

Date: November 7, 2011

RESOLUTION APPROVING THE NEGOTIATED SETTLEMENT
AGREEMENT BETWEEN
THE CITY OF DES MOINES AND COURT SIDE ENTERTAINMENT, INC.

WHEREAS, On October 10, 2011 the City of Des Moines filed a complaint against Court Side Entertainment, Inc. d/b/a Court Side Entertainment with the Alcoholic Beverages Division of the Iowa Department of Commerce for an emergency suspension for activities endangering the public health, safety, and welfare on Court Side's property located at 1014 E. 14th Street; and

WHEREAS, the City and Court Side Entertainment, through counsel, have negotiated the attached settlement agreement subject to Council approval and then approval of the State Alcoholic Beverages Division administrator; and

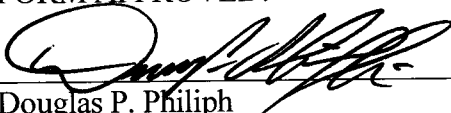
WHEREAS, approval of the negotiated settlement agreement is in the best interest of the City of Des Moines;

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

The attached negotiated settlement agreement is hereby approved and the legal department is authorized to execute and file the agreement with the Iowa Department of Commerce Alcoholic Beverages Division for approval by its administrator.

MOVED BY _____ TO ADOPT.

FORM APPROVED:


Douglas P. Philip
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

STATE OF IOWA
BEFORE THE IOWA DEPARTMENT OF COMMERCE
ALCOHOLIC BEVERAGES DIVISION

In re:)	
)	Docket No. S-2011-00030
Court Side Entertainment, Inc.)	
d/b/a Court Side Entertainment)	Negotiated Settlement
1014 E. 14 th St.)	Agreement
Des Moines, Iowa 50316)	
)	
Liquor License No. LC 0036129)	

The City of Des Moines and licensee hereby enter into the following negotiated settlement agreement, subject to the approval of the Iowa Alcoholic Beverages Division.

RECITALS

- A. On or about October 10, 2011, the City of Des Moines, filed a Complaint for Emergency Suspension of a Class C liquor license with respect to the premises at 1014 E. 14th Street, Des Moines, Iowa (the "Licensed Premises"). The Iowa Alcoholic Beverages Division ("ABD") immediately suspended the liquor license for the licensed premises pending further proceedings.
- B. Licensee filed a Request for Immediate Hearing and a hearing has been set for November 30, 2011 before the ABD. The parties desire to resolve the dispute, without further hearing, on the terms set forth in this agreement.
- C. Licensee acknowledges its duty under Iowa law to maintain a good reputation for compliance with applicable laws, ordinances and regulations.
- D. The City of Des Moines acknowledges that consideration of licensee's liquor license renewal occurred on May 9, 2011 before the City Council of Des Moines. Since May 9, 2011, other than the October 9, 2011 shooting, there has only been one incident of fighting which

occurred on August 14, 2011. The majority of the allegations outlined in the City's Complaint for Emergency Suspension occurred before the May 9, 2011 council meeting.

AGREEMENT

1. Iowa Code §123.39 permits the Administrator of the Alcoholic Beverages Division to suspend or revoke a liquor control license of any licensee who violates any of the provisions of chapter 123.
2. Iowa Code section 123.49(2)(j) provides that a person shall not knowingly permit or engage in any criminal activity on the licensed premises covered by a liquor license. "Premises" as used in this section includes parking lots and areas adjacent to the premises of a liquor licensee and used by patrons of the liquor licensee.
3. It has been alleged among other things that on October 9, 2011 at approximately 12:58 A.M. officers were dispatched to a shooting at the licensed premises which resulted in the death of a patron.¹
4. Iowa Code §17A.18A provides for the summary suspension of a liquor license, wine or beer permit where the health, safety and welfare of the people of the State of Iowa are placed in immediate danger. This agreement is to settle this contested case and licensee does not admit to any of the allegations by entering this agreement but wishes to resolve all issues concerning the complaint.

¹ The licensee immediately and totally cooperated with law enforcement with the investigation into the October 9th incident turning over all surveillance video. The surveillance video shows the assailant was not a patron of the licensed establishment.

5. In order to resolve the complaint by settlement the licensee agrees to take the following management measures:

a) Maintain its compliance as represented by licensee with the 50% or more of gross revenue from sale of food and food-related services. This is a zoning requirement that is subject to verification of compliance by licensee per licensee's signed agreement with the City that its predominate use is a restaurant;

b) Hire licensed private security personnel from the hours of 7 p.m. to close of business on Friday and Saturday nights, and will in good faith work to resolve problems which may occur during times security is not present including calling police for immediate assistance and meeting with police if necessary for assistance in dealing with these issues;

c) Hire additional off duty police officers if necessary for Friday and Saturday nights;

d) Additional lighting (i.e. flood lights) will be added to all sides of license premises including the alleyway within 30 days of approval of this agreement;

e) Additional surveillance cameras with recording capability will be added inside and outside the licensed premises and licensee will continue to cooperate with law enforcement investigations and allow law enforcement access to the recordings;

f) Obtain a building permit as soon as possible to construct a privacy fence along the alleyway that abuts the licensed property, is consistent with the height limitations as allowed by city zoning laws, and licensee will seek a variance to build the fence higher if deemed necessary by the police department.

g) Decrease hours of operation by closing at 12:00 a.m.(midnight). An exception for extended hours for major sporting events may be requested at least 3 (three) days in advance of the event. Such requests shall be made to the Des Moines Police Department and such requests may be granted or denied at the discretion of the police department;

h) Removal of the pool table from the licensed premises for a more restaurant-like atmosphere;

i) Will not have DJ's or live bands for entertainment; and

j) Hereby grants to the police department the authority to enforce the trespass law on persons present after close of business on the property at 1014 E. 14th Street. Licensee will sign the attached trespass letter and will otherwise assist with the prosecution of trespassers upon request by police.

k) Will not engage in any illegal discriminatory practice as defined in section 62-1 of the Des Moines Municipal Code or as defined in state and federal civil rights laws.

6. Licensee and the City of Des Moines agree to suspend and lift the current emergency suspension order for a period of 12 (twelve) months from the day of approval of this agreement subject to Licensee fulfilling the management measures stated in paragraph 5 (five) of this agreement. The Des Moines City Council may by resolution re-impose the emergency suspension order upon its determination that the management measures stated in paragraph 5 (five) are not met or violated. In the event of such resolution passing before the City Council, Licensee would have the right to request an immediate hearing under this captioned case before the Iowa Alcoholic Beverages Division. The City of Des Moines will request dismissal of the

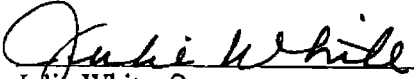
case upon satisfactory fulfillment of the management measures at the end of the 12 (twelve) month period.

7. The City will place the renewal of the liquor license on the November 7, 2011 council agenda for consideration.

8. Therefore, it is requested that the order accepting this agreement continue this case pending Licensee's satisfactory completion of the 12 month period.

9. Licensee acknowledges its right to hearing under Iowa Code § 123.39, but hereby waives that right to hearing and any right to appeal except these rights are preserved in the event that this case is not dismissed and is set for hearing pursuant to the terms set out in paragraph 6 above.

Iowa Code § 17A.10 (2011).

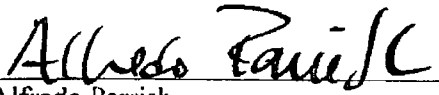

Julie White, Owner
Court Side Entertainment, Inc.

11/3/11
Date

Douglas P. Philip
Assistant City Attorney
City of Des Moines, Iowa

Date

Approved by:


Alfredo Parrish
Attorney for Licensee

November 3, 2011
Date

Approved by Iowa Alcoholic Beverages Division on _____, 2011.

By: _____

Title: _____

Copies to:

Doug Philip
Assistant City Attorney
Des Moines Police Department
25 E. 1st Street
Des Moines, Iowa 50309
(515) 283-4800
(515) 237-1665
dphilip@dmgov.org

Alfredo Parrish
Parrish Kruidenier Law Firm
2910 Grand Ave.
Des Moines, IA 50312
(515) 284-5737
(515) 284 1704
aparrish@parrishlaw.com

Date: November 3, 2011

Judy Bradshaw
Chief of Police
Des Moines Police Department
25 East First Street
Des Moines, IA 50309

RE: Trespass

Dear Chief Bradshaw:

This letter is to advise you that I have posted my property located at 1014 E. 14th Street, Des Moines, with a sign prohibiting trespassing. Accordingly, if anyone is found on such premises during or after business hours, who is not actively engaged in or associated with productive activities or duties related to this property as requested or required by myself, it is without my permission.

I hereby request the assistance of the Des Moines Police Department, in first advising and then, if necessary, arresting and charging those persons for trespassing on my property.

Courtside Sports Bar & Grill

Business Name

Julie A. White

Owner's Signature

1014 E. 14th Street

Owner's Address

Des Moines, IA 50316

City, State, Zip

515-265-4555 (w) / 515-554-9445 (c)

Telephone (work & home)

November 3, 2011

Date Signed



POLICE DEPARTMENT
VICE/NARCOTICS
CONTROL SECTION
25 EAST FIRST STREET
DES MOINES, IOWA 50309
(515) 281-4830

ALL-AMERICA CITY 1848, 1876, 1981