

**CITY OF MINNEAPOLIS
CITY COUNCIL
PUBLIC SAFETY & REGULATORY SERVICE COMMITTEE**

In the Matter of M & S Grill
Held by McCormick and
Schmick Restaurant Corporation
DBA: M & S Grill
50 6th Street South
License: On Sale Liquor Class E with Sunday Sales

**FINDINGS OF FACT
CONCLUSION AND
RECOMMENDATIONS**
Ward: 7

L186-50065

This matter came on for a License Settlement Conference (“LSC”) meeting on Tuesday, December 18, at 10:30 a.m. in Room 1 of City Hall, 350 South Fifth Street, Minneapolis, MN 55415. The LSC meeting was held to discuss issues related to the operation of the M & S Grill, pursuant to a Notice to Appear, dated November 29, 2007. Present at the LSC meeting was Wilhelm Borgstrom, Regional Chef, Craig Wilde, General Manager, and Tammera Diehm, legal counsel from Winthrop & Weinstine representing M & S Grill; Ricardo Cervantes, Deputy Director and License Inspector Phil Schliesman of Licenses and Consumer Services, Lt. Steve Kincaid and Sergeant John Billington, M.P.D. Liquor License Division, representing the City of Minneapolis.

Based upon the agreement between the parties and all files and records contained herein, the Committee makes the following recommendation:

FINDINGS OF FACT

1. The Minneapolis Police Department License Investigation Division conducts youth alcohol compliance checks in an effort to assure retail-alcohol license holders are not serving alcohol to persons under the age of 21.

2. In addition to new employee training, M & S Grill provided formal alcohol server training to all employees in August, 2005 and March 2007.

3. On August 13, 2007, the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at the M & S Grill, 50 6th Street South. Three shoppers under the age of 21 were sent into the business in an attempt to purchase alcohol, and each shopper was served. An Administrative Citation was issued, (a \$500 fine).

4. On October 16, 2007, another youth alcohol compliance check was conducted at this establishment. In this instance, two underage shoppers were sold alcohol. This was the second violation for the M & S Grill in two, (2), years. As a result of the compliance failure, an administrative citation was issued in the amount of \$1000, as detailed in a City Council resolution.

5. On November 24, 2007, employees from M & S Grill went through alcohol server training provided by Bob Pomplin, Loss Control Services, Inc.

6. On December 6th, 2007, an alcohol compliance check was conducted at M & S Grill and the establishment was found to be in compliance.

CONCLUSIONS

1. Despite ongoing training, on two separate occasions, employees of the M & S Grill sold alcohol to persons under the age of 21, in violation of Minneapolis City Ordinance 370.10, Minnesota Statute 340A.503 subd. 2(1), and the established compliance check policy and procedures of the City of Minneapolis. These compliance failures occurred in a period of less than twenty four months.

RECOMMENDATIONS

- 1) M & S Grill will continue to offer its employees regular professionally presented beverage alcohol training. All employees who will serve beverage alcohol will be required within 30 days of hire to undergo such training. As part of any employee orientation training, internal training, or any professionally presented training, every employee is informed of a policy stating that if there is any question regarding any identification presented for purpose of buying beverage alcohol, the staff member will go to a member of management for a second opinion. A copy of this written policy must be received by the Licenses and Consumer Services office by 1:00 pm on the first Friday after the adoption and publication of this action by the full City Council.
- 2) One electronic card reader shall be installed in the service area of the restaurant so that all servers have easy access to the card reader.
- 3) The licensee shall be aware that it will be subject to additional compliance checks during the term of this action. As is the policy of the City of Minneapolis, the underage compliance checkers will at all times respond truthfully to any questions asked of them by employees or sales clerks of the licensee, and if asked, will present their State issued identification.
- 4) A properly trained manager must be on-site during business hours at all times.
- 5) M & S Grill shall be sanctioned in the amount of \$3,000.00; \$1,500.00 of which is to be stayed for a period of one year from the signing of this agreement provided there are no same or similar violations. Payment of the non-stayed portion of the sanction must be received by 1:00 pm on the first Friday after the adoption and publication of this action by the full City Council.
- 6) This action shall not preclude any other adverse license action, including but not limited to suspension or revocation, for subsequent violations of this action, or for subsequent violations or subsequently discovered violations of any federal, state, or local laws, ordinances, or regulations. It is understood between the parties that the terms of this Agreement shall apply only to operations at M&S Grill and not at other establishments that may be owned or operated by the principals of the license holder. Additional adverse licensing action taken against M&S Grill shall not, in and of itself, be sufficient grounds for adverse licensing action against other establishments owned or operated by the license holder. This Agreement does not alter the eligibility requirements to hold a liquor license pursuant to Minn. Stat. § 340A.402 or M.C.O. § 362.360.

M & S Grill

By: Tammera Dieh
Tammera Diehm
Winthrop & Weinstine, P.A.

Date: 3/19/08

Minneapolis Police

By: [Signature]
Lt. Steven Kincaid
Commander, License Division

Date: 4/2/08

**City of Minneapolis Office of
Licenses and Consumer Services**

By: [Signature]
Ricardo Cervantes
Deputy Director of Consumer
Services

Date: 4-1-08