



Legislation Text

File #: RES PH 18-6, **Version:** 1

Sustaining adverse action against the Liquor On Sale-100 seats or less, Liquor On Sale-Sunday, Liquor On Sale -2AM Closing, Liquor-Outdoor Service Area (Patio), and Gambling Location licenses held by BH & M, Inc., d/b/a Born's Dutch Bar at 899 Rice Street.

WHEREAS, the Liquor On Sale-100 seats or less, Liquor On Sale-Sunday, Liquor On Sale -2AM Closing, Liquor-Outdoor Service Area (Patio), and Gambling Location licenses held by BH & M, Inc. d/b/a Born's Dutch Bar for the premises located at 899 Rice Street in Saint Paul were the subject of a Notice of Violation-Notice of Intent to Suspend Licenses and Notice of Intent to Revise License Conditions ("Notice") dated October 5, 2017; and

WHEREAS, the Notice stated that on August 23, 2017 a shots fired incident occurred outside of Born's Dutch Bar in which four (4) people were shot; and

WHEREAS, as part of the investigation, Saint Paul Police contacted Michael Born, the Manager of Born's Dutch Bar, to obtain a copy of their surveillance video; and

WHEREAS, Michael Born was unable to immediately make a copy of that surveillance video; and

WHEREAS, Saint Paul Police had to send a Video Technician to Born's Dutch Bar to collect a copy of the surveillance video; and

WHEREAS, a copy of the surveillance video was not made available to Saint Paul Police until approximately five (5) hours after the original request in violation of license condition #5; and

WHEREAS, on August 30, 2017, during a proactive policing visit to Born's Dutch Bar, Saint Paul Police observed patrons enter the establishment without being patted down, "wanded" with a metal detector, having their purses checked or having their identification checked by security staff to validate age in violation of license condition #2; and

WHEREAS, on September 26, 2017, while on patrol, Saint Paul Police noticed the front doors of Born's Dutch Bar wide open and observed a female patron enter the bar without being "wanded" with a metal detector in violation of license condition #2; and

WHEREAS, the above violations represent Born's second (2nd) violation within a twelve (12) month period punishable by a \$1,000.00 matrix penalty; and

WHEREAS, due to the serious nature of the violations and their reoccurrence, the City of Saint Paul Department of Safety and Inspections requested an upward departure in the penalty matrix to a \$2,000.00 fine, a ten (10) day suspension of his licenses and revised license conditions; and

WHEREAS, on October 16, 2017, Manager, Michael Born hand delivered a letter to the City Attorney's Office contesting the facts contained in the Notice and requesting an administrative hearing; and

WHEREAS, an administrative hearing was then requested and scheduled on December 1, 2017; and

WHEREAS, on November 30, 2017 a Final Settlement Agreement was reached between the parties and the administrative hearing was cancelled; and

WHEREAS, the Final Settlement Agreement was signed and executed by both parties on December 8, 2017; and

WHEREAS, the terms agreed upon included revised license conditions; a \$1,000 fine and a 3-day suspension; and

WHEREAS, the parties are making a joint recommendation to the Council that the attached settlement agreement and revised license conditions be adopted;

Now therefore, be it

RESOLVED, that as a resolution of the Adverse Action, BH & M, Inc. d/b/a Born's Dutch Bar hereby agrees that the terms of the Final Settlement Agreement signed and executed on December 8, 2017 are adopted and the Revised License Conditions signed by Jerome Born on November 30, 2017 will be added to the licenses held by BH & M, Inc. d/b/a Born's Dutch Bar; and

FURTHER RESOLVED, BH & M, Inc. d/b/a Born's Dutch Bar will comply with the additional license conditions;

and

FURTHER RESOLVED, BH & M, Inc. d/b/a Born's Dutch Bar is hereby order to pay a matrix penalty of \$1,000.00. Payment of such penalty shall be made within thirty (30) days of the date of adoption of this resolution.

FINALLY RESOLVED, the Liquor On Sale-100 seats or less, Liquor On Sale-Sunday, Liquor On Sale -2AM Closing, Liquor-Outdoor Service Area (Patio), and Gambling Location licenses held by BH & M, Inc. d/b/a Born's Dutch Bar are hereby suspended for a period of three (3) days. Said suspension will begin at 12:00 a.m. (midnight) on Wednesday, January 24, 2018 and end at 11:59 p.m. on Friday January 26, 2018.

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