

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: Dec 12, 2011
Item No.: 12.d

Department Approval



City Manager Approval



Item Description: **2012 LIQUOR LICENSE—COURTYARD BY MARRIOTT AND SMASH BURGER RESTAURANT**

1
2 **Background**

3 *Courtyard by Marriott*: on Tuesday, September 27, 2011, the Courtyard by Marriott failed a police liquor
4 compliance check by serving alcohol to a minor. The Courtyard by Marriott employee who served this minor was
5 issued an administrative citation for the violation. When requested, Courtyard by Marriott provided alcohol server
6 training records which indicated the violating employee (as well as other employees) had not received city code
7 mandated yearly alcohol serving training since 2006.

8
9 *Smash Burger Restaurant*: on Tuesday, September 13, 2011, Smash Burger Restaurant failed a police liquor
10 compliance check by serving alcohol to a minor. The Smash Burger Restaurant employee who served this minor was
11 issued an administrative citation for the violation. When requested, Smash Burger Restaurant provided alcohol
12 server training records which indicated the violating employee had not received alcohol server training that met city
13 standards.

14
15
16 **Compliance Failure**

17 *Courtyard by Marriott*: on Monday, November 14, 2011, Roseville City Council agreed with staff's presumptive
18 penalty of a \$2000 fine and a five day suspension. Courtyard by Marriott's liquor license suspension and fine
19 penalty were enhanced because of a same/similar alcohol violation on June 24, 2010. Chief Mathwig suspended
20 Courtyard by Marriott's liquor license on November 29, 30 and December 1, 2, 3, 2011. According to the Courtyard
21 by Marriott's General Manager, the \$2000 fine payment has been mailed to the City. Post violation, Courtyard by
22 Marriott has provided the police department with documentation showing all eight of their alcohol server employees
23 have received TIPS training certificates for review.

24
25 *Smash Burger Restaurant*: on Monday, November 14, 2011, Roseville City Council agreed with staff's
26 presumptive penalty of a \$1000 fine and a one day suspension. Chief Mathwig suspended Smash Burger
27 Restaurant's liquor license on Saturday, December 3, 2011. The City invoiced Smash Burger Restaurant for the
28 \$1000 alcohol violation fine. Post violation, Smash Burger Restaurant has provided the police department with
29 documentation showing their five alcohol server employees have received alcohol server training meeting City
30 training standards.

31
32 **Staff Recommendation**

33 Staff would support any decision the Roseville City Council makes regarding liquor license renewal or non-renewal
34 for Courtyard by Marriott and Smash Burger Restaurant.

36

37

Council Action Requested

38

Not applicable.

39

Prepared by: Lt. Lorne Rosand

Attachments:

A: Letter from Atty Mark Gaughan

B: Courtyard by Marriott and Smash Burger summary memo

C: Documentation from Courtyard by Marriott regarding training

D: Documentation from Smash Burger regarding training

40

Attachment A

E RICKSON,
B ELL,
B ECKMAN &
Q UINN, P.A.

1700 West Highway 36
Suite 110
Roseville, MN 55113
(651) 223-4999
(651) 223-4987 Fax
www.ebbqlaw.com

James C. Erickson, Sr.
Caroline Bell Beckman
Charles R. Bartholdi
Kari L. Quinn
Mark F. Gaughan
James C. Erickson, Jr.

Robert C. Bell - *of counsel*

December 7, 2011

Via Electronic Mail Only

Mr. William J. Malinen
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

RE: City of Roseville Re: Liquor Ordinance; Non-Renewal
Our File No.: 1011-00176

Dear Mr. Malinen:

At the December 5, 2011, council meeting, Councilmember Pust requested that this office review Minnesota Statutes and the City Code regarding the effect of a liquor license non-renewal on the (former) licensee's ability to simply apply for a new liquor license.

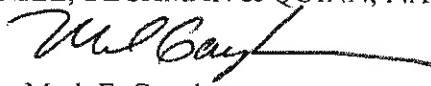
As we suspected at the council meeting, there is nothing in statute or code that precludes a former licensee from simply applying for a new liquor license following non-renewal. However, the City not obligated to approve the application. Section 302.07.A of the City Code declares that the Council is entitled to use its discretion in granting or denying any such application, while Minnesota Statutes section 340A.412, subd. 2, declares that the Council may deny a liquor license application if the application investigation shows, "to the satisfaction of the governing body, that issuance...would not be in the public interest."

Councilmember Pust also asked if the City can amend the code to include a waiting period before a former licensee can apply for a new liquor license following non-renewal. Under state statute, a non-renewal does not trigger a waiting period prior to application for a new liquor license. State law does permit the City to impose greater restrictions on its liquor regulations than found in state statute. Therefore, I do believe that the City could enact a waiting period for an application for a new liquor license following non-renewal. Doing so, of course, will erase the Council's discretion and flexibility in making such decisions under the above-cited provisions of state statute and city code.

Please include this letter with the meeting packet for the December 12, 2011, Council meeting.

Very truly yours,

ERICKSON, BELL, BECKMAN & QUINN, P.A.



Mark F. Gaughan

MFG/kmw

Memorandum 2011-6

To: Chief Rick Mathwig
From: Lt. Lorne Rosand
Subject: 2012 Liquor License Renewal
Date: Tuesday, December 6, 2011

Roseville Police Department Liquor Compliance Checks – Round 2 / September 2011

Courtyard by Marriott Summary:

On Tuesday, September 27, 2011, the Courtyard by Marriott failed a police liquor compliance check by serving alcohol to a minor. The Courtyard employee who served this minor was issued an administrative citation for the violation.

When requested, Courtyard provided alcohol server training records which indicated the violating employee (as well as other employees) hadn't received city code mandated yearly alcohol serving training since 2006.

On Monday, November 14, 2011, Roseville City Council agreed with Staff's presumptive penalty of a \$2000 fine and a 5-day suspension. Courtyard's liquor license suspension and fine penalty were enhanced because of a same/similar alcohol violation on June 24, 2010.

Chief Mathwig suspended Courtyard's liquor license on November 29, 30, December 1, 2 and 3. According to the Courtyard General Manager Alan Harris, the \$2000 fine payment has been mailed to the city's finance department.

Post violation, Courtyard by Marriott has provided the Roseville Police Department with documentation showing all eight of their alcohol server employees have received TIPS training in November 2011. I have attached copies of all TIPS training certificates for review.

Smash Burger Restaurant Summary:

On Tuesday, September 13, 2011, Smash Burger Restaurant failed a police liquor compliance check by serving alcohol to a minor. The Smash Burger employee who served this minor was issued an administrative citation for the violation.

When requested, Smash Burger provided alcohol server training records which indicated the violating employee hadn't received alcohol server training meeting city standards.

On Monday, November 14, 2011, Roseville City Council agreed with Staff's presumptive penalty of a \$1000 fine and a 1-day suspension.

Chief Mathwig suspended Smash Burger's liquor license on Saturday, December 3rd.

The Roseville Finance Department recently invoiced Smash Burger for the \$1000 alcohol violation fine.

Post violation, Smash Burger has provided the Roseville Police Department with documentation showing their five alcohol server employees have received alcohol server training in November 2011 meeting training standards.

Roseville City Code 302.15 Presumptive Penalties:

ON SALE & 3.2 - Type of Violation	1st Violation	2nd Violation	3rd Violation	4th Violation
Sale of alcoholic beverage to a person under the age of 21	\$1,000 and 1 day suspension	\$2,000 and 5 day suspension	\$2,000 and 15 day suspension	Revocation
Sale of alcoholic beverage to an obviously intoxicated person	\$1,000 and 1 day suspension	\$2,000 and 5 day suspension	\$2,000 and 15 day suspension	Revocation
Failure of an on-sale licensee to take reasonable steps to prevent a person from leaving the premises with an alcoholic beverage (on-sale allowing off-sale)	\$1,000 and 1 day suspension	\$2,000 and 5 day suspension	\$2,000 and 15 day suspension	Revocation
Refusal to allow City inspectors or police admission to premises	\$1,000 and 7 day suspension	\$2,000 and 14 day suspension	Revocation	N/A
After hours sale, possession by a patron or consumption of alcoholic beverages	\$1,000 and 7 day suspension	\$2,000 and 14 day suspension	Revocation	N/A
Illegal gambling on premises	\$1,000 and 7 day suspension	\$2,000 and 14 day suspension	Revocation	N/A
Sale of alcoholic beverages while license is under suspension	60 day suspension	Revocation	N/A	N/A
Sale of intoxicating liquor with only 3.2 percent malt liquor license	Revocation	N/A	N/A	N/A
Commission of a felony related to licensed activity	Revocation	N/A	N/A	N/A

Attachment C

Certificate of Completion



eTIPS On Premise 2.0 SSN: XXX-XX-XXXX
 Issued: 11/26/2011 Expires: 11/26/2014
 ID#: 3126268 D.O.B.: XX/XX/XXXX

Christie L. Gambino
 Courtyard-Minneapolis St Paul/Roseville
 2905 Centre Pointe Dr
 Roseville, MN 55113-1105

For service visit us online at www.gettips.com



eTIPS On Premise 2.0 SSN: XXX-XX-XXXX
 Issued: 11/28/2011 Expires: 11/28/2014
 ID#: 3127354 D.O.B.: XX/XX/XXXX

Mary E Larson
 Courtyard-Minneapolis St Paul/Roseville
 2905 Centre Pointe Dr
 Roseville, MN 55113-1105

For service visit us online at www.gettips.com



eTIPS On Premise 2.0 SSN: XXX-XX-XXXX
 Issued: 11/23/2011 Expires: 11/23/2014
 ID#: 3126110 D.O.B.: XX/XX/XXXX

Patricia Ann Gutz
 Courtyard-Minneapolis St Paul/Roseville
 2905 Centre Pointe Dr
 Roseville, MN 55113-1105

For service visit us online at www.gettips.com



On Premise SSN: XXX-XX-XXXX
 Issued: 2/12/2010 Expires: 1/30/2013
 ID#: 2724577 D.O.B.: XX/XX/XXXX

JOHN SCHWARTZBAUER
 2285 University Ave W
 Saint Paul, MN 55114-1635

For service visit us online at www.gettips.com
 Megan Tetz, 48077



eTIPS On Premise 2.0 SSN: XXX-XX-XXXX
 Issued: 11/23/2011 Expires: 11/23/2014
 ID#: 3125823 D.O.B.: XX/XX/XXXX

Alan L. Harris
 Courtyard-Minneapolis St Paul/Roseville
 2905 Centre Pointe Dr
 Roseville, MN 55113-1105

For service visit us online at www.gettips.com

This Certificate of Completion of
 eTIPS On Premise 2.0
 For coursework completed on December 2, 2011
 provided by Health Communications, Inc.
 is hereby granted to:

Paige Hawkins

Certification to be sent to:

Courtyard-Minneapolis St Paul/Roseville
 2905 Centre Pointe Dr
 Roseville MN, 55113-1105 USA



Certificate of Completion

This Certificate of Completion of
 eTIPS On Premise 2.0
 For coursework completed on December 2, 2011
 provided by Health Communications, Inc.
 is hereby granted to:

Billy Hanson

Certification to be sent to:

Courtyard-Minneapolis St Paul/Roseville
 2905 Centre Pointe Dr
 Roseville MN, 55113-1105 USA

Certificate of Completion

This Certificate of Completion of
 eTIPS On Premise 2.0
 For coursework completed on December 2, 2011
 provided by Health Communications, Inc.
 is hereby granted to:

Ashley Anderson

Certification to be sent to:

Courtyard-Minneapolis St Paul/Roseville
 2905 Centre Pointe Dr
 Roseville MN, 55113-1105 USA



RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Smashburger - Roseville MN 1030
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

Michele Wozniak
Signature

11-11-11
Date

Michele Wozniak
Printed name

6-14-09
Date of Hire

Michele Wozniak
Manager's Signature

11-11-11
Date of Training

Michele Wozniak
Manager's Printed Name



ID NO. 2158450

CARD NO. 7943833

ServSafe Alcohol[®] ADVANCED CERTIFICATE

MICHELE WOZNIAK

Card expires three years from the date of the examination. Local laws apply.

DATE OF EXAMINATION

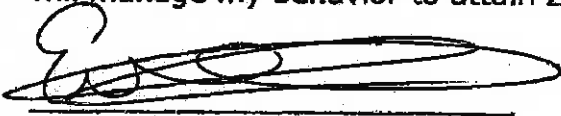
6/1/2011



RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Smash burger - Roseville, MN #8030
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.



Signature

11/12/11
Date

Erin Goodstein

Printed name

Date of Hire



Manager's Signature

11-12-11
Date of Training

Michele Wozniak

Manager's Printed Name

Alcohol Safety Final Exam

Team Member Name: Eric Goelster Date: 11/1/11 Score: 2/20

18/20

1. True or False You can be held criminally liable for serving alcohol to a minor, serving an intoxicated guest or allowing the sale of drugs on the premises.
2. Which behavior is a sign that a guest is experiencing relaxed inhibitions?
 - a. Drinking fast
 - b. Slurring words
 - c. Can't make eye contact
 - d. Becoming increasingly loud and obnoxious
3. If a guest is intoxicated when arriving at the establishment, you should:
 - a. Refuse entry to the establishment and contact your manager immediately
 - b. Take their car keys away
 - c. Physically remove the guest from the building
4. State or municipal liquor authorities can issue citations to a business for:
 - a. Not serving water with alcoholic drinks
 - b. Serving a pregnant woman
 - c. Serving alcohol to a minor
 - d. Fighting in the establishment
5. Which situation best describes dram shop liability?
 - a. A manager is fined for allowing the sale of drugs on the premises.
 - b. A server is fined by the liquor authority for serving alcohol to a minor
 - c. A bartender is given jail time for serving a guest who appeared intoxicated.
 - d. A person sues the bartender who served the intoxicated guest who injured him.
6. Which is a possible consequence for violating the liquor code?
 - a. Jail time
 - b. Probation
 - c. Misdemeanor
 - d. Liquor-license suspension

7. The liver can break down alcohol at the rate of _____ drink(s) per hour.
- a. 1
 - b. 2
 - c. 3
 - d. 4
8. A guest has consumed three 12 ounce beers in an hour. How many drinks have built up in the guest's bloodstream?
- a. 0
 - b. 1
 - c. 2
 - d. 3.
9. Which can be counted as one drink?
- a. 32 oz beer
 - b. 1 ounce of 100 proof liquor
 - c. 3 ounces of 50 proof liquor
 - d. 6 oz. glass of wine
10. A vodka on the rocks containing 3 oz. of 80 proof vodka should be counted as _____ drink(s).
- a. 1
 - b. 2
 - c. 3
 - d. 4
11. What is the best type of food to help prevent intoxication?
- a. Sugar
 - b. Carbohydrates
 - c. Salty food
 - d. Fried proteins
12. Which is a criminal violation related to the sale and service of alcohol?
- a. Issue liquor license
 - b. Initiate law suits against drunk drivers
 - c. Issue citations to minors for presenting fake IDs
 - d. Initiate criminal charges against establishments who serve minors

13. Most states use a _____ format to identify that an ID belongs to a minor.

- a. Horizontal
- b. Vertical
- c. Reversed

14. What can you do to verify that an ID belongs to a guest?

Compare certain features of the face, the physical features typed on ID to guest

15. True or False When handling a fight, you should call the police as soon as your safety or the safety of guests is at risk.

16. If an intoxicated guest insists on leaving, you should:

- a. Warn them that you will call police
- b. Physically restrain them
- c. Have their car removed from the parking lot

17. True or False Overserving a guest who came with a designated driver is illegal.

18. What is an acceptable form of ID to verify a guest's age?

- a. School ID
- b. Birth Certificate
- c. Voter registration card
- d. Passport

19. Which action can help prevent a guest from becoming intoxicated?

- a. Serving one drink at a time
- b. Offering water with the drink
- c. Serving food with the drink
- d. Counting drinks
- e. All of the above

20. Most of the alcohol a person drinks is absorbed into the bloodstream from the:

- a. Heart
- b. Mouth
- c. Small intestine
- d. Liver



smash. sizzle. savor.

EMPLOYEE ACKNOWLEDGMENTS

I have read and received a copy of my company's policy on harassment. I also understand that:

1. I have the right to work in an environment free from Harassment or discrimination.
2. I have the responsibility not to engage in behaviors that constitute harassment or discrimination
3. If I feel I am being harassed, I have the responsibility to communicate this directly to the appropriate management.

Signed: 

Date: 10/9/2011

Print Name: Erin Goodstein

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Smashburger Roseville Md

Establishment & Address

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Jordan Isaacs

Signature

11/11/11

Date

Jordan Isaacs

Printed name

Date of Hire

Michele Worniak

Manager's Signature

11/11/11

Date of Training

Michele Worniak

Manager's Printed Name

Alcohol Safety Final Exam

Team Member Name: Jordan Isaacson Date: 11/6 Score: 18/20

1. True or False You can be held criminally liable for serving alcohol to a minor, serving an intoxicated guest or allowing the sale of drugs on the premises.

2. Which behavior is a sign that a guest is experiencing relaxed inhibitions?
 - a. Drinking fast
 - b. Slurring words
 - c. Can't make eye contact
 - d. Becoming increasingly loud and obnoxious

3. If a guest is intoxicated when arriving at the establishment, you should:
 - a. Refuse entry to the establishment and contact your manager immediately
 - b. Take their car keys away
 - c. Physically remove the guest from the building

4. State or municipal liquor authorities can issue citations to a business for:
 - a. Not serving water with alcoholic drinks
 - b. Serving a pregnant woman
 - c. Serving alcohol to a minor
 - d. Fighting in the establishment

5. Which situation best describes dram shop liability?
 - a. A manager is fined for allowing the sale of drugs on the premises.
 - b. A server is fined by the liquor authority for serving alcohol to a minor
 - c. A bartender is given jail time for serving a guest who appeared intoxicated.
 - d. A person sues the bartender who served the intoxicated guest who injured him.

6. Which is a possible consequence for violating the liquor code?
 - a. Jail time
 - b. Probation
 - c. Misdemeanor
 - d. Liquor-license suspension

7. The liver can break down alcohol at the rate of _____ drink(s) per hour.

- a. 1
- b. 2
- c. 3
- d. 4

8. A guest has consumed three 12 ounce beers in an hour. How many drinks have built up in the guest's bloodstream?

- a. 0
- b. 1
- c. 2
- d. 3

9. Which can be counted as one drink?

- a. 32 oz beer
- b. 1 ounce of 100 proof liquor
- c. 3 ounces of 50 proof liquor
- d. 6 oz. glass of wine

10. A vodka on the rocks containing 3 oz. of 80 proof vodka should be counted as _____ drink(s).

- a. 1
- b. 2
- c. 3
- d. 4

11. What is the best type of food to help prevent intoxication?

- a. Sugar
- b. Carbohydrates
- c. Salty food
- d. Fried proteins

12. Which is a criminal violation related to the sale and service of alcohol?

- a. Issue liquor license
- b. Initiate law suits against drunk drivers
- c. Issue citations to minors for presenting fake IDs
- d. Initiate criminal charges against establishments who serve minors

13. Most states use a _____ format to identify that an ID belongs to a minor.

- a. Horizontal
- b. Vertical
- c. Reversed

14. What can you do to verify that an ID belongs to a guest?

Compare physical characteristics

15. True or False When handling a fight, you should call the police as soon as your safety or the safety of guests is at risk.

16. If an intoxicated guest insists on leaving, you should:

- a. Warn them that you will call police
- b. Physically restrain them
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17. True or False Overserving a guest who came with a designated driver is illegal.

18. What is an acceptable form of ID to verify a guest's age?

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RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Smash Burger - Roseville MN
Establishment & Address

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Kara Hartman
Signature

11/12/11
Date

Kara Hartman
Printed name

Date of Hire

Michele Wozniak
Manager's Signature

11-12-11
Date of Training

Michele Wozniak Michele Wozniak
Manager's Printed Name

Alcohol Safety Final Exam

Team Member Name: Nara Date: 11/11/11 Score: 18/20

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13. Most states use a _____ format to identify that an ID belongs to a minor.

- a. Horizontal
- b. Vertical
- c. Reversed

14. What can you do to verify that an ID belongs to a guest?

Compare the guest to the Photo ID
Compare the guest to the Physical Characteristics listed on the ID

15. True or False When handling a fight, you should call the police as soon as your safety or the safety of guests is at risk.

16. If an intoxicated guest insists on leaving, you should:

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- a. Heart
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- d. Liver

RESPONSIBLE MANAGER/SERVER TRAINING CERTIFICATION

Smash burger, Roseville MN
Establishment & Address

I acknowledge that I have been taught and understand the attached training material on responsible alcohol beverage serving and I have been given the opportunity to ask questions about any portion I do not understand. I have been given a copy of the training material to keep and review. I acknowledge, as a condition of employment, that I am responsible for compliance with the attached training material and I will manage my behavior to attain zero errors in performance.

[Signature]
Signature

11-13-11
Date

Alexandra Kraemer
Printed name

2/11
Date of Hire

Michelle Wozniak
Manager's Signature

11-13-11
Date of Training

Michelle Wozniak
Manager's Printed Name