

Legislation Text

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**File #:** LA# 19-005, **Version:** 1

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Agenda Date: 09/11/2019

**Subject:**

Determine if probable cause exists to set a show cause hearing for Byers LLC, d/b/a Fraco's Bar, 5302 South Federal Circle Unit A, Littleton, Colorado

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

Whether there is probable cause to believe that Byers LLC, d/b/a Fraco's Bar, 5302 S. Federal Circle Unit A, Littleton, Colorado, violated the Colorado liquor 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 by the licensee based on the following incident(s):

- 1) July 29, 2019, at approximately 8:47 p.m. Littleton PD report 2019003403 is attached.

The possible violations of the Colorado liquor code include:

C.R.S. § 44-3-901(1) (a) - Unlawful Acts - Exceptions

(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 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, either directly or by means of report; and
- (2) Information provided by witnesses and contradictory, incriminating, or evasive information of the licensee and/or its employees; and
- (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 to the Authority in the form of memo or report(s) from the Police Department.

### **CONCLUSIONS AND RECOMMENDATIONS**

Staff recommends that the Authority find that probable cause exists sufficient to set the matter for a show cause hearing with the above referenced incident. The show cause hearing should be set for December 11, 2019, to allow for a preliminary hearing to be held on November 13, 2019, in accordance with the Licensing Authority Guidelines.

### **SUGGESTED MOTION**

I move to find that there is probable cause to believe that Byers LLC, d/b/a Fraco's Bar, 5302 S. Federal Circle Unit A, Littleton, Colorado, on July 29, 2019, did violate the Colorado Liquor Code and, based on said findings, that a public hearing be set for December 11, 2019, 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 Byers LLC, d/b/a Fraco's Bar, 5302 S. Federal Circle Unit A, Littleton, Colorado, in accordance with the provisions of state law, and that a preliminary hearing, if necessary, be set for the 13<sup>th</sup> day of November, 2019, for the purpose of considering a possible stipulation, if any, between the licensee and the City of Littleton.