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Date February 22, 2010

PUBLIC HEARING ON ASSESSMENT OF A \$500.00 PENALTY TO VAUDEVILLE MEWS, LLC, 212 4TH STREET FOR ALLOWING A MINOR IN A BAR AFTER 9:00 P.M.

WHEREAS, an employee of the Vaudeville Mews located at 212 4th Street did on 7/17/09 allow a person under legal age into the licensed premises after 9:00 P.M. in violation of Des Moines Municipal Code section 10-8(1) and Iowa Code section 123.49(j); and

WHEREAS, Iowa Code Section 123.49(2)(j) states a license holder shall not knowingly permit or engage in any criminal activity on the premises covered by the license or permit; and

WHEREAS, the employee charged with the simple misdemeanor crime of allowing an underage person into the bar after 9:00 P.M. plead guilty to the charge in Polk County District Court on October 1, 2009 (conviction attached); and

WHEREAS, Iowa Code Section 123.39 permits a local authority (city council) to suspend, revoke, or impose a civil penalty upon license/permit holders who violate the alcoholic beverage laws; and

WHEREAS, Iowa Administrative Rule 185-4.8 (123) provides that violations of the alcoholic beverage laws by any employee, agent, or servant of a license or permit holder shall be deemed the act of the licensee or permittee and subject the license or permit holder to suspension, revocation or civil penalty; and

WHEREAS, this violation for allowing an underage person into the licensed premises is a first violation; and

WHEREAS, Iowa Code Section 123.39 authorizes a civil penalty of up to \$1,000.00 on each violation, and/or suspension of license up to 1 year, or license revocation; and

WHEREAS, the police and legal departments recommend a \$500.00 civil penalty for this first violation; and

WHEREAS, Iowa law provides that the local authority shall retain the civil penalties where the proceeding to impose the penalty is conducted by the local authority;

Date February 22, 2010

(2)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that:

1. Vaudeville Mews, LLC. Is assessed a \$500.00 civil penalty for allowing a person under legal age into the licensed premises after 9:00 P.M. as alleged.
2. Failure to pay the \$500.00 civil penalty within 30 days of this resolution will result in an automatic 14-day liquor license/permit suspension commencing at 6:00 a.m. on the 19th day of February 2010 and ending at 6:00 a.m. on the 2nd day of April 2010.
3. The \$500.00 civil penalty is due and owing even if the automatic 14-day suspension is served.
4. The City Clerk is directed to notify the license holder by sending through ordinary mail a copy of this resolution as soon as possible.
5. This City Council action may be appealed within thirty (30) days to the Administrator of Alcoholic Beverages Division, 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

MOVED BY _____
TO ADOPT

FORM APPROVED:

Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

2353

IN THE CIVIL DISTRICT COURT FOR POLK COUNTY
COMPLAINT AND PROBABLE CAUSE STATEMENT

CITY OF DES MOINES

COURT CASE NO. SMAC 307128

VS.

DMPD. CASE NO. 2009-22387

CORDOVA, GABRIEL
(DEFENDANT)
900 E HARKLEY
(ADDRESS)
OSM, IA
(CITY & STATE)

IA0770300

SOC. SEC. NO. ~~XXXXXXXXXX~~

DATE OF BIRTH 11-2-87

DESCRIPTION H M 5'5" 135
RACE SEX HGT WGT

NO SLK
EYES HAIR CERTIFICATIONS
I, Randy Osborn, Clerk of the District Court of the State of Iowa, in and for Polk County, do hereby certify that this is a true and complete copy of the Original Instrument filed in this office.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at my office in Des Moines, Iowa this 20th day of January 2010
Randy Osborn
Clerk of the District Court

THE DEFENDANT IS ACCUSED OF THE CRIME(S) OF: ALLOWING

BAR AFTER 900 AM

AT: 212 4TH ST VAUXEVILLE MOINS
(ADDRESS OR LOCATION)

IN VIOLATION OF SECTION(S): 10-08 (1)

OF THE MUNICIPAL CODE OF THE CITY OF DES MOINES, 2009

THE 17 DAY OF JULY, 2009 IN THE CITY OF DES MOINES, POLK COUNTY

SIGNED AND SWORN TO ON THIS 17 DAY OF JULY, 2009

R. HOELSCHER
FILING COMPLAINANT

Jan J. Be...
(NOTARY PUBLIC, ASSOCIATE JUDGE OR MAGISTRATE)

THE DEFENDANT WAS:

- CAUGHT IN THE ACT
- IDENTIFIED BY PRINTS
- NAMED BY WITNESSES
- HAD PROPERTY ASSOCIATED WITH CRIME
- ARRESTED FOLLOWING INVESTIGATION
- WEAPON INVOLVED CRIME

BASIS OF PROBABLE CAUSE

- IDENTIFIED IN PERSON
- IDENTIFIED BY PHOTO
- CONFESSED TO CRIME
- ARRESTED AT SCENE
- ACCUSED BY CO-DEFENDANT
- OTHER (SPECIFY BELOW)
- VICTIM INJURED
- PROPERTY / MONEY TAKEN

VALUE OF PROPERTY TAKEN \$ _____ DAMAGE EST. VALUE \$ _____

OTHER FACTS IMPORTANT TO PROBABLE CAUSE AND BAIL: DEF DID ALLOW A MINOR IN A BAR AFTER 9 AM AFTER CHECKING HER ID.

[Signature] 4944
SIGNATURE OF ARRESTING OFFICER NO.

7.17.09
(DATE OF ARREST)

DATED: 7.17.09

WITNESS INFORMATION

NAME ADDRESS HM PHONE
M. BARTAK 4939 DMPD
10-1-09

FILED
JULY 17 2009
7/17/09
PLEAD-NG/TRIAL
DATE: 7-20
TIME: 10:00
ROOM: 102

Def't pleads guilty
\$ 65 + SEES TRP

BOND AMOUNT \$ _____ CASH ONLY () CASH OR SURETY ()

OTHER CONDITIONS IMPOSED WITH BAIL: _____

[Signature]
(JUDGE, ASSOCIATE JUDGE OR MAGISTRATE)