

THE CITY OF ST. LOUIS

DEPARTMENT OF PUBLIC SAFETY EXCISE COMMISSIONER'S OFFICE



FRANCIS G. SLAY
MAYOR

ROBERT W. KRAIBERG
EXCISE COMMISSIONER
ROOM 416, CITY HALL
(314) 622-4191
FAX: (314) 613-3172



CHARLES BRYSON
DIRECTOR OF PUBLIC SAFETY

CITATION NO. 003 BEFORE THE EXCISE COMMISSIONER CITY OF ST. LOUIS, MISSOURI

**CITATION TO SUSPEND, CANCEL
OR REVOKE CITY OF ST. LOUIS LIQUOR LICENSE OF:**)

**TCF, LLC
D/B/A Club Lure
1204 Washington Ave.
St. Louis, MO 63103**)

DATE: JULY 28, 2010

NOTICE OF HEARING

To: Ms. Aprille Trupiano, Managing Officer

YOU ARE HEREBY NOTIFIED that the above matter has been set for hearing at **2:00 p.m. on August 27, 2010**, in room **208 City Hall, 1200 Market St.** St. Louis, Missouri to inquire into the following charges against your license.

That you having License No. **9613193** from the City of St. Louis, issued to you by the Excise Commissioner, effective **03/26/2007** and expiring **3/25/2011** authorizing you to sell **Liquor by the Drink** did violate Title 14, particularly the Sections of Revised Code of the City of St. Louis as follows:

SECTION 14.03.020 RESPONSIBILITY OF LICENSEES.

All persons licensed under the provisions of this title are always and at all times responsible for the conduct of their licensed premises and for the conduct of their employees, servants, and agents while on their licensed premises.

SECTION 14.05.090 IMPROPER ACTS.

It shall be the duty of any person licensed under the provisions of this chapter or title and of his servants, agents and employees to prevent or immediately suppress any violent quarrel, disorder, brawl, fight or other improper or unlawful conduct of any person upon the licensed premises. In the event that a licensee, or any of his servants, agents or employees knows or should have known that an illegal or violent act has been committed or is about to be committed on or about the licensed premises, it shall be a violation for them not to

immediately report the same to the police department, state liquor control department and the Excise Commissioner. It shall also be a violation for a licensee, his agents, servants or employees not to cooperate with law enforcement authorities and agents of the State Division of Liquor Control and of the excise division during the course of any investigation into such occurrence.

SECTION 14.01.120 DISORDERLY PLACE.

The term "disorderly place" shall include, but not be limited to, any licensed premises which are found by the Commissioner to be open to and frequented by persons who so conduct themselves there as to violate the law, create disturbances, fight or otherwise disturb the general peace or the peace of individuals.

SECTION 14.08.040 LICENSE DETRIMENTAL TO NEIGHBORHOOD -- FACTORS TO BE CONSIDERED BY EXCISE COMMISSIONER IN MAKING DETERMINATION.

A. In determining whether issuance, renewal or continuation of a retail liquor license would be detrimental to the neighborhood in which the licensed premises is or would be located the Excise Commissioner shall consider the following factors, giving such weight thereto as he deems appropriate:

1. With regard to applications for issuance of a license and protests against such applications, the character of the neighborhood in which the premises proposed to be licensed are located, with particular consideration being given to the proximity of the proposed licensed premises to parks, churches, schools, playgrounds, residences and hospitals and to other premises licensed pursuant to this chapter or title, and with regard to renewal applications and protests against the renewal or continuation of a license, any changes in the character of the neighborhood since the issuance of the license;
2. Loitering in the immediate vicinity of the licensed premises by persons frequenting the licensed premises;
3. Littering committed by persons frequenting the licensed premises or by the licensee, his agents, servants or employees;
4. Drinking in public by persons frequenting the licensed premises;
5. Lewd and indecent conduct, including but not limited to public urination, exhibited by persons frequenting the licensed premises or by the licensee, his employees, servants or agents, whether such behavior occurs on the licensed premises or in the immediate vicinity thereof;
6. Violation by the licensee, his employees, agents or servants of any state or federal statute or municipal ordinance regulating or relating to sale of intoxicating liquor or nonintoxicating beer;
7. Commission of crimes upon or in the immediate vicinity of a licensed premises by persons frequenting the licensed premises or by the licensee, his employees, servants or agents;

8. Sale, use or possession of illegal drugs upon or in the immediate vicinity of the licensed premises by persons frequenting the licensed premises or by the licensee, his employees, servants or agents;

9. Harassing or intimidating behavior exhibited by persons frequenting or congregating about the licensed premises toward persons living in the neighborhood in which the licensed premises are located or toward persons passing by the licensed premises;

10. Noise associated with operation of the licensed premises or caused by persons frequenting the licensed premises;

11. With regard to applications for issuance of a license and protests against such applications, existing street and sidewalk congestion in the immediate vicinity of the licensed premises, and with regard to renewal applications and protests against renewal or continuation of a license, the street and sidewalk congestion associated with operation of the licensed premises;

12. The existence of proper lighting and appropriate parking facilities, or the lack thereof;

13. Other factors which, due to the character of the neighborhood or of the licensed premises or proposed licensed premises, would be relevant to the determination of whether issuance, renewal, or continuation of a license would be detrimental to the neighborhood in which the licensed premises is or would be located.

B. The Excise Commissioner may find that issuance, renewal or continuation of a license would be detrimental to the neighborhood in which a licensed premises is or would be located without finding that such detriment is or would be due to the fault or negligence, or is or would be the responsibility, of the licensee or applicant. For purposes of this section a person shall be considered to frequent a licensed premises if he patronizes the licensed premises or if he loiters about in the immediate vicinity of the licensed premises but would not do so except for the existence of the licensed premises.

14.06.205 MANAGING OFFICERS, WHEN, QUALIFICATIONS – LIMITATIONS ON MANAGEMENT AGREEMENTS.

A. All corporations, clubs and partnerships shall be required to name a managing officer at the time an application for a retail license is made. Any corporation, club or partnership to which a retail license had been issued prior to the effective date of this ordinance, and which had not previously named a managing officer, shall provide the Excise Commissioner with the name of the managing officer upon making application for renewal of its license.

B. Any individual licensee who does not intend to supervise the day-to-day operation of his liquor-licensed premises shall also be required to name a managing officer at the time application for a retail license is made. Further, any individual licensee, to whom a license was issued prior to the effective date of this ordinance, and who does not oversee the day-to-day operation of his liquor licensed premises, shall provide the Excise Commissioner with the name of the managing officer upon making application for renewal of his license.

C. When a licensee is required to provide the Excise Commissioner with the name of a managing officer, the licensee must name as managing officer the person with day-to-day charge of the operation of the liquor-licensed premises. No person shall qualify to act as a managing officer of a licensee unless said person would be qualified for a license pursuant to the provisions of Section 14.06.110.

D. A licensee may enter into an agreement with another person to manage the licensee's premises, subject to the following restrictions:

1. If the person who will be managing the licensed premises is a natural person he must meet all of the qualifications, set forth in Section 14.06.110, which a natural person must meet to be qualified for a license; if the person who will be managing the licensed premises is a corporation or partnership, said person must meet all of the qualifications which a corporation or partnership must meet to be qualified for a license; and

2. No money, or other thing of value, may be paid or transferred to the licensee by the person who is to manage the licensee's premises, or any other person, as inducement, consideration or compensation for the licensee's entering into the management agreement;

3. The person who is to manage the licensed premises may not receive, as compensation, bonus or gift, more than 25% of the gross profits of the licensed premises. Nothing herein shall prevent payment of a salary to the person who is to manage the licensed premises.

4. Where the person who is to manage the licensed premises is a corporation or partnership, an employee, director or partner of such corporation or partnership, who will have actual charge of the day-to-day operations of the licensed premises, must be named as managing officer pursuant to the provisions of this section.

5. All management agreements must be in writing and a copy thereof must be provided to the Excise Commissioner at least one week prior to the effective date thereof.

E. Any person who enters into a management agreement which does not comply with all of the conditions set forth in subsection D of this section, shall be guilty of an ordinance violation.

14.06.210 EMPLOYEES -- QUALIFICATIONS.

A. No person licensed under the provisions of this chapter or title may employ any person: (1) whose license issued under the provisions of this chapter or title, or their predecessors, has been revoked during the preceding two years; (2) who was a managing officer, corporate officer or corporate stockholder holding more than 5% of stock of a corporation whose license issued under the provisions of this chapter or title, or their predecessors, has been revoked during the preceding two years; (3) who has been convicted since the ratification of the Twenty-First Amendment to the Constitution of the United States of violating the provisions of any state or federal statute governing, regulating, or otherwise applicable to the manufacturer or sale of intoxicating liquor or nonintoxicating beer; or (4) has been convicted of violating the provisions of any state or federal statute relating to

prostitution, contribution to the delinquency of a minor, or sexual offenses involving persons other than consenting adults; or (5) has been convicted of any state or federal statute making it a felony to use, possess or sell a controlled substance. The Board of Aldermen specifically finds that crimes of the nature enumerated in subsection (A)(4) of this section make a person unfit and incompetent to work on or about a licensed premises.

B. A person who has been convicted of a felony unrelated to the manufacture or sale of intoxicating liquor or nonintoxicating beer, and who is not otherwise disqualified by operation of the provisions of subsection A of this section, shall nevertheless be presumed to be disqualified from working on a licensed premises in a capacity related to sale or handling of alcoholic beverages. However, such person or his employer may request a hearing before the Excise Commissioner on such issue. If, after a hearing, the Excise Commissioner determines that as a result of the crime for which said person was convicted, and the factual basis underlying such conviction, he is not unfit or incompetent to work in a capacity related to sale or handling of alcoholic beverages, he shall then allow such person to be employed in such capacity. Where such person is found to be unfit or incompetent, he shall be disqualified from working in such capacity.

14.06.230 PERSONS FUNCTIONING AS EMPLOYEES.

No person licensed under the provisions of this chapter or title shall allow or suffer or permit any person to perform any act commonly performed by an employee when the person would not be permitted to perform the act as an employee under the provisions of this chapter or title.

14.06.240 LICENSEES TO NOTIFY EXCISE COMMISSIONER OF EMPLOYEES.

All persons to whom a drink, C.O.L. or package license has been issued under the provisions of this chapter or title shall notify the Excise Commissioner in writing of all employees who handle or sell, or assist in the handling or sale of intoxicating liquor or nonintoxicating beer in any manner, or function in an administrative, managerial or supervisory capacity with respect to employees who do handle or sell intoxicating liquor or nonintoxicating beer. The notice shall be in writing and must be delivered in person to the Excise Commissioner's office or deposited in the United States mail on or before the fifth day of the month following the date on which the persons first became employees. Provided, that there shall be no penalty imposed on a licensee for employing an ineligible employee if the licensee: (1) was unaware that such employee was ineligible for employment under the provisions of this chapter and title, (2) has timely notified the Excise Commissioner of his employment of said employee as provided herein, and (3) within fourteen (14) days of being notified by the Excise Commissioner that such employee is ineligible removes the employee from the position for which he is ineligible by either dismissing or transferring him.

CHARGE: On or about June 11, 2010, law enforcement observed patrons leaving from your licensed premises gather in the southbound lanes of N. Tucker and begin to fight. Several fights also broke out in a parking lot in the immediate vicinity of your licensed premises, at which time one of the combatants fired several shots from an assault rifle at

law enforcement, in violation of Chs. 14.01.120, 14.03.020 and 14.05.090

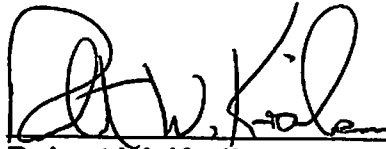
CHARGE: On or about February 19, 2010, law enforcement observed patrons leaving from your licensed premises and begin to fight in the immediate vicinity of your licensed premises, whereby one of the victims was struck with a baseball bat, in violation of Chs. 14.01.120, 14.03.020 and 14.05.090.

CHARGE: On or about November 5, 2009, law enforcement responded to reports of multiple gun shots fired in the immediate vicinity of your licensed premises, in violation of Chs. 14.01.120, 14.03.020 and 14.05.090.

CHARGE: There are persons unqualified under Ch. 14.06.210 functioning as employees and/or managing officers which were not disclosed to the Excise Commissioner, in violation of Chs. 14.06.205, 14.06.230 and 14.06.240.

CHARGE: There have been resident complaints of: 1) loitering in the immediate vicinity of the licensed premises by persons frequenting the licensed premises; 2) littering committed by persons frequenting the licensed premises or by the licensee, his agents, servants or employees; 3) drinking in public by persons frequenting the licensed premises; 4) lewd and indecent conduct, including but not limited to public urination, exhibited by persons frequenting the licensed premises or by the licensee; 5) commission of crimes upon or in the immediate vicinity of a licensed premises by persons frequenting the licensed premises or by the licensee, his employees, servants or agents; 6) sale, use or possession of illegal drugs upon or in the immediate vicinity of the licensed premises by persons frequenting the licensed premises or by the licensee, his employees, servants or agents; 7) harassing or intimidating behavior exhibited by persons frequenting or congregating about the licensed premises toward persons living in the neighborhood in which the licensed premises are located or toward persons passing by the licensed premises; and 8) noise associated with operation of the licensed premises or caused by persons frequenting the licensed premises, in violation of Chs. 14.01.120, 14.03.020 and 14.05.090.

YOU ARE HEREBY DIRECTED TO BE PRESENT AT SAID HEARING AND SHOW CAUSE WHY SAID LICENSE SHOULD NOT BE SUSPENDED, CANCELED OR REVOKED.


Robert W. Kraiberg
Excise Commissioner

Date served: _____

Received by: _____

Time: _____

Delivered by: _____