



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title: Discussion Regarding Citation and Notice of Hearing for Acquaviva Winery, LLC

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 (2/16/16)

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 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 to you or impose a fine upon you, or both, by reason of the Complaint of Violation filed by the Chief of Police for failure to pay alcohol tax and penalties for the months ending in October 2015, November 2015, and December 2015 in violation of Section 3.42.090 and Section 5.08.250(W) of the St. Charles Municipal Code.

Attachments: *(please list)*

Citation and Notice of Hearing
Complaint of Violation

Recommendation / Suggested Action *(briefly explain):*

Discussion Regarding Citation and Notice of Hearing for Acquaviva Winery, LLC.

For office use only:

Agenda Item Number: 8

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 2016-LC-01
Acquaviva Winery, LLC)

CITATION AND NOTICE OF HEARING

TO: Acquaviva Winery, LLC
214 W. Main Street
St. Charles, IL 60174


PLEASE TAKE NOTICE THAT on February 16, 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 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 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 5.08.320(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, JOHN MCGUIRK, AT 630/513-8700 OR TO THE DEPUTY CITY CLERK, TINA NILES, AT 630/377-4422.

DATED this 9th day of February, 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)

**BEFORE THE LOCAL LIQUOR CONTROL COMMISSIONER OF
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IN THE MATTER OF THE LIQUOR)
LICENSE OF:)
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Acquaviva Winery, LLC)
214 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 November 30, 2015, December 31, 2015 and January 31, 2016, the Licensee, Acquaviva Winery, LLC, by and through its employees, officers and/or agents, committed the following violation of the St. Charles Liquor Code:

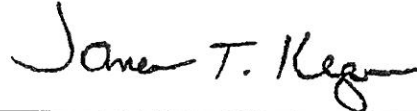
OFFENSE

Failed to pay alcohol tax and penalties for the months ending in October 2015, November 2015 and December 2015 in violation of Section 3.42.090 and Section 5.08.250(W) of the St. Charles Municipal Code.

3. On or about November 30, 2015, December 31, 2015 and January 31, 2016, Acquaviva Winery, LLC was operating under a Class C4 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 3.42.090 and Section 5.08.270 (W) of the St. Charles Municipal Code and the Liquor Control Act of 1934.

5. That the Licensee, Acquaviva Winery LLC, 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 Acquaviva Winery, LLC as the Commissioner shall deem appropriate under the circumstances.



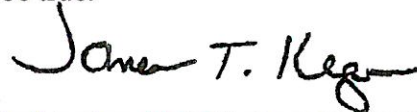
James Keegan
Chief of Police
City of St. Charles, Illinois

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)

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 9th day of February, 2016.



NOTARY PUBLIC



ARRAIGNMENT FORM

I, _____, as agent for Acquaviva Winery, LLC, 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 214 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.

Acquaviva Winery, LLC

Signature: By: _____

Date: _____

Subscribed and sworn to before me

This _____ day of February, 2016.

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**