



Legislation Text

File #: LA# 21-001, **Version:** 1

Agenda Date: 07/14/2021

Subject:

Schedule pre-renewal hearing for Tlapa Pizza & Pasta Corp., d/b/a Anthony's Pizza & Pasta, 2610 W. Belleview Avenue, Unit #100; Littleton, Colorado

Presented By: Colleen L. Norton, City Clerk

ISSUE:

Whether to schedule the renewal application for Tlapa Pizza & Pasta Corp., d/b/a Anthony's Pizza & Pasta, 2610 W. Belleview Avenue, Unit #100; Littleton, Colorado for a public hearing.

INTRODUCTION/HISTORY AND FACTS:

Routine liquor license renewals are generally handled administratively under Section 3-2-12 of the city code. That section states that the chairperson of the authority is authorized to grant renewals so long as "no information regarding alleged violations of the Colorado liquor and beer codes or amendment 20 of the Colorado constitution or violations of this code have been referred to him or her by the police department or otherwise." Pursuant to Section III.B of the Licensing Authority Guidelines: "If the Littleton Police Department (LPD) renewal report or any other information obtained from other City departments (e.g., Finance) indicates to the City Attorney probable cause to believe there is "good cause" to refuse to renew, the City Attorney has discretion to place the renewal application on the agenda. The issue before the Licensing Authority shall be whether to schedule the renewal application for a public hearing. The Licensing Authority shall be provided with the renewal application, renewal report and any other information upon which the City Attorney based its decision to place the renewal application on the agenda. No testimony shall be taken and the Licensing Authority shall base its decision solely upon such information provided. If the Licensing Authority decides to schedule the renewal application for a public hearing, the renewal application shall be scheduled for the next available public hearing date, following notice as required by C.R.S. § 44-03-302. The chairperson shall be authorized to proceed with approving any renewal application not scheduled for a public hearing by the Licensing Authority as part of this procedure."

The City Attorney's Office has placed this application on the agenda for the following reason(s):

- Unpaid taxes and failure to file returns in violation of Article 3, Chapter 9 of the Littleton City Code. A lien (attached) was filed in the office of the Clerk and Recorder for Arapahoe County on August 28, 2020 for past-due 2019 and 2020 taxes totaling \$17,809.30.
- Failure to file returns and bring taxes current through May, 2021. Total amount owed is now \$30,545.31.
- The applicant answered "No" in response to question 3(a) of the renewal application stating the licensee

was not delinquent in the payment of state or local taxes, penalties or interest related to a business” and declared under penalty of perjury in the second degree that “this application and all attachments are true, correct and complete to the best of my knowledge” by affixing a signature.

LEGAL AUTHORITY:

Pursuant to C.R.S. § 44-03-302(1), the local licensing authority may cause a hearing on the application for renewal to be held and may refuse to renew the license for good cause as provided in C.R.S. § 44-3-103(9), which states:

C.R.S. 44-3-103 Definitions

(9) “Good Cause”, for the purposes of refusing or denying a license renewal or initial license issuance, means:

- (a) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this article or any rules and regulations promulgated pursuant to this article;
- (b) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license in prior disciplinary proceedings or arose in the context of potential disciplinary proceeding;

Good cause does not include non-payment of taxes unless the authority finds that the licensee’s character, record, and reputation are unsatisfactory under C.R.S. § 44-03-307(1)(a), because the licensee is delinquent in payment of taxes and the delinquency has been filed in a court having jurisdiction or has been made a public record by some other lawful means, as required by Colorado Liquor Rules Regulation 47-310(E). C.R.S. 44-3-307(1)(a) states:

44-3-307 Persons prohibited as licensees

- (1) (a) No license provided by this article or Article 46 or 48 of this title shall be issued to or held by:
- (II) Any person who is not of good moral character;
 - (III) Any corporation, any of whose officers, directors, or stockholders holding ten percent or more of the outstanding and issued capital stock thereof are not of good moral character;
 - (V) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the respective licensing authorities;
 - (VI) Any person unless such person’s character, record, and reputation are satisfactory to the respective licensing authority.

Regulation 47-310(E) states that “when a licensing authority is required to make a determination as to the character, record and reputation of existing licensees... the authority may consider the following factors... (4) The applicant or licensee has been found to be currently delinquent in the payment of any state or local taxes, and record of such tax delinquency has been filed in a court having jurisdiction or has been made a public record by some other lawful means...”

Further, Littleton Municipal Code 3-2-2 states that “unless otherwise provided by state law, it shall be unlawful for any person within the city to manufacture, sell, or possess for sale any malt, vinous, spirituous liquors or fermented malt beverages unless licensed to do so as provide by both this chapter and applicable provisions of title 44, articles 03, 04 and 05, Colorado Revised Statutes, and said licenses required are in full force and effect and applicable fees and taxes have been paid in full.”

CONCLUSIONS AND RECOMMENDATIONS:

Staff recommends that the Authority schedule the renewal application for a public hearing at its next regularly scheduled meeting.

SUGGESTED MOTION:

I move that the renewal application for Tlapa Pizza & Pasta Corp., d/b/a Anthony's Pizza & Pasta, 2610 W. Belleview Avenue, Unit #100 be scheduled for a public hearing on August 14, 2021.

OR

I move that the renewal application for Tlapa Pizza & Pasta Corp., d/b/a Anthony's Pizza & Pasta, 2610 W. Belleview Avenue, Unit #100, be approved administratively by the chair of the Authority without the need for a public hearing thereon.