

Legislation Text

File #: LA# 19-14, **Version:** 1

Agenda Date: 10/09/2019

Subject:

Show Cause Hearing - The Boardroom Inc., d/b/a The Boardroom, 51 W. Dry Creek Court, Littleton, Colorado

Presented By: Dahlia Olsher Tannen, City Prosecutor

ISSUE

Whether to suspend or revoke the license of The Boardroom Inc., d/b/a The Boardroom.

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 for an incident occurring on March 7, 2019, at approximately 9:14 p.m. The possible violations of the Colorado liquor code and Littleton city code (LCC) include:

LCC § 3-2-7(F) (formerly 3-2-10(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."

Colorado Liquor Code 44-3-901(1)(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."

HEARINGS AND GUIDELINES FOR SANCTIONS

A hearing on suspension or revocation of a liquor license must be carried out pursuant to C.R.S. 44-3-601 and Regulation 47-600. Paragraphs (C)-(E) of Regulation 47-600 provide (I have underlined the portions of the regulation pertinent to the Authority's consideration of sanctions):

C. A hearing shall be held at a place and time designated by the Licensing Authority on the day stated in the notice, or upon such other day as may be set for good cause shown. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, or any other violation, evidence and statements in aggravation of the offense shall also be permitted.

D. If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the licensee, but standing alone establishes the guilt of the licensee of a violation of some

other law, rule or regulation, the licensee shall be permitted to give evidence and statements in defense, explanation and mitigation if then prepared to do so. If such evidence is not then available, but can be obtained by the licensee, the licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than ten days, and shall then continue under the same procedure as though no recess had occurred.

E. In the event the licensee is found not to have violated any law, rule or regulation, the charges against him will be dismissed. If the licensee is found to have violated some law, rule or regulation, his license may be suspended or revoked.

In addition, in order to guide the Licensing Authority in the appropriateness of any particular sanction it may choose to impose, Section 3-2-10 of the Littleton Municipal Code states:

3-2-10: Hearings; Aggravating and Mitigating Factors:

In all cases where a hearing is held regarding a suspension, revocation or non-renewal of any license issued pursuant to this Chapter, the licensing authority shall consider the following factors in mitigation or aggravation:

- (A) Seriousness of the violation(s) (affront to the public);
- (B) Corrective action(s) taken (if any);
- (C) Prior violations and offenses at the licensed premises and effectiveness of the prior corrective action;
- (D) Prior violations and offenses by this licensee;
- (E) Violation as a repeated course of conduct or as a single event;
- (F) Likelihood of recurrence;
- (G) All circumstances surrounding a violation;
- (H) Willfulness of violation(s);
- (I) Hardship on this licensee for the sanction imposed;
- (J) Length of time a license has been held by this licensee;
- (K) Previous sanctions imposed against this license; and
- (L) Other factors making the situation with respect to the licensee or premises unique.

PROPOSED MOTION

Based on the foregoing evidence and testimony concerning factors in mitigation and aggravation, I move that the liquor license of The Boardroom Inc., d/b/a The Boardroom, 51 W. Dry Creek Court be:

Suspended

Suspended for a period of ____ days [*with ____ days to be held in abeyance for a one year period and that during such period there be no further violation of the Colorado Liquor Code and associated regulations and/or the Littleton City Code*] and that notices of such suspension be posted in and outside of the licensed premises in accordance with Liquor Code Regulation 47-600(F) and that the suspension be served beginning _____, 2019.

OR

Fine-in-Lieu of Suspension

Suspended for a period of ____ days [*with ____ days to be held in abeyance for a one year period and that during such period there be no further violation of the Colorado Liquor Code and associated regulations*

and/or the Littleton City Code] and that the licensee be allowed to pay a fine-in-lieu and that ____ days of the active suspension will paid by fine-in-lieu of suspension over the dates of <insert start date> and <insert end date>, inclusive.

OR

Revoked