

**THE JEFF SCOTT OLSON LAW FIRM, S. C.**

**131 WEST WILSON STREET, SUITE 1200  
MADISON, WISCONSIN 53703**

**Jeff Scott Olson**

PHONE: 608 283 6001  
FAX: 608 283 0945

**Andrea J. Farrell**

E-MAIL: [JSOLSON@SCOFFLAW.COM](mailto:JSOLSON@SCOFFLAW.COM)  
WEBSITE: [WWW.SCOFFLAW.COM](http://WWW.SCOFFLAW.COM)

September 18, 2019

*via hand delivery*

Jim Verbick, Deputy Clerk  
Office of the City Clerk  
City-County Building, Room 103  
210 Martin Luther King, Jr. Blvd.  
Madison, WI 53703

Re: T.C. Visions

Dear Mr. Verbick:

We enclose for consideration by the hearing subcommittee and/or the ALRC:

1. The Licensee's Motion to Allow Dancers to Testify Anonymously, Using Only Their Stage Names;
2. The Licensee's Motion to Disqualify the Members of the Subcommittee Who Volunteered to Serve as Decision-Makers;
3. The Licensee's Motion to Dismiss Allegations that Precede the 2019 License Renewal based on Considerations of Fundamental Fairness and Double Jeopardy; and
4. The Licensee's Motion to Limit Allegations to Those That Occurred within One Single License Year as Required by Principles of Equity;



STATE OF WISCONSIN

CITY OF MADISON

DANE COUNTY

ALCOHOL LICENSING REVIEW COMMITTEE

---

CITY OF MADISON,

Complainant,

Proceeding Seeking Revocation of Class B  
Alcohol Beverage and 21+ Entertainment  
Licenses

v.

T.C. VISIONS,  
d/b/a VISIONS NIGHTCLUB,

Licensee

---

**MOTION TO ALLOW DANCERS TO TESTIFY ANONYMOUSLY,  
USING ONLY THEIR STAGE NAMES**

---

The Licensee, T.C. Visions, by its attorney, The Jeff Scott Olson Law Firm, S.C.,  
by Attorney Jeff Scott Olson hereby moves the ALRC to allow dancers to testify  
anonymously using only their stage names, at the revocation hearing.

By way of background information, the dancers who entertain at the club  
perform exotic dance; they perform semi-nude on stage and in private dances (often  
called "lap dances"). Exotic dancers appear and perform, everywhere in the country,  
under pseudonyms. They trust and rely on proprietors of exotic dance establishments  
not to reveal their identities. For the dancers, this is a matter of privacy and personal  
safety. If the dancers who testify at the revocation hearing are required to reveal their real

names and home addresses, those would then become a matter of public record, seen on the televised broadcast and subject to production to any member of the public under Freedom of Information and Wisconsin Open Records Acts. Such exposure would inevitably deter many of them from testifying.

Submitted with this petition are the affidavits of two women who work as exotic dancers at the club. They perform under the stage names "Tabitha" and "Sasha," and those are the only names they were willing to give. In their affidavits, they describe their very real fears for their reputation and for their personal security should their names become public when they testify. They say that they have information material to the defense of the Licensee, and they are willing to testify, but only if they can do so under their stage names.

### Legal Analysis

This issue was addressed some twenty years ago in a thoughtful decision about the need for dancers to maintain their anonymity. In *N.W. Enters. v. City of Houston*, 27 F.Supp.2d 754, 842 (S.D.Tex. 1998), rev'd in part, 352 F.3d at 198, the district court reasoned:

Adult entertainers may anonymously (or through stage names) put their bodies on display in front of strangers, but these actions do not imply a willingness to publicize the entertainers' personal information through which customers or other private persons may trace the entertainers to their homes or otherwise invade their privacy without permission. The fact that an entertainer is willing to dance publicly or a manager is willing to be employed in a sexually oriented business that deals with the public, or the

fact that a determined harasser or stalker might conceivably follow an entertainer home after she leaves work, does not mean that adult entertainers and managers have voluntarily sacrificed all privacy rights and need for safety protections.

*Id.* at 842–43.

More recent decisions dealing with dancers' privacy rights have followed that reasoning. See, for example, from *Dream Palace v. County of Maricopa*:

The potentially dangerous consequences that the interplay of these rules [identification requirements and open records laws] poses to permit applicants is obvious. Should an erotic dancer, say, wish to apply for a work permit, as required by the ordinance, he or she must provide information regarding true name, including aliases or other names used in the past five years, as well as current home address and telephone number. Under Arizona law, that information is presumptively available to anybody who pleases to ask for it. . .

The Sixth Circuit confronted a similar problem in *Deja Vu of Nashville, Inc. v. The Metropolitan Gov. of Nashville & Davidson County, TN.*, 274 F.3d 377 (6th Cir. 2001). The Nashville ordinance at issue in that case required permit applicants to divulge certain personal information about themselves, including their current and former residential addresses. *Id.* at 393. That information was presumptively available to the public pursuant to the Tennessee Open Records Act. See *id.* at 394. The court found there was "significant evidence that the requirement that applicants submit their names and past and current addresses to a public forum poses serious risks to their personal security." *Id.* at 394. The court concluded that "permit applicants' names and current and past residential addresses constitute[s] protected private information" and therefore it was "exempted from Tennessee's Open Records Act." *Id.* at 395.

In *N.W. Enterprises, Inc. v. City of Houston*, 352 F.3d 162 (5th Cir. 2003), the Fifth Circuit reasoned similarly in reversing a Texas district court's injunction against a Houston ordinance that required employees and managers of adult entertainment businesses to divulge information regarding phone numbers and addresses to the city when applying for a

permit. *Id.* at 195. The court held that state law already rendered the information confidential and unavailable to the public; thus, it reasoned, requiring applicants to supply the information did not infringe their First Amendment rights. *Id.* The Fifth Circuit panel therefore reversed the Texas district court's injunction. It did not disagree that where there is no guarantee of confidentiality, "concerns about public disclosure ... are not inconsequential." *N.W. Enters. v. City of Houston*, 27 F.Supp.2d 754, 842 (S.D.Tex. 1998), rev'd in part, 352 F.3d at 198.

.....

In *Clark [v. City of Lakewood*, 259 F.3d 996 (9th Cir.2001)], we ourselves recognized the potential danger from public disclosure of information provided to the government in the course of applying for a work permit posed for nude dancers, albeit in the course of deciding whether or not an owner-operator of a nude dancing club had overbreadth standing to raise the rights of his managers and employees. See *Clark*, 259 F.3d at 1010. We recognized in that case the possibility "that cabaret patrons could obtain such personal information and harass the entertainers at their homes, or worse." *Id.* at 1010. Because of the potential danger, we concluded that "there is a risk cabaret employees will engage in self-censorship and avoid participating in protected activity ...." *Id.* 28

We agree with this analysis. *The First Amendment does not permit the county to put employees of adult entertainment establishments to the choice of either applying for a permit to engage in protected expression in circumstances where they expose themselves to "unwelcome harassment from aggressive suitors and overzealous opponents" of such activity, N.W. Enters., 27 F.Supp.2d at 842, or of choosing not to engage in such activity out of concern for their personal safety. The chilling effect on those wishing to engage in First Amendment activity is obvious.* Given the choice with which they are faced, we think it likely that those willing to engage in such activity will decline to do so, and Dream Palace has introduced affidavit testimony to that effect.

*Dream Palace v. County of Maricopa*, 384 F.3d 990, 1010-12 (9th Cir. 2004)(emphasis added).

### Conclusion

The Licensee is willing to make a reasonable compromise to ensure the integrity of the dancers' testimony, such as to give their full names and addresses *in camera*, and/or to opposing counsel under seal. However, without some such compromise that will safeguard their identities, so that they can testify without endangering their safety of and chilling their constitutional right to engage in anonymous erotic expression, they are unwilling to testify. That would deprive the Licensee of the benefit of their testimony that it needs to defend itself.

Dated this 18<sup>th</sup> day of September, 2019

Respectfully submitted,

T.C. VISIONS, Licensee, By

ATTORNEYS FOR LICENSEE  
THE JEFF SCOTT OLSON LAW FIRM, S.C.  
Attorney Jeff Scott Olson  
State Bar No. 1016284  
131 W. Wilson St., Suite 1200  
Madison, WI 53703  
Phone: (608) 283-6001  
Facsimile: (608) 283-0945  
E-mail: jsolson@scofflaw.com

  
\_\_\_\_\_  
Jeff Scott Olson

---

**AFFIDAVIT OF AN ENTERTAINER AT VISIONS, STAGE-NAMED TABITHA**

---

STATE OF WISCONSIN    )  
  ) ss  
DANE COUNTY            )

I, Tabitha, being duly sworn on oath, do swear and depose as follows:

1. My stage name is Tabitha. I am an adult resident of Wisconsin. I am 30 years old.
2. I have been performing as a dancer at Visions for about 4 years.
3. I dance under the stage name Tabitha, and I am not willing to make my real name public. I want to keep my identity private. That is really important to me.
4. All exotic dancers perform under stage names and keep their real names confidential, and we do that for two reasons: for our safety and so people won't look down on us and just be completely judgmental.
5. When you perform as an exotic dancer, you develop regulars who think they have fallen head over heels in love with you, and they can get a little crazy with their affection.
6. It has never happened to me, but I have heard from other dancers about guys who become obsessed with them.

7. If my real name were made public, I would be vulnerable to that type of person intruding on my private life.

8. As far as I know, all exotic dancers perform under stage names and keep their real names confidential.

9. I am also working in sales. I would not want my sales employer to know about my side job as a dancer.

10. I am trying to transition into sales becoming my fulltime career, and when I do that, I will put exotic dancing behind me.

11. I do not want being an exotic dancer to follow me into that stage of my life.

12. Not only am I concerned what releasing my real name would do to my reputation, I am also very frightened what it would do to compromise my safety.

13. I do have information that is relevant to the revocation hearing, on how the staff at Visions secures the safety of the dancers.

14. If I were able to testify I would explain that I find it impossible to believe that a dancer was sexually assaulted while giving a private dance because at Visions, a security staff is always watching on security camera when we give a private dance, and they enter immediately if any unlawful touching starts to take place.

15. Touching the dancers is not tolerated.



16. I have been asked by the lawyers for Visions to testify at the revocation hearing  
,and I am willing to testify publicly and under oath, but not to give my real name and  
address to the public at large, for the reasons mentioned above.

Tabatha

Subscribed and sworn to before me  
this 13th day of September, 2019

[Signature]  
Notary Public, State of Wisconsin

My Commission expires ~~\_\_\_\_\_~~ / is permanent.

---

CITY OF MADISON,

Complainant,

Proceeding Seeking Revocation of Class B  
Alcohol Beverage and 21+ Entertainment  
Licenses

v.

T.C. VISIONS,  
d/b/a VISIONS NIGHTCLUB,

Licensee

---

**AFFIDAVIT OF AN ENTERTAINER AT VISIONS, STAGE-NAMED SASHA**

---

STATE OF WISCONSIN    )  
  ) ss  
DANE COUNTY            )

I, Sasha, being duly sworn on oath, do swear and depose as follows:

1. My stage name is Sasha. I am an adult resident of Wisconsin. I am 33 years old.
2. I have been performing as a dancer at Visions for about four years.
3. I dance under the stage name Sasha, and I am not willing to make my real name public. I want to keep my identity private. That is important to me.
4. As far as I know all exotic dancers perform under stage names and keep their real names confidential.
5. We do that for our personal safety.

6. When you perform as an exotic dancer, you are selling a fantasy, and you can develop regulars who think they have fallen in love with you, and they can get a little crazy with their affection.

7. It has never happened to me, but I have heard from other dancers about guys who become obsessed with them.

8. As exotic dancers, after our performance on stage, we mingle with the customers, making conversation and sometimes giving lap dances; what we promote is a fantasy, where men feel they make a connection with a beautiful woman.

9. That is fine as long as we are at the club with security staff all around in case any of the men get carried away.

10. Customers sometimes get obsessive about dancers and want to know all about us and want a relationship outside the club. That cannot be allowed to happen.

11. If my real name were made public, I would be vulnerable to that type of person intruding on my private life.

12. Another threat that concerns me is that people are very judgmental.

13. I plan on having a career after dancing, and I don't think it would help my chances if my future employer knew of my present temporary occupation; it's not something you put on your resume.

14. I do have information that is relevant to the revocation hearing; I could testify about how the staff at Visions secures the safety of the dancers.

15. Whenever a dancer is giving a private dance, a bouncer is always stationed at the security camera to monitor the activity.

16. Patrons are not allowed to touch the dancers, and that is strictly enforced.

17. I have been asked by the lawyers for Visions to testify at the revocation hearing and I am willing to testify publicly and under oath, but not to give my real name and address to the public at large, for the reasons mentioned above.

Sasha

Subscribed and sworn to before me  
this 13th day of September, 2019

[Signature]  
Notary Public, State of Wisconsin

My Commission expires            / is permanent.

STATE OF WISCONSIN

CITY OF MADISON

DANE COUNTY

ALCOHOL LICENSING REVIEW COMMITTEE

---

CITY OF MADISON,

Complainant,

Proceeding Seeking Revocation of Class B  
Alcohol Beverage and 21+ Entertainment  
Licenses

v.

T.C. VISIONS,  
d/b/a VISIONS NIGHTCLUB,

Licensee

---

**MOTION TO DISQUALIFY THE MEMBERS OF THE SUBCOMMITTEE WHO  
VOLUNTEERED TO SERVE AS DECISION-MAKERS**

---

The Licensee, T.C. Visions, by its attorneys, The Jeff Scott Olson Law Firm, S.C., by Attorney Jeff Scott Olson hereby moves the ALRC to disqualify those members of the subcommittee designated to hear the evidence regarding the possible revocation of the licenses of T.C. Visions who were appointed to their positions because they volunteered. Such a process of choosing a board that will consider evidence and render a quasi-judicial decision does not comport with the due process requirement of a neutral and detached decision-maker.

“It is axiomatic that a ‘fair trial in a fair tribunal is a basic requirement of due process.’” *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876 (2009)(quoting *In re Murchison*, 349 U.S. 133, 136 (1955)); see also *Guthrie v. WERC*, 111 Wis.2d 447, 454, 331 N.W.2d 331 (1983) (“It is, of course, undisputable that a minimal rudiment of due process is a fair and impartial decisionmaker.”). The United States Supreme Court has ruled that a biased decisionmaker is “constitutionally unacceptable.” *Withrow v. Larkin*, 421 U.S. 35, 47 (1975). The Wisconsin Court of Appeals has echoed those sentiments, saying, “[t]he right to an impartial judge is fundamental to our notion of due process.” *State v. Goodson*, 2009 WI App 107, ¶ 8, 320 Wis.2d 166, 771 N.W.2d 385.

Allowing ALRC members to volunteer to serve as, essentially, the jury determining the fate of Visions carries with it all the defects that allowing people to volunteer to serve on juries would. While the motive of each volunteer may simply be civic-mindedness, it also could be the result of a zealous desire to shut down Madison’s only adult entertainment club.

“Not only is a biased decisionmaker constitutionally unacceptable, but our system of law has always endeavored to prevent even the probability of unfairness.” *Withrow*, 421 U.S. at 47 (1975)(internal quotations and citations omitted). In Wisconsin, it is well settled that “when the risk of bias is impermissibly high,” even just that risk of an appearance of bias constitutes a violation of due process. *Guthrie*, 111 Wis. 2d at 454, 331 N.W.2d 331.

This was never truer than in a situation such as T.C. Visions faces here, where, as asserted by the City, the alders for its district (first Ahrens, now Foster) are facing intense political pressure from constituents to close down the only adult entertainment club within the City limits. (Complaint, Section D, ¶ 1)

These remarks made by Alder Ahrens last year indicate the strong anti-adult entertainment beliefs that some in public office hold:

- On or about December 11, 2018, Alder Ahrens told a member of the news media that at Visions, "you have a regular group of people there who are there to get smashed, sell drugs, do prostitution . . ."
- In the same interview, he said, "Visions is a strip club, and it makes its money off of degrading women and the people who want to see that, so it's really something out of a time long ago, that I think it's time for it to go."
- On or about December 13, 2018, Alder Ahrens told a member of the news media that, "I think there is enough evidence from the police district about the level of crime activity, such as disturbances, battery cases, autos stolen, drug dealing and prostitution. It's [Visions] really a blight on the neighborhood."

- On December 28, 2018, Alder Ahrens posted on his city website the following:

For many years, Visions Nightclub on East Wash has been the source of many problems. Regularly, groups of young men engage in binge drinking and then stumble through the neighborhood looking for their cars and getting sick.

People who don't live in the immediate area were able to ignore the on-going problems arising from it.

However, in the last two years, the crimes regularly occurring in and around the establishment are so serious and frequent that they cannot be ignored. Since 2017, there have been over 100 police calls to Visions. Assaults, weapons violations and thefts are regular occurrences.

These statements were false, because people at Visions are not there (whether as part of a "regular group" or otherwise) to engage in binge drinking, sell drugs or engage in prostitution. No Visions employee has ever been cited for serving an intoxicated person. There has never been a drug arrest on the premises of Visions. There has never been a prostitution arrest on the premises of Visions. The female performers at Visions are not degraded.

But the truth may not matter. The fact that Alder Ahrens said these things shows that it is quite probable the many people in city government already have their minds made up on the issue of whether Visions maintains a disorderly house, or are biased against Visions for moral reasons that the First Amendment prevents them from acting



on directly, so they are highly motivated to find lawful grounds to expel Visions from the City. Common sense tells us that only such highly motivated persons are likely to volunteer to conduct a hearing that is likely to extend past midnight on multiple evenings.

Therefore, the Licensee respectfully asserts that all those who volunteered to serve on the subcommittee be dis-empaneled and a new subcommittee be chosen in a manner that will assure impartiality.

Dated this 18<sup>th</sup> day of September, 2019

Respectfully submitted,

T.C. VISIONS, Licensee

By

ATTORNEYS FOR LICENSEE

THE JEFF SCOTT OLSON LAW FIRM, S.C.

Attorney Jeff Scott Olson

State Bar No. 1016284

131 W. Wilson St., Suite 1200

Madison, WI 53703

Phone: (608) 283-6001

Facsimile: (608) 283-0945

E-mail: jsolson@scofflaw.com



Jeff Scott Olson

## Visions Night Club key issue for East Washington corridor, says Alder

*Isabel Lawrence*

Posted: Tue 9:10 PM, Dec 11, 2018 |

Updated: Tue 10:50 PM, Dec 11, 2018

After a shooting and stabbing that left five people injured at Visions Night Club in Madison, some businesses near the club said they aren't surprised to hear about what happened.

While some businesses on East Washington said they did not feel unsafe at their locations, they did say they knew of incidents involving shootings in the area before, as well as robberies.

"I had some burglaries here, a number of them, where they've broken in and they crow barred their way in the through the door, got it twice in one week," said Robert Horner, who has been at his business Doctor Horner's Radiator Service for 30 years.

"As far as the neighborhood, it's a good neighborhood," Horner said. However, he did say there have been some incidents in the community before.

"They had a shooting across the road here recently, in the last year or so. I believe it was by AutoZone, somebody was shot a number of times," he said. "There's been some issues across the street here at the motel. Other than that, nothing that we can do about it."

But the district's Alder, David Ahrens, is trying to do something about the situation by meeting with Visions management.

"I and police and city attorneys will meet with the managers there soon, that is this week or the beginning of next week, and demand that they do immediate changes in security for the area," Ahrens said. "Also inform them that we're going to seek the revocation of their license."

Ahrens said that he believes many of the issues the area is facing stem from Visions, and said he thinks if Visions were to close, it would positively impact the area.

"I don't want to say every problem in the whole neighborhood is, but when you have a regular group of people there who are there to get smashed, sell drugs, do prostitution, and everything else that goes around that, you're going to have very bad results," Ahrens said.

While Horner said that he has never had problems with Visions before, another business on the block said that they do not like working so close to the club, and wish it was not there.

"Visions is a strip club, and it makes its money off of degrading women and the

people who want to see that," Ahrens said. "So it's really something out of a time long ago, that I think it's time for it to go."

NBC15 reached out to Visions Night Club about the recent shooting and were told that they are not commenting at this time. Madison police also said that they are not commenting about the incident because it is still under investigation.

STATE OF WISCONSIN

CITY OF MADISON

DANE COUNTY

ALCOHOL LICENSING REVIEW COMMITTEE

---

CITY OF MADISON,

Complainant,

Proceeding Seeking Revocation of Class B  
Alcohol Beverage and 21+ Entertainment  
Licenses

v.

T.C. VISIONS,  
d/b/a VISIONS NIGHTCLUB,

Licensee

---

**MOTION TO DISMISS ALLEGATIONS THAT PRECEDE THE 2019 LICENSE  
RENEWAL BASED ON CONSIDERATIONS OF  
FUNDAMENTAL FAIRNESS AND DOUBLE JEOPARDY**

---

The Licensee, T.C. Visions, by its attorney, The Jeff Scott Olson Law Firm, S.C., by Attorney Jeff Scott Olson hereby moves the ALRC to dismiss all the allegations in the Complaint that precede the July 1, 2019, renewal of the license based on grounds of double jeopardy.

Every year, the Licensee has been required to apply for renewal; every year, upon its review of that application, the City has had the opportunity to voice concerns, to raise objections to management practices, and to require improvements as conditions of continued licensure. Each time the City has permitted renewal of the licenses of T.C.

Visions, which it has done prior to this year for over 30 years, most notably as is relevant to this case, for the license years beginning on July 1 in 2012, 2013, 2014, 2015, 2016, 2017, and 2018. Each of those renewals operated as a determination on the part of the City that the Licensee was operating within acceptable bounds. Had Visions been put on notice that any of its conduct was unacceptable to the City, it could have sought to effect timely changes in order to conform its conduct to whatever the City deemed acceptable.

In some years, the City has voiced certain concerns, and when it did so, it also imposed conditions on T.C. Visions. Where the City has chosen a penalty in the form of a condition that limits the scope of the licenses and imposed that penalty, it cannot now re-penalize the Licensee for the same conduct.

For example, in Section D, ¶ 58, there is an allegation that is based upon the December 9, 2018 shooting at Visions. That incident has already been the subject of discussion at the time of license renewal and a penalty was imposed. At the May 22, 2019, ALRC meeting at which the licenses for Visions were up for renewal, there was substantial concern and discussion among committee members which resulted in the licenses being renewed with conditions that the metal detectors that had been installed subsequent to the shooting remain in place and that security staff be required to wear identifiable T-shirts.

Limiting the number of times that an entity can be punished for the same conduct is simply a matter of fundamental fairness. Double jeopardy is a well-recognized concept in criminal matters, but it also provides a limitation on non-criminal proceedings. In a non-criminal setting, the doctrine is called industrial double jeopardy. The doctrine of industrial double jeopardy enshrines the idea that an entity should not be penalized twice for the same infraction. *Zayas v. Bacardi Corp.*, 524 F.3d 65 (1st Cir. 2008). Thus, where an employer had determined that an employee merits a written reprimand for certain misconduct, that employee cannot later be terminated for the same conduct. A second, more severe sanction for the same conduct after the first sanction has been imposed violates this doctrine. *Id.*

To fail to recognize this limitation would allow the City to repeatedly bring revocation proceeding after revocation proceeding. Should this ALRC consider all the allegations and determine that revocation was not warranted, nothing would protect the Licensee from the City's deciding to try again in another month, and to keep trying again and again until it gets the result it wants. Fundamental fairness requires that the City only get one kick at the cat. To the extent that it has been aware each of the historical allegations and allowed the licenses to be renewed, with conditions, that should close the case on the allegations.

What the City seeks to do here is to impose the most severe penalty available to it as a result of conduct for which it has already imposed minor penalties previously. To allow it to do so would be a violation of fundamental fairness.

Dated this 18<sup>th</sup> day of September, 2019

Respectfully submitted,

T.C. VISIONS, Licensee, By

ATTORNEYS FOR LICENSEE

THE JEFF SCOTT OLSON LAW FIRM, S.C.

Attorney Jeff Scott Olson

State Bar No. 1016284

131 W. Wilson St., Suite 1200

Madison, WI 53703

Phone: (608) 283-6001

Facsimile: (608) 283-0945

E-mail: jsolson@scofflaw.com

  
\_\_\_\_\_  
Jeff Scott Olson

STATE OF WISCONSIN

CITY OF MADISON

DANE COUNTY

ALCOHOL LICENSING REVIEW COMMITTEE

---

CITY OF MADISON,

Complainant,

Proceeding Seeking Revocation of  
Class B Alcohol Beverage and  
21+ Entertainment Licenses

v.

T.C. VISIONS,  
d/b/a VISIONS NIGHTCLUB,

Licensee

---

**MOTION TO LIMIT ALLEGATIONS TO THOSE THAT  
OCCURRED WITHIN ONE SINGLE LICENSE YEAR AS IS REQUIRED  
BY PRINCIPLES OF EQUITY**

---

As an alternative to the motion to dismiss all allegations that precede the 2019 license year, the Licensee, T.C. Visions, by its attorney, The Jeff Scott Olson Law Firm, S.C., by Attorney Jeff Scott Olson hereby moves the ALRC to limit the allegations that it considers as possible grounds for revocation to those that have occurred within one licensing year. The Complaint for Revocation has allegations that go back as far as January 12, 2012 (see Section D paragraph 2), over seven and a half years ago.



The Licensee is currently licensed for the year July 1, 2019 – June 30, 2020.

Looking at the Complaint, the item at Section D, ¶ 50 is alleged to have occurred on September 6, 2018. There is no violation alleged within one year prior to that date. The previous violation (at D ¶ 49) is alleged to have occurred on August 19, 2017. This motion to limit the allegations to those within the past year is based on equitable considerations. The statute of limitations for a felony in Wisconsin is six years; for a misdemeanor, it is three years. Should an incident amounting to less than a misdemeanor, less even than an ordinance violation, be allowed to be the basis of revocation of license some **seven years** after the fact?

Equitable considerations compel the conclusion that it should not. The doctrine of laches operates “as a bar upon the right to maintain an action by those who unduly slumber upon their rights.” *Likens v. Likens*, 136 Wis. 321, 327, 117 N.W. 799 (1908). Laches has been defined as: “[A] recognition that a party ought not to be heard when he has not asserted his right for unreasonable length of time or that he was lacking in diligence in discovering and asserting his right in such a manner so as to place the other party at a disadvantage.” *Bade v. Badger Mut. Ins. Co.*, 31 Wis.2d 38, 47, 142 N.W.2d 218 (1966). The elements of the doctrine of laches are: (1) unreasonable delay; (2) knowledge of and acquiescence in the course of events; and (3) prejudice to the party asserting laches. *In re Estate of Flejter*, 2001 WI App 26, ¶¶ 40-41, 240 Wis. 2d 401, 623

N.W.2d 552. Each of these elements is present here as to the allegations in the Complaint preceding the license year immediately past.

Principles of equitable estoppel also prevent to City from going back to 2012 in an attempt to revoke a 2019-2020 license. Equitable estoppel requires proof of three elements: (1) an action or an inaction that induces; (2) reliance by another; ... (3) to his or her detriment." *Randy A.J. v. Norma I.J.*, 2004 WI 41, ¶26, 270 Wis. 2d 384, 677 N.W.2d 630 (citing *Harms v. Harms*, 174 Wis. 2d 780, 785, 498 N.W.2d 229 (1993) ).

Both doctrines (laches and equitable estoppel) are based on the same principle: unreasonably allowing time to pass to the detriment of the other party is so inherently unfair as to preclude the delaying party from presenting evidence of the old claims.

The first two elements, delay and acquiescence in events, are obvious. The real question is: is the Licensee prejudiced?

It is noteworthy that the timing of the consideration of the alleged incidents for licensing purposes has always been under the sole control of the City. Every year, the Licensee has been required to apply for renewal; every year, upon its review of that application, the City has had the opportunity to voice concerns, to raise objections to management practices, and to require improvements as conditions of continued licensure. Each time the City has permitted renewal of the licenses of T.C. Visions, which it has done prior to this year for the license years beginning on July 1 in 2012, 2013, 2014, 2015, 2016, 2017, and 2018. Each of those renewals operated as a statement

on the part of the City that the Licensee was operating within acceptable bounds. Had Visions been put on timely notice that its conduct was unacceptable to the City, it could have sought to make changes in order to conform its conduct to whatever the City deemed acceptable. By deliberately delaying and storing up old grievances, some serious, some less so, the City has deprived the Licensee of the opportunity to cure whatever deficiencies it may have had in its operations in 2012, 2013, 2014, etc. That is the first aspect of the prejudice it has suffered.

Of the fifty-seven allegations of keeping a disorderly house, forty-nine of them occur outside the one-year range. The amassing of such a quantity of allegations, accomplished by going back for a period of over seven years, creates the appearance of guilt: surely with such a large number of incidents, Visions must be guilty of *something*. But this ignores consideration of other clubs – how many police calls have they had since 2012? Also, many of the “violations” asserted are neither an allegation of any violation nor an example of disorderliness: police were called because the manager thought a fight might break out; it did not (§ 2); police were called because Visions was broken into after hours (§ 9); a car was stolen from the parking lot (§ 23); the personal property tax was unpaid (§ 36). The inclusion of these and similar incidents (each of which is alleged to have occurred three or more years ago) demonstrates a strategy of creating the appearance of a badly run club by the sheer volume of allegations, the majority of which are not within the past license year.

At the time of filing this motion, the Licensee has not yet received all the police reports that relate to the allegations in the Complaint but understands that it has been given reports for all the allegations except for the December, 2018, shooting. Some reports were just received yesterday and have yet to be processed. But, as regards the investigation that counsel for the Licensee has attempted to undertake thus far, that investigation has been impeded by the passage of time, especially on the oldest allegations from 2012 and 2013. See the attached affidavit of paralegal Katlyn Pollari.

The ability of the licensee to gather and present evidence relating to the alleged incidents is also obviously compromised by the passage of time. As the Fifth Circuit Court of Appeals put it:

If a plaintiff's delay in filing suit precludes any reasonable possibility of defendant's gathering evidence (other than the plaintiff's allegations) or conducting an effective investigation of the circumstances surrounding the alleged incident, the presiding Court may certainly find that laches bars the action.

*Barrois v. Nelda Faye, Inc.*, 597 F.2d 881, 885 (5th Cir. 1979). See also, *Woods v. State*, 506 N.E.2d 487, 489 (Ind. Ct. App. 1987) (“The State attempted to contact witnesses listed in the available records, but discovered that the victim was dead, one of the investigating officers had moved to Florida, and another witness could not be located. . . . We find sufficient evidence of prejudice and of unreasonable delay.”)

The Licensee suggests that this ruling would apply to the following paragraphs of the Complaint, none of which is alleged to have occurred within the appropriate time period, on a date after July 1, 2018:

In Section D, keeping a disorderly house:

Paragraph 1	(undated)
Paragraph 2	(January 12, 2012)
Paragraph 3	(February 27, 2012)
Paragraph 4	(June 15, 2012)
Paragraph 5	(October 12, 2012)
Paragraph 6	(December 15, 2012)
Paragraph 7	(March 20, 2013)
Paragraph 8	(March 16, 2013)
Paragraph 9	(March 21, 2013)
Paragraph 10	(April 2, 2013)
Paragraph 11	(March 29, 2013)
Paragraph 12	(April 27, 2013)
Paragraph 13	(May 27, 2013)
Paragraph 14	(July 4, 2013)
Paragraph 15	(October 6, 2013)
Paragraph 16	(December 20, 2013)
Paragraph 17	(December 23, 2013)
Paragraph 18	(January 7, 2014)
Paragraph 19	(January 6, 2014)
Paragraph 20	(February 2, 2014)

Paragraph 21	(February 12, 2014)
Paragraph 22	(July 24, 2014)
Paragraph 23	(September 6, 2014)
Paragraph 24	(December 6, 2014)
Paragraph 25	(January 10, 2015)
Paragraph 26	(January 15, 2015)
Paragraph 27	(February 9, 2015)
Paragraph 28	(April 14, 2015)
Paragraph 29	(May 1, 2015)
Paragraph 30	(May 5, 2015)
Paragraph 31	(August 4, 2015)
Paragraph 32	(August 15, 2015)
Paragraph 33	(October 2, 2015)
Paragraph 34	(December 18, 2015)
Paragraph 35	(February 8, 2016)
Paragraph 36	(July 6, 2016)
Paragraph 37	(July 12, 2016)
Paragraph 38	(July 15, 2016)
Paragraph 39	(August 27, 2016)
Paragraph 40	(September 9, 2016)
Paragraph 41	(October 21, 2016)
Paragraph 42	(January 19, 2017)
Paragraph 43	(February 28, 2017)
Paragraph 44	(April 10, 2017)
Paragraph 45	(May 16, 2017)
Paragraph 46	(May 24, 2017)

Paragraph 47 (June 5, 2017)  
Paragraph 48 (June 9, 2017)  
Paragraph 49 (August 19, 2017)

Dated this 18<sup>th</sup> day of September, 2019

Respectfully submitted,

T.C. VISIONS, Licensee

By

ATTORNEYS FOR LICENSEE

THE JEFF SCOTT OLSON LAW FIRM, S.C.

Attorney Jeff Scott Olson

State Bar No. 1016284

131 W. Wilson St., Suite 1200

Madison, WI 53703

Phone: (608) 283-6001

Facsimile: (608) 283-0945

E-mail: [jsolson@scofflaw.com](mailto:jsolson@scofflaw.com)

  
\_\_\_\_\_  
Jeff Scott Olson





3. On September 12, 2019, I looked at Police Report 2012-00051880 (concerning conduct that occurred on February 27, 2012, that relates to the Revocation Complaint Section D, ¶ 3) and tried to contact **Mona Hageman** at the number provided on that report. The number was no longer in service.

4. On September 12, 2019, I looked at Police Report 2012-00164225 (concerning conduct that occurred on June 15, 2012, that relates to the Revocation Complaint Section D, ¶ 4) and tried to contact **Lionel Cauley** at the number provided on that report. No one answered and the automated voicemail greeting did not verify that it was his number.

5. On September 12, 2019, I looked at Police Report 2013-00067111 (concerning conduct that occurred on March 10, 2013, that relates to the Revocation Complaint Section D, ¶ 7) and tried to contact **Michael Marks** at the number provided on that report. No one answered and there was no voicemail to verify that it was his number.

6. On September 12, 2019, I looked at Police Report 2012-00051880 (concerning conduct that occurred on February 27, 2012, that relates to the Revocation Complaint Section D, ¶ 3) and contacted **David Walker** at the number provided on that report. He answered, and upon my asking if he was

willing to be interviewed about the incident in the police report, he said that he didn't remember the incident at all. He stated "That was so f\*\*\*\*\* long ago."

7. On September 12, 2019, I looked at Police Report 2012-00051880 (concerning conduct that occurred on February 27, 2012, that relates to the Revocation Complaint Section D, ¶ 3) and tried to contact **Lucas Humboldt** at the number provided on that report. The phone number now belongs to someone else.

8. On September 12, 2019, I looked at Police Report 2012-00354013 (concerning conduct that occurred on December 15, 2012, that relates to the Revocation Complaint Section D, ¶ 6) and tried to contact **Jennifer Erickson** at the number provided on that report. The phone number now belongs to a dental office.

9. On September 13, 2019, I looked at Police Report 2013-00051880 (concerning conduct that occurred on February 27, 2012, that relates to the Revocation Complaint Section D, ¶ 3) and tried to contact **Christopher Howell** at the number provided on that report. The phone number now belongs to a Walgreens.

10. On September 13, 2019, I looked at Police Report 2013-00072286 (concerning conduct that occurred on March 16, 2013, that relates to the

Revocation Complaint Section D, ¶ 8) and tried to contact **Moshea Norris** at the number provided on that report. The number was no longer in service.

11. On September 13, 2019, I looked at Police Report 2013-00085060 (concerning conduct that occurred on March 29, 2013, that relates to the Revocation Complaint Section D, ¶ 11) and tried to contact **Greg Randle** at the number provided on that report. The number was no longer in service.

12. On September 13, 2019, I looked at Police Report 2013-00154387 (concerning conduct that occurred on May 27, 2013, that relates to the Revocation Complaint Section D, ¶ 13) and tried to contact **Roosevelt McNeil** at the number provided on that report. The number was no longer in service.

13. On September 13, 2019, I looked at Police Report 2013-00314764 (concerning conduct that occurred on October 6, 2013, that relates to the Revocation Complaint Section D, ¶ 15) and tried to contact **Michael Mojica** at the number provided on that report. The number was no longer in service.

14. On September 13, 2019, I looked at Police Report 2013-00401294 (concerning conduct that occurred on December 20, 2013, that relates to the Revocation Complaint Section D, ¶ 16) and tried to contact **Brandon Meyer** at the number provided on that report. The number was no longer in service.

15. On September 13, 2019, I looked at Police Report 2013-00401294 (concerning conduct that occurred on December 20, 2013, that relates to the Revocation Complaint Section D, ¶ 16) and tried to contact **Anthony Younger** at the number provided on that report. The phone number now belongs to the City of Madison recycling coordinator.

16. On September 13, 2019, I looked at Police Report 2013-00401294 (concerning conduct that occurred on December 20, 2013, that relates to the Revocation Complaint Section D, ¶ 16) and contacted **Cole Foster** at the number provided on that report. He said he does not remember being involved in an incident at Visions in 2013.

17. On September 13, 2019, I looked at Police Report 2013-00154387 (concerning conduct that occurred on December 24, 2013, that relates to the Revocation Complaint Section D, ¶ 17) and tried to contact **Bruce Hunt** at the number provided on that report. The phone number is now assigned to another person.

18. On September 16, 2019, I looked at Police Report 2017-00339559 (concerning conduct that occurred on December 16, 2014, that relates to the Revocation Complaint Section D, ¶ 24) and contacted **Palmer Gohlke** at the number provided on that report. He answered, and upon my asking if he was

willing to be interviewed about the incident in the police report, he stated that "it was too long ago to remember."

Katlyn Pollari  
Katlyn Pollari

Subscribed and sworn to before me  
this 1-21 day of August, 2019

[Signature]  
Notary Public, State of Wisconsin

My Commission expires [scribble] / is permanent (circled)