

CITY OF LITTLETON LIQUOR LICENSING AUTHORITY

MOTION TO SET ASIDE STIPULATION AND ORDER

IN THE MATTER OF:

Retro Wasteland, LLC
DBA Toad Tavern
5302 South Federal Circle
Littleton, CO 80123-8935
License No. 4702465
Expiration Date: 03/13

COMES NOW the City of Littleton, by and through the City Attorney's Office, Tricia A. McCarthy, Prosecutor, submits this MOTION TO VACATE STIPULATION AND ORDER. In support thereof, City states the following:

1. At a preliminary hearing held on August 9, 2017, Retro Wasteland, LLC DBA Toad Tavern (Licensee) stipulated to a factual basis for a liquor code violation which occurred on May 5, 2017. Licensee agreed, in lieu of a Hearing on the Order to Show Cause, to submit to the following sanctions:
 - A. A ten (10) day suspension of Licensee's liquor license with five (5) days of actual suspension and five (5) days held in abeyance for one (1) year from the date of the final Order. Licensee shall be allowed to pay a fine in lieu of the actual suspension.
 - B. The fine shall be the equivalent of twenty percent (20%) of the Licensee's estimated gross sales of alcohol beverages during the period of the proposed suspension; except that the fine shall not be less than two hundred dollars (\$200.00) nor more than five thousand dollars (\$5,000.00) pursuant to C.R.S. § 12-47-601. The period of proposed suspension for purposes of calculating the fine in lieu of suspension shall be:

September 17, 2017 to September 21, 2017.
 - C. Payment of this fine shall be in the form of cash or certified check or cashiers check made payable to the Authority. The fine shall be paid within ten (10) business days of notice from the City Clerk of the final determined amount. Upon payment of the fine the five (5) day suspension shall be permanently stayed.
2. On August 14, 2017, the City Clerk mailed the Licensee a copy of the signed Stipulation and Order. This included information on all relevant upcoming deadlines for submission of records.

3. The deadline for submitting sale records for the purposes of determining the fine in lieu of suspension was the October 2, 2017.
4. The Licensee failed to submit the sale records by October 2, 2017.
5. On October 12, 2017, the City Clerk hand delivered a delinquency notice letter. The letter instructed the Licensee to comply no later than October 16, 2017.
6. The Licensee submitted the sale records on October 16, 2017.
7. On October 19, 2017, the City Clerk mailed the Licensee notification of the amount due and the deadline for the submission of the fine in lieu.
8. The deadline for submitting the payment of \$627.30 for the fine in lieu of suspension was October 30, 2017.
9. The Licensee has failed to submit payment on October 30, 2017.
10. On November 2, 2017, the City Clerk hand delivered a delinquency notice letter. The letter notified the Licensee that the City was filing a Motion To Vacate Stipulation and Order. The letter notified the Licensee that this Motion would be heard by the Authority on November 8, 2017.

WHEREFORE the City requests that Authority grant the MOTION TO VACATE STIPULATION AND ORDER and impose the five (5) days suspension. The days of suspension shall be _____, 2017 to _____, 2017.

 Tricia A. McCarthy #31029
 City Of Littleton
 Prosecutor

Date: _____ Date: _____
APPROVED AND ORDERED this _____ day of November, 2017.

 Liquor Authority Chair