City of Saint Paul

City Hall and Court House
15 West Kellogg Boulevard
Phone: 651-266-8560

Signature Copy

Resolution: RES 11-2056

File Number: RES 11-2056

Memorializing City Council action taken on October 5, 2011 sustaining adverse licensing action against all licenses held by Mazatlan LLC, d/b/a Mazatlan, 567 Stryker Avenue.

WHEREAS, Mazatlan LLC d/b/a Mazatlan (License ID # 20070001948) (hereinafter "licensee") located at 567 Stryker Avenue in the City of Saint Paul received a Notice of Violation dated March 22, 2011 (hereinafter "Notice"); and

WHEREAS, the Notice alleged a violation of license condition number two occurring in May of 2010; and

WHEREAS, license condition number two requires that

> "The licensee will provide and maintain working video surveillance cameras and equipment to record activity on [these] premises prior to issuance of the license in accordance with SPPD recommendations. Tapes and recordings must be maintained for a minimum of thirty (30) days, and there shall be an employee on staff at all times during business hours with the ability to make them immediately available to the St. Paul Police Department and/or the Department of Safety and Inspections (DSI) upon request."

and

WHEREAS, licensee denied all the allegations and requested a hearing before an Administrative Law Judge; and

WHEREAS, licensee subsequently received a second Notice of Violation dated April 21, 2011; and

WHEREAS, the second Notice alleged two (2) instances of overservice of patrons and two (2) subsequent violations of license condition number two, all stemming from January of 2011; and

WHEREAS, licensee denied all of these allegations and requested a hearing before an Administrative Law Judge; and

WHEREAS, a combined hearing addressing all of the above allegations was held before an Administrative Law Judge on June 15, 2011, at which each party was represented by Counsel and presented testimony; and

WHEREAS, the Administrative Law Judge issued a Report on August 16, 2011, in which the Administrative Law Judge issued Findings of Fact, Conclusions of Law, a Recommendation and a Memorandum; and

WHEREAS, the Administrative Law Judge found that there was sufficient proof that licensee had committed the violation in the March 22, 2011 notice; and

WHEREAS, the Administrative Law Judge found that there was insufficient proof that license had committed the overservice of patrons but sufficient proof that licensee had committed the two violations of license condition number two detailed in the April 21, 2011 notice; and

WHEREAS, the licensee was given notice that a public hearing would be held before the City Council on October 5, 2011 at which time licensee would have an opportunity to present oral or written argument to the Council; and

WHEREAS, licensee did not file any exceptions to the report of the Administrative Law Judge; and

WHEREAS, the Department of Safety and Inspections filed exceptions to the report of the Administrative Law Judge; and

WHEREAS, at a public hearing on October 5, 2011, Council File # PH 11-22, the Council of the City of Saint Paul considered all the evidence contained in the record, the arguments of licensee's attorney at the public hearing, the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendations and the exceptions filed by the Department of Safety and Inspections; now, therefore, be it

RESOLVED, that the Council of the City of Saint Paul issues this decision based upon consideration of the record of the entire proceedings herein, including the hearing before the Administrative Law Judge, all the documents and exhibits introduced therein, the Findings of Fact, Conclusions of Law and Recommendation as referenced above, the exceptions filed by the Department of Safety and Inspections, and the deliberations of the council in open session of that hearing; and be it

FURTHER RESOLVED, that the Findings of Fact of the Administrative Law Judge issued on August 16, 2011, with the exception of Finding number 26 in this matter are hereby adopted as the Findings of the City Council in this matter and be incorporated herein by reference; and be it

and be it

FURTHER RESOLVED, that Finding of Fact number 26 be adopted as amended below:

> 26. On that same day, DSI wrote to Mazatlan instructing it to furnish player software to the Department so that the recordings could be viewed. The letter established a deadline of ~~January 31, 2011~~ February 11, 2011 for Mazatlan to furnish the needed software.

and be it

FURTHER RESOLVED, that the Conclusions of Law of the Administrative Law Judge issued on August 16, 2011, with the exception of Conclusions number 4, 5, and 9 in this matter are hereby adopted as the Findings of the City Council in this matter and be incorporated herein by reference; and be it

FURTHER RESOLVED, that the Conclusion of Law number 4 be adopted as amended below:

> 4. Failure to timely remit video surveillance recordings from ~~January 15, 2011~~ May 14, 2010 constitutes a third violation of the conditions of Mazatlan's license within an eighteen month period.

and be it

FURTHER RESOLVED, that Conclusion of Law number 5 be adopted as amended below:

5. Failure to timely remit video surveillance recordings from January 15, 2011 and January 22, 2011 constitutes a fourth violation of the conditions of Mazatlan's license within a twenty-four month period.

and be it

FURTHER RESOLVED, that Conclusion of Law number 9 be adopted as amended below:

9. As to the fourth violation of the conditions of Mazatlan's licenses, there are no substantial or compelling reasons in the record to deviate from the application of the presumptive penalty.

and be it

FURTHER RESOLVED, that all licenses held by Mazatlan LLC d/b/a Mazatlan (License ID # 20070001948) are hereby revoked; and

FURTHER RESOLVED that said license revocation shall be effective thirty (30) days from passage of this resolution; and

FINALLY RESOLVED, that the Findings of Fact and Conclusions of Law of the Administrative Law Judge in this matter, as amended above, are hereby adopted as the Findings and Conclusions of the City Council in this matter.

A copy of this resolution, as adopted, shall be sent by first class mail to the Administrative Law Judge and to the license holder.

At a meeting of the City Council on 10/19/2011, this resolution was adopted.

Yea: 6 Councilmember Bostrom, Councilmember Carter III, Councilmember Harris, City Council President Lantry, Councilmember Thune, and Councilmember Stark

Nay: 0

Absent: 1 Councilmember Helgen

Vote Attested by Council Secretary Trudy Moloney **Date** 10/19/2011

Approved by the Mayor Chris Coleman **Date** 10/21/2011