



CITY OF SAINT PAUL

Christopher B. Coleman, Mayor

Civil Division

400 City Hall

15 West Kellogg Blvd.

Saint Paul, Minnesota 55102

Telephone: 651 266-8710

Facsimile: 651 298-5619

October 14, 2016

NOTICE OF VIOLATION

Dean Bigaouette
Hot Rods Bar & Grill
1553 University Avenue West
St. Paul, MN 55104

RE: All licenses held by Midway Enterprises, LTD d/b/a Hot Rods Bar & Grill for the premises located at 1553 University Avenue West in Saint Paul
License ID #: 0016294

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against all licenses held by Midway Enterprises, LTD d/b/a Hot Rods Bar & Grill for the premises located at 1553 University Avenue West in Saint Paul. The basis for the recommendation is as follows:

On September 15, 2016 Saint Paul Police conducted a compliance check based on quality of life issues around your establishment (CN #16-188-409). The officers walked in, sat at the bar and ordered a bottle of Coors Light and a bottle of Michelob Golden beer. They sat at the bar for approximately five (5) minutes. Then one of the officers walked to the back of the bar to the rear exit past the bartender holding his open bottle of beer. The officer continued to walk out of the back entrance/exit which was propped open, through the rear parking lot and into the alleyway. The other officer took photographs of the officer leaving the bar with the open beer and then in the alleyway.

The officer stood outside the bar waiting to see if the bartender would come out to confront him about leaving with an open bottle of beer but he did not come. The officer then returned inside the bar and went into the bathroom. When he exited the bathroom, he walked past the bartender with his beer to his seat next to the other officer. Again the bartender did not say anything to him about leaving the premises with his beer.

Saint Paul Legislative Code § 409.08 (15) states: *“Each on-sale licensee shall have the responsibility of taking reasonable and adequate steps to prevent persons from leaving the licensed premises with a bottle, can or glass containing any alcoholic beverage, and the failure to do so may subject such licensee to adverse action against his or her license.”*

Saint Paul Legislative Code Section 310 provides that adverse action may be taken against your licenses based on any one or more of the following grounds:

Section 310.06 (b) (6) (a): *“the license or applicant (or any person whose conduct may by law be imputed to the licensee of applicant) has violated, or performed any act which is a violation of, any of the provision of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith...”*

Section 310.06 (b) (6) (c): *“the licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of laced of fitness or good character may be drawn.”*

Section 310.06 (b) (8): *“the licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.”*

As a result of this violation, per Saint Paul Legislative Code § 409.26(b) (9), the licensing office will recommend a \$500.00 matrix penalty. In addition, the licensing office will recommend the following new conditions be placed on your license:

1. Licensee will create a video surveillance camera and lighting placement plan (Video Surveillance Plan) for the interior and exterior of the licensed premises. Licensee will submit the Video Surveillance Plan to the Saint Paul Police Department liaison with the Department of Safety and Inspections for review and approval. In accordance with the approved Video Surveillance Plan, Licensee will ensure that the video surveillance cameras are installed by November 30, 2016. Licensee will maintain installed video surveillance cameras in working order; ensure that they are recording 24-hours per day and capable of producing surveillance video in a commonly used, up-to-date format. Licensee will retain surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, Licensee shall make surveillance video immediately available for viewing by SPPD. If a copy of a surveillance video from a serious incident is request by SPPD, Licensee shall have the technology, material and staff available to immediately make the copy. In all other cases, Licensee shall provide a copy of the surveillance video to the requestor within 48 hours.
2. Licensee shall retain clearly identifiable security personnel. Clearly identifiable security personnel mean a uniform or marked outerwear. Security person shall be assigned to each entrance of the licensed premises starting at 9:00 PM during any day of operation and shall remain until all patrons have left the licensed premises. Security personnel shall “wand” (using a metal detector) each patron and check all handbags and packages carried by patrons. The requirement to wand patrons includes those who are returning to the establishment. Security personnel shall verify the age of patrons by checking state or federally issued identification cards. Licensee shall establish and require that security personnel enforce a no picture I.D., no entrance policy. Security personnel shall not allow alcoholic beverages to leave the service area of the licensed establishment.
3. Licensee will insure that daily inspection of the perimeter of the licensed premises takes place. Any trash, debris, cigarettes butts, bottles, cups or similar materials shall immediately be removed.

At this time, you have four (4) options to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Monday, October 24, 2016**, I will presume that you have chosen not to contest the proposed adverse, and the matter will be placed on the City Council Agenda for approval of the proposed remedy.
2. You can pay the recommended \$500.00 matrix penalty and sign, date and return the attached license condition affidavit. If this is your choice, you should send the payment and signed license condition affidavit directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Monday, October 24, 2016**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 and returning a signed and dated license condition affidavit will be considered to be a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing. I will need to receive your letter by **Monday, October 24, 2016**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 matrix penalty and recommended license conditions. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **Monday, October 24, 2016**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing per Saint Paul Legislative Code § 310.05 (k).

If you have not contacted me by Monday, October 24, 2016, I will assume that you do not contest the imposition of the \$500.00 matrix penalty and recommended license conditions. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please feel free to contact me at 266-8710.

Sincerely,



Therese Skarda
Assistant City Attorney

cc: Dean Bigaouette, 1905 Myrtle Street, Maplewood, MN 55109
Kyle Mianulli, Director of Communications & Community Engagement, Hamline Midway Coalition
1558 Minnehaha Avenue West, St. Paul, MN 55104-1264

Attachment: License Condition Affidavit



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

Department of Safety & Inspections
Ricardo X. Cervantes, Director
375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806
Web Site Address: www.stpaul.gov/dsi

Telephone: 651-266-8989
Facsimile: 651-266-9124

I agree to the following conditions being placed on the following license(s):

License #: 0016294
Type of Business: Entertainment (B)
Gambling Location
Liquor On Sale - 100 seats or less
Liquor On Sale - Sunday
Applied for by: MIDWAY ENTERPRISES LTD
Doing Business As: HOT RODS BAR & GRILL
at: 1553 UNIVERSITY AVE W
ST PAUL MN 55104

Conditions are as follows:

1. Licensee will create a video surveillance camera and Lighting placement plan (Video Surveillance Plan) for the interior and exterior of the licensed premises. Licensee will submit the video Surveillance Plan to the Saint Paul Police Department liaison with The Department of Safety and Inspection for review and approval. In accordance with the approved Video Surveillance Plan, licensee will ensure that video surveillance cameras are installed by November 30, 2016. Licensee will maintain installed video surveillance cameras in working order; ensure that they are recording 24-hours per day and capable of producing surveillance video for a minimum of thirty (30) days. If an incident is deemed serious by SPPD, Licensee shall make surveillance video immediately available for viewing by SPPD. If a copy of a surveillance video for a serious incident is requested by SPPD, Licensee shall have the technology, materials and staff available to immediately make the copy. In all other cases, Licensee shall provide a copy of the surveillance video to the requestor within 48 hours.
2. Licensee shall retain clearly identifiable security personnel. Clearly identifiable security personnel shall mean a uniform or marked outerwear. Security personnel shall be assigned to each entrance of the license premises starting at 9:00 PM any day of operation and shall remain until all patrons have left the licensed premises. Security personnel shall "wand" (using a metal detector) each patron and check all handbags and packages carried by patrons. The requirement to wand patrons includes those who are returning to the establishment. Security personnel shall verify the age of patrons by checking state or federally issued identification cards. Licensee shall establish and require that security personnel enforce a no picture I.D., no entrance policy. Security personnel shall not allow alcoholic beverages to leave the service area of the licensed establishment.
3. Licensee will insure that daily inspection of the perimeter of the licensed premises takes place. Any trash, debris, cigarette butts, bottles, cups or similar materials shall immediately be removed.

Licensee

Date

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)


Julie Kraus, being first duly sworn, deposes and says that on the 14th day of October she served the attached **NOTICE OF VIOLATION** and correct copy thereof in an envelope addressed as follows:

Dean Bigaouette
Hot Rods Bar & Grill
1553 University Avenue West
St. Paul, MN 55104

Dean Bigaouette
1905 Myrtle Street
Maplewood, MN 55109

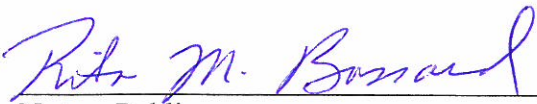
Kyle Mianulli
Director of Communications
& Community Engagement
Hamline Midway Coalition
1558 Minnehaha Avenue West
St. Paul, MN 55104-1264

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.



Julie Kraus

Subscribed and sworn to before me
this 14th day of October, 2016



Notary Public

