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City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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2010-0070 Summons and Complaint In Committee

Summons and Complaint in the matter of the complaint against M & W Hospitality, Inc., Mario P. Morgese, Agent for the premises located at 1900 S. 60 St., d/b/a Mario's (2009-2010 Class B Tavern License no. 1091, Dance Hall License no. 1092 and Instrumental Music License no. 1093).

Introduced: 1/26/2010

Controlling Body: License & Health Committee

COMMITTEE RECOMMENDATION

POP

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
4-6-10			Barczak				✓
			Czaplewski	✓			
			Kopplin				
			Lajsic				
			Narlock				
			Reinke				
		✓		Roadt	✓		
				Sengstock	✓		
				Vitale			
		✓	Weigel	✓			
			TOTAL	4			

SIGNATURE OF COMMITTEE MEMBER

[Handwritten Signature]

Chair Vice-Chair Member

COMMON COUNCIL ACTION

PLACE ON FILE

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
APR 06 2010	✓		Barczak				
			Czaplewski				
			Kopplin				
			Lajsic				
			Narlock				
			Reinke				
			Roadt				
			Sengstock				
			Vitale				
		✓	Weigel				

UNANIMOUS TOTAL

**WEST ALLIS COMMON COUNCIL
LICENSE AND HEALTH COMMITTEE
CITY OF WEST ALLIS**

**In the Matter of the
Complaint Against**

SUMMONS

**M & W Hospitality, Inc., d/b/a Mario's,
Mario Morgese and Andrew Arena, agents
1900 South 60th Street
West Allis, Wisconsin 53219**

STATE OF WISCONSIN)
) SS.
COUNTY OF MILWAUKEE)

**THE WEST ALLIS COMMON COUNCIL TO MARIO MORGESE AND ANDREW
ARENA:**

You are hereby notified that a sworn complaint, a copy of which is attached, has been duly made and filed, requesting a hearing on the suspension, revocation, or non-renewal of your Class B Intoxicating Liquor and Class B Fermented Malt Beverage Licenses, Dance Hall License and Instrumental Music License, pursuant to the provisions of sec. 125.12, Wis. Stats.

NOW THEREFORE, you, Mario Morgese and Andrew Arena, are hereby summoned to appear before the License and Health Committee of the West Allis Common Council in Room 128 of the West Allis City Hall, 7525 West Greenfield Avenue, West Allis, Wisconsin, on January 26, 2010, at 6:00 p.m., or as soon thereafter as this matter can be heard, to admit or deny the allegations in the complaint. You may be represented by counsel on this date.

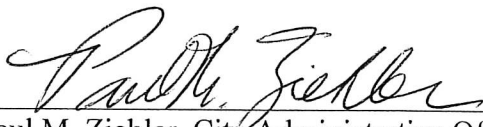
In the case of your failure to appear as required by this summons, the allegations in the complaint against you shall be taken as true and, if the License and Health Committee of the

West Allis Common Council finds the allegations sufficient, a recommendation that your license(s) be suspended or revoked will be made to the full Common Council. The Common Council may then vote to suspend, revoke, or not renew your license(s).

You are further notified that if you appear as required by this summons and contest the allegations in the complaint, a hearing will be scheduled at a later date before the License and Health Committee, at which time you may be represented by counsel, cross examine the witnesses who testify adversely against you, and present witnesses in your own behalf. A written transcript of said hearing shall be made and you may obtain a copy of the transcript of this proceeding at your expense.

Dated at West Allis, Wisconsin, this 18th day of January, 2010.

WEST ALLIS COMMON COUNCIL

By: 
Paul M. Ziehler, City Administrative Officer,
Clerk/Treasurer

**WEST ALLIS COMMON COUNCIL
LICENSE AND HEALTH COMMITTEE
CITY OF WEST ALLIS**

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By:



Paul M. Ziehler, City Administrative Officer,
Clerk/Treasurer

WEST ALLIS COMMON COUNCIL
LICENSE AND HEALTH COMMITTEE
CITY OF WEST ALLIS

**In the Matter of the
Complaint Against**

COMPLAINT

**M&W Hospitality, Inc.,
Mario Morgese, agent,
Andrew Arena, registered agent**

STATE OF WISCONSIN)
) ss.
COUNTY OF MILWAUKEE)

Michael J. Czaplewski, being duly sworn, on oath deposes and states as a complaint against M&W Hospitality, Inc. as follows:

1. That the complainant is a resident of the City of West Allis, is the duly elected Alderperson for the First Aldermanic District in the City of West Allis, is the Chairman of the License and Health Committee, and makes this complaint at the direction of the License and Health Committee of the West Allis Common Council.
2. That the information contained in this complaint comes from the complainant’s review of official records maintained by the City of West Allis and the West Allis Police Department, which records complainant believes to be reliable and accurate.
3. That M&W Hospitality, Inc. is the holder of “Class B” Intoxicating Liquor & Class “B” Fermented Malt Beverage License Number 1091, Dance Hall License Number 1092, and Instrumental Music License Number 1093, issued by the West Allis Common Council for the license period beginning July 1, 2009, and ending June 30, 2010, for the premises located at 1900 South 60th Street, West Allis, Wisconsin and does business under the trade name “Mario’s.”
4. That Mario Morgese and Andrew Arena are the registered agents of M&W

Hospitality, Inc.

5. That on May 9, 2005, at approximately midnight, Officer Marla Scherbarth entered Mario's for a tavern check. Her investigation revealed that the tavern was open for business with approximately 12 patrons inside, but that bartender Melissa Martin did not have her bartender's license with her nor was anyone else in the bar licensed. Scherbarth issued Martin a citation for failure to have a license on person while dispensing an alcoholic beverage.
6. That on March 29, 2006, at approximately 12:02 a.m., Officer Todd Kurtz observed 20-year-old Jeremy Kreush passed out and vomiting outside of Mario's. Investigation revealed that Kreush had entered Mario's because no one checked his identification. While inside the bar, Kreush asked Edwin Brost, another bar patron, to purchase drinks for him, and Brost purchased him two mixed drinks. Kreush also admitted to drinking several shots inside Mario's. Officers cited Kreush for underage drinking, Brost for purchasing alcohol for an underage person, and tavern agent Mario Morgese and bartender Kelly Theoharis for permitting an underage person to enter/remain in Mario's.
7. That on May 20, 2006, at approximately 2:10 a.m., officers responded to the area of Mario's and observed that many people were in the street. Officers stayed in the area until the street cleared. During this time, Officer Kurtz observed Alexander Meeks yelling, swearing, punching a hood of a car, and standing on the hood of a car. Officer Kurtz made contact with Meeks, who was intoxicated, calmed him down, and sent him away from the premises.
8. That on September 29, 2007, at approximately 2:10 a.m., Officer James Herkowski saw Calob House standing outside of Mario's holding a bottle of liquor. Officer Herkowski observed that the bottle of liquor had a green pour top that taverns use to

serve drinks. When Officer Herkowski exited his squad car, House went inside Mario's. House, who was 20 years old and extremely intoxicated, stated that he was inside Mario's and that he was never asked for identification and that he had none on him. Morgese positively identified House as being inside the tavern and that he stole the liquor from the tavern. House was arrested for theft and underage alcohol, and Morgese was cited for allowing an underage person to enter/remain on licensed premises.

9. That on February 23, 2008, at approximately 2:01 a.m., Officer Jason Vanderwerff was monitoring the closing of Mario's when he observed several females fighting on the sidewalk near the tavern. Investigation revealed that an argument between the women had begun while inside Mario's. As the bar closed, the fight moved outside. Two of the women, Danielle Klein and Regina Tucker, resisted officers' commands to stop the fight, and Officer Vanderwerff had to deploy his oleoresin capsicum spray on Klein. Both Klein and Tucker received citations for disorderly conduct.
10. That on May 10, 2008, at approximately 12:30 a.m., officers responded to Mario's for a report of underage persons drinking and serving liquor in the tavern. Investigation revealed that one of the girls employed as a "shot girl" at Mario's was 16 years old. That girl had purchased alcohol at the tavern and sold it to various bar patrons. Officers observed that the girl appeared to be moderately intoxicated, and she admitted that she took shots from the ones she purchased and drank them. Morgese stated he did not verify the girl's age at any time on that night. Morgese received a citation for selling alcohol to an underage person.
11. That on August 2, 2008, at approximately 1:38 a.m., Sarah Alvarez flagged Officer Kelly Kempinski down to report that a male assaulted her while in Mario's. Investigation revealed that a male punched Alvarez in the face, so in retaliation, she

took her beer bottle and shattered it on the male's hand. A few minutes later, Alvarez stated that Morgese told her not to make a big deal out of the incident because he was in danger of losing his license. Since the tavern was closing, Alvarez left the tavern for home, but flagged down Officer Kempinski as she left. Alvarez did not wish for any charges to be filed.

12. That on August 22, 2008, officers were dispatched to Mario's for an assault complaint. Investigation revealed that Steven Koscak was inside the tavern with friends when his billiards opponents began physically beating him over a money dispute. Koscak stated that while he was being placed in a headlock, bit, and punched in the head, Mario's employees did nothing to stop the fight. Eventually, the employees escorted the two assailants outside the tavern, but the assailants walked back in and began beating him again. The employees escorted them out a second time, but they re-entered the tavern and started beating him a third time. At some point during the third beating, an unidentified woman struck Koscak in the back with a pool cue. Koscak stated that Mario's doorman, Bruce Hicklin, told him that the police were outside and that the assailants were being arrested. When Koscak wanted to leave to speak to the police, Mario's employees would not let him leave. When Koscak finally was able to leave, he called the police to report the incident and discovered that no one from Mario's had ever notified the police of this incident. Officer Michael Sitter later spoke to Mario's bartender, Jodie Rauth, who stated that an altercation had occurred in the tavern, but that no one called the police because the bouncers broke it up and the fight did not appear to be a serious matter. Officer Archie Dunbar spoke to Hicklin who stated that he was the bouncer, but that no fight had occurred in the bar that night. Even after Officer Dunbar specifically pointed out Koscak to Hicklin, Hicklin still denied that Koscak was involved in a

fight and stated that he didn't even think he was in the bar. After Officer Dunbar learned what Rauth had said, he spoke to Hicklin again. Hicklin again denied that a fight occurred, but when Officer Dunbar told him what Rauth had said, Hicklin stated, "It wasn't really a fight. Some guys were arguing about a pool game. No one got hurt or hit with any pool cues. We broke them up and kicked everyone out of the bar." When Officer Dunbar asked Hicklin if he knew that the bar staff was required to call the police when a fight occurred inside the bar, he stated, "Yes, but I didn't think this was a big deal. We broke them up and kicked them out without any problems." Since Koscak did not want to press charges, the officers did not issue any citations.

13. That on March 7, 2009, at approximately 2:19 a.m., Officer Jason Vanderwerff observed two people arguing in the street area near Mario's. Investigation revealed that Dominique Lilley, who was 20 years old, was inside Mario's and was not asked to provide any identification upon entering. Lilley stated that she had been in Mario's before because "they like her there" and consumed one beer inside the tavern on the night of the incident. When she left, Lilley stated that an acquaintance of hers, "Justin," started fighting with her. Lilley and Morgese received citations for an underage person being present on licensed premises.
14. That on June 13, 2009, at approximately 1:57 a.m., West Allis police officers were monitoring Mario's at closing time. Officer James Plotkin observed Alex Alvarez engage in a fight with three other men in the entryway of Mario's. Investigation revealed that one of the four males, Daniel Hughes, was only 20 years old. Hughes told officers that he entered Mario's at approximately midnight and walked in because no one was at the door. Further, he stated that he had been inside Mario's four weeks earlier. On the night of the incident, Hughes stated that the altercation

between the four men began inside the tavern and then continued outside. Officers were required to tase Jason Brown, who was involved in the fight. Officers arrested and cited the four men for various offenses, including disorderly conduct, obstructing, and liquor law violations. Morgese received a citation for allowing an underage person to enter licensed premises.

15. That on June 16, 2009, Officer Charles Clark performed a business check on Mario's. He observed Kelly Theoharis serving patrons alcoholic beverages. When Clark asked the bartender for her license, she stated that she did not have one and that she thought Bruce Hicklin, another Mario's employee, had a valid license. Investigation revealed that Hicklin did not have a valid bartender's license, and, therefore, no licensed bartender or agent was present on the premises. Officer Clark cited Hicklin and Morgese for operating the premises with an unlicensed bartender.
16. That on October 4, 2009, at approximately 1:44 a.m., Officer Michael Sitter was on routine patrol when he observed several people in the street fighting outside of Mario's. Officer Sitter exited his vehicle and tried to place one of the suspects, Gregory Luedtke, in handcuffs. While doing so, a large crowd gathered around him, and they began yelling and screaming at Officer Sitter and tried to pull Luedtke away from him. Officer Sitter then observed Frederick Ball punch Scott Vidmar, a bouncer employed by Mario's. Officer Cato and Sitter had to tase Ball so that he could be arrested. Officers spoke to Mario Morgese regarding the above incident, and he stated that Luedtke was inside his bar causing problems. One of his bouncers, Raymond Kalski, removed Luedtke from the bar. Once they went outside, Morgese observed James Luedtke yelling and cursing at them and swinging at Kalski. Morgese noted that other individuals hitting and kicking Kalski and stated that it was very chaotic. Four people were cited for disorderly conduct, one person for resisting

an officer, and one person for possession of marijuana.

17. That in the past four and a half years, Mario's has generated a total of approximately 200 service requests. Some of these service requests include the following:

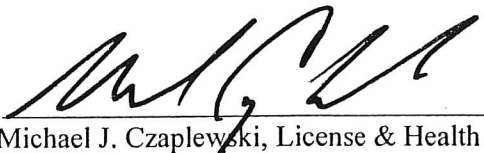
<u>Date</u>	<u>Nature of Call</u>
7/3/2005	Disorderly Conduct
9/4/2005	Noise Complaint
2/12/2006	Trouble Call
5/6/2006	Trouble Call
5/14/2006	Suspicious Activity
9/2/2006	Trouble Call
09/3/2006	Trouble Call
9/10/2006	Assault
3/4/2007	Controlled Substance
5/5/2007	Disorderly Conduct
7/6/2007	Assault
7/28/2007	Disorderly Conduct
8/10/2008	Assault
11/15/2008	Controlled Substance
1/31/2009	Disorderly Conduct
2/20/2009	Suspicious Activity
3/6/2009	Assault
4/18/2009	Trouble Call
5/3/2009	Disorderly Conduct
7/11/2009	Disorderly Conduct
7/17/2009	Trouble Call

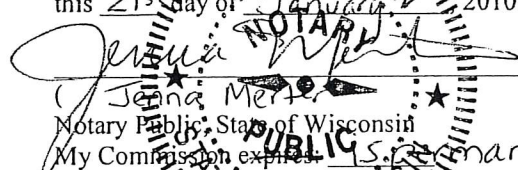
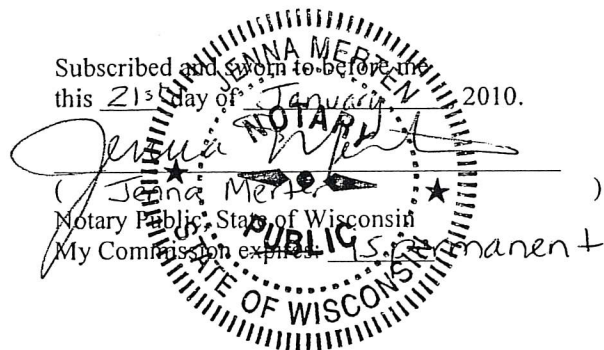
7/18/2009	Noise Complaint
7/18/2009	Disorderly Conduct
11/14/2009	Trouble Call
11/20/2009	Disorderly Conduct

18. That M&W Hospitality, Inc., has violated the provisions of Chapter 125, Wis. Stats.; keeps or maintains a disorderly or riotous, indecent or improper house; and has violated sections 9.02(12)(b), 9.02(12)(c), and/or 9.02(12)(d) of the West Allis Revised Municipal Code.

WHEREFORE, Michael J. Czaplewski requests that M&W Hospitality, Inc. be summoned to appear before the License and Health Committee of the West Allis Common Council to answer this complaint and, if the material allegations of the complaint are denied, that a hearing be held to determine whether the Class B Tavern Licenses, Dance Hall License, and Instrumental Music License of M&W Hospitality, Inc., should be revoked, suspended, or not renewed.

Dated this 21 day of JAN, 2010.

By: 
 Michael J. Czaplewski, License & Health
 Committee
 West Allis Common Council

Subscribed and sworn to before me
 this 21st day of January, 2010.

 (Jenna Merten)
 Notary Public, State of Wisconsin
 My Commission expires 12/31/2011


IN THE MATTER OF THE COMPLAINT AGAINST M&W HOSPITALITY, INC., MARIO MORGESE & ANDREW ARENA, AGENTS: CITY OF WEST ALLIS v. M&W HOSPITALITY, INC.

State of Wisconsin)

: ss

AFFIDAVIT OF SERVICE

Milwaukee County)

Todd Ketterhagen

, under oath, says:

1. That affiant is a citizen and resident of the State of Wisconsin, over 18 years old, and is not a party nor in any manner interested in this proceeding.
2. That on 01-22-, 2010, at 1903 o'clock P.m., at 1900 South 60th Street, West Allis, Wisconsin, affiant served a copy of this **Summons and Complaint** on the Defendant, M&W Hospitality, Inc., by personally delivering to and leaving a copy of same with:
 - a) Mario P. Morgese, a(n) officer, director, managing agent or registered agent of defendant corporation.
 - b) _____, who appeared to the affiant to be in charge of the office of M&W Hospitality, Inc.

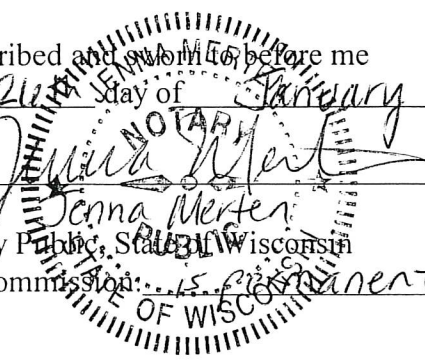
Todd Ketterhagen

(Signature of person serving papers)

Subscribed and sworn to before me this 22nd day of January, 2010.

Jenna Merten
(Jenna Merten)

Notary Public, State of Wisconsin
My Commission: 15 permanent



RECEIVED

JAN 25 2010

WEST ALLIS
CITY ATTORNEY

Served at
Mario's @ 1900 S. 60th

Affidavit of Process Server

JAN 26 2010

WEST ALLIS CITY ATTORNEY

Court/Appearance Date: 01/26/10 City of West Allis

Case Number M&W Hospitality, Inc dba Mario's

Vs

I the undersigned am an adult resident of the state and not a party to the action. I hereby swear that on January 22, 2010 at 1:40 p.m. I duly served/or attempted to serve, (see non service section)

NAME M&W Hospitality, Inc dba Mario's

- DEFENDANT, GARNISHEE DEFENDANT, PLAINTIFF, PETITIONER, RESPONDENT, WITNESS, OTHER ATTEMPTED DATES

By serving Andrew Arena Agent at Home 1110 N. Old World Third St. #515 Wisconsin Business Wisconsin

Manner of Service:

- Personal Service, Corporate Service: by leaving, during office hours, copies at the office of the person/entity being served, After diligent search and inquiry, By posting copies in a conspicuous manner to the address of the person/entity being served, Copies of the documents were mailed by prepaid, first class mail on: DATE FROM

NonService: after due search, careful inquiry and diligent attempts at the address(s). listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

- Unknown at address, Address does not exist, Not home three attempts, Moved no forwarding, Evading, Unable to serve in a timely fashion, Refuses to cooperate in acceptance, Service cancelled by litigant, Search was conducted, whereabouts unknown

Type of Documents:

- SUMMONS & COMPLAINT, AUTHENTICATED SUMMONS & COMPLAINT, EVICTION: SUMMONS & COMPLAINT, NOTICE OF MOTION & MOTION/AFFIDAVIT, OTHER, ORDER TO SHOW CAUSE & AFFIDAVIT, GARNISHEE SUMMONS & COMPLAINT EARNINGS - NON EARNINGS, SUBPOENA - SUBPOENA DUCES TECUM, SUMMONS AND PETITION, NOTICE OF/TERMINATING TENANCY/PAY OR QUIT, WRITTEN INTERROGATORIES & REQUEST FOR PRODUCTION OF DOCUMENTS

At the time of service, I did place upon it the date, time, and my name, leaving a true and correct copy thereof, and that the server knew the person so served to be the defendant (or other) mentioned and named therein.

NUMBER OF ATTEMPTS, NUMBER OF ADDRESSES ATTEMPTED (if more than one), SERVICE FEE \$37.00, WITNESS FEE, FILING FEE, SEARCH FEE, TOTAL FEE \$37.00, MILEAGE

Server's Name Carlton W. Manske (Print) Server's Signature Carlton W. Manske

Subscribed and sworn to before me This 26th day of January, 2010 NOTARY PUBLIC State of Wisconsin My Commission expires 2012

