

Note: Italicized print is a guide to the reader. Regular text should be read out loud.

HEARING PROCEDURE GUIDE

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

I. *Convene the Hearing.*

A. I am Assistant City Attorney Rebecca Hammock. This matter is a hearing being held before the License and Health Committee of the Common Council of the City of West Allis. This license hearing is being held pursuant to sec. 125.12 of the Wisconsin Statutes, in the matter of the Complaint against Uncle Festers LLC, Ashley Kapalczynski, licensing agent.

B. Let it be noted for the record that the following Committee members are present:

(Each Committee member Should Identify themselves by title and name.)

One Assistant City Attorney is prosecuting this matter and another, myself, is acting as advisor to the Committee.

For the record we will now have everyone state their appearances.

(Licensee and attorney should identify themselves. City Attorney and Prosecutor to identify themselves.)

II. *Nature of the Hearing. (Sec. 125.12, Stats., attached.)*

A. Ashley Kapalczynski, the nature of this hearing is for the committee to make a decision as it relates to the Complaint against you, which has been filed with this Committee. Under the provisions of sec. 125.12 of the Wisconsin Statutes and section 9.02(20) of the West Allis Revised Municipal Code, this hearing has been convened for the purpose of determining whether any of the charges against you are true, and to make a recommendation based upon that determination. This Committee

will examine all the evidence concerning the charges through inquiry to both sides. The Committee will evaluate and then impartially weigh the evidence. It will determine whether or not any of the charges have been proven solely upon the evidence introduced at this hearing.

- B. This hearing is open to the public.
- C. A verbatim record of the proceedings is being made by audio recording.
- D. You may be represented by an attorney. Assistant City Attorney Nicholas Cerwin is here as the Prosecutor and will present the case against you to the Committee. I am *(The Assistant City Attorney Rebecca Hammock)* present and will serve as legal advisor to the Council. I am here to advise the Committee on questions of law and procedure and may also direct questions to witnesses on behalf of the Committee.
- E. You may present evidence, call and examine witnesses, and cross-examine witnesses against you. Such witnesses will be sworn.
- F. Both the Complainant and licensee shall be limited to one hour each for presentation of testimony, not including cross-examination or questions from the Committee or City Attorney representing the Committee. The Chair may extend the time for presentation of testimony to assure a full and fair hearing.
- G. Subject to a motion for consideration by the full Committee, made by a member of the Committee, the Chair has the final ability to rule upon all questions, objections and motions as to procedural matters, admissibility of evidence, and similar issues. All objections, questions and motions, should be directed to the Chair.
- H. You may testify on your behalf with regard to the charges against you. However, what you say will be considered as evidence. Further, if you do testify, you may be cross-examined.

- I. If a charge or charges against you are proven, you are advised that the Committee may recommend to the Common Council that your licenses be suspended, revoked, or not renewed and that the Common Council may accept or reject such recommendation and may determine, upon such recommendation, whether your licenses should be suspended, revoked or not renewed.

III. *The Complaint. (Summons and Complaint attached.)*

- A. You have been served with a Summons for this hearing and a copy of the Complaint against you, which have been filed with the Committee for a determination. I now request the Clerk to append as exhibits to the record, a copy of the Summons and Complaint, together with a copy of the Affidavit of Service.
- B. Do you admit to any of the allegations in the complaint or are there portions which are not contested?

IV. *Evidence.*

- A. At this time the prosecuting attorney, Mr. Cerwin will present evidence as to the charges before the Committee.

All witnesses who testify before the Committee should be sworn. The form of oath which should be administered to each witness as follows:

"Do you solemnly swear that the testimony you shall give in this matter shall be the truth, the whole truth, and nothing but the truth, so help you God?"

If the witness states that he has conscientious scruples against taking the oath, or swearing in the usual form, administer the following:

"Do you solemnly, sincerely and truly declare and affirm that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth; and that you do this under the pains and penalties of perjury?"

(After each witness testifies on direct examination, permit the opposing party to cross examine the witness, then, if desired, allow redirect and recross examination until both sides have no further questions of each witness. The Chairman may limit the questioning in his discretion if the questions are repetitive or irrelevant.)

B. Does any member of the Committee wish to ask questions of the witness?

C. Does the City Attorney wish to ask questions of the witness?

(Questions of Committee members or City Attorney may prompt either side to ask additional questions. This should be permitted, following the same procedure above.)

D. Does the Prosecutor wish to present any further evidence? *(If not, proceed.)*

E. Now *(name)* it is your opportunity to present evidence as the licensee in this matter.

(Follow same procedure as with the complainant's evidence, i.e., swear witness, direct examination, cross-examination, etc.)

F. Does any member of the Committee wish to ask questions of the witness?

G. Does the City Attorney have any questions of the witness?

(Permit further questions by the parties, if requested.)

H. Is there anything further?

(If nothing further, proceed.)

I. Does the Prosecutor wish to make a closing statement?

J. Does the licensee wish to make a closing statement?

K. Rebuttal by Prosecutor.

V. *Adjourn for Deliberation.*

Having heard all evidence in this case, the Committee will go into closed session, pursuant to sec. 19.85(1)(a), Stats., to deliberate. Upon completion of the deliberation, the Committee will reconvene in open session and at that time announce its findings and determinations.

VI. *Announce Deliberation.*

Read the basics of the decision the Committee arrived at.

Findings and recommendations to be drafted by Assistant City Attorney Cerwin.