

CITY OF ST. PAUL
IN THE CITY COUNCIL

**In re RAS Ethiopian Bar & Restaurant LLC,
d.b.a RAS Restaurant and Lounge**

**City Council File No. RES 22-882
License No. 2010000006**

MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR A STAY OF PROCEEDINGS

TO: The City Council of the City of St. Paul:

RAS Ethiopian Bar & Restaurant LLC, d.b.a RAS Restaurant and Lounge, by and through its attorneys McClay Alton, P.L.L.P. and Robert M. McClay, respectfully petitions the City Council of the City of St. Paul for its Order staying the adverse action against the Liquor on Sale - 101-189 seats, Liquor on Sale - Sunday, Liquor on Sale -2AM Closing, Liquor - Outdoor Service Area - Patio, and Entertainment B License held by Petitioner by Resolution dated June 15, 2022 pending Petitioner's appeal of this matter to the Minnesota Court of Appeals, subject to the posting of a supersedeas bond or such other conditions as may be ordered by this Council.

Petitioner makes its request based on the following:

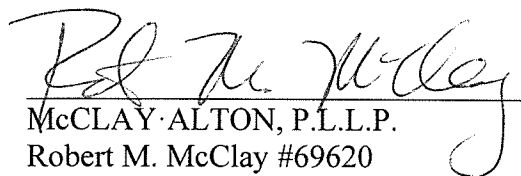
1. The Notice of the City Council's proposal to take adverse action was sent to an old residential address for the owner of RAS Ethiopian Bar & Restaurant LLC. Consequently, the owner did not receive this notice.
2. Because RAS did not receive notice, the owner was not able to reply stating RAS's objections to the adverse action before the May 20, 2022 deadline for doing so.
3. The failure to state objections resulted in the revocation matter being placed on the City Council's Consent Agenda, and no hearing was held to determine the facts of the case, or for the owner to present his case to the Council before it took action.
4. RAS disputes the facts underlying the alleged violation, but because the matter was on the Consent Agenda, there was no opportunity to present evidence or argument in opposition to the revocation.
5. Revocation of the license was an upward departure from the penalties normally ordered in these circumstances.
6. The violations on which the revocation was based were concentrated around an incident that took place on January 21, 2022, and the alleged failure of the licensee to make available

video surveillance of that incident. The prior violations of the conditions of licensing in the past 18 months relate to two allegations relating to the condition of the licensee's parking lot, both of which were addressed when the licensee paid a monetary penalty.

7. The revocation of the licensee's license was a quasi-judicial action by the City Council and is reviewable by writ of certiorari to the Minnesota Court of Appeals. *Minnesota Ctr. for Environmental Advocacy v. Metro. Council*, 587 N.W.2d 838, 842 (Minn. 1999).
8. The City Council has the authority to issue an order staying the revocation of the licensee's license pending the resolution of the licensee's appeal to the Minnesota Court of Appeals. *See*, Minn. R. Civ. App. P. 115.03 Subd. 2(b) (a governmental agency or body "may stay enforcement of the decision in accordance with Rule 108 [of the Rules of Civil Appellate Procedure]).
9. The City Council has broad authority in deciding whether to stay a revocation pending an appeal, and has considerable discretion in setting the conditions under which such a stay will be granted. Minn. R. Civ. App. P. 108.02 Subd. 2 (the Council "may grant [a stay of proceedings] if the appellant provides security in a form and amount that the [Council] approves. The security provided for in this rule may be in one instrument or several"). *See also DRJ, Inc. v. City of St. Paul*, 741 N.W.2d 141, 144 (Minn. Ct. App. 2007) (the Rules grant a public body "broad authority . . . to determine whether and on what terms to grant a stay pending appeal").
10. When determining whether to grant a stay pending appeal, the City Council must balance the appealing party's interest in preserving the status quo, against the interests of the public or the prevailing party in enforcing the decision. *DRJ, Inc. v. City of St. Paul*, 741 N.W.2d 141, 144 (Minn. Ct. App. 2007).
11. Failure to stay the revocation of the license will result in serious economic hardship to the owners of RAS Ethiopian, and also to their employees who will be forced out of work because of the revocation. As the members of the Council are aware, the ongoing COVID-19 pandemic, the emergency orders put in place in response to that pandemic, and the public health concerns of patrons and potential patrons have dealt a serious blow to the hospitality industry in St. Paul. RAS Ethiopian has not been immune from that downturn in business, and the revocation of its licenses will merely exacerbate the economic impacts already sustained.
12. In addition to the economic interests at stake, the Ethiopian community in St. Paul will be affected adversely. RAS Ethiopian is a popular resource for the community. The restaurant is a well-known gathering place, and has functioned as a *de facto* community center for the Ethiopian community. Revoking the license of RAS Ethiopian and forcing its closure will be a serious blow to an immigrant community that is seeking to be established here.

WHEREFORE, Petitioner respectfully requests that the City Council stay the revocation of the license, subject to such terms and conditions as it may set.

Dated: July 21, 2022.

A handwritten signature in black ink, appearing to read "R. M. McClay", is written over a horizontal line.

McCLAY·ALTON, P.L.L.P.

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