

SUMMARY MINUTES OF THE ARVADA LIQUOR LICENSING AUTHORITY REGULAR MEETING HELD DECEMBER 10, 2009

1. CALL TO ORDER - By Chairman Spano at 5:30 p.m.
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL OF MEMBERS

Those present were: Gus Spano, Rob Wolf, Alan Albrandt, Jed Ladd and Cheryl Witt

Also present were: William Barber, Senior Assistant City Attorney; Susan Gaetano, Licensing Investigator and Judy Lydick, Recording Secretary.

4. APPROVAL OF MINUTES – November 12, 2009.

Chairman Spano moved to approve the Summary of Minutes of the regular meeting of November 12, 2009.

The following votes were cast on the motion:

Those voting Yes: Spano, Wolf, Albrandt, Ladd, Witt

The motion carried

5. OLD BUSINESS - none
6. NEW BUSINESS - none
7. PUBLIC HEARINGS –

- A. Application for Change of Location for the Hotel and Restaurant Liquor License of A Different Kind of Bean, Inc., d/b/a Steamers Coffee House, from 13777 West 85th Drive to 8565 Five Parks Drive, Suite 100

The public hearing opened.

Sworn Testimony: John Miller, President of A Different Kind of Bean, Inc.

The Applicant presented two exhibits:

Exhibit 1	Petition packet number one
Exhibit 2	Posting Log and Posting Affidavit

The city presented three exhibits:

Exhibit A	Publisher's Affidavit
Exhibit B	Pictures of posted signs
Exhibit C	Applicant's file

Chairman Spano moved to accept the exhibits into the record.

The following votes were cast on the motion:

Those voting Yes: Spano, Wolf, Albrandt, Ladd, Witt
The motion carried

No one else was present wishing to speak for or against the application.

The public hearing closed.

A public hearing on the Application for the Change of Location for the Hotel and Restaurant Liquor License of A Different Kind of Bean, Inc., d/b/a Steamers Coffee House, 8565 Five Parks Drive, #100, Arvada, Colorado was held on Thursday, December 10, 2009, before the City of Arvada Liquor Licensing Authority (hereinafter "Authority"). After considering all of the evidence presented at said public hearing, reviewing the exhibits, petitions, remonstrances, and considering all of the facts presented, the Authority adopts the following Findings of Fact:

1. The neighborhood to be served by the requested license is that area surrounded by the following:

On the North by the centerline of West 88th Avenue and extensions thereof
On the East by the centerline of Alkire Street and extensions thereof
On the South by the centerline of West 82nd Avenue and extensions thereof
On the West by the centerline of Indiana Street and extensions thereof
2. The City Clerk's Results of Investigation dated December 4, 2009, is incorporated herein and made a part hereof.
3. The Authority finds there is one similarly licensed outlet presently existing within the applicant's delineated boundary.
4. The applicant submitted petitions containing the signatures of approximately 72 persons, 10 of which were deleted. Of the petition signers, 62 support the issuance of the proposed license and none oppose it. Petition signers, according to the testimony of the circulators, support the issuance of the proposed liquor license.
5. No persons, other than representatives of the applicant testified in support of the proposed license regarding the needs and desires of the neighborhood.

6. The Authority finds the applicant's file is complete.
7. The City Zoning permits the use of the subject property for the proposed outlet.
8. No petition in opposition was received and no person spoke in opposition. The Authority finds there has been an adequate showing the present outlets in and near the neighborhood are not meeting the reasonable requirements thereof.
9. As authorized by C.R.S. 12-47-313 (III), Section 6-97 of the Code of the City of Arvada allows for the issuance of a Liquor License within 500 feet of any public or parochial school or the principal campus of any college, university or seminary. Therefore, the Licensing Authority does not need to determine whether the proposed outlet is located within 500 feet of any public or parochial school or the principal campus of any college, university or seminary.
10. The Authority has considered all of the evidence coming before the Authority at the public hearing and finds the evidence does establish conclusively:
 - A. The reasonable requirements of the neighborhood are not presently being met.
 - B. The desires of the inhabitants of the neighborhood are consistent with these Findings and the granting of the application.

Chairman Spano moved that the foregoing Findings of Fact be Adopted and the Application for the Change of Location for the Hotel and Restaurant Liquor License of A Different Kind of Bean, Inc., d/b/a Steamers Coffee House, 8565 Five Parks Drive, #100, Arvada, Colorado, be and the same is Approved.

The following votes were cast on the motion:

Those voting Yes: Spano, Wolf, Albrandt, Ladd, Witt
The motion carried

- B. Alleged Violation of the Tavern Liquor License of Binker's, LLC d/b/a Binker's 9575 West 57th Avenue
- C. Alleged Violation of the Tavern Liquor License of Binker's, LLC d/b/a Binker's 9575 West 57th Avenue

Chairman Spano opened the public hearings for item B. and C.

Brad Whitfield Assistant City Attorney and Reid Betzing, Assistant City Attorney, were present. Mr. Betzing asked that all witnesses present who will be giving testimony be sequestered.

Mr. Betzing gave an opening statement regarding the four allegations.

Yolanda Lucas, managing member of Binker's, LLC made an opening statement.

Sworn Testimony: Yolanda Lucas a/k/a Yolanda Gindell
Vickie Buckley, Arvada Sales Tax Collections Agent
Kristen Rush, Arvada Deputy City Clerk
Tim Vavrick
Tracy Kim DeMoss
Susan Gaetano, Arvada Licensing Investigator
Miranda Gamble
Scott Kelly
Yvette Coronado

The City presented seven exhibits:

1. Letter from City of Arvada dated November 16, 2009 regarding Past Due Assessments
2. Letter dated December 8, 2009 from Vickie Buckley, Collections Agent for the City of Arvada, summarizing Binker's delinquent account
3. Copy of the City of Arvada Liquor License issued to Binker's, LLC dba Binker's
4. Photocopy of a paycheck from Binker's made payable to Tracy DeMoss dated October 8, 2009.
5. Photocopies of the timecards and other receipts found in the Binker's office by Susan Gaetano, Liquor Investigator for the City of Arvada
6. Photocopies of the envelope and receipts found in the Binker's office by Ms. Gaetano labeled "Liquor Receipts 2009"
7. Letter from the Department of Labor and Employment regarding Workers' Compensation Records for Binkers, LLC

Exhibits 1, 3-7 were offered and accepted into evidence.

Mr. Betzing provided a summary of the evidence and testimony.

Ms. Lucas presented a closing statement.

Chairman Spano moved that the Local Licensing Authority finds that the City has proved, by a preponderance of evidence, that there has been a violation of C.R.S. §12-47-412(2)(a) by the Licensee, Binker's, LLC d/b/a Binker's 9575 West 57th Avenue, Arvada, Colorado.

The following votes were cast on the motion:

Those voting Yes: Spano, Wolf, Albrandt, Ladd, Witt
The motion carried

Chairman Spano moved that the Local Licensing Authority finds that the City has proved, by a preponderance of evidence, that there has been a violation of C.R.S. §12-47-307(1)(a)(VI) with respect to specification number one of the show cause notice by the Licensee, Binker's, LLC d/b/a Binker's 9575 West 57th Avenue, Arvada, Colorado.

The following votes were cast on the motion:

Those voting Yes: Spano, Wolf, Albrandt, Ladd, Witt
The motion carried

Chairman Spano moved that the Local Licensing Authority finds that the City has proved, by a preponderance of evidence, that there has been a violation of C.R.S. §12-47-307(1)(a)(VI) with respect to specification number two by the Licensee, Binker's, LLC d/b/a Binker's 9575 West 57th Avenue, Arvada, Colorado.

The following votes were cast on the motion:

Those voting Yes: Spano, Wolf, Albrandt, Ladd, Witt
The motion carried

Chairman Spano moved that the Local Licensing Authority finds that the City has proved, by a preponderance of evidence, that there has been a violation of C.R.S. §12-47-307(1)(a)(VI) with respect to specification number three by the Licensee, Binker's, LLC d/b/a Binker's 9575 West 57th Avenue, Arvada, Colorado.

The following votes were cast on the motion:

Those voting Yes: Spano, Wolf, Albrandt, Ladd, Witt
The motion carried

Chairman Spano moved that after considering the statements made in aggravation (it should be noted that Ms. Lucas declined to give a statement in mitigation) and the sentencing guidelines, the Local Licensing Authority of the City of Arvada imposes the following penalty on Binker's, LLC d/b/a Binker's 9575 West 57th Avenue, Arvada, Colorado

1. Six month suspension of its license with the condition that there be a transfer of ownership to a new licensee who meets legal criteria to hold a liquor license as set out in Colorado statutes and case law, or the license will be revoked at the end of the six month suspension. The six month active suspension will commence immediately and as provided in Colorado Department of Revenue Regulation 47-600.F., the licensee shall post two notices in conspicuous places, one on the exterior and one on the interior of the licensed premises, for the duration of the suspension.
2. The date of final agency action for purposes of appeal shall be the date of the issuance of the Findings of Fact, Conclusions of Law and Order, which shall be issued no later than seven business days from the date of completion of the show cause hearing.

The following votes were cast on the motion:

Those voting Yes: Spano, Wolf, Albrandt, Ladd, Witt
The motion carried

8. OTHER AUTHORITY ITEMS –

Chairman Spano moved to cancel the December 24, 2009 meeting.

The following votes were cast on the motion:

Those voting Yes: Spano, Wolf, Albrandt, Ladd, Witt
The motion carried

9. STUDY SESSION – none

10. REPORT FROM CITY ATTORNEY'S OFFICE – none

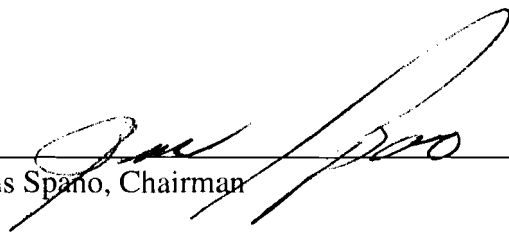
11. REPORT FROM CITY CLERK'S OFFICE – none

12. REPORT FROM POLICE DEPARTMENT –

13. ADJOURNMENT – 9:35 p.m.



ATTEST:



Gus Spano, Chairman



Judy Lydick, Recording Secretary