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Legal Department

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January 9, 2009

The Honorable Ann Campbell, Mayor
and Members of the City Council
of the City of Ames, Iowa

Re: Proposed Renewal of Liquor License for Sgt. Peppers, 116 Welch Avenue

Dear Mayor Campbell and Council Members:

You may recall that this business was before you on November 25, 2008 seeking a Class C Liquor License, which was at that time granted. Since a license of that type is normally granted for one year, it may appear that this renewal is premature. This letter is to provide you the background events to understand why it is before you again so soon.

In January of 2008, this business sought an alcoholic beverages license for that address. The type of license they applied for did not allow liquor sales, but rather, was beer and wine only. They were granted the beer and wine license on January 23, 2008. On Wednesday, November 19, 2008, the City Sanitarian, while conducting a routine food service inspection at this business, observed that the bar had a full line of liquor and had signage indicative of selling liquor. Ames Police confirmed this at the time when the bar was open, and also confirmed that their license did not allow any liquor sales.

Sale of unpermitted liquor is a violation of the State law prohibiting Bootlegging. The Licensee removed the unpermitted commodities from the premises and subsequently applied for a different license so that they would have liquor sales privileges. At your meeting on November 25, 2008, approval was given for issuance to Sgt. Peppers of a Class C license. That category of license does allow beer, wine, and liquor sales. However, once a City approves a liquor license, issuance of the new license is not automatic. That local approval is communicated to the Iowa Alcoholic Beverages Division and that agency then conducts further checks with other State agencies, such as Revenue and Finance, to make sure that the Licensee is in good standing in all other aspects before the license is actually issued. The City communicated to ABD its approval on Wednesday, November 26. Due to the Thanksgiving holidays, the license was not issued by ABD before the close of business on November 26. The Licensee had, however, moved all the liquor back into Sgt. Peppers on November 26 and had it there and was conducting sales until the City, on Monday, December 1, again became aware of it. The Licensee was again directed to remove the liquor and did so.

The City normally seeks administrative sanctions against liquor licensees for violations of laws regulating the sale of alcoholic beverages. In this case, for the bootlegging activities, the City and the Licensee negotiated a settlement agreement pursuant to which the new license would be issued, but the business's alcohol sale privileges pursuant to that license were to be suspended for 30 days. It was also agreed that the effective date of the license which you approved on November 25 would be backdated by the Alcoholic Beverages Division to January 23, 2008, rather than continuing prospectively for a year from November 25th. To do otherwise would have in effect allowed this Licensee to have liquor sales privileges for more than one year while only having to pay for the licensing privilege for one year. Because of the backdating, their Class C license expires again in January, 2009.

The Licensee is serving the 30 day suspension from December 18, 2008 to January 17, 2009, and when the suspension has ended, their current license will expire on January 22, 2009. Since this business has received sanctions for the bootlegging which took place, renewal of their Class C license would be appropriate.

Sincerely,

A handwritten signature in cursive script that reads "Judy K. Parks".

Judy K. Parks
Assistant City Attorney

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