

Date February 24, 2014

APPROVING SETTLEMENT WITH CASEY'S #2641 LOCATED AT 2849 E. EUCLID AVE FOR SUSPENSION OF ITS LIQUOR LICENSE FOR 30 DAYS AND PAYMENT OF A \$1,500.00 PENALTY FOR A 2ND SALE OF ALCOHOLIC BEVERAGES TO A PERSON UNDER LEGAL AGE IN A TWO YEAR PERIOD

WHEREAS, an employee of Casey's located at 2849 E. Euclid Ave. sold an alcoholic beverage to an under aged person at the place of business in violation of Iowa Code section 123.49(2)(h) on January 17, 2014 and plead guilty to the charge.

WHEREAS, this is the second conviction in a two year period for sale of an alcoholic beverage to a person under legal age for an employee at Casey's located at 2849E. Euclid Ave.; The prior violation occurred on 8/31/2012.

WHEREAS, Casey's wishes to waive its right to hearing in this matter and settle by payment of the statutory civil penalty (\$1,500) and suspension (30 days) as is required by Iowa Code Section 123.50(3).

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the proposed settlement on file at the city clerk's office with Casey's for its store located at 2849 E. Euclid for payment of \$1,500.00 and a 30 day suspension of it liquor license no. BC0028975 be approved and reported to the State Alcoholic Beverages Division.

MOVED BY _____ TO ADOPT.

FORM APPROVED:

Douglas P. Philip
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
VOSS				
TOTAL				

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.

MOTION CARRIED APPROVED

Mayor

City Clerk

BEFORE THE DES MOINES CITY COUNCIL

In re:)	
)	Council Agenda dated
Casey's Marketing Company)	February 24, 2014
d/b/a Casey's General Store #2641)	
2849 East Euclid)	
Des Moines, Iowa 50317-4245)	Negotiated Settlement
)	Agreement
License No. BC 0028975)	

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

1. Iowa Code §123.39 permits the Administrator of the Alcoholic Beverages Division to suspend or revoke a liquor control license or Permit of any licensee/Permittee who violates any of the provisions of chapter 123.
2. Iowa Administrative Rule 185-4.8(123) states that the violation of the Act (Iowa Code Chapter 123) by any employee, agent, or servant of a licensee shall be deemed to be the act of the licensee or permittee and shall subject the license to suspension or revocation.
3. Section 123.49(2)(h) provides that no licensee or permittee, nor the licensee/permittee's agent or employee shall sell, give, or otherwise supply an alcoholic beverage, wine, or beer to a person under legal age, or permit its consumption by a person under legal age.

4. Iowa Code section 123.50(3) and Des Moines Municipal Code section 10-13(c) provides that a second violation for sale of an alcoholic beverage to a person under legal age shall subject licensee/permittee to a thirty-day license suspension and a civil penalty in the amount of \$1,500.00.
5. On or about January 17, 2014, Nicole Lester, an agent or employee of licensee, sold or dispensed an alcoholic beverage to a person under legal age.
6. This is the second such violation in a 2-year period, the first occurring on August 31, 2012. See Des Moines City Council Roll Call # 13-0159, January 28, 2013, Agenda Item No. 51A.
7. In order to resolve the above acknowledged 2nd violation for sale of an alcoholic beverage to a person under legal age Licensee agrees to pay a one thousand five hundred dollar (\$1,500.00) civil penalty and serve a 30-day suspension of its license/permit
8. The civil penalty shall be paid to the City of Des Moines at the City Clerk's Office at 400 Robert D. Ray Drive, Des Moines IA 50309 upon acceptance of this settlement agreement by the Alcoholic Beverage Division. Failure to make payment of the civil penalty within the specified period will result in immediate suspension until payment is made to the Alcoholic Beverage Division.
9. The license suspension period shall commence at the earliest date after approval of this settlement agreement by the Alcoholic Beverages Division which may be as soon as February 27, 2014.

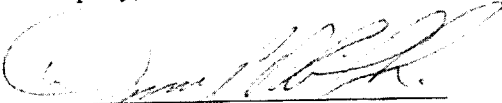
10. Licensee acknowledges its right to hearing under Iowa Code § 123.39, but hereby waives that right to hearing and any right to appeal. Iowa Code § 17A.10 (2014).



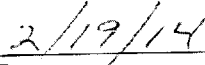
Authorized signature for Casey's Marketing
Company, for license # BC0028975



Date



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



Date

Copies to:

Doug Philip
25 E. 1st Street
Des Moines, Iowa 50309

Penny Patrick,
Store Operations
Casey's Marketing Company
P.O. Box 3001
Ankeny, IA 50021-8045