

## Item 23-0982 Alcohol License Suspension Hearing for BT & DAVE, LLC DBA: Speakeasy Ultra Lounge

Safety and Licensing Committee  
Wed, Aug 09, 2023, 5:30PM

### **Alderson Chris Croatt (District 14) 01:09**

Moving into our action items which is listed as a hearing. 23-0982 is the alcohol license suspension hearing for BT and Dave LLC, doing business as Speakeasy Ultra lounge, Theodore Sues agent. The attachments are a complaint of Captain Frisch, a summons, and a stipulation. Attorney Buruin would you like to—Buruin do you like to go first?

### **Zak Buruin (Assistant City Attorney) 01:37**

Absolutely. So, the situation—there is no stipulation signed in the packet. I do have what is now a signed stipulation which I can provide to committee if I may.

### **Zak Buruin (Assistant City Attorney) 02:10**

So, the facts are alleged in the complaint that's before the committee here today. And essentially, this is the product of two separate incidents and the cooperation and negotiation between the city and Mr. Sues his attorney, both of whom are present here today. And essentially, from the beginning—let me say it this way, there was an agreement to work out both the citations and the licensing issue, which arises there from, because the violation set forth in the complaint does cross the threshold for a suspension being required. So, there is an agreement, that would be that we're asking the committee to recommend to the Council for approval, and it does call for a 10-day suspension set—it's set forth in the stipulation here, with the suspension commencing on August 14 and ending on August 23. That would be next week.

### **Zak Buruin (Assistant City Attorney) 03:13**

Because of the timing, there is a recommendation—and this is something I take responsibility for. Essentially, the suspension would begin before the full Council meets to potentially approve this. Beginning next week, under the circumstances given that this was part of the whole negotiated process, I wanted to make an effort to honor the original agreement, the intent to have the suspension begin on that day. They've shown good faith by making plans to not be open for those days and 10 days beginning there. And I would say that, since the beginning of the process of trying to sort this through, while there hasn't always been agreement, I think there's been good faith shown by them in addressing this and dealing with this.

### **Zak Buruin (Assistant City Attorney) 04:02**

So, I don't know that I intended to get into the facts unless the committee wanted me to or if there were questions or anything else that Mr. Sues or his attorney Chad Fahrenkrug wanted to add, but we are asking the committee to approve this—or recommend this stipulation for approval to resolve the matter and allow the suspension to begin next week.

### **Alderson Chris Croatt (District 14) 04:24**

Okay, thank you. I will give you an opportunity to speak if you'd like to. Just to clarify on page two, there's just a couple of administrative corrections to the stipulation?

**Zak Buruin (Assistant City Attorney) 04:33**

Yes. In drafting, making sure the name of the LLC was correct. Mr. Sues did initial. He was the one who made the correction and initial that. I countersigned that with my initials as well. There was an additional one that I think was missed in Section 10 as well, same correction. So, I do apologize for that. There was not time, after catching that, to make sure that this was corrected for today. But that is purely administrative, there's no substantive change to that.

**Alderman Chris Croatt (District 14) 05:04**

Okay. And then on the on the issue of the dating with the commencement starting on the 14th and the Council meeting being on the 16th. Going to ask because I think others are probably curious, if on the 16th action contrary to approval happens, what does that mean for the stipulation?

**Zak Buruin (Assistant City Attorney) 05:29**

If something contrary to this—if the stipulation is essentially not approved, then we don't have a suspension at that point. It does run afoul of the agreement, and potentially we'd have to go back, maybe not all the way to square one to deal with it, but potentially to square one, potentially going back so far as to even include the original citations as that was part of the overall encompassing thing—encompassing agreement. The idea was to be as much on the same page and have this as planned out as it could be, both for the convenience of the business owner and for the convenience of the committee and the Council. If ultimately that doesn't work, that is a risk that we all knew was being undertaken at the time, though.

**Alderman Chris Croatt (District 14) 06:12**

Okay. I appreciate the transparency in the admission of the mistake that's appreciated. And I don't expect that to go that way. But I always like to think of the what if.

**Zak Buruin (Assistant City Attorney) 06:22**

Absolutely.

**Alderman Chris Croatt (District 14) 06:23**

So, would you gentlemen like to address the committee? If you do, please use the microphone at the podium and give your name and address. If you don't—you don't have to? I just want to give you an opportunity to speak. Okay, thank you. Okay, any questions from the committee? We do need a motion on the stipulation. The motion would be to approve accepting—or approve the stipulation as it's drafted and signed.

**Zak Buruin (Assistant City Attorney) 06:51**

Recommended for approval, I believe.

**Alderman Chris Croatt (District 14) 06:53**

Which would be a recommendation to Council.

**Alderman Katie Van Zeeland (District 5) 06:54**

Motion to approve.

**Alderman Nate Wolff (District 12) 06:55**

Second.

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**Alderson Chris Croatt (District 14) 06:56**

Okay, we have a motion and a second. Questions from the committee on the stipulation? Alderson Siebers, go ahead.

**Alderson William Siebers (District 1) 07:02**

Thank you, Chair. Could you just fill me in or somebody fill me in in regards to what happens to the points accumulated? Do they still remain?

**Zak Buruin (Assistant City Attorney) 07:14**

They do. So, there's still the look back period for the points. They don't—if they result in some type of enforcement action, it's not as though they're wiped off. It's still a continual look back on a rolling basis and depending on how many are accumulated. So, I forget the specific thresholds for 24 versus 36 months, but they aren't wiped clean. So, there is still that.

**Alderson William Siebers (District 1) 07:38**

Let's say, in the next three months they serve somebody underage. What happens?

**Zak Buruin (Assistant City Attorney) 07:50**

So underage—serving somebody underage is a special case because there has to be a record—there's a statutory requirement for action to be taken on that that there be more than one within a 12-month period.

**Alderson William Siebers (District 1) 08:04**

Okay.

**Zak Buruin (Assistant City Attorney) 08:05**

Essentially, they get a freebie on that. That is a very specific case. But for a general violation, if there's another violation within three months, we'd still be looking at

**Alderson William Siebers (District 1) 08:17**

150 plus.

**Zak Buruin (Assistant City Attorney) 08:18**

150 plus. So, these—depending on how many points we're looking at, it all goes back to two or three years from the date of conviction, which in this case would have been June 30, for this particular citation. So those remain for that look back period, regardless of anything else that happens.

**Alderson William Siebers (District 1) 08:37**

Thank you.

**Alderson Chris Croatt (District 14) 08:38**

Okay. Alderson Schultz? No, no question? Alderson Wolff? Alderson van Zeeland?

**Alderson Katie Van Zeeland (District 5) 08:45**

Thank you, Chair. I'll just ask the attorney if there's anything that was in the stipulation that the license owner disagreed with in the materials that we were given explaining what happened?

**Zak Buruin (Assistant City Attorney) 09:02**

I don't believe so. Although that question would have to be directed more specifically to them. I did—I was the one who drafted it, and I did make every effort to draft it in a way that was consistent with the things that I knew we agreed on, or at least that would be necessary for them to have entered the plea on the citation. And I should say that the citation—that there was a plea enter to was amended from the original citation based off of input that I received from them, specifically from Attorney Fahrenkrug. So, at every point, I did make an effort to incorporate their input as much as possible.

**Aldersperson Katie Van Zeeland (District 5) 09:39**

Okay, that's great. Thank you.

**Aldersperson Chris Croatt (District 14) 09:41**

Thank you. All right. Anything else from committee? Anything else you guys want? Okay. All right. Anything else from the attorney's office?

**Zak Buruin (Assistant City Attorney) 09:49**

No, thank you.

**Aldersperson Chris Croatt (District 14) 09:50**

Police Department? Okay.

**Aldersperson Chris Croatt (District 14) 09:52**

Let's take a vote on the motion to recommend approval of the stipulation. All those in favor signify by saying aye. All opposed? Abstentions? Five zero. That will go to the Council as recommended—a recommendation to approve the stipulation that was agreed upon and signed by both parties.