



## Legislation Text

---

**File #:** LA# 17-003, **Version:** 1

---

Agenda Date: 08/09/2017

**Subject:**

Preliminary Hearing - Retro Wasteland, LLC, d/b/a The Toad Tavern, 5302 S Federal Circle; Littleton, Colorado

Presented By: Lena McClelland, Assistant City Attorney
--

**ISSUE:**

Whether the stipulation between the licensee and the city should be approved.

**INTRODUCTION/HISTORY AND FACTS:**

This matter comes to the Authority following a possible violation of the Colorado Liquor Code and the Littleton city code by the licensee involving an incident on May 5, 2017, at approximately 1:56 a.m.

At the probable cause hearing held on July 12, 2017, the Licensing Authority found that probable cause existed and set the matter for a preliminary hearing and show cause hearing in accordance with the Licensing Authority Guidelines.

**LEGAL OPINION:**

In a preliminary hearing:

- a. The Authority will consider and rule on any proposed stipulation between the City and the licensee.
- b. The Authority will consider whether or not the proposed stipulation should be accepted, rejected or if a counter offer should be made by the Authority to the parties to the stipulation for their consideration.
- c. If the Authority accepts the proposed stipulation, then all sanctions authorized by the code, or set forth in the stipulation, may be imposed, and the previously set show cause date shall be vacated.
- d. If the Authority sets forth additional conditions to the proposed stipulation and the licensee rejects the Authority's counter offer, then the preliminary hearing will end. The previously set show cause date will be retained and the parties shall appear on that date to present evidence regarding their particular issues surrounding the alleged violation which gave rise to the show cause hearing.
- e. The preliminary hearing is not designed to provide a forum for the taking of legal or factual evidence regarding any alleged violations.
- f. Any party may make a motion to continue the preliminary hearing and may be granted upon consent of the opposing party and a finding by the Authority that there is good cause to continue the hearing.
- g. In addition to the above proceedings, the parties at the preliminary hearing may make legal motions regarding any matters that would be heard at the show cause hearing. These motions will include, but are not limited to, the following; Motion to Continue the Show Cause Date; Motion for Subpoena of Witnesses; and Motion to Subpoena Witnesses.

Consideration of this matter by the Authority is appropriate at the preliminary hearing under Section III(C)(2) (g) of the Licensing Authority Guidelines.

**SUGGESTED MOTION:**

Motion to approve the Stipulation, Agreement and Order between the city prosecutor and the licensee. In Section 5(c) of the stipulation, the period of proposed suspension for purposes of calculating the fine in lieu of suspension shall be \_\_\_\_\_, 2017 to \_\_\_\_\_, 2017. The show cause hearing date, originally scheduled for September 13, 2017, is hereby vacated.

OR

Motion to deny the Stipulation, Agreement and Order between the city prosecutor and the licensee. The licensee shall appear before the Licensing Authority on September 13, 2017 for its scheduled show cause hearing.