

**COLORADO SPRINGS, COLORADO
COUNCIL CHAMBERS
CITY HALL - 107 N. NEVADA AVE.
FEBRUARY 11, 2011 – 3:00 P.M.**

The Liquor and Beer Licensing Board met in special called session.

There were present: Chairman Stephens, Mr. Clauss, Ms. Frias, and Mr. Kouba. Absent, Ms. Lloyd and Mr. Nemeth. Also present, Board Legal Advisor Kenny Hodges.

SUMMARY SUSPENSION HEARING

1. **Request for Summary Suspension of the Tavern Liquor License issued to Telesforo H. and Lidia L. Barrera dba Wagon Wheel Night Club, 2308 East Platte Avenue.**

City Prosecuting Attorney Kyle Sauer entered his appearance on behalf of the City and stated before the Board today, is a request for emergency action due to a situation that is of serious threat to the public health, safety and welfare of the community; that the requested summary suspension would be pending a suspension and revocation hearing which he requests be scheduled February 25, 2011.

In response to questions from Mr. Sauer:

Detective Jeff True was sworn and testified that following contact by a confidential informant who informed the Police Department that narcotics were being sold at the establishment, an investigation began in December 2010; that on December 2, 2010, Detective Young and the confidential informant purchased three baggies of cocaine in the establishment, each of which weighed approximately one half gram and was confirmed by a field test; that on December 8, 2010, the confidential informant alone purchased cocaine and turned it immediately over to the Police Department. He stated to protect his anonymity due to the ongoing investigation, Detective Young is not present to testify today. He stated on January 12, 2011, a certified letter was mailed to the licensees informing them that narcotics were being sold in the establishment, and the return receipt indicated the owners signed for the letter January 14, 2011. He stated on December 15, 2010, Detective Young went into the establishment alone, contacted "Jose" and purchased three baggies of cocaine; that on January 6, 2011, January 13, 2011, January 19, 2011, and January 21, 2011, Detective Young again purchased baggies of cocaine. He stated during one of the contacts, Detective Young observed "Jose" putting a napkin in a crevice of the bar; that on February 9, 2011, a search warrant was issued for the establishment; that three baggies of cocaine were found in the crevice of the bar and one found on the floor; that following a call from the licensees daughter, Telesforo Barrera arrived; that he acknowledged receipt of the letter from the Police Department, and said while he had noticed people coming and going in a short time at the establishment, he didn't think it was a big deal; that Mr. Barrera appeared calm and answered questions during the search; that when he informed Mr. Barrera that cocaine was found inside the premises, he shrugged and said okay.

In response to questions from Mr. Kouba:

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Detective True stated two men were identified as selling the cocaine; that most transactions occurred in the open and in front of bar staff; that Mr. Barrera stated the persons identified as selling the cocaine were not employees; that the Police Department observed that the person selling the cocaine would arrive when the establishment opened and stay until closing.

In response to a question from Mr. Clauss, Detective True stated three baggies were found in the bar crevice and one baggie was found on the floor.

In response to questions from Chairman Stephens, Detective True stated the confidential informant was paid by the Police Department; that he told the Police Department that on any given day, he was able to purchase cocaine at the establishment; that if the dealer was not in the bar, he would ask for "Jose", the bartender would call him and he would show up.

In response to questions from Mr. Sauer:

Detective True stated during the search on February 9, 2011, several undersize bottles of liquor were recovered and a handgun was found in a safe. He stated the testimony provided today is based on information relayed to him by Detective Young.

Mr. Sauer stated reasonable grounds exist to believe that the public health, safety and welfare imperatively requires emergency action; that State Regulation 47-900(a), Conduct of the Establishment, indicates a violation occurred and the licensee permitted conduct offensive to the average citizen through repeated drug transactions occurring on the licensed premises. He stated drugs were found in the establishment and even after notification by the Police Department of the activities, additional transactions occurred; that the licensee admitted receiving the letter but didn't take any steps to stop the activity; that the activity occurred in open air and the business has operated as a revolving door for drug transactions; that the violations that occurred were willful and deliberate.

Mr. Kouba stated the evidence presented indicates that a summary suspension is warranted; that the fact that a letter of notification was received by the licensee and the activity continued, he agrees that the licensee permitted the action.

Mr. Clauss agreed stating the evidence provided indicates the owner, registered manager and license holder appeared to facilitate the sale when the confidential informant asked. He stated he supports a summary suspension.

Motion by Clauss, that the request for summary suspension be granted on the grounds that the public health, safety and welfare imperatively require emergency action; that the Tavern Liquor License issued to Telesforo and Lidia Barrera, dba Wagon Wheel Night Club, immediately cease activity until a Suspension/Revocation hearing is held within 15 days; that the Board Legal Advisor is directed to draft Findings and Conclusion. The motion was seconded by Ms. Frias.

Mr. Clauss with consent of Ms. Frias, amended the motion to identify Regulation 47-900(a) as the alleged violation. The motion unanimously carried. Absent, Ms. Lloyd and Mr. Nemeth.

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Chairman Stephens stated a Show Cause Hearing for Suspension and/or Revocation will be held February 25, 2011 unless the hearing can be scheduled sooner.

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At 4:05 p.m., motion by Clauss, second by Kouba, that the Board adjourn.



**Cindy N. Conway, CMC
Deputy City Clerk**