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CITY OF WEST ALLIS
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WEST ALLIS COMMON COUNCIL

**In the Matter of the
Complaint Against**

**RESPONSE OF LICENSEE
TO FINDINGS AND RECOMMENDATIONS
OF THE LICENSING COMMITTEE
AND MOTION TO MODIFY RECOMMENDATION**

**3M Management LLC,
d/b/a M & M's Sportsbar,
Melissa Maris Martin, agent**

NOW COMES 3M Management LLC, d/b/a M & M's Sportsbar. Melissa Maris Martin, agent, by her attorneys. McClure Law Offices, by Attorney Thomas J. McClure, and for its objections, exceptions and arguments of facts and law for its Response of Licensee To Findings And Recommendations and Motion To Modify Recommendation, submits the following:

OBJECTIONS

Licensee hereby objects to this proceeding for the following reasons:

1. Notice was unreasonably short from the time the Summons and Complaint filed February 23, 2015 and the time the licensee received notice prior to the March 3, 2015 appearance date. Cf. Terry Lee's Corp v. City of Milwaukee, 732 N.W.2d 864(2007). The video shows the licensee was unaware of the procedural safeguards she did not received and clearly overwhelmed by the male committee members.
2. Under City of West Allis Ordinance 9.02(20) no hearing was held on licensees' denials of multiple charges contrary to WA Ord 9.02(20)(d)4. Once a licensee enters a denial to *any* charge the licensee must be given a hearing with the procedure under WA Ord 9.02(20)(d)5 before action can be taken against the licensee.
3. Instead of hearing only a discussion took place in violation of WA Ord 9.02(20)(d)5 and the fact there was no real hearing was acknowledged by the advisory City Attorney on the record recorded by video.

4. The only committee member at the March 3, 2015 who offered any evidence improperly characterized the charges as the “second worst situation” in West Allis of a bar having violations which misled the committee and grossly exaggerated the situation such that there was no significant discussion on the facts, background and context by the other committee members who literally said nothing but went along with the sole committee member’s motion to revoke. Under WA Ord. 9.02 (20)(b) state law Sec. 125.12(2)(ag) to (c) are applicable to these proceedings. The hearing, and fair hearing, requirement “establishes minimal due process safeguards against untrustworthy attacks on a liquor licensee’s livelihood.” Park 6 LLC v. City of Racine, 344 Wis.2d 661, 824 N.W.2d 903(2007). Licensee was not afforded that minimal due process. Nor was the licensee history of no citizen complaints, no previous citations of any sort, lawful and proper music groups without incident, no claims of any food or drink harm to anyone, and a marked change in the quiet and normal running of the business at that location in contrast to years, if not decades, or complaints and other negative events by prior bar owners at the premises, given any credit whatsoever.
5. There was no discussion by the committee of suspension as an alternative nor any discussion of past recommendations or level of violations justifying the eventual recommendation, such that the committee did not give the licensee any stated reason for its action. Failure to explain and provide reasons constitutes an arbitrary and capricious decision as well as an abuse of discretion, violating the minimal due process standards of the licensing laws procedures under the ordinance and state law Sec. 125.12, Stats. and the ordinance.

EXCEPTIONS

Licensee takes exception to the lack of an opportunity to have sufficient time to be prepared and consult counsel before having to answer the complaint, and recommends the Council defer further action until a proper hearing with reasonable notice can be had for licensee to present an adequate defense to the action, as well as to prepare and submit a corrective plan for the Council to consider. Licensee also suggests that a suspension of all her licenses, as a *fait accompli* by the City historically, is unfair and unreasonable, and arbitrary action by the City, as both a practice as well as on the record in this case where no consideration or discussion was had on the revoking of licenses.

MOTION TO MODIFY

Licensee hereby moves to modify the recommendation as follows:

1. To allow a statutorily fair required, and fair, hearing of the charges and recommendation where she may have counsel.
2. To modify the recommendation to one of reasonable suspension of her licenses based on all pertinent facts and as contemplated by the applicable

ordinance and state statutes and case law.

Dated this 12th day of March, 2015 at Delafield, Wisconsin.

MCCLURE LAW OFFICES

Attorneys for Licensee 3M Management LLC

Melissa Maris Martin, agent

By: 

Attorney Thomas J. McClure

State Bar No. 1016923

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