



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

June 1, 2017

**NOTICE OF VIOLATION
NOTICE OF INTENT TO SUSPEND LICENSES**

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

RE: Liquor On Sale – 100 seats or less, Liquor On Sale-Sunday, Entertainment B and Gambling Location 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 the Liquor On Sale – 100 seats or less, Liquor On Sale-Sunday, Entertainment B and Gambling Location 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 April 1, 2017, at approximately 10:00 p.m., Saint Paul Police came to the licensed premises inquiring about a missing three (3) year old lost child (CN #17-070-817). While inside, the officers noted there was one person wearing a security shirt at the back entrance of the bar. The officers did not see anyone else wearing a security shirt at the front entrance of the bar.

On April 3, 2017, at approximately 12:30 a.m., Saint Paul Police came to the licensed premises on a proactive visit (CN #17-071-571). The officers entered the bar through the rear (alley) entrance and saw no security personnel at the back door. The officers walked down the hallway and encountered a male in a security shirt with his back to the door chatting with a group of people at a table.

After the officers spoke with the security person briefly about how the night was going, they left and met up with other officers outside. They were told there were no security personnel at the front door and they did not see any wands at the front door.

On April 12, 2017, you were sent a letter from the Department of Safety and Inspections requesting video from April 3, 2017 for the timeframe of midnight until 1:30 a.m. per license condition #1. You were given until 4:30 p.m. on April 17, 2017 to produce the video. On April 17, 2017, Roger Willingham left a voice mail for Department of Safety and Inspections employee, Kristina Schweinler informing her that the video would not be available by the requested deadline of April 17, 2017, because they needed to call in a technician to download the video.

On April 18, 2017 at approximately 9:42 a.m. the requested video was delivered to the Department of Safety and Inspections. DSI Inspector III, Kristina Schweinler viewed the video and observed that it started at 12:59:57 and ended at 1:30:01. She watched all cameras and only saw one person wearing a security t-shirt inside the premises. She did not see a wand device or anyone being wanded. She further observed when the video ended at 1:30 a.m.; customers and staff were still inside with what appears to be beverages. It was difficult for her to tell who staff was and who patrons were. At one point she observed several people behind the bar, some sitting down visiting and some playing pool.

Failure to wand patrons entering the premises and clearly identifiable security at each entrance is a violation of license condition #2 which states: Licensee shall retain clearly identifiable security personnel. Clearly identifiable security personnel mean a uniform or marked outerwear. Security personnel 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.

As of today's date, you still have not submitted the required Video Surveillance Plan (for the interior and exterior of the licensed premises) to the Department of Safety and Inspections which was due by December 31, 2016 per Council Resolution #16-426. This is a violation of license condition #1 which states: *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~~ December 31, 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 requested 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.*

This is the third (3rd) violation to your license conditions within the past eighteen (18) months. As a result, per Saint Paul Legislative Code §310.05 (m) (1), the licensing office will recommend a \$2,000.00 matrix penalty and a ten (10) day suspension of your licenses.

At this time, you have three (3) 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, June 12, 2017**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the next available City Council Agenda for approval of the proposed remedy.

2. 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, June 12, 2017**. The matter will then be scheduled before the City Council to determine whether to impose the \$2,000.00 matrix penalty and ten (10) day suspension of your licenses. You will have an opportunity to appear before the Council and make a statement on your own behalf.
3. 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, June 12, 2017**. 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, June 12, 2017, I will assume that you do not contest the imposition of the \$2,000.00 matrix penalty and ten (10) day suspension of your licenses. In that case, the matter will be placed on the next available 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
Melissa Cortes, Community Organizer, Hamline Midway Coalition, 1558 Minnehaha Avenue West
St. Paul, MN 55104-1264

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

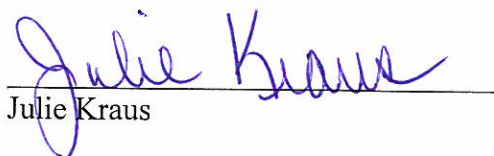
Julie Kraus, being first duly sworn, deposes and says that on the 1st day of June she served the attached **NOTICE OF VIOLATION AND NOTICE OF INTENT TO SUSPEND LICENSES** and a correct copy thereof in an envelope addressed as follows:

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

Dean Bigaouette
1905 Myrtle Street
Maplewood, MN 55109

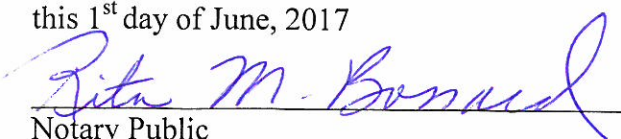
Melissa Cortes, Community Organizer
Hamline Midway Coalition
1558 Minnehaha Avenue West
St. Paul, MN 55104-1264

(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 1st day of June, 2017



Notary Public

