



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title: Discussion Regarding Tobacco Citation and Hearing Notice for ABHY, Inc. d/b/a St. Charles Shell Located at 307 W Main Street, St. Charles

Presenter: Mayor Rogina

Please check appropriate box:

<input type="checkbox"/>	Government Operations	<input type="checkbox"/>	Government Services
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input checked="" type="checkbox"/>	Liquor Control Commission (6/20/16)

Estimated Cost:		Budgeted:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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If NO, please explain how item will be funded:

Executive Summary:

This is a complaint of violations being brought before the Liquor Control Commission to determine whether the St. Charles Local Liquor Control Commission, pursuant to this authority, shall revoke or suspend the local cigarette license issued for St. Charles Shell or impose a fine upon by reason of the Complaint of Violation filed by the City of St. Charles Liquor Control Commission and the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act 720 ILCS 675/1 et seq. of an occurrence on or about May 18, 2016 .

Attachments: (please list)

Citation Notice of Hearing
Complaint of Violation

Recommendation / Suggested Action (briefly explain):

Discussion regarding Tobacco Citation and Hearing Notice for ABHY, Inc. d/b/a St. Charles Shell located at 307 W Main Street, St. Charles.

For office use only:

Agenda Item Number: 7

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 TOBACCO)
LICENSE OF:)
) Case Number 2016-LC-08
ABHY, INC., d/b/a St. Charles Shell)

CITATION AND NOTICE OF HEARING

TO: ABHY, INC., d/b/a St. Charles Shell
307 W. Main Street
St. Charles, IL 60174

PLEASE TAKE NOTICE THAT on June 20, 2016 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 5.08.320, 5.16.070 and 5.16.080 of the Municipal Code of the City of St. Charles and the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act 720 ILCS 675/1 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 cigarette license issued to you or impose a fine upon you, or both, by reason, by reason of the Complaint of Violation filed by the Chief of Police, James Keegan, 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 WITHIN THREE (3) CALENDAR DAYS PRIOR TO THE HEARING. IF YOU FAIL TO FILE THE ARRAIGNMENT FORM WITHIN THREE (3) 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 5.16.180(E) 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, JOHN McGUIRK, AT 630/513-8700 OR TO THE DEPUTY CITY CLERK, TINA NILES, AT 630/377-4422.

DATED this 24th day of May, 2016.


Raymond Rogina
Local Liquor Control Commissioner
City of St. Charles

cc: Mark Koenen, City Administrator
Chief of Police, James Keegan

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

CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath, deposes and states that he did service a copy of the Citation and Notice of Hearing upon the person to whom it is directed by leaving a copy with said individual as follows: HEENA PATEL (MGR) at ST. CHARLES SHELL
307 W. MAIN STREET, on the 24TH day of MAY, 2016.
ST. CHARLES

Heena Patel #315 CMDR

SUBSCRIBED AND SWORN TO
before me this 24 day of MAY, 2016.

France Cevallos
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)
TOBACCO LICENSE OF:)
) Case Number 2016-LC-08
ABHY, INC., d/b/a St. Charles Shell)
307 W. Main Street)
St. Charles, IL 60174)

COMPLAINT OF VIOLATION

NOW COMES the Petitioner, James Keegan, Chief of Police 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 Chief of Police of the City of St. Charles and as such is charged with the duty of enforcing the laws of the State of Illinois and the ordinances of the City of St. Charles.

2. That on or about May 18, 2016, at approximately 4:45 p.m., the Licensee, ABHY, INC., d/b/a St. Charles Shell, by and through its employees, officers and/or agents, committed the following violation of the St. Charles Liquor Code:

OFFENSE

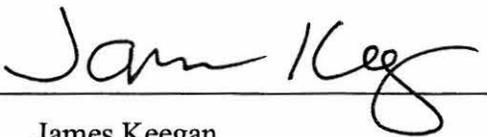
Sold tobacco to a minor in violation of Sections 5.16.070 and 5.16.100 of the St. Charles Municipal Code.

3. On or about May 18, 2016, ABHY, INC., d/b/a St. Charles Shell, was operating under a Tobacco 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 Sections 5.16.070 and 5.16.100 of the St. Charles Municipal Code and the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act.

5. That the Licensee, ABHY, INC., d/b/a St. Charles Shell, 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, James Keegan, Chief of Police requests pursuant to Section 5.08.320, 5.16.170 and 5.16.180 of the St. Charles Municipal Code that the Local Liquor Control Commission, a/k/a the tobacco Commission, hold a hearing on this matter and take such action against ABHY, INC., d/b/a St. Charles Shell, as the Commissioner shall deem appropriate under the circumstances.

A handwritten signature in black ink that reads "James Keegan". The signature is written in a cursive style and is positioned above a horizontal line.

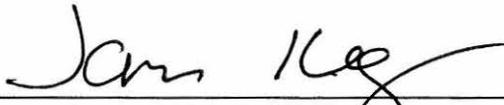
James Keegan
Chief of Police
City of St. Charles, Illinois

John M. McGuirk
Attorney for the City of St. Charles
Hoscheit, McGuirk, McCracken
& Cuscaden, P.C.
1001 East Main Street, Suite G
St. Charles, IL 60174
630/513-8700

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

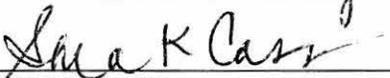
CERTIFICATION

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.



James Keegan, Chief of Police

SUBSCRIBED AND SWORN TO
before me this 27th day of May, 2016.



NOTARY PUBLIC



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.

James Keegan, Chief of Police

SUBSCRIBED AND SWORN TO
before me this ____ day of _____, 2016.

NOTARY PUBLIC

ARRAIGNMENT FORM

I, Shailesh Patel, as agent for ABHY, INC., d/b/a St. Charles Shell, being a licensee charged with a violation of Chapter 5.16 of the Municipal Code of the City of St. Charles and the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, et seq. at 307 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.

ABHY, INC., d/b/a St. Charles Shell

Signature:

By: SLM A. SLM

Date:

5/25/16

Subscribed and sworn to before me

This 25 day of May, 2016.

Rebecca Paul
Notary Public



Form can be faxed to 630/377-4440
or e-mailed to the attention of Tina Nilles
at tnilles@stcharlesil.gov
Hard copy must follow by U.S. Mail



St. Charles Police Department

CASE REPORT
211 N. Riverside Avenue
St. Charles, IL 60174

CASE# 2016-00010770

EVENT	REPORTED DATE/TIME 05/18/2016 16:52	OCCURRED INCIDENT TYPE 1715 SALE OF TOBACCO/MINORS	LOCATION NAME
	OCCURRED FROM DATE/TIME 05/18/2016 16:45	OCCURRED THRU DATE/TIME 05/18/2016 16:45	LOCATION OF OCCURRENCE 307 W MAIN ST

OFFENSES	STATUTE/DESCRIPTION	COUNTS	ATTEMPT/COMMIT
	01	5-16-060 SALES OF TOBACCO TO MINOR	1

SUBJECT	JACKET/SUBJECT TYPE Adult	NAME (LAST, FIRST, MIDDLE SUFFIX) SHAH, SUDHIR K					
	ARRESTEE	ADDRESS (STREET, CITY, STATE, ZIP) 3950 NAUTILUS HANOVER PARK, IL 60133					
	DOB 12/05/1951	AGE or AGE RANGE	SEX MALE	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE
	RACE ASIAN/PACIFIC ISLANDER	DL NUMBER/STATE	PRIMARY PHONE (630)550-9447	PHONE #2	PHONE #3		

SUBJECT	JACKET/SUBJECT TYPE Other (Officer)	NAME (LAST, FIRST, MIDDLE SUFFIX) BEAM, TIMOTHY					
	COMPLAINANT	ADDRESS (STREET, CITY, STATE, ZIP) 211 N RIVERSIDE AVE ST CHARLES, IL 60174					
	DOB	AGE or AGE RANGE	SEX MALE	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE
	RACE WHITE	DL NUMBER/STATE	PRIMARY PHONE (630)377-4435	PHONE #2	PHONE #3		

SUBJECT	JACKET/SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE SUFFIX)					
	DOB	AGE or AGE RANGE	ADDRESS (STREET, CITY, STATE, ZIP)				
	RACE	SEX	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE	
	DL NUMBER/STATE	PRIMARY PHONE	PHONE #2	PHONE #3			

REPORTING OFFICER 343 Beam	DATE 05/18/2016	REVIEWED BY Gatlin, Jerry
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St. Charles Police Department

CASE REPORT
211 N. Riverside Avenue
St. Charles, IL 60174

CASE# 2016-00010770

NARRATIVE

In summary, I conducted tobacco compliance checks for all business located on the west side of St Charles. A Civilian Special Agent (CSA) was utilized for the operation. Before starting the operation, I instructed the CSA on the proper procedures to follow. The CSA did not have any type of identification or monies on his person prior to the operation. The CSA was provided funds to use as he attempted to purchase tobacco products from the business checked for compliance. The following is a list of businesses visited during the operation and found to be compliant.

- 7/11-51 S. Randall Rd
- 7/11-1705 W. Main St
- One Stop Liquors-1401 Prairie St
- Lavita Cigar-2015 Dean St
- Liquor N Wine-2460 W. Main St
- Lundeen's Liquors West-1315 W. Main St
- Mark's Second Street Tavern-221 S. 2nd St
- Meijer-855 S. Randall Rd
- Meijer Gas-865 S. Randall Rd
- Oscos Drug-2073 Prairie St
- J&S Liquor World-331 N. 2nd St
- St Charles Mini Mart-710 S. 2nd St
- BP Gas Station-1505 Lincoln Hwy
- Tobacco Square-2075 Prairie St
- Walgreens-3351 W. Main St
- BP Gas Station-1660 W. Main St
- Clark Gas Station-1023 W. Main ST

We also conducted a compliance check at the Circle K Shell Gas Station at 307 W. Main St. I entered the business at approximately 1645 hrs and the CSA entered shortly thereafter. I witnessed as the CSA approached the front register and requested (1) pack of Marlboro Lights cigarettes. The male clerk complied with the request and sold the cigarettes to the CSA without verifying his age and/or requesting identification. The CSA exited the business and I followed him out to the parking lot where he turned over to me the cigarettes and receipt. I later photographed and destroyed the cigarettes (see attached property sheet). Also attached is a copy of the sales receipt. I returned inside and identified myself to the clerk who was later identified as Sudhir K Shah M/A 12/05/51. Shah did not dispute the fact that he did not ask the CSA his age or request identification from him. I explained to Shah that he would receive a NTA for the ordinance violation. I subsequently completed a NTA for sale of tobacco to minor and will serve Shah at work. He was given a court date/time of 060916/0900 at KBC. See arrest report for Shah.

For information, Det. Bauwens and Det. Schuessler conducted compliance checks for businesses located on the east side of St Charles. All were found to be compliant. The following is a list of businesses visited during the operation.

- 7/11-2400 E. Main St
- Delectable Vapors-504 E. Main St
- Frank's Shoe Shine-1405 N 5th Ave
- Q-Center-1405 N 5th Ave
- Lundeen's Liquors East-614 E. Main St
- Oscos Drug-652 N. Kirk Rd
- Circle K Gas Station-2500 E. Main St
- Royal Fox Country Club-4405 Royal and Accient Dr

REPORTING OFFICER

343 Beam

DATE

05/18/2016

REVIEWED BY

Gatlin, Jerry



St. Charles Police Department

CASE REPORT
211 N. Riverside Avenue
St. Charles, IL 60174

CASE# 2016-00010770

NARRATIVE (continuation)

Savway Liquors-2580 E. Main St
St Charles BP-1745 E. Main St
St Charles Country Club-1250 Country Club Rd
The House Pub-16 S Riverside Ave
Tobacco & Gifts-1556 E. Main St
Walgreens-2751 E. Main St
Walmart-150 Smith Rd

Case status cleared by adult arrest

TEB #343
JLG315

REPORTING OFFICER

343 Beam

DATE

05/18/2016

REVIEWED BY

Gatlin, Jerry



St. Charles Police Department

ARREST INFORMATION SHEET

CASE# 2016-00010770

211 N. Riverside Avenue
St. Charles, IL 60174

DETAILS	ARREST DATE/TIME	ARREST TYPE	ARRESTING OFFICER
	05/18/2016 16:45	CITED/SUMMONED	343 Beam
LOCATION OF ARREST			
307 W MAIN ST			

ARRESTEE

ARRESTEE	NAME (JACKET TYPE/LAST, FIRST, MIDDLE SUFFIX)			
	SHAH, SUDHIR K			
	DOB	AGE	ADDRESS (STREET, CITY, STATE, ZIP)	
	12/05/1951	64	3950 NAUTILUS HANOVER PARK, IL 60133	
	RACE	SEX	HEIGHT	WEIGHT
ASIAN/PACIFIC ISLANDER	MALE			
DL NUMBER/STATE	PRIMARY PHONE	PHONE #2	PHONE #3	
	(630)550-9447			

CHARGES

CHARGES	STATUTE / DESCRIPTION	COUNTS	ATTEMPT/COMMIT
	01	5-16-060 SALES OF TOBACCO TO MINOR	1

NARRATIVE

For further information, see O/I report.

JLG315

REPORTING OFFICER	DATE	REVIEWED BY	
343 Beam	05/18/2016	Gatlin, Jerry	05/20/2016 02:43