



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 5

Title:

Discussion regarding Citation and Hearing Notice for Tap House Grill

Presenter:

Christopher Minick, Director of Finance

Meeting: Liquor Control Commission

Date: December 16, 2019

Proposed Cost: \$

Budgeted Amount: \$

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

The City Council has initiated a tax of 3% of the sales price on all alcoholic beverages and package goods sold in the City of St. Charles. The establishment shall collect such tax and remit it to the City on a monthly basis. Filing of the tax return and payment of the tax liability is due before the end of the month succeeding the month in which the sale occurred (ie, tax collections on January beverage sales are to be paid by close of business on February 28.)

Tap House Grill (THG) has had a repeated history of significantly late payments. Complaints of violation have been served on THG for chronic late payment of the Alcohol Tax liability. The repeated late payments result in considerable staff time and effort to collect the liabilities and the establishments are well aware of their obligations to file the returns and remit payment. Staff has had repeated communication with the entity in question to collect amounts due and reminding the establishment of their filing and payment obligations. Tap House Grill had appeared before the Liquor Commission back on February 19, 2019. They were fined \$500.00.

THG again appeared before the LCC in October (10/21/2019) related to late payment of July and August alcohol tax return payments. On November 5, 2019, Liquor Control Commissioner Rogina and Finance Director Minick met with representatives of THG to discuss the situation, and future payment expectations. Subsequent to the meeting, LCC Rogina issued an order imposing a fine and limitations on the hours of sale of alcoholic beverages at their location. The order was related to the July, 2019 and August, 2019 violations.

The Liquor Control Commissioner has the authority to impose penalties on these entities for late payments and/or failure to file from imposing fines for violations up to and including license suspension or revocation as determined after a due process hearing. Staff is requesting that the LCC begin the hearing process to determine if further penalties are warranted in this case.

The September liability for alcohol tax remittance was again paid late. Staff did not receive the remittance by the due date or by the conclusion of the grace period. Therefore, on Monday, November 11, City staff issued a "final notice" of payment for the September liability with a due date of COB on November 15 (Friday of the same week.) The City received the payment one week later on November 22, 2019. A violation notice was issued and served on November 25, 2019.

Staff will be present to make a brief presentation and answer questions.

**Attachments** *(please list):*

**Citation and Notice of Hearing  
Payment Histories**

**Recommendation/Suggested Action** *(briefly explain):*

**Discussion Regarding Citation and Hearing Notices for Tap House Grill**

## Tap House Grill

Gross Sales Year and Month	Due Date of Alcohol Tax Return	Received Payment Date of Alcohol Tax Return	Days late
2017 November	12/31/2017	01/04/2018	0 *
2017 December	1/31/2018	02/12/2018	-12
2018 January	2/28/2018	03/16/2018	-16
2018 February	3/31/2018	04/24/2018	-24
2018 March	3/31/2018	05/31/2018	-61
2018 April	5/31/2018	06/08/2018	-8
2018 May	6/30/2018	07/05/2018	0 *
2018 June	7/31/2018	08/07/2018	-7
2018 July	8/31/2018	10/02/2018	-32
2018 August	9/30/2018	10/18/2018	-18
2018 September	10/31/2018	12/14/2018	-44
2018 October	11/30/2018	01/04/2019	-35
2018 November	12/31/2018	01/04/2019	0 *
2018 December	1/31/2019	02/20/2019	-20
2019 January	2/28/2019	03/11/2019	-11
2019 February	3/31/2019	04/15/2019	-15
2019 March	4/30/2019	05/20/2019	-20
2019 April	5/31/2019	06/20/2019	-20
2019 May	6/30/2019	08/09/2019	-40
2019 June	7/31/2019	08/19/2019	-19
2019 July	8/31/2019	10/15/2019	-30
2019 August	9/30/2019	10/21/2019	-21
2019 September	10/31/2019	11/25/2019	-25
2019 October	11/30/2019	12/02/2019	0 *

Since Liquor Commission Hearing

Extended due date was August 15, 2019  
Sent email no response

\* - 5 day "Grace" period given - Not considered late

STATE OF ILLINOIS )  
 ) SS  
COUNTIES OF KANE AND DU PAGE )

**BEFORE THE LOCAL LIQUOR CONTROL COMMISSIONER OF  
THE CITY OF ST. CHARLES, ILLINOIS**

IN THE MATTER OF THE LIQUOR )  
LICENSE OF: )  
 ) Case Number 2019-LC-09  
Tap House Grill )

**NOTICE OF HEARING**

TO: Tap House Grill  
3341 W. Main Street  
St. Charles, IL 60174

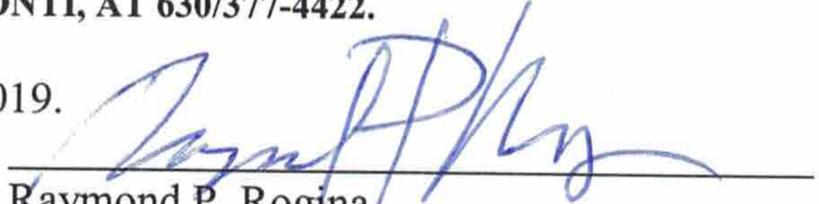
**PLEASE TAKE NOTICE THAT** on December 16, 2019 at the hour of 4:30 p.m., in the City Council Chambers at the St. Charles City Hall, 2 East Main Street, City of St. Charles, Illinois, the St. Charles Local Liquor Control Commission shall conduct a hearing pursuant to Chapter 5.08.270 of the Municipal Code of the City of St. Charles and the Liquor Control Act of 1934, 235 ILCS 5/1-1 *et seq.*

The purpose of said hearing shall be to determine whether the St. Charles Local Liquor Control Commissioner, pursuant to this authority, shall revoke or suspend the local liquor license issued to you or impose a fine upon you, or both, by reason, by reason of the Complaint of Violation filed by the Finance Director, Christopher Minick, a copy of which is attached.

**AT WHICH TIME AND PLACE YOU MAY APPEAR AND DEFEND. YOU MAY BE REPRESENTED BY AN ATTORNEY IF YOU SO CHOOSE. ATTACHED HERETO IS AN ARRAIGNMENT FORM, WHICH IS INCORPORATED HEREIN. THE ARRAIGNMENT FORM SHOULD BE COMPLETED AND FILED WITH THE CITY CLERK. IF YOU FAIL TO FILE THE ARRAIGNMENT FORM WITHIN SEVEN (7) CALENDAR DAYS PRIOR TO THE HEARING AND IF YOU FAIL TO APPEAR AT THE HEARING, YOU WILL BE FOUND GUILTY OF THE VIOLATION BY DEFAULT AND THE ST. CHARLES LOCAL LIQUOR CONTROL COMMISSIONER WILL DETERMINE THE APPROPRIATE PENALTY.**

**YOU ARE ADVISED THAT IF A HEARING IS HELD AND YOU ARE FOUND GUILTY AFTER THE HEARING, THEN, IN ACCORDANCE WITH SECTION 5.08.320(A) OF THE ST. CHARLES MUNICIPAL CODE, YOU WILL BE REQUIRED TO REIMBURSE THE CITY FOR ANY AND ALL OUT OF POCKET EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, COURT REPORTER APPEARANCE FEES AND THE COST OF HAVING POLICE OFFICERS AND WITNESSES PRESENT TO TESTIFY. ANY AND ALL QUESTIONS MUST BE DIRECTED TO THE CITY ATTORNEY, NICHOLAS S. PEPPERS, AT (847) 318-9500 OR TO THE DEPUTY CITY CLERK, TRACEY CONTI, AT 630/377-4422.**

DATED this 22 day of November, 2019.

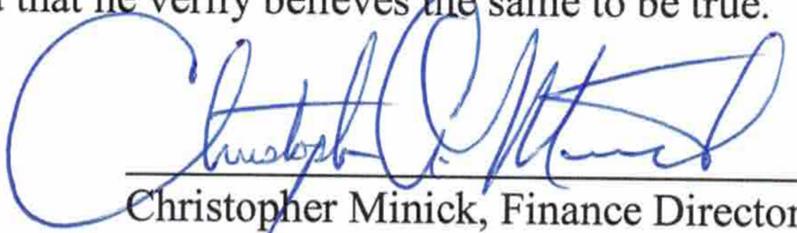
  
Raymond P. Rogina  
Local Liquor Control Commissioner  
City of St. Charles

cc: Mark Koenen, City Administrator  
Christopher Minick, Finance Director

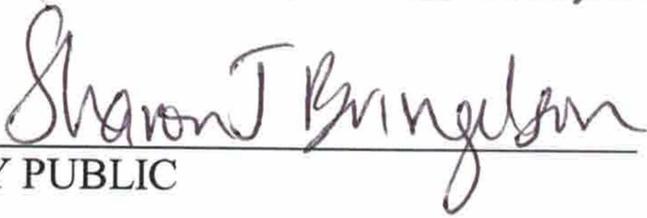
STATE OF ILLINOIS )  
 ) SS  
COUNTIES OF KANE AND DU PAGE )

**CERTIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and, as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.

  
\_\_\_\_\_  
Christopher Minick, Finance Director

SUBSCRIBED AND SWORN TO  
before me this 22 day of November, 2019.

  
\_\_\_\_\_  
NOTARY PUBLIC



STATE OF ILLINOIS )  
 ) SS  
COUNTIES OF KANE AND DU PAGE )

**BEFORE THE LOCAL LIQUOR CONTROL COMMISSIONER OF  
THE CITY OF ST. CHARLES, ILLINOIS**

IN THE MATTER OF THE LIQUOR )  
LICENSE OF: )  
 ) Case Number: 2019-LC-09  
Tap House Grill )  
3341 W. Main Street )  
St. Charles, IL 60174 )

**COMPLAINT OF VIOLATION**

**NOW COMES** the Petitioner, Christopher Minick, Finance Director of the City of St. Charles, Illinois and files this complaint before the Local Liquor Control Commission of the City of St. Charles, Illinois, and states as follows:

1. The Petitioner is the duly appointed Director of Finance of the City of St. Charles and as such is charged with the duty of enforcing the ordinances of the City of St. Charles.

2. In the month of November, 2019, the Licensee, Tap House Grill., by and through its employees, officers and/or agents, committed the following violation of the St. Charles Liquor Code:

**OFFENSE**

Failure to timely pay the City alcohol tax for the tax period ending on September, 2019.

3. At the time of the above violations, Tap House Grill was operating under a Class B liquor license issued by the City of St. Charles.

4. That the acts detailed in Section 2 of this Complaint of Violation each are prohibited and are in violation of and contrary to Section 5.08.270 (R,S) of the St. Charles Municipal Code and the Liquor Control Act of 1934 and in violation of Section 3.42.090 of the Alcohol Tax Ordinance.

5. That the Licensee, Tap House Grill, is responsible for the acts of its employees, officers and agents and is required to ensure that no violations of state law or ordinances of the City of St. Charles take place on said premises.

**WHEREFORE**, the Petitioner, Christopher Minick, Finance Director requests pursuant to Section 5.08.320 of the St. Charles Municipal Code that the Local Liquor Control Commission hold a hearing on this matter and take such action against Tap House Grill as the Commissioner shall deem appropriate under the circumstances.



Christopher Minick  
Finance Director  
City of St. Charles, Illinois

Nicholas S. Peppers  
Attorney for the City of St. Charles  
Storino, Ramello & Durkin  
9501 West Devon Avenue  
Suite 800  
Rosemont, Illinois 60018  
(847) 318-9500



# ARRAIGNMENT FORM

I, Robert Ward, as agent for Tap House Grill, being a licensee charged with a violation of Chapter 5.08 of the Municipal Code of the City of St. Charles and the Liquor Control Act of 1934, 235 ILCS 5/1-1 *et seq.* at 3341 W. Main Street, St. Charles, Illinois 60174, do hereby enter a plea of:

Guilty, but request a hearing in mitigation in which I will be given an opportunity to present evidence in support of my position to minimize any penalty.

Guilty, I do not request a hearing.

Not Guilty. I request a hearing.

Tap House Grill

Signature:

By: [Signature]

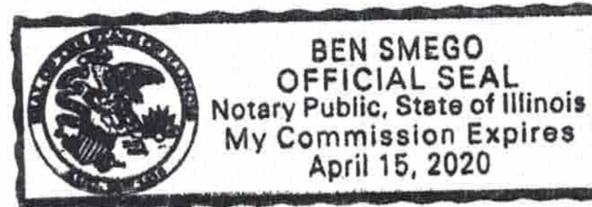
Date:

12/5/19

Subscribed and sworn to before me

This 5 day of December, 2019

[Signature]  
Notary Public



Form can be faxed to 630/377-4440  
or e-mailed to the attention of Tracey Conti  
at [tconti@stcharlesil.gov](mailto:tconti@stcharlesil.gov)  
Hard copy must follow by U.S. Mail