

From: [Lewis, Kim](#)
To: [*CI-StPaul Contact-Council](#)
Subject: FW: Submission for 3/13/2024 City Council Meeting - RES 24-384
Date: Tuesday, March 12, 2024 12:47:11 PM
Attachments: [image001.png](#)
[image002.png](#)
[03 12 2024 LT Ctiy Council FW Submission Re RES 24-384 \(Pauly"s\).pdf](#)
[Timeline of Events and Argument-Pauly"s.pdf](#)
Importance: High

Please see attached and below. There was an error in the email address and we just received notice that you did not receive the initial transmission.



Kim Lewis

Legal Administrative Assistant

D [651.312.6583](tel:651.312.6583)

Larson • King, LLP

From: Lewis, Kim
Sent: Tuesday, March 12, 2024 11:42 AM
To: contact-council@ci-stpaul.mn.us
Cc: O'Neill, Pat <poneill@larsonking.com>
Subject: Submission for 3/13/2024 City Council Meeting - RES 24-384

SENT ON BEHALF OF PATRICK O'NEILL, JR.

Please see the attached for submission to the City Council on March 13, 2024 regarding RES 24-384. Please contact Mr. O'Neill with any questions.

Thank you.



LARSON • KING

Kim Lewis

Legal Administrative Assistant

D [651.312.6583](tel:651.312.6583)

Larson • King, LLP

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30 East Seventh Street, Suite 2800

Saint Paul, Minnesota 55101

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CONFIDENTIALITY NOTICE:

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PATRICK H. O'NEILL, JR.

poneill@larsonking.com

D 651-312-6575

March 12, 2024

VIA EMAIL ONLY

St. Paul City Council

contact-council@ci.stpaul.mn.us

RE: Pauly's Bar & Grill, 1668 Selby Avenue, Saint Paul
License # 20220000012

Dear Councilmembers:

I represent Pauly's Bar & Grill. I do not represent Kalsada or Mr. Occhiato.

The attached shall serve as Pauly's written submission for RES 24-384. On behalf of Pauly's we submit the enclosed addendum to the City's Timeline of Events (City's version in italics; new sections are in capitals) and Argument.

Thank you for your time and consideration.

Very truly yours,

LARSON • KING, LLP

Patrick H. O'Neill, Jr.

PATRICK H. O'NEILL, JR.

PHO/kal

Enclosures



PAULY'S TIMELINE OF EVENTS AND ARGUMENT

8/31/2023	PAULY'S INCORPORATES.
9/15/2023	KALSADA CLOSES.
10/13/2023	PAULY'S RECEIVES A LOAN FOR TRANSACTION AND PAYS KALSADA/OCCHIATO. AS PART OF THE CLOSING, PAULY'S ASSUMES THE LEASE OBLIGATIONS.
10/13/2023	KALSADA/OCCHIATO AND PAULY'S SIGN MANAGEMENT AGREEMENT WHICH STATES: DURING THE TERM OF THIS AGREEMENT <i>[WHICH IS DURING LIQUOR LICENSE APPROVAL PROCESS BY PAULY'S]</i>, (A) SELLER SHALL CONTINUE TO MAINTAIN ALL INSURANCE REQUIRED BY MINNESOTA AND SAINT PAUL LAW FOR AN ESTABLISHMENT TO OPERATE; (B) SELLER SHALL NAME BUYER AS AN ADDITIONAL INSURED ON SUCH INSURANCE; (C) BUYER SHALL OBTAIN AND MAINTAIN ALL OTHER INSURANCE FOR THE BUSINESS AND ITS EMPLOYEES IN AMOUNTS NOT LESS THAN THAT PRESENTLY MAINTAINED BY SELLER FOR THE BUSINESS; AND (D) SELLER SHALL BE NAMED AS AN ADDITIONAL INSURED ON SUCH INSURANCE MAINTAINED BY BUYER.
10/13/2023	<i>Kalsada and Pauly's enter into <u>management agreement</u> which in part states:</i> • <i>Pauly's has applied for the "same licenses as Seller" currently holds.</i> • <i>Kalsada shall continue to maintain insurance required to operate establishment.</i> • <i>Kalsada is ultimately responsible for the operation under existing license.</i>
10/13/2023	AFTER RECEIVING THE FUNDS AND SIGNING THE MANAGEMENT AGREEMENT, ON THE SAME DAY, OCCHIATO CALLS HIS AGENT ERIK THOMPSON AT MAGUIRE AGENCY AND CANCELS THE LIQUOR LIABILITY INSURANCE POLICY. KALSADA/OCCHIATO DOES NOT INFORM AGENT OF MANAGEMENT AGREEMENT. KALSADA/OCCHIATO DOES NOT INFORM PAULY'S OF CANCELLATION.
10/16/2023	AGENT SENDS CANCELLATION FORMS TO BE SIGNED BY KALSADA/OCCHIATO. CANCELLATION FORMS NOT SENT TO PAULY'S. NO NOTICE TO PAULY'S.

10/22/2023	SUNDAY BEER SALES OF EXISTING KALSADA INVENTORY TO CHICAGO BEARS FAN CLUB, LIQUOR LIABILITY COVERAGE BELIEVED TO BE IN PLACE BY KALSADA PER MANAGEMENT AGREEMENT; HAD PAULY'S KNOWN OF CANCELLATION, PAULY'S WOULD HAVE PURCHASED THEIR OWN LIQUOR LIABILITY COVERAGE EARLIER AND NOT SERVED UNTIL PURCHASED.
10/23/2023	KALSADA/OCCHIATO ACKNOWLEDGE AND SIGN CANCELLATION OF LIQUOR LIABILITY INSURANCE, DOES NOT DISCLOSE TO PAULY'S (SEE ATTACHED).
10/25/2023	NOTICE OF CANCELLATION SENT TO CITY BY SOCIETY INSURANCE—BUSINESS SOLD, NO INSURANCE—CITY CLAIMS DID NOT RECEIVE DESPITE SUCH BEING SENT TO 700 WEST KELLOGG BOULEVARD – NO NOTICE SENT TO PAULY'S.
10/29/2023	SUNDAY BEER SALES OF EXISTING KALSADA INVENTORY TO CHICAGO BEARS FAN CLUB, LIQUOR LIABILITY COVERAGE BELIEVED TO BE IN PLACE BY KALSADA PER MANAGEMENT AGREEMENT; HAD PAULY'S KNOWN OF CANCELLATION, PAULY'S WOULD HAVE PURCHASED THEIR OWN LIQUOR LIABILITY COVERAGE EARLIER AND NOT SERVED UNTIL PURCHASED.
11/5/2023	SUNDAY BEER SALES OF EXISTING KALSADA INVENTORY TO CHICAGO BEARS FAN CLUB, LIQUOR LIABILITY COVERAGE BELIEVED TO BE IN PLACE BY KALSADA PER MANAGEMENT AGREEMENT; HAD PAULY'S KNOWN OF CANCELLATION, PAULY'S WOULD HAVE PURCHASED THEIR OWN LIQUOR LIABILITY COVERAGE EARLIER AND NOT SERVED UNTIL PURCHASED.
11/9/2023	PAULY'S PURCHASES LIQUOR LIABILITY INSURANCE -- \$1,000,000
11/15/2023	PAULY'S GRAND OPENING, 31 EMPLOYEES.
11/27/2023	<i>DSI learns from <u>news article</u> that Pauly's opened November 15, 2023 and is serving alcohol. DSI investigation reveals no license applications submitted by Pauly's to facilitate change of ownership.</i>
12/1/2023	<i>DSI contacts Kalsada and Pauly's to investigate and requests above-mentioned management agreement <u>and certificate of liquor liability insurance</u> (COLI) which is deemed invalid as the name of the insured is not the recognized current license holder.</i>
12/1/2023	MANAGEMENT AGREEMENT FORWARDED TO DSI BY PAULY'S.
12/4/2023	NEW LICENSE APPLICATION SUBMITTED BY PAULY'S, \$5,000 PAID, STILL PENDING.

12/6/2023	<i>DSI contacts Joe Kasel, Pauly's owner, to determine why no applications have been submitted and to advise that MN AG has been notified of the situation. Kasel submits application packet later that same day. Applications are currently being processed and, assume satisfaction of all associated requirements and no public objection, could be approved by Council as soon as xx/xx/xxxx.</i>
12/11/2023	<i>DSI requests COI from Kalsada and is told the insurance was cancelled. Required notice was not given to DSI.¹ Subsequent DSI request produces <u>cancellation notice</u> indicating insurance was cancelled October 13, 2023 – one day after parties enter into management agreement.</i>
12/15/2023	CEASE AND DESIST ORDER ISSUED TO KALSADA, 4 SQUAD CARS APPEAR AT PAULY'S WITHOUT WARNING. DESPITE HAVING \$1,000,000 IN LIQUOR LIABILITY COVERAGE, PAULY'S CLOSED 24 HOURS.
12/16/2023	LIQUOR LIABILITY PAPERWORK AMENDED BY PAULY'S, KALSADA ADDED AS ADDITIONAL INSURED; CEASE AND DESIST LIFTED.
12/16/2023	KALSADA CALLS AGENT TO REINSTATE POLICY AND SUBMIT A "NO KNOWN LOSS" REPORT; AGENT STATES TOO MUCH TIME HAS PASSED, REFUSES TO REINSTATE POLICY.
3/1/2024	NOTICE OF ADVERSE ACTION ISSUED TO KALSADA FOR VIOLATIONS FROM OCTOBER 13 TO NOVEMBER 9, 2023.
3/5/2024	WITH THE UNDERSTANDING THAT A NEW LICENSE WILL BE ISSUED ON MARCH 27, 2024 TO PAULY'S, KALSADA/PAULY'S JOINTLY WORK WITH CITY ATTORNEY TO ADMIT VIOLATION AND CONTEST PENALTY. ANY PENALTY TO BE SERVED FROM MARCH 18, 2024 TO MARCH 26, 2024 SO AS TO BE TOTALLY SEPARATE FROM KALSADA FOREVER BY MARCH 27, 2024.
3/13/2024	CITY COUNCIL HEARING

¹ Notice of Cancellation was sent to the City by Society Insurance on October 25, 2023.

ARGUMENT

1. Kalsada agreed to maintain liquor liability insurance during Pauly's new liquor license approval process.
2. Kalsada did not honor the Management Agreement and unilaterally cancelled the liquor liability insurance on October 13, 2023 without telling Pauly's. Kalsada verified the cancellation in writing on October 23, 2023.
3. Pauly's would have never sold the existing Kalsada inventory prior to its grand opening had it known of the cancellation.
4. Pauly's had its own liquor liability insurance in the amount of \$1,000,000 six days prior to its grand opening on November 15, 2023 and has maintained said liquor liability insurance since that time. Kalsada is also a named insured on the policy.
5. Based upon the above facts and timeline of events, Pauly's respectfully requests that the proposed Adverse Action to be taken against Kalsada (which only affects Pauly's) be reduced to three days to be served between March 18, 2024 and March 26, 2024, and a new license be issued to Pauly's on March 27, 2024.
6. Pauly's takes responsibility for not submitting the Management Agreement and its new license application earlier than December 4, 2023 and is willing to pay \$1,500.



CANCELLATION REQUEST / POLICY RELEASE

PMORTENSON

DATE (MM/DD/YYYY)
10/16/2023

PRODUCER Maguire Agency 1970 Oakcrest Avenue, Suite 300 Roseville, MN 55113	PHONE (A/C, No, Ext): (651) 638-9100	COMPANY NAME AND ADDRESS Society Insurance 150 Camelot Drive P.O. Box 1029 Fond Du Lac, WI 54936-1029	NAIC CODE: N/A
CODE: 568-294-276	SUB CODE:	POLICY TYPE Liquor Liability	
AGENCY CUSTOMER ID: KALSLLC-01		CANCELLED POLICY INFORMATION	
INSURED NAME AND ADDRESS Kalsada LLC dba Kalsada 1668 Selby Avenue Saint Paul, MN 55104		POLICY NUMBER LL10005846	
		EFFECTIVE DATE AND HOUR OF CANCELLATION 10/13/2023	CANCELLATION DATE 10/13/2023
		POLICY TERM 03/29/2023	EXPIRATION DATE 03/29/2024
		TIME 12:01	☒ AM ☐ PM

☐ CANCELLATION REQUEST (Policy attached)☒ POLICY RELEASE (Complete Statement Section Below)

POLICY RELEASE STATEMENT

The undersigned agrees that:

The above referenced policy is lost, destroyed or being retained.

No claims of any type will be made against the Insurance Company, its agents or its representatives, under this policy for losses which occur after the date of cancellation shown above.

Any premium adjustment will be made in accordance with the terms and conditions of the policy.

WITNESS

DATE

SIGNATURE OF NAMED INSURED

10-23-23

DATE

WITNESS

DATE

SIGNATURE OF NAMED INSURED

DATE

City of St Paul

☐ LIENHOLDER☐ MORTGAGEE☐ LOSS PAYEEAUTHORIZED SIGNATURE
(Not applicable in NH per RSA 412:5 I)

TITLE

DATE

☐ LIENHOLDER☐ MORTGAGEE☐ LOSS PAYEEAUTHORIZED SIGNATURE
(Not applicable in NH per RSA 412:5 I)

TITLE

DATE

This representation is true and accurate, and I understand that any misrepresentation may be deemed a fraudulent act.

FOR AGENCY / COMPANY USE

REASON FOR CANCELLATION		METHOD OF CANCELLATION	
☐ NOT TAKEN	☒ OTHER (Identify) Out Of Business	☐ FLAT	FULL TERM PREMIUM \$
☐ REQUESTED BY INSURED		☐ SHORT RATE	
☐ REWRITTEN (Complete below)		☒ PRO RATA	
COMPANY			UNEARNED FACTOR %
POLICY NUMBER	EFFECTIVE DATE		RETURN PREMIUM \$
PREMIUM CALCULATION SUBJECT TO AUDIT			

REMARKS (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

New York Only: If you do not keep your auto insurance in force during the entire registration period, your motor vehicle registration will be suspended. If your vehicle is still uninsured after 90 days, your driver's license will be suspended. To avoid these penalties, you must surrender your registration certificate and plates before your insurance expires. By law, we must report the termination of auto insurance coverage to the Department of Motor Vehicles.

NAME AND ADDRESS

REQUEST / RELEASE DISTRIBUTION

John Occhiato 1668 Selby Avenue Saint Paul, MN 55104	☒ INSURED	☐ LOSS PAYEE
	☐ MORTGAGEE	☐ LIENHOLDER
	☐ COMPANY	☐ FINANCE COMPANY
	PRODUCER'S SIGNATURE <i>[Signature]</i>	
DATE 10/16/2023		



CANCELLATION REQUEST / POLICY RELEASE

PMORTENSON

DATE (MM/DD/YYYY)

10/16/2023

PRODUCER Maguire Agency 1970 Oakcrest Avenue, Suite 300 Roseville, MN 55113		PHONE (A/C, No, Ext): (651) 638-9100	COMPANY NAME AND ADDRESS Society Insurance 150 Camelot Drive P.O. Box 1029 Fond Du Lac, WI 54936-1029		NAIC CODE: N/A
CODE: 568-294-276		SUB CODE:		POLICY TYPE Commercial Package	
AGENCY CUSTOMER ID: KALSLLC-01		CANCELLED POLICY INFORMATION			
INSURED NAME AND ADDRESS Kalsada LLC dba Kalsada 1668 Selby Avenue Saint Paul, MN 55104		POLICY NUMBER BP10004208			
		EFFECTIVE DATE AND HOUR OF CANCELLATION	CANCELLATION DATE 10/13/2023	TIME 12:01	☒ AM ☐ PM
		POLICY TERM	EFFECTIVE DATE 02/18/2023	EXPIRATION DATE 02/18/2024	

CANCELLATION REQUEST (Policy attached)

☒ POLICY RELEASE (Complete Statement Section Below)

POLICY RELEASE STATEMENT

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WITNESS	DATE	<u>John Occhiato</u> SIGNATURE OF NAMED INSURED	10-23-23 DATE
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WITNESS	DATE	SIGNATURE OF NAMED INSURED	DATE
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Drake Bank

☐ LIENHOLDER	☐ MORTGAGEE	☐ LOSS PAYEE	AUTHORIZED SIGNATURE (Not applicable in NH per RSA 412:6 I)	TITLE	DATE
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☐ LIENHOLDER	☐ MORTGAGEE	☐ LOSS PAYEE	AUTHORIZED SIGNATURE (Not applicable in NH per RSA 412:6 I)	TITLE	DATE
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☐ REWRITTEN (Complete below)		☒ PRO RATA	UNEARNED FACTOR %
COMPANY			RETURN PREMIUM \$
POLICY NUMBER	EFFECTIVE DATE	PREMIUM CALCULATION SUBJECT TO AUDIT	

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NAME AND ADDRESS

REQUEST / RELEASE DISTRIBUTION

John Occhiato 1668 Selby Avenue Saint Paul, MN 55104	☒ INSURED	☐ LOSS PAYEE
	☐ MORTGAGEE	☐ LIENHOLDER
	☐ COMPANY	☐ FINANCE COMPANY
	PRODUCER'S SIGNATURE <u>[Signature]</u>	
		DATE 10/16/2023



CANCELLATION REQUEST / POLICY RELEASE

PMORTENSON

DATE (MM/DD/YYYY)

10/16/2023

PRODUCER Maguire Agency 1970 Oakcrest Avenue, Suite 300 Roseville, MN 55113	PHONE (A/C, No, Ext): (651) 638-9100	COMPANY NAME AND ADDRESS Society Insurance 150 Camelot Drive P.O. Box 1029 Fond Du Lac, WI 54936-1029	NAIC CODE: N/A
CODE: 568-294-276	SUB CODE:	POLICY TYPE Worker's Compensation	
AGENCY CUSTOMER ID: KALSLLC-01		CANCELLED POLICY INFORMATION	
INSURED NAME AND ADDRESS Kalsada LLC 1668 Selby Avenue Saint Paul, MN 55104		POLICY NUMBER WC10006218	
		EFFECTIVE DATE AND HOUR OF CANCELLATION 10/13/2023	CANCELLATION DATE 10/13/2023
		POLICY TERM 03/29/2023	EXPIRATION DATE 03/29/2024
		TIME 12:01	☒ AM ☐ PM

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SIGNATURE OF NAMED INSURED

10-23-23

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☐ LIENHOLDER ☐ MORTGAGEE ☐ LOSS PAYEEAUTHORIZED SIGNATURE
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COMPANY		☐ PREMIUM CALCULATION SUBJECT TO AUDIT	
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	☐ MORTGAGEE	☐ LIENHOLDER
	☐ COMPANY	☐ FINANCE COMPANY
	PRODUCER'S SIGNATURE	
		DATE 10/16/2023