



Legislation Details (With Text)

File #: RES 20-1487 **Version:** 1

Type: Resolution **Status:** Passed

In control: City Council

Final action: 10/28/2020

Title: Approving the recommendation of the Department of Safety and Inspections to allow surrender of the Liquor On Sale, Liquor On Sale-Sunday, and Entertainment (B) licenses held by Mai Her ("Licensee") d/b/a Checker Bar for the premises located at 992 Arcade Street. (License No. 20100003374).

Sponsors: Nelsie Yang

Indexes:

Code sections:

Attachments: 1. [http://PUIR65UJ0E9F9G][v][NOV and Request for Revocation] (6)

Date	Ver.	Action By	Action	Result
10/30/2020	1	Mayor's Office	Signed	
10/28/2020	1	City Council	Adopted	Pass

Approving the recommendation of the Department of Safety and Inspections to allow surrender of the Liquor On Sale, Liquor On Sale-Sunday and Entertainment (B) licenses held by Mai Her ("Licensee") d/b/a Checker Bar for the premises located at 992 Arcade Street. (License No. 20100003374).

WHEREAS, on March 6, 2020 the Department of Safety and Inspections sent a Notice of Violation and Request for Revocation ("NOV") with attachments, herein incorporated as Exhibit 1, to the Licensee; and

WHEREAS, the NOV and attachments outlined the Department's recommendation for adverse action and revocation of all licenses based on the commission of a felony related to the licensed activity under Saint Paul Legislative Code Section 409.26(b)(1); and

WHEREAS, the Licensee responded to the NOV and requested a hearing before an Administrative Law Judge; and

WHEREAS, it is estimated that the Administrative Hearing will take 4 days and the dates for the hearing have been set for January 12 - 15, 2021; and

WHEREAS, the parties have been engaging in discovery and working to prepare for the hearing; and

WHEREAS, on October 8, 2020 counsel for Licensee, contacted the City Attorney's Office and indicated that the Licensee was interested in discussing the surrender of the Liquor On Sale, Liquor On Sale-Sunday and Entertainment (B) licenses ("Licenses") held by Licensee for Checker Bar at 992 Arcade Street in Saint Paul

("Licensed Premises"); and

WHEREAS, Counsel for Licensee further indicated that the Licensee desired to continue operating 992 Arcade as Checkerboard Pizza as a restaurant; and

WHEREAS, the Licensee is not the owner of the Licensed Premises; and

WHEREAS, Saint Paul Legislative Code Section 409.03 regulates the number, location and duration of liquor licenses and subsection (a)(1)(a) mandates that:

“A new license may be issued for a location in such other areas of the city if there had previously been an on-sale intoxicating liquor license issued for that location, unless:

” The previous license had been revoked by the council for any reason other than nonpayment of license fees within the previous fifteen (15) years”; and

WHEREAS, Saint Paul Legislative Code Section 310.05(h) entitled “Discretion to hear notwithstanding withdrawal or surrender of application of license.” provides that “The council may, at its discretion, conduct a hearing or direct that a hearing be held regarding revocation or denial of a license, notwithstanding that the applicant or licensee has attempted or purported to withdraw or surrender said license or application, if the attempted withdrawal or surrender took place after the applicant or licensee had been notified of the hearing and potential adverse action; and

WHEREAS, the Department of Safety and Inspections (“Department”) is recommending that the Council exercise the discretion granted under Saint Paul Legislative Code Section 310.05 (h) and allow the licensee to surrender the Licenses without revocation; and

WHEREAS, if the Licensee is not allowed to surrender the Licenses held for the Licensed Premises, the owner of the Licensed Premises would be subject to the 15 year prohibition on licensure for on-sale intoxicating liquor laid out in Saint Paul Legislative Code Section 409.03; and

WHEREAS, if the Licensee is not allowed to surrender the Licenses, it would be necessary for the parties to hold an Administrative Hearing in order to gather information needed for the proposed findings of fact, conclusions of law and recommendations needed for council action; and now therefore be it

RESOLVED, that Council finds that the discussions related to surrender of the Licenses held by Licensee took place after the Licensee had been notified of the hearing and adverse action; and

FURTHER RESOLVED, that Council finds that accepting the surrender of the Licenses held by Licensee will

save resources including the expense of an Administrative Hearing; and

FURTHER RESOLVED, that the Council finds that the surrender of the Licenses by Licensee will allow the property owner to maintain the ability to obtain an on-sale intoxicating beverage license in the future; and therefore, be it finally

RESOLVED, that the Council hereby exercises the discretion granted to it under Saint Paul Legislative Code Section 310.05 (h) to allow the licensee to surrender the Licenses without revocation and adopts the recommendation of the Department of Safety and Inspections ("Department").