

Legislation Text

File #: LA# 14-021, **Version:** 1

Agenda Date: 12/10/2014

Subject:

Determine if probable cause exists to set show cause hearing - Vasilios Frangiskakis, d/b/a Old Mill Brewery, 5798 South Rapp Street

Presented By: Kristin Schledorn, City Attorney
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ISSUE

Whether there is probable cause to believe that Vasilios Frangiskakis, d/b/a Old Mill Brewery, located at 5798 South Rapp Street, Littleton, Colorado, violated the Colorado liquor code and Littleton city code and should be scheduled for a public hearing to show cause, if any, why its license should not be suspended or revoked.

INTRODUCTION/HISTORY AND FACTS

This matter comes to the Authority as a possible violation of the Colorado liquor code and Littleton city code by the licensee following the citation of the licensee's employee on November 5, 2014 at 9:50 p.m. at 5798 South Rapp Street. The possible violations of the Littleton City Code and Colorado liquor code include:

Littleton City Code 3-2-11(A)(2) - Conduct in Establishments

A.2. Each licensee and employee shall conduct his establishment in a decent, orderly and respectable manner and shall not permit within or upon the licensed premises the loitering of habitual drunkards or intoxicated persons, lewd or indecent displays, profanity, rowdiness, undue noise or other disturbance or activity offensive to the senses of the average citizen or the residents of the neighborhood in which the establishment is located. Any licensee hereunder, and any manager or agent or employee of a licensee hereunder, shall immediately report to the city's police department any unlawful or disorderly act or conduct committed on the licensed premises."

Regulation 47-900 - Conduct of Establishment

A. Orderliness, loitering, serving of intoxicated persons.

Each person licensed under Article 46, Article 47, and Article 48 of Title 12, and any employee or agent of such licensee shall conduct the licensed premises in a decent, orderly and respectable manner, and shall not serve a known habitual drunkard or any person who displays any visible signs of intoxication, nor shall they permit a known habitual drunkard or any person who displays any visible signs of intoxication to remain on the licensed premises without an acceptable purpose, nor shall the licensee, his employee or agent knowingly permit any activity or acts of disorderly conduct as defined by and provided for in Section 18-9-106, C.R.S., nor shall a licensee permit rowdiness, undue noise, or other disturbances or activity offensive to the senses of the average citizen, or to the residents of the neighborhood in which the licensed establishment is located.

LEGAL OPINION

Section III.C. of the Licensing Authority Guidelines states that the Authority must consider the probable cause evidence presented by the License Coordinating Officer, and based on the totality of the circumstances, the Authority must find that there is reasonable belief that a violation has occurred based upon reliable information.

Probable cause does not require sufficient evidence to show that a violation occurred. That is the purpose of the show cause hearing. In the probable cause hearing the Authority can consider such things as:

- (1) Direct observations and information of the police officers.
- (2) Information provided by witnesses, and contradictory, incriminating, or evasive information of the licensee and/or its employees.
- (3) Whether the citation for a criminal charge was made and the evidence in support of such charge.

It is not necessary for the charging officers to directly testify to the evidence. It is sufficient if such information is provided by the Licensing Coordinating Officer if s/he acts upon communication with the arresting officer.

CONCLUSIONS AND RECOMMENDATIONS

Staff recommends that the Authority find that probable cause exists sufficient to set the matter for a show cause hearing. The show cause hearing should be set for February 11, 2015, to allow for a preliminary hearing to be held on January 14, 2015, in accordance with the Licensing Authority Guidelines.

SUGGESTED MOTION

Motion to find that there is probable cause to believe that Vasilios Frangiskakis, d/b/a Old Mill Brewery, 5798 South Rapp Street, Littleton, Colorado, on November 5, 2014 did violate the Colorado Liquor Code and Littleton City Code. Based on said findings, I move that a public hearing be set for February 11, 2015, for the purpose of considering the status of said license, wherein the above-mentioned licensee may be present to show cause, if any, why its license should not be suspended or revoked, and further that notice of these findings and the hearing to show cause shall be forwarded and served to Vasilios Frangiskakis, d/b/a Old Mill Brewery, 5798 South Rapp Street, Littleton, Colorado, in accordance with the provisions of state law. I move that a preliminary hearing, if necessary, be set for the 14th day of January, 2015, for the purpose of considering a possible stipulation, if any, between the licensee and the City of Littleton.