



Roll Call Number

09-1595

Agenda Item Number

60

Date August 24, 2009

PUBLIC HEARING ON ASSESSMENT OF A \$500.00 PENALTY
TO MGCM, LLC d/b/a THE DEN LOCATED AT 4369 MERLE HAY RD.
FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, an employee of MGCM, LLC, d/b/a The Den, sold an alcoholic beverage to a person under legal age at 4369 Merle Hay Road on 5/29/09 in violation of Iowa Code Section 123.49(2)(h); 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 or revocation; and

WHEREAS, the violation is the first violation for MGCM, LLC; and

WHEREAS, Iowa Code Section 123.39(4) provides that for a first violation of Iowa code Section 123.49(2)(h) a local authority shall impose a civil penalty in the amount of \$500.00 in lieu of a suspension; 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.

★ Roll Call Number

09-1595

Agenda Item Number

60

Date August 24, 2009


(2)

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

1. MGCM,LLC d/b/a/ THE DEN located on 4369 Merle Hay Road is assessed a civil penalty in the amount of \$500.00 for sale of an alcoholic beverage to a person under legal age.
2. Failure to pay the \$500.00 civil penalty within 30 days of this resolution will result in an automatic 14 day liquor license suspension commencing at 6:00 a.m. Thursday, September 24, 2009 and ending at 6:00 a.m. Thursday, October 8, 2009.
3. The City Clerk is directed to notify the license holder by sending through ordinary mail a copy of this resolution as soon as possible.
4. This City Council Action may be appealed within thirty (30) days to the Administrator of Alcoholic Beverages Division of the Iowa Department of Commerce, 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

MOVED BY Vlassis TO ADOPT

FORM APPROVED:


 Douglas P. Philip
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

Y. M. Franklin
 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.

Diane Rauh
 City Clerk