

LICENSE HEARING MINUTES
Reborn Liquor, 137 Maryland Avenue West
Thursday, September 1, 2011, 10:00 a.m.
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)

Applicant: Tou Ger Vang, applicant and purchaser of property; and Chong Soua Vang, current owner and seller of property

Others Present: Kerry Antrim, District 6 Planning Council, 171 Front Avenue

Reborn Liquor: Liquor Off Sale, Retail Food (A) Grocery 1-100 sq. ft., and Cigarette/Tobacco licenses for Reborn Liquor Corp., doing business as Reborn Liquor (ID #20110002041) at 137 Maryland Avenue West

Ms. Vang stated that this was an informal legislative hearing for a license application. This particular license required a Class N notification which means the neighborhood was notified and people had the chance to voice their concerns. The City received one (1) letter of concern. There were three possible results from this hearing: 1) she may recommend that the City Council issue this license without any conditions; 2) she may recommend that the City Council issue this license with agreed upon conditions; or 3) she may recommend 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. The applicant will be required to sign a Conditions Affidavit demonstrating the understanding of the conditions.

DSI staff will explain their review of the application and state their recommendation. Ms. Vang will then ask the applicant to discuss their business plan. At the end of the hearing, she will make a recommendation for the City Council to consider. Her recommendation will be on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

Mr. Fischbach stated that the existing license conditions were as follows:

1. Per State of Minnesota Statute 340A.412, Subd. 14) - a liquor store may sell only the following items: (1) alcoholic beverages; (2) tobacco products; (3) ice; (4) beverages for mixing with intoxicating liquor; (5) soft drinks; (6) liqueur-filled candies; (7) food products that contain more than one-half of one percent alcohol by volume; (8) cork extraction devices; (9) books and videos on the use of alcoholic beverages; (10) magazines and other publications published primarily for information and education on alcoholic beverages; and (11) home brewing equipment.
2. Added after 06/30/2011 tobacco compliance failure. Licensee must develop a training plan and plan implementation schedule for all staff selling tobacco products. The plan must be in written form and a copy submitted to DSI by 09/02/2011. This plan will include a review of state statutes and City ordinance regarding the sale of tobacco, as well as specific training on acceptable forms of age verification and age calculation. Failure to comply with this requirement will result in suspension of the tobacco license.

The District 6 Planning Council submitted a letter indicating that they had a meeting and discussed this application; however, they decided to take no action on this request.

Ms. Vang asked about the condition regarding the training and implementation plan for selling tobacco products as this was not a usual condition on a license of this nature. Mr. Fischbach responded that this was not a standard license condition; however, Tou Vang, the applicant and current purchaser of the property, was the clerk working at the store at the time of the tobacco compliance check and failed the check on two separate occasions. DSI asked Mr. Tou Vang to present a tobacco sale training plan to ensure that staff would be properly trained. Mr. Tou Vang presented the executed plan which he signed on August 3, 2011. Mr. Fischbach said Mr. Vang had passed the alcohol compliance check and since the initial failures on the tobacco compliance check, Mr. Vang has passed and is in compliance.

Chong Vang, the current owner and seller of property, stated that he was selling the liquor store business to his brother, Tou Vang, as he also owned two restaurants and he could not manage three places. Tou Vang stated that he currently manages the store and has one additional employee who works mostly full-time hours, Monday through Thursday – 9am to 8pm and Friday and Saturday – 9am to 10 pm. He does not have any plans to change the current operation of the business.

Ms. Vang read into the record the email received from Dr. Gregory Sheehan, a copy of which is made a part of this record. Dr. Sheehan expressed concern regarding panhandling and litter from single-serve containers believing it was coming from this business. He claimed that he had attempted to discuss the issues with management; however, all efforts had failed. Ms. Vang asked Tou Vang whether he had received this communication and if he could respond to the concerns that were raised.

Mr. Vang responded that he had received a copy of the email. They did sell 24-oz single-serve beer which could not be consumed on the premises; however, once a customer left the store, it was difficult to monitor. They also had trash receptacles located outside of the store. Ms. Vang stated that it was difficult to conclude that trash was being generated from this location and encouraged Mr. Vang to monitor the grounds and pick up any litter.

Ms. Vang asked Ms. Antrim to address the concerns of the district council. Ms. Antrim stated that Mr. Vang was invited to attend the district council meeting to discuss the plans for his business; however, due to a miscommunication, he had missed this meeting. The district council determined not to take any action on the license application since Mr. Vang was not present at the meeting. She had talked to the beat officers concerning the complaint of panhandling in the area and was informed that there had been no formal complaints in over 10 months and the district council had not received any calls of concern either. Concerning litter/garbage on the grounds, she was aware that the owner of the property had someone clean up the trash on the grounds on a daily basis. She also noted that the complainant in this matter attended the North End Business Association meeting every month and never raised concerns regarding litter or trash at this location; however, in looking back through records, she discovered that this complainant only complained about this being an issue every time a new applicant applied for a license in the area. Since this business was located on a busy intersection in a strip mall and at a bus stop, she did not believe anyone could attribute discarded litter or trash being generated by one single business in this area. She noted that the district council was considering adopting a policy on the issue of businesses policing their premises to pick up garbage/litter on their grounds; however, since no formal discussions had taken place and

no policy had been adopted, it would be unfair to place any condition on the applicant of this license.

Ms. Vang stated that after reviewing the documents of record and testimonies, she will recommend to the City Council that they approve the license with the conditions proposed by DSI. The proposed conditions were agreed to by the owner and are as follows:

1. Per State of Minnesota Statute 340A.412, Subd. 14) - a liquor store may sell only the following items: (1) alcoholic beverages; (2) tobacco products; (3) ice; (4) beverages for mixing with intoxicating liquor; (5) soft drinks; (6) liqueur-filled candies; (7) food products that contain more than one-half of one percent alcohol by volume; (8) cork extraction devices; (9) books and videos on the use of alcoholic beverages; (10) magazines and other publications published primarily for information and education on alcoholic beverages; and (11) home brewing equipment.
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The hearing adjourned at 10:20 a.m.

The Conditions Affidavit was submitted on July 18, 2011.

Submitted by:
Vicki Sheffer