m. and 6:00 a.m. on Saturdays and Sundays," "permit intoxicated person on licensed premises," and "sell, dispense, or give away alcohol beverages to intoxicated person" along with the violations related to the State inspection. The ALRC noted the severity of these violations and how the violations arguably contributed to a homicide by intoxicated use of a motor vehicle.

The ALRC determines that the appropriate remedy for the severity of the violations and their repercussions is to not renew the licenses. To allow otherwise would be an improper consequence for this licensee and would send an inappropriate signal to other license holders and applicants as well as the victims of the violations.

THEREFORE, it is the recommendation of the City of Madison ALRC that the Common Council NOT RENEW the Respondent's "Class B" Combination Alcohol License and City Entertainment License.

RESPECTFULLY SUBMITTED,

/s/ Colin Barushok
Colin Barushok, Chair of the ALRC

June 2, 2025
Date

Alcohol License Review Committee
c/o City Clerk's Office
210 Martin Luther King Jr. Blvd
Room City-County Building
Madison, WI 53703

Drafted by Amber McReynolds, Assistant City Attorney
Counsel to the City of Madison Alcohol License Review Committee