

**AGENDA
CITY OF ST. CHARLES
LIQUOR CONTROL COMMISSION MEETING**

**MONDAY, AUGUST 18, 2014
CITY COUNCIL CHAMBERS @ 4:30 PM
2 E MAIN STREET**

1. Call to Order.
2. Roll Call.
3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on July 21, 2014.
4. Continue discussion regarding Alibi Bar & Grill, Ltd. Violation Notice.
5. Continue discussion regarding The Filling Station Violation Notice.
6. Other Business.
7. Executive Session (5 ILCS 120/2 (c)(4)).
8. Adjournment.

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
MONDAY, JULY 21, 2014**

1. Opening of Meeting

The meeting was convened by Liquor Commissioner Rogina at 4:45 p.m.

2. Roll Call

Members Present: Liquor Commissioner Rogina, Robert Gehm, Ald. Payleitner, and Chuck Amenta

Absent: Ald. Lewis

Others Present: Police Chief Keegan, Deputy Chief Huffman, Mark Koenen, Atty. John McGuirk, and Tina Nilles

3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on June 16, 2014.

Chrmn. Rogina: I ask for an amendment to these minutes. In the document there is a copy of the court reporter's piece of those minutes where it is mention of Chief Lamkin and it should read Interim Chief Huffman and would like it to read as such for where it states Chief Lamkin.

Motion by Ald. Payleitner second by Mr. Amenta to reflect the minutes of the amendment to replace mention of Chief Lamkin to state Interim Chief Huffman.

Voice Vote: Ayes: unanimous, Nays: none; Absent Lewis. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

Motion by Mr. Gehm, second by Ald. Payleitner to accept and place on file minutes of the Liquor Control Commission meeting held on June 16, 2014.

Voice Vote: Ayes: unanimous, Nays: none; Absent: Lewis. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

4. Discussion regarding Alibi Bar & Grill, Ltd. Violation Notice.

Chrmn. Rogina: On or about June 6, 2014 at approximately 10:39 p.m., the Licensee Alibi Bar & Grill, Ltd. by and through its employees, officers and/or agents, committed one or more of the following offenses in or upon the licensed premises at 12 N Third Street, St. Charles, IL 60174. First offense sold alcoholic beverages outside its licensed premises and/or allowed the

consumption of alcoholic beverages purchased on its premises to be consumed outside its licensed premises. Second offense allowed a patron to exit its premises while in possession of an alcoholic beverage.

Mr. Rich Simpson, 236 E Vallett, Elmhurst, IL 60126, Rich Simpson, Jr., 4507 Washington, Downers Grove, IL 60515.

Rich Simpson, Sr.: As a property owner and business owner of the downtown St. Charles, I am concern of many issues as well. I understand that it is a privilege to have a liquor license and we go extremely out of our way to have a large amount of security, we have double guys at the doors watching everything going in and out. We found that on this alleged incident, no officer ever came in and informed us of anything, talked to us, nothing. So when I got this notice served to us we were totally shocked and had no idea of what was going on. At that time I immediately filed a FOIA to understand what was going on.

Chrmn. Rogina: If there's a conflict at all or some problem with the date, etc., I see no problem postponing this until the August meeting at which time you have had a chance to review all the documents that were filed, you have a chance to review the police report, and then have a response of guilty/not guilty at that point in time. I see this as being fair and it gives you an opportunity to respond to the charges, if that in fact, is what happens. I understand there was a discrepancy on the date but with respect to everything else, I feel confident in our City Police Department as to what was reported and will go from there. We'll give you a chance either by yourself or through your attorney to review the documents and come back here one month from now and respond at that point in time.

Rich: I've read the documents and we can proceed.

Chrmn. Rogina: Okay then I ask you the question if you plead guilty or not guilty, if we are going to proceed here now. If you plead not guilty we will go to a hearing next month. If you plead guilty than I'll give you a chance after that plea to discuss mitigation where here is what I would like to say even though I'm pleading guilty.

Rich: Okay, then let's put it onto the next month and I'll review everything.

Chrmn. Rogina: So you are taking my offer and not entering a guilty or not guilty plea. We accept that. Next month after everything has been reviewed, I would ask you to come forward, I'll read the charges again, and at that point in time you would enter a guilty or not guilty plea based upon the facts that have been presented to you.

Atty. McGuirk: We'll amend the complaint to specify the proper date and serve you with that amending complaint and be back here next month. So next month the complaint will reflect the proper date as opposed to the misnomer and you'll have to indicate at that point whether you admit to that or ask for an evidentiary hearing.

Ald. Payleitner: So when Mr. Simpson comes back, the police officer who made the charge will be here then as well?

Chrmn. Rogina: No, because if Mr. Simpson comes back and pleads guilty, we'll proceed to our normal routine and go into Executive Session and deal with that matter; or if he pleads not guilty, then we wouldn't have a hearing until September.

Ald. Payleitner: What was the discrepancy in the date?

Chrmn. Rogina: It was June 6 vs. June 1.

5. Discussion regarding The Filling Station Violation Notice.

Chrmn. Rogina: On or about July 10, 2014 at approximately 2:01 a.m., the Licensee The Filling Station by and through its employees, officers and/or agents, committed one or more of the following offenses in or upon the licensed premises at 300 W Main Street, St. Charles, IL 60174. First offense sold alcoholic beverages outside its licensed premises and/or allowed the consumption of alcoholic beverages purchased on its premises to be consumed outside its licensed premises. Second offense failed to maintain an employee or agent posted during the required hours at each entrance to the licensed premises.

Peter Milligan, 300 W Main Street, St. Charles: So let me get this straight; I can plead not Guilty or I can plead guilty and offer my mitigating circumstances now or next month?

Chrmn. Rogina: Now or you can plead not guilty and have a hearing scheduled for next month.

Peter: I did not have a chance to discuss this with the City Attorney but I'm not sure what my fine would be if I were to plead guilty?

Chrmn. Rogina: We adopted what we believe is the right approach of whether you agree or disagree, we are not into plea bargaining. I would say that we would review the number of offenses that have taken place that are of similar nature to past offenses; and it's been the practice of this particular tribunal that the penalties are increasing. So being blunt with you here, I certainly see a fine that would be equal to or greater than the last time you were fined for this offense; and I see the possibility of a suspension to your license. By suspension I don't mean closing you down but as the same nature that you may have had in previous times.

Peter: Okay pleading guilty vs. pleading innocent and being found guilty will cost me more money, but what about the assessment of the punishment. Does that go up?

Chrmn. Rogina: That would be a good guess on your part that it would go up previous from the last one.

Peter: I too also have a problem with the time. I was served last Monday, I marched down to the Police Department and filed a FOIA for the report and I hadn't gotten it. This morning I went

down and they rushed it for me and I didn't get it until three hours ago; I would like, if I could, to come back next month after I had more time to consult a lawyer and review with my employees what happened vs. what's on the report?

Chrmn. Rogina: The licensee is implying that he hasn't had sufficient time.

DC Huffman: What he is saying is accurate that he received the report three hours ago. I don't know when he filed his original request. The Police Department wouldn't object to continue it to next month.

Ald. Payleitner: Is the police report in question the one that is on-line on Friday from the public website?

DC Huffman: Yes that is the one.

Chrmn. Rogina: The Police Department is okay with doing this, so you can come back next month.

Ald. Payleitner: Would it be possible that when a request is made like that, they could say it is attached to the agenda?

DC Huffmann: When someone files for a report such as that, we have certain protocols we have to follow.

6. Recommendation of an Ordinance Amending Title 5 "Business License and Regulations," Chapter 5.08 "Alcoholic Beverages," Section 5.08.010 "Definitions" of the St. Charles Municipal City Code (Intoxication) to go before Committee and Council approval.

Deputy Chief Huffman: This is a recommendation to approve an Ordinance Amending Title 5 "Business License and Regulations," Chapter 5.08 "Alcoholic Beverages," Section 5.08.010 "Definitions" of the St. Charles Municipal City Code – specifically the definition on intoxicated. The last several months we've been meeting with liquor license holders, specifically Classes B & C, in an effort to work together to resolve some of the recurring issues we've been having in the downtown bar area. Those issues include bar fights, disturbances, urination in public, etc. Through these discussions we talked about over serving their patrons; the patrons become intoxicated to the point that they are engaging in these illegal activities. One thing that came up in the discussions we talked specifically about is our code that is currently in place referencing to serving intoxicated patrons and harboring an intoxicated person. The bar owners brought how can we hold them to that standard when there really isn't a definition of intoxicated. Through BASSET training, intoxicated is falling off of bar stools, sitting with head lowered, slurred speech. We research the BASSET training and had one of our offices go through the training and discovered the definition of intoxicated that BASSET provided is not nearly as sufficient for our purposes.

We researched with legal counsel to come up with a definition of intoxicated for our City Code and that is *“Intoxication or intoxicated means that as a result of drinking alcoholic liquor there is an impairment of a person’s mental or physical faculties so as to diminish the ability to think and act with ordinary care.”*

This definition was approved as a jury instruction by Illinois Supreme Court, in a previous case, years ago. We would like to add this definition of intoxicated to our Municipal Code to give us a tool to continue working with the bars on education and teaching to servers what exactly intoxication is by the legal definition, and then enforcement when we need it.

Chrmn. Rogina: Commends the Police Department for the work that was done on this. We should look into this to see where it emanated from, perhaps some bar, and use this Illinois Supreme Court case as a reference tool.

Ald. Payleitner: I agree using case law. The wording is there so why not use it, but also the concise nature of it – I appreciate that as well.

Chrmn. Rogina: Motion to approve the language that has been presented to us tonight to Council Committee as a first step at adopting it as part of the City ordinance.

Motion by Ald. Payleitner, second by Gehm to recommend approval of an Ordinance Amending Title 5 “Business License and Regulations,” Chapter 5.08 “Alcoholic Beverages,” Section 5.08.010 “Definitions” of the St. Charles Municipal City Code (Intoxication) to go before Committee and Council approval.

Voice Vote: Ayes: unanimous, Nays: none; Absent: Lewis. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

7. Recommendation of an Ordinance Amending Title 5 “Business License and Regulations,” Chapter 5.08 “Alcoholic Beverages,” Sections 5.08.090, 5.08.100, 5.08.110, and 5.08.130 of the St. Charles Municipal City Code (Class E-7 License) to go before Committee and Council approval.

Deputy Chief Huffman: Paul Lencione and the Police Department came before you on June 16 on the possibility of creating an E-7 liquor license. The E-7 license would be used to provide an opportunity for businesses such as the Blue Goose Market to promote the sale of products that they offer for sale within their stores. The E-7 license will allow them to have catered events in their parking lot, along with the service of beer and wine to go with the food. At your direction, staff along with legal counsel, crafted language for an E-7 license, and the E-7 license also follows all the normal regulations that are already contained within the E code. There was a question that was proposed when we initially approach you with this and the question was would minors be allowed inside the license premise? The answer to that question is that there is already language within the E-7 code that says that minors are prohibited in any license premise under an E-7 license except for permission from the liquor commissioner with advice and consent of City Council.

The E-7 is only for class A2 and A2B license holders. Again the dispensing of food must be predominant and there can be no more than four E-7 licenses that are issued to any one license holder within a fiscal year. A one day event is one license. If the event runs two days that would be two separate licenses. The application fee has to be submitted 45 days prior to the event, hours of service are restricted from 12:00 p.m. to 9:00 p.m. Monday through Sunday, and as we spoke before the Scarecrow Festival weekend prohibition on the issuance of B licensing is not contained within this ordinance. The application fee for an E-7 license is \$100 per day. In addition the E-7 license also necessitates a change to our municipal code under license fees so that it codifies the \$100 a day for the license, there is also a change in Section 5.08.130 as it relates to license hours of sale which codifies the 12:00 p.m. to 9:00 p.m. hours.

Ald. Payleitner: In reference to the minors, that would be determined per event?

Chrmn. Rogina: So procedurally whoever the owner of the property is, the licensee who is hosting the event would like to have minors present, they would make that request to the Liquor Commission and I agree, it would still go before the City Council for advice and consent for approval.

DC Huffman: That's correct. The applicant would indicate at the time they submit the application whether or not they desired minors to be present in the event in the license premise in which case it would go before a committee and then onto Council for final approval.

Chrmn. Rogina read into the record comments from Ald. Lewis in the minutes from the last Liquor Control Commission meeting. "I would like to reiterate what the Mayor said, that I too like the idea that the businesses are trying to embrace the festivals vs. complaining. Businesses saying while this is going on, what can I do to be more profitable."

Mr. Gehm: For clarity in one part we state the hours they can offer this from, but then in Section L it states "unlawful to sell between 9:01 p.m. and 11:59 p.m." Can we make those read the same for consistency?

DC Huffman: We can take a look at the code. That specific section of the code states when it's not allowed and that's consistence with the rest of that section.

Motion by Mr. Amenta, second by Mr. Gehm to approve a recommendation of an Ordinance Amending Title 5 "Business License and Regulations," Chapter 5.08 "Alcoholic Beverages," Sections 5.08.090, 5.08.100, 5.08.110, and 5.08,130 of the St. Charles Municipal City Code (Class E-7 License) to go before Committee and Council approval.

Voice Vote: Ayes: Unanimous; Nays: none; Absent Lewis. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

8. Other Business

9. Executive Session (5 ILCS 120/2 (c)(4)).

10. Adjournment

Motion to adjourn by Mr. Gehm, second Ald. Payleitner 5:15 p.m.

Voice Vote: Ayes: Unanimous; Nays: none; Absent Lewis. Chrmn. Rogina did not vote as Chairman. **Motion carried.**



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title: Discussion Regarding Citation and Notice for Alibi Bar & Grill, Ltd.

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 (8/18/14)

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

Executive Summary:

This is a complaint of violation 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 liquor license issued for Alibi Bar & Grill, Ltd. or impose a fine upon by reason of the Complaint of Violation filed by the Police Department of an occurrence on or about June 1, 2014.

Attachments: *(please list)*

Citation and Notice of Hearing
Complaint of Violation

Recommendation / Suggested Action *(briefly explain):*

Discussion regarding Citation and Notice for Alibi Bar & Grill, Ltd.

For office use only: *Agenda Item Number:* 4

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 2014-LC-07
ALIBI BAR & GRILL, LTD.)

CITATION AND NOTICE OF HEARING

TO: ALIBI BAR & GRILL, LTD.
12 N. Third Street
St. Charles, IL 60174

PLEASE TAKE NOTICE THAT on August 18, 2014 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 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. 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 IN ACCORDANCE WITH SECTION 5.08.320(A). 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 28th day of July, 2014.


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)

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

IN THE MATTER OF THE LIQUOR)
LICENSE OF:)
) Case Number 2014-LC-07
Alibi Bar & Grill, Ltd.)
12 N. Third Street)
St. Charles, IL 60174)

AMENDED 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. On or about June 1, 2014 at approximately 1:50 a.m., the Licensee, ALIBI BAR & GRILL, LTD. by and through its employees, officers and/or agents, committed one (1) or more of the following offenses in or upon the licensed premises at 12 N. Third Street, St. Charles, Illinois 60174:

FIRST OFFENSE

Sold alcoholic beverages outside its licensed premises and/or allowed the consumption of alcoholic purchased on its premises to be consumed outside its licensed premises.

SECOND OFFENSE

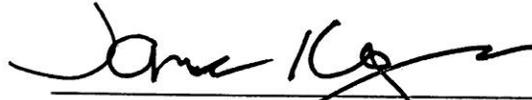
Allowed a patron to exit its premises while in possession of an alcoholic beverage.

3. On or about June 1, 2014, ALIBI BAR & GRILL, LTD. 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 5.08.260(E) of the St. Charles Municipal Code and the Liquor Control Act of 1934.

5. That the Licensee, ALIBI BAR & GRILL, LTD. 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 of the St. Charles Municipal Code that the Local Liquor Control Commission hold a hearing on this matter and take such action against ALIBI BAR & GRILL, LTD. as the Commissioner shall deem appropriate under the circumstances.



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)

CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath, deposes and state that he did service a copy of the Order of Continuance upon the person to whom it is directed by leaving a copy with said individual as follows: RICH SIMPSON at ALIBI BAR on the 29 day of July _____, 2014.

Muhamed Ghannouchi

SUBSCRIBED AND SWORN TO
Before me the 21st day of July, 2014

Sara K Cass
Notary Public



ARRAIGNMENT FORM

I, _____, as agent for ALIBI BAR & GRILL, LTD. 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 **12 N. Third 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.

ALIBI BAR & GRILL, LTD

Signature: By: _____

Date: _____

Subscribed and sworn to before me

This _____ day of July, 2014.

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**

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 July, 2014.



NOTARY PUBLIC





Case Report Summary



Print Date/Time: 07/16/2014 09:39
Login ID: krust
Case Number: 2014-00010905

ST CHARLES POLICE DEPARTMENT
ORI Number: IL0451400

Case

Case Number: 2014-00010905 Incident Type: 7325 OTHER ORDINANCE VIOLATIONS
Location: 12 N 3RD ST Occurred From: 06/01/2014 01:50
SAINT CHARLES, IL Occurred Thru: 06/01/2014 01:50
60174
Reporting Officer ID: 0104 - Runkle Disposition:
Disposition Date:
Reported Date: 06/01/2014 01:24 Sunday

Offenses

No.	Group/ORI	Crime Code	Statute	Description	Counts
1	IL0451400	7325	5-08-300	OPEN ALCOHOL IN A PUBLIC PLACE	1

Subjects

Type	No.	Name	Address	Phone	Race	Sex	DOB/Age
ARRESTEE	1	LATHROP, AMANDA K	202 N 15TH ST SAINT CHARLES, IL 60174		WHITE	FEMAL E	21
OTHER PERSON	1				WHITE	MALE	23
OTHER PERSON	2				WHITE	FEMAL E	21

Arrests

Arrest No.	Name	Address	Date/Time	Type	Age
18466 A	LATHROP, AMANDA K	12 N 3RD ST SAINT CHARLES, IL 60174	06/01/2014 01:24	ON VIEW	21

Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
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Vehicles

No.	Role	Vehicle Type	Year Make	Model	Color	License Plate	State
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Case Report Summary



Print Date/Time: 07/16/2014 09:39
Login ID: krust
Case Number: 2014-00010905

ST CHARLES POLICE DEPARTMENT
ORI Number: IL0451400

OfficerID: Brunkle, Narrative

On 060114 around 0150 I was on foot patrol near the west side bars when I observed a female subject () who was highly intoxicated sit on the ground after she dropped her purse and was unable to keep her balance when trying to bend over to pick it up. () simply sat on the sidewalk so I decided to go check her wellbeing. As I was walking over towards her, her friends (Amanda Lathrop and ()) were quick to come over. As her friends came over I noticed that () was carrying a clear plastic cup that contained a red beverage with a straw and ice in it as well. I asked () if the cup contained an alcoholic beverage and he said it did. () set the beverage on the ledge right outside the rear or north door of Alibi. I asked () where he had come from and () told me he just left the Alibi Bar. () was reluctant to provide me with many clear details and eventually asked to speak to me around the corner away from his girlfriend Amanda Lathrop. Prior to me walking around the corner The owner of the Alibi Richard Simpson Sr. cracked the rear door just enough to reach his arm out and grabbed the drink from the ledge pulling it into the bar. I quickly stopped him informing him that it was my evidence at this point. Speaking to () around the corner he told me that the drink was Lathrop's and that she had handed it to him when she saw me walking over to () told me that he didn't want to rat his girlfriend out but he was on probation and didn't want any trouble. I asked Lathrop if it was in fact her drink and she admitted it was hers telling me that it was vodka with cranberry juice. I asked Lathrop where she had purchased the drink. Lathrop told me she got it from Alibi. I asked Lathrop if she had just left the Alibi and she said she did. I asked her if she snuck the drink out and she told me that she simply walked out the west (3rd St.) door with the drink in her hand (holding her right hand at waist level when demonstrating how she walked out). I asked her if anyone checked as she walked out and she said no she just walked out. Lathrop was informed that she would be issued a citation for open alcohol in a public place. Lathrop was issued an ordinance citation for the offense. I did notice when walking around the exterior of the Alibi that there were two other used plastic cups the same as the one Lathrop had laying on the sidewalk outside the Alibi that had been discarded. At this time I have no further information in regard to this incident. Case closed by adult arrest.

JAC

Routing:

History of Alibi Bar & Grill Incidents/Violations

Violation on premise after hours	May 2012	\$1000 fine/ \$500 legal
Violation gave away alcohol for commercial purpose (free)	September 2012	\$1000 fine/ \$500 legal
Violation loitering of intoxicated person(s) on premise and sold alcohol to intoxicated person(s)	January 2013	\$2000 fine/ \$500 legal and license suspended for 3 business days (March 20 -23, 2013)



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title: Discussion Regarding Citation and Notice for The Filling Station

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 (8/18/14)

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 an Order of Continuance from the July 21, 2014 Liquor Control Commission whereby a complaint of violation 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 liquor license issued for The Filling Station or impose a fine upon by reason of the Complaint of Violation filed by the Police Department of an occurrence on or about July 10, 2014.

Attachments: *(please list)*

Citation Notice of Hearing
Complaint of Violation

Recommendation / Suggested Action *(briefly explain):*

Discussion regarding Citation and Notice for The Filling Station.

For office use only:

Agenda Item Number: 5

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 2013-LC-01
THE FILLING STATION)

ORDER OF CONTINUANCE

THIS CAUSE COMING ON TO BE HEARD before the Local Liquor Control Commissioner of the City of St. Charles and the Licensee having appeared and having requested a continuance:

IT IS HEREBY ORDERED that the Hearing on the Complaint of Violation previously served upon THE FILLING STATION is continued to August 18, 2014.

Dated at St. Charles, Illinois this 28th day of July, 2014.

ENTER:



Raymond Rogina,
Local Liquor Commissioner
City of St. Charles

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: KAYLEIGH KOSATKA at FILLING
STATION BAR on the 29 day of July, 2014.

[Signature]

SUBSCRIBED AND SWORN TO
before me this 29th day of July, 2014.

[Signature]
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 2014-LC-08
THE FILLING STATION)

CITATION AND NOTICE OF HEARING

TO: THE FILLING STATION
300 W. Main Street
St. Charles, IL 60174

PLEASE TAKE NOTICE THAT on July 21, 2014 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 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. 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 IN ACCORDANCE WITH SECTION 5.08.320(A). 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 14th day of July, 2014.



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)

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

IN THE MATTER OF THE LIQUOR)
LICENSE OF:)
) Case Number 2014-LC-08
THE FILLING STATION)
300 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. On or about July 10, 2014 at approximately 2:01 a.m., the Licensee, THE FILLING STATION by and through its employees, officers and/or agents, committed one (1) or more of the following offenses in or upon the licensed premises at 300 W. Main Street, St. Charles, Illinois 60174:

FIRST OFFENSE

Sold alcoholic beverages outside its licensed premises and/or allowed the consumption of alcoholic beverages purchased on its premises to be consumed outside its licensed premises.

SECOND OFFENSE

Failed to maintain an employee or agent posted during the required hours at each entrance to the licensed premises.

3. On or about July 10, 2014, THE FILLING STATION 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 5.08.260(E) and Section 5.08.260(D) of the St. Charles Municipal Code and the Liquor Control Act of 1934.

5. That the Licensee, THE FILLING STATION. 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 of the St. Charles Municipal Code that the Local Liquor Control Commission hold a hearing on this matter and take such action against THE FILLING STATION. as the Commissioner shall deem appropriate under the circumstances.

A handwritten signature in black ink, appearing to read "James Keegan", written over 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

ARRAIGNMENT FORM

I, _____, as agent for THE FILLING STATION 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 300 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.

THE FILLING STATION

Signature: By: _____

Date: _____

Subscribed and sworn to before me

This _____ day of July, 2014.

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**



Case Report Summary



Print Date/Time: 07/16/2014 12:15
Login ID: kschult
Case Number: 2014-00014140

ST CHARLES POLICE DEPARTMENT
ORI Number: IL0451400

Filling Station

Case

Case Number: 2014-00014140 Incident Type: 7325 OTHER ORDINANCE VIOLATIONS
Location: 300 W MAIN ST Occurred From: 07/10/2014 02:01
 SAINT CHARLES, IL Occurred Thru: 07/10/2014 02:08
 60174
Reporting Officer ID: 0074 - Burden Disposition:
 Disposition Date:
 Reported Date: 07/10/2014 02:08 Thursday

Offenses

No.	Group/ORI	Crime Code	Statute	Description	Counts
1	IL0451400	7325	5-08-260-E	SALE/CONSUMP OF ALC ON A LICENSED PREMISE ONLY	1

Subjects

Type	No.	Name	Address	Phone	Race	Sex	DOB/Age
OTHER PERSON	1	PHILLIPS, EMILY	300 W MAIN ST SAINT CHARLES, IL 60174				
SUSPECT/OFFENDER	1	THE FILLING STATION	300 W MAIN ST SAINT CHARLES, IL 60174	(630)584-4414			

Arrests

Arrest No.	Name	Address	Date/Time	Type	Age
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Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
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Vehicles

No.	Role	Vehicle Type	Year Make	Model	Color	License Plate	State
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Case Report

Summary



Print Date/Time: 07/16/2014 12:15
Login ID: kschult
Case Number: 2014-00014140

ST CHARLES POLICE DEPARTMENT
ORI Number: IL0451400

OfficerID: Jburden, Narrative

07/10/2014 (Thursday)- at approx 0201 hrs, I noticed several subjects (15-20) that were standing on the sidewalk directly in front of THE FILLING STATION'S south side patio gate-300 block of W. Main Street. As I drove closer to them (unmarked squad #23-full uniform) I could see that some of them were holding open 12 oz bottles of alcohol (found to be at least 1/2 full). I exited my squad and counted 5 male subjects holding the open alcohol. A female subject was seen drinking from a plastic cup, but the content of said cup was found to be water. One of the male subjects put his open beer bottle on the brick wall just west of the gate entrance and the others put their open beer bottles on the sidewalk as I confronted them.

They all said that they had just exited THE FILLING STATION and that nobody stopped them from walking out onto the sidewalk-nor did they try to conceal the beer. They were all looking for a taxi ride to THE Q CENTER on N. 5th Ave. The subjects are all from out of town and claim they didn't know about the open alcohol laws here. I asked the subjects to place their open beer bottles into the garbage container on the sidewalk in front of THE FILLING STATION, which four of them did do. The fifth bottle remained on the brick wall as I walked into THE FILLING STATION to speak with a manager-or owner PETE MILLIGAN if he was present.

I met with the manager on duty-EMILY PHILLIPS-who acknowledged that the subjects I found with the open beer bottles did come from THE FILLING STATION. She herself removed the beer bottle from the brick wall and disposed of it. From speaking with EMILY PHILLIPS, I learned that only one bouncer/door person was working and that he was securing the north entrance door which is when the 5 subjects with the open beer bottles must have walked out from the patio area undetected.

I advised EMILY PHILLIPS that I would document 2 liquor code violations against the bar which will be forwarded to the liquor commission. One violation is for allowing alcohol consumption off the premises (5.08.260E) and the other for not having an employee at both entrances at all times between 2300 hrs and closing (5.08.260D). I showed her both sections in the liquor code and also answered a question she had regarding times allowed for live entertainment. I took a picture of the four beer bottles placed into the garbage can and will submit same with this report.

NO FURTHER ACTION

jac

Routing:

History of Filling Station Incidents/Violations

Incident Report – Consumption of alcohol on public place	2005	No Action
Incident Report – Possession of alcohol on public property	2006	No Action
Violation – Sale of alcohol to underage person	April 2007	\$500 fine/\$500 fee
Violation – Consumption of alcohol on public place	November 2007	\$500
Violation – Sale of alcohol to underage person	2009	Never Processed
Violation – public on premise after hours and consumption of alcohol after hours	2011	\$1,000 fine/\$500 fee
Incident – Outside amplified sound after hours	June 2012	Warning Letter
Allowed a patron to exit premises while in possession of an alcoholic beverage	August 2013	Went to a Public Hearing – found guilty and penalties incur were: 2 hour early closing from midnight to 2:00 a.m. November 9, 2013 and fees of \$2,232.50