

#09256



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12 February 2008

Alcohol License Review Committee
c/o City Clerk, City of Madison
210 Martin Luther King Jr. Blvd.
Madison, WI 53703

Re: Licensee Discipline

Dear Members of the Committee:

Please forgive me for sending you yet another bit of correspondence at this time. However, I think it is appropriate to present this to you given the fact that you are pondering whether to commence license actions against two licensees

In June of 1996, I was one of the speakers at the Municipal Attorneys Institute which was hosted by the League of Wisconsin Municipalities to give a presentation with respect to revocations and suspensions of Alcohol Beverage Licenses. As part of my outline for that presentation, I included a history of suspensions and revocations occurring in the City of Madison from 1987 through 1996. Enclosed you will find that list.

Particularly with respect to the second part of the list are those premises which had suspensions imposed for violations under the point system. Back when I was doing the liquor regulation work, I kept a handwritten list of all of the suspension activity under the point system, including a list of factors taken into consideration in terms of assessing the points and/or which violations, the charge and what an appropriate sanction would be because of those violations. I no longer have that handwritten list since it was the property of the City of Madison. However, in mentally reconstructing that list, they included the following factors:

1. The egregiousness of the violation;
2. Was the licensee cooperative with the police;
3. Was it a fair assessment to conclude that although the licensee is vicariously liable for the conduct of his or her employees, was this fundamentally an act of a

rogue employee that would ordinarily not be countenanced by the license holder;

4. The nature and extent of the previous disciplinary record, if any;
5. Whether the offense was a status offense or related to conduct of an employee. By status offense, I mean violations such as whether a license was properly posted on the premises; and
6. The willingness on the part of the licensee as part of the settlement of cases to agree to license conditions that were designed to address patterns of conduct that became a concern to the City of Madison.

This information is offered to you to buttress the notion that the structure of the ordinance as well as practices that existed at that time were premised upon the notion of progressive discipline, a concept borrowed from the labor law and using comparative factors to determine whether lesser or greater discipline was appropriate under certain sets of circumstances

I would urge you to reflect upon this and to perhaps consider a formal methodology governing discipline.

I share this material with you not specifically in terms of the two licensees that I am presently representing but in the spirit of contributing hopefully in a meaningful way to a community discussion regarding how the City treats licensees as well as to provide you some historical perspective and guidance that could be helpful in terms of future cases of discipline.

I would be more than happy to discuss this with you at your convenience

Sincerely,

A handwritten signature in black ink that reads "Rick Petri" with a date "1/5/11" written below the name.

Rick Petri

RP:smh
080416/080422
ALRC lt2
Enclosure

cc: Assistant City Attorney Steve Brist
Mr. Joel Plant, Assistant to Mayor

**CITY OF MADISON ALCOHOL BEVERAGE LICENSE
Suspensions/Revocations 1987 to Present**

The first section includes serious disorderly house situations and two cases, The Latin Club and The Play Pen in 1994 in which the point system was utilized and which were less serious cases in which significant suspension periods or revocations were not considered.

Date	Licensed Establishment	Allegations	Sanctions
1996	Play Pen	U.A. Violations	License surrendered when complaint filed with City Clerk
1996	Paramount	Disorderly House	License surrendered upon threat of revocation sanction
1996	Moguls	Disorderly House	License surrendered after ALRC recommended to revoke
1994	Club 3054	Disorderly House	License surrendered after stipulated hearing and 90 day suspension sanction imposed
1994	Latin Club	Disorderly House Point System	Four day suspension and security plan stipulated to after complaint filed with City Clerk
1994	Play Pen	Open After Hours Point System	10 day suspension stipulated after complaint filed with City Clerk. Point System
1994	Underground	Disorderly House	License surrendered to avoid revocation hearing after complaint filed with City Clerk
1992	Black Bear	Drugs/Disorderly	90 day suspension by CC after ALRC recommended to revoke
1992	Horseshoe	Drugs/ Disorderly	90 day suspension after hearing before ALRC
1990	Lundeens	Disorderly House	License transferred upon threat of revocation proceeding
1988	Jack & Mary Anns	Intoxication	License revoked after hearing

In 1987, 1988 and 1989, there were a large number of suspensions mostly tied to the point system and underage violations. The records for these cases are not easy to come by at this late date, but what follows is a brief summary.

Date	Licensed Establishment	Suspension
1987	Lundeens	12 days
1988	Cue Nique	10 days

Date	Licensed Establishment	Suspension
1988	Farm Tavern	3 days
1988	Kollege Klub	6 days
1988	Lundeens	25 days
1988	T.C. Katz	4 days
1988	Mondays	3 days
1988	Flamingo	3 days
1988	Regent Street Retreat	7 days
1988	Woodman's	3 days
1989	T.C. Katz	11 days
1989	Lakeside Liquor	3 days
1989	Rustic Tavern	3 days
1989	Bermuda's	4 days
1989	Badger Tavern	3 days
1989	Wagon Wheel	3 days
1989	Madhatters	3 days
1989	Buck's	13 days
1989	American Liquor	5 days
1989	Black Bear	4 days
1989	The Pub	5 days
1989	Nitty Gritty	3 days

Rick Petri
Assistant City Attorney

RP:jmb