



Legislation Text

File #: LA# 17-008, **Version:** 1

Agenda Date: 11/08/2017

Subject:

Determine if probable cause exists to set show cause hearing - T & K Smith Enterprises, Inc., d/b/a The Castle Bar & Grill, 6657 S Broadway, Littleton, Colorado

Presented By: Colleen L. Norton, Deputy City Clerk
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ISSUE

Whether there is probable cause to believe that T & K Smith Enterprises, Inc., d/b/a The Castle Bar & Grill, 6657 S Broadway, 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 the Littleton City Code by the licensee based on the following incidents:

- 1) October 7, 2016 at approximately 11:43 p.m. Littleton PD report 2016005177 is attached.
- 2) September 4, 2017 at approximately 9:18 p.m. Littleton PD report 2017004468 is attached.

The possible violations of the Littleton City Code and Colorado liquor code include:

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

(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.

Littleton City Code § 3-2-10(F) - Prohibited Acts

F. Sale To Intoxicated Persons: It shall be unlawful for any person to sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any fermented malt beverages, malt, vinous, or spirituous liquors to or for any person visibly intoxicated or known to be a habitual drunkard.

C.R.S. § 12-47-901(1)(a) - Unlawful Acts - Exceptions

(1) Except as provided in section 18-13-122, C.R.S., it is unlawful for any person: (a) To sell, serve, give away, dispose of, exchange, or deliver, or permit the sale, serving, giving, or procuring of, any alcohol beverage to a visibly

intoxicated person or to a known habitual drunkard.

PROBABLE CAUSE LICENSING AUTHORITY GUIDELINES

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 with any or all of the above referenced incidents. The show cause hearing should be set for January 10, 2018 to allow for a preliminary hearing to be held on December 13, 2017 in accordance with the Licensing Authority Guidelines.

SUGGESTED MOTION

I move to find that there is probable cause to believe that T & K Smith Enterprises, Inc., d/b/a The Castle Bar & Grill, 6657 South Broadway, Colorado, on October 7, 2016 and/or September 4, 2017 did violate the Colorado Liquor Code and Littleton City Code and based on said findings, that a public hearing be set for January 10, 2018, 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 T & K Smith Enterprises, Inc., d/b/a The Castle Bar & Grill, 6657 South Broadway, Littleton, Colorado, in accordance with the provisions of state law. I move that a preliminary hearing, if necessary, be set for the 13th day of December, 2017, for the purpose of considering a possible stipulation, if any, between the licensee and the City of Littleton.