

LICENSE HEARING MINUTES
Element Boxing and Fitness, 655 Fairview Avenue, #190
Thursday, November 7, 2019, 10:00 a.m.
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:00 a.m.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI)

Licensee: Dalton Outlaw, Applicant/Owner

License Application: Add a Rental Hall license to permit the rental of the facility in an area of approximately 4,900 square feet in size to outside organizations for events, and modify license conditions to permit the licensee to conduct sporting type events open to the public.

Other(s) Present: Isabel Chanslor, CoMotion

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: This is an informal legislative hearing for a license application. This license application required a Class N notification to inform neighbors and the District Council about the application and provide them with an opportunity to submit comments. The City received correspondence of concern/objection, which triggered this hearing.

The hearing will proceed as follows: DSI staff will explain their review of the application, and state their recommendation. The applicant will be asked to discuss their business plan. Members of the community will be invited to testify as to whether they object to or support the license application. At the end of the hearing, the Legislative Hearing Officer will develop a recommendation for the City Council to consider. The recommendation will come before the City Council as a resolution on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

There are three possible results from this hearing: 1) a recommendation that the City Council issue this license without any conditions; 2) a recommendation that the City Council issue this license with agreed upon conditions; or 3) a recommendation that the City Council not issue this license but refer it to the city attorney to take an adverse action on the application, which could involve review by an administrative law judge.

Minutes:

Jeff Fischbach, Department of Safety and Inspections (DSI) gave a staff report. Earlier this year the business moved from a smaller space to a much larger space within the same building to incorporate their expansion. There was a separate notice for the move and expansion, and there were no objections. This notice was to add a rental hall license and modify existing conditions to permit the Health/Sport Club license to conduct sporting events, such as boxing. Mr. Fischbach read the conditions:

1. Licensee acknowledges that the establishment is issued a Rental Hall license (in addition to the Health/Sport Club license) as defined under Chapter 405 of the City of Saint Paul Legislative Code. There shall be no events/activities at this facility which constitute a "public dance hall" type event as defined under Chapter 405 of the City of Saint Paul Legislative Code unless prior written approval is first obtain from the Department of Safety and Inspections (DSI).
2. Licensee acknowledges the Health/Sport Club licensed premises to be the yellow-striped highlighted area as shown on the plan on file with the Department of Safety and Inspections (DSI) Licensing Division dated 05/10/2019, which includes the restrooms/locker-rooms/showers, and mop-room supporting this use.
3. At least one employee or manager, trained and qualified in first aid and CPR according to standards established by rule by the Department of Safety and Inspections shall be on duty at all times that the licensed premises are in operation or open to members of the public. Such standards shall be in conformity with standards and guidelines established by the American Red Cross with respect to water safety instructors or by the American Heart Association for similar purposes.
4. Boxing or other combative sport type events open to the public (regardless of whether or not a fee is charged for entry) may only be conducted in a space that has received prior written authorization by the City Building Official for occupancy as such use under the Certificate of Occupancy (C of O). Licensee agrees to take appropriate actions to ensure compliance with any occupancy limits and entrance/exiting requirements.
5. Licensee acknowledges that boxing and other combative sport type events which are open to the public where non-members of the Health/Sport Club attend and/or participate in are permitted as an accessory use under the Health/Sport Club license, agrees that the frequency of such events will occur on a limited basis (as described in the plans submitted to DSI and dated 09/23/2019), that such events will be restricted to amateur participants only, and must include as active participants in any event valid registered members of the Licensed Health/Sport Club. Any substantive changes in the method of operation must receive prior written approval from DSI.
6. Licensee acknowledges that any boxing or other combative sport type event must be conducted in accordance with applicable State of Minnesota Rules, Regulations, and/or Statutory requirements for the facility, participants, sponsor/promoter of the event, etc.
7. The Rental Hall licensed premises area shall be limited to the green-striped highlighted area as shown on the plan on file with DSI dated 09/23/2019: the self-contained room at the western edge of the space approximately 3,700 square feet in area. A lobby of approximately 1,200 square feet in area that is compact, contiguous, and immediately adjoining this area may be used as an entrance to the licensed Rental Hall area.
8. The service, consumption and/or display of alcohol shall be restricted to the Rental Hall licensed premise area shown on the approved plan on-file with DSI dated 09/23/2019. Service, consumption and/or display of alcohol is prohibited in the lobby or any other areas of the premises. Licensee shall take appropriate measures to ensure that alcohol does not leave the approved Rental Hall self-contained room area.
9. There shall be no sale of intoxicating alcoholic beverages to anyone on the premises at any time unless a legally registered non-profit conducting a bona-fide fundraising event has first obtained a temporary liquor license authorizing such sales.

10. There shall be no service, consumption, and/or possession of intoxicating alcoholic beverages on the part of underage persons. The licensee shall be subject to adverse license action if a minor is served, consumes or has in his/her possession any alcoholic beverage on the premises.
11. Licensee acknowledges responsibility for all areas of the licensed premises and accepts responsibility for compliance with applicable ordinance/statutes/rules/regulations/license-conditions related any activities taking place within the licensed premises including but not limited to those found under City of Saint Paul Legislative Code Chapter 427 Health/Sports Clubs, and Chapter 405 Rental Halls; and Minnesota State Statute Chapter 341 Combative Sports.

Ms. Vang asked whether the applicable codes and statutes were shared with the applicant. Mr. Fischbach said the applicant was aware of them. He said the intent was to understand that the Health Sports Club license was not sanctioning the events, and the events had to comply with rules applicable to combative sport-type events.

Mr. Fischbach said there was no correspondence from neighborhood organization, Building was in process, Environmental Health was completed, Zoning and License approved with conditions, and DSI recommended approval with conditions.

Ms. Vang asked why Building was still in process. Mr. Fischbach said they had to build out walls in the Health/Sports Club area and needed permits. He said he believed the applicants had approval to use the gym space now, and construction was ongoing.

Ms. Vang asked applicant Dalton Outlaw when they had moved to the new space. Mr. Outlaw said they moved into the new space in September. He said they were finishing construction of the rental hall space. They had received the permit, and were finishing up on the walls, electrical, and HVAC. They expected the final inspection to be sometime this month.

Ms. Vang asked if the gym was now open to members. Mr. Outlaw said it was. Ms. Vang confirmed with Mr. Outlaw that the rental space was enclosed and separate from the rest of the space. Ms. Vang and Mr. Outlaw reviewed the floor plan.

Ms. Vang asked for clarification of Condition 5. Mr. Fischbach said Mr. Outlaw had explained that boxing events would always have a member of his organization participating. The license was issued as an accessory to Health/Sports Club license. Mr. Outlaw said in other instances, for instance martial arts, groups would be using the rental hall space and would not include anyone from his organization. Mr. Fischbach said the place where Mr. Outlaw was approved by the building official for boxing events was in the rental hall area, but he was working towards being able to have those events in the gym area also. He said DSI's understanding was that there'd always be a participant involved from the gym. Mr. Outlaw said a Tae Kwon Do group might be looking for a space to rent for a competition or form, and his members wouldn't be participating.

Isabel Chanslor, CoMotion Center for Movement, said Element was a collaborative organization under the larger entity which was CoMotion. She said her understanding was that they were requesting a Rental Hall license for the rental hall, which was about 4000 square feet and would

be enclosed and had all the exits and HVAC required. Then they came back and said Dalton with Element Gym would like to be able to hold amateur competitions in that space. She said her understanding was that they could rent to anyone in the rental hall space and didn't have to have a member involved. She said her understanding was the request was to expand the ability of Element Gym to have amateur competitions in his gym space.

Mr. Fischbach asked whether a rental to a Tae Kwon Do group would be in the rental hall space or the gym space. Mr. Outlaw said in most cases in the rental hall, but a small martial arts organization might do a showcase on the mat space in the gym. Mr. Fischbach asked whether they would be members of the Health/Sports Club. Mr. Outlaw said they would be members of the collective. Mr. Fischbach said that would be permitted. He said a rental for an outside organization would be to the rental hall.

Ms. Vang said she had just wanted clarification of the operation and how it pertained to the license condition. Mr. Fischbach said at this time Mr. Outlaw didn't have the authorization from the building official but was working towards the ability to have these events in the larger gym space. He wanted to get the rental hall use up and running and only submitted plans for that assembly type of event in the rental hall space. Mr. Fischbach said there was a meeting scheduled with Mr. Outlaw's architect, the building official, and plan exam staff to allow Mr. Outlaw to be able to do the boxing in the gym space. The intent of the conditions was to make clear that he could only do the boxing events in the space approved by the building official. Mr. Outlaw's longer goal was to get that in there, but he wanted to get that rental hall license built so he could get it up and running.

Mr. Outlaw said the building official would not change the way the space was occupied or licensed as a health and sports club, but would only add conditions. Ms. Vang asked if there would be conditions added to the license. Mr. Fischbach said there could if it was part of the building official approval and the applicant accepted it; it would probably be related to the number of occupants allowed and what other parts of the building could be used. He said they wouldn't know until they had the meeting.

Ms. Vang asked about the maximum occupancy. Mr. Outlaw said the occupancy level for their space was about 500 people, and his request was for 200. He said the use as an assembly space would only happen a few times a year, and the conversations with the building officials were ongoing.

Mr. Fischbach said they were dealing with different code disciplines that had their own separate regulations and sometimes they didn't mesh up naturally.

Ms. Chanslor said the application was for both things, but now she was hearing it was only for the rental hall. Mr. Fischbach said this was for both, but right now the only place they had approval to have a boxing or martial arts event was in the rental hall space. He said the license notice covered what they eventually wanted to do, but Condition 4 was saying they couldn't do that until they got building official approval. He said, to be clear, there would never be alcohol in the larger gym space, outside of the enclosed rental hall space. Mr. Outlaw confirmed that was the case.

Ms. Vang asked about the types of uses in the rental hall; she referred to the list in Mr. Outlaw's request letter. Mr. Outlaw read from the plan: artistic dance, theater, artistic performances, wedding and reception type events, conferences and presentation style events, and external groups doing dance or martial arts or exercise, including his gym possibly doing a boxing class. Mr. Fischbach said the rental hall was dual licensed; The Health/Sports club license covered that area. Ms. Vang asked whether he could have dual use at the same time. Mr. Outlaw said smaller events might go on at the same time as the Health/Sports Club, but larger events would be limited to rental hall space. He said under code they could operate at the same time, because bathroom calculations and occupancy loads had to match up for both at the same time.

Ms. Vang asked how many staff they would have. Ms. Chanslor said they would contract hourly staff to help with security and room prep. There will be the option for renters to handle those things themselves. Ms. Vang said, operationally, on a day to day basis, was it just Mr. Outlaw and Ms. Chanslor managing the space. Mr. Outlaw said there were other groups in the collective that helped manage the space.

Ms. Vang asked about temporary liquor licenses for public events. Mr. Outlaw said they, as CoMotion, would be the only ones applying for a temporary liquor license. He said under the license there would have to be a licensed caterer to take care of that. Ms. Chanslor said for wedding, for instance, with liquor services, they would have to pay for the liquor outright and there would be no individual sales. Ms. Vang asked about non-CoMotion events such as a boxing event where they hired their own liquor caterer. Mr. Outlaw said they would have preferred vendors. Ms. Vang asked how liquor service would be monitored. Ms. Chanslor said they would have staff for that; she said security would always be on them and would not be optional. She said that staff would work with the liquor provider on bands or stamps to ensure everyone coming into the space was of age or, if they weren't, they were marked.

Ms. Vang asked whether Ms. Chanslor had experience managing a rental. Ms. Chanslor said she worked ten years at Neighborhood Development Center which managed Midtown Global Market which held events with alcohol. She said prior to that she did a lot of community organizing as head of a district council and was involved in planning events, and she was a wedding planner.

Ms. Vang asked about an exit plan to make sure patrons weren't disturbing neighbors. She asked whether security would be interior or exterior. Mr. Outlaw said they wanted to monitor the exterior as well. He said they had been talking about pathways to get people directly where they needed to go, without disturbing other spaces. He said they would have security presence and an off-duty police officer. With regards to the concerns raised by a neighbor, he said they would encourage people to exit away from the residential area, to control traffic and parking.

Ms. Vang asked about the parking area. Mr. Outlaw said they had over 300 spaces for the building, which was 400,000 square feet on ten acres. Ms. Chanslor said they were hoping to block the curb cut at the Fairview end to force everyone to come in through the Prior area. Ms. Vang asked about access for emergencies. Mr. Outlaw said they would block it just with cones. Ms. Chanslor said they had also been doing a lot of staff and volunteer training.

Ms. Vang referred to the proposed hours for boxing from 4:00 p.m. to 7:00 p.m.; she asked if that was weekends or during the week. Mr. Outlaw said boxing events were on weekends. Ms. Vang asked whether ticket sales would be used to control numbers. Mr. Outlaw said that was correct. Ms. Vang read from the application letter that fundraising events would be offered between 7:00 a.m. and 10:00 a.m. and between 5:00 p.m. and 10:00 p.m.; she asked about the normal gym hours. Mr. Outlaw said 10:00 a.m. to 8:00 p.m. Monday through Friday, and 10:00 a.m. to 2:00 p.m. on Saturday and Sunday.

Ms. Vang asked whether there would be chairs or bleachers. Mr. Outlaw said they hadn't decided and wanted to keep the space flexible.

Ms. Vang said the plan referred to limited events; she asked how many events they were planning at the location. Ms. Chanslor said that referred to events in the gym space, such as amateur martial arts or amateur combat sports. Ms. Vang said that meant the rental hall space could basically be used every day. Ms. Chanslor and Mr. Outlaw said that was correct.

Mr. Outlaw asked Mr. Fischbach whether he was restricted to amateur events in both the gym and rental space. He said they did train professional athletes. Mr. Fischbach asked whether they would be renting to a promoter. Mr. Outlaw said they would be working with a promoter, or he would start his own promotion company. Mr. Fischbach said he thought that would be permitted in the rental hall space, because the promoter would be renting the space.

Ms. Vang asked how noise would be handled and how much noise would be generated outside the building. Mr. Outlaw said they were an interior space in the building. He said they had been controlling their sound because it was a bigger space with an echo. There was a 3-hour wall in the rental space separating them from the rest of the tenants, and double insulation on the rental hall space to separate that sound from the gym space.

Ms. Vang read the letter of objection from Alan Dupre and Steve Wilson, 680 Fairview, raising concerns about noise, parking, and potential for crime related to alcohol. They stated they were afraid for the neighborhood because it would attract unrelated people parking there and homeless people. She invited Mr. Outlaw to respond. Mr. Outlaw said he wanted to be a great neighbor; he noted the letter stated that the gym had been a good neighbor. He said they were not looking to have big parties that would change the operation of the facility, and the planned events would invite the community into the space. He said they had a large parking lot and had talked about the planned restrictions and efforts to keep people from parking on the street. He said the reference to crime and alcohol was vague. He said they had addressed the ways they were going to handle the rental hall space and events where alcohol was served. He said they didn't plan to have those events every weekend and would take measure to make sure that was safe and there was no crime. He said he wasn't sure how the concerns about commercial trucks and homeless people were related to his business. There were some issues with homeless people because it was under construction but building had been transformed over the last six months.

Ms. Vang confirmed this was leased space and shared parking. She asked whether they felt the parking would be able to accommodate their events. Mr. Outlaw said they were looking at the larger events being outside of normal business hours.

Ms. Vang said she was thinking of adding one condition. She said since they had indicated they would be hiring security during the events, she would like it if they would agree to a condition about security.

Following discussion about parameters, it was agreed that Mr. Fischbach would draft a condition requiring security for all events after 6:00 p.m. when alcohol was served. Mr. Fischbach clarified that the space couldn't be operated as a bar setting or as a place with a full Liquor On Sale license. Ms. Vang and Mr. Fischbach said the security did not have to be clearly identifiable, and the applicants could use their judgment based on the type of event.

Mr. Fischbach said he would send the language to Ms. Vang for her approval and then send a revised condition affidavit to the applicant. He asked when the first event was planned. Mr. Outlaw said they were talking about a showcase on November 16, but that didn't look that was going to happen based on these dates.

Mr. Fischbach and Ms. Vang said they would proceed as quickly as possible. Ms. Vang said it was too late for the November 13 City Council meeting and they would be aiming for the November 20th meeting. Ms. Chanslor asked whether there was the option for a Council member to make an exception. Ms. Vang said it was not the practice to bring these resolutions in under suspension because it required notice and the applicants probably did want to let their neighbors know anyway, given that a hearing was held. She said it was very rare to do resolutions under suspension, and best practices dissuaded them from doing that as much as possible.

The hearing adjourned at 10:50 a.m.

The Conditions Affidavit was signed and submitted on November 7, 2019.