

STAFF REPORT

Date: December 14, 2022

To: Mayor and City Council

Thru: Doug Thornley, City Manager

Subject: City Council to determine if Wrightway Market's privileged business license to sell package alcohol should be renewed based upon the decision of an Administrative Hearing Officer's order issued on November 15, 2022. [Ward 3]

From: Lance Ferrato, Business License Manager

Department: City Manager's - Business License

Summary:

This report has been placed on the agenda pursuant to the November 15, 2022 administrative order issued to Wrightway Market (Wrightway) located at 330 Evans Avenue.

Based upon information provided by the Reno Police Department (RPD) and the Reno Code Enforcement Division (Code) in their joint memo dated October 18, 2022, the Business License Division requested and required the business license holder, Devinder Dhillon, to appear before an administrative hearing officer to show cause, if any, as to why the privileged business license to sell package alcohol at Wrightway should not be revoked or suspended.

At the hearing, the administrative hearing officer found sufficient evidence to warrant a suspension of the package alcohol license. Consequently, Wrightway was ordered to suspend alcohol sales from November 28, 2022 to December 14, 2022 at which time, the licensee would be required to appear before Council to determine if the license should be renewed or not. To clarify, based on the suspension imposed by the hearing officer, as of midnight December 14, 2022 the business may reinstate package alcohol sales until the license expires on December 31, 2022 regardless of Council's decision.

Staff recommends Council deny the licensee's privileged business license renewal.

Alignment with Strategic Plan:

Public Safety

Previous Council Action:

July 26, 2010 – Council approved the application for Wrightway to be licensed to sell package alcohol. At Council’s request the applicant entered into a voluntarily agreement to limit the alcohol sales area to 500 square feet of the retail floor space.

Background:

On October 18, 2022, the Business License Division received a memo (Exhibit A) from RPD and Code with a recommendation to suspend the package alcohol license. The information consisted of calls for service (CFS) data and a detailed list of violations occurring at the property. Due to the concerns reported in the memo, the Business License Division scheduled an order to show cause hearing for October 25, 2022 (Exhibit B) to give the licensee the opportunity to explain why the privileged business license to sell package alcohol should not be revoked or suspended. Due to the licensee’s schedule, the hearing was rescheduled for November 15, 2022.

Upon hearing the case, the administrative hearing officer ruled to suspend the privileged license activity from November 28, 2022 to December 14, 2022. Furthermore, as a condition of the suspension, the hearing officer stipulated that the licensee must appear before Council to determine if their privileged license could be renewed upon expiration (Exhibit C).

Wrightway’s package alcohol license expires on December 31, 2022 at which time the quarterly renewal is due. Council is asked to determine if Wrightway should be allowed to renew their license (with or without conditions) or not. Per the administrative order, the business may reinstate package alcohol sales as of midnight December 14, 2022 and continue until the license expires on December 31, 2022.

Discussion:

The following information details the steps taken by staff to bring this case forward and the potential outcomes Council must consider.

Legal Authority:

RMC Sec. 4.04.150 states that, “Any license issued pursuant to this title may be revoked or suspended by the city, after notice and opportunity to be heard as provided in this title, for any of the following causes: ...

- (3) Any violation of any law related to the operation of the business including but not limited to provisions of the Reno Municipal Code, the Nevada Revised Statutes or federal law;
- (4) Any act or omission by the licensee or his employees or his agents, related to the operation of the business licensed, which violates any law including but not limited to provisions of the

Reno Municipal Code, the Nevada Revised Statutes or federal law or constitutes a breach of the peace or nuisance under Reno Municipal Code, chapter 8.22;

- (5) Knowingly, or under circumstances that reasonably indicate knowing or willful ignorance of criminal activity, allowing, permitting, aiding, fostering or promoting the conduct of criminal activity on the property of the licensed business, including failing to take reasonable measures to abate, decrease or lessen the frequency or severity of such conduct after receiving notice that such conduct is occurring on the property or otherwise becoming aware of such conduct; or ...”

Furthermore, pursuant to RMC Sec. 5.05.007, “No applicant for a privileged license or permit has any right to such license or permit. Any license or permit issued pursuant to the provisions of this title is a revocable privilege, and no holder acquires any vested right therein or thereunder....”

Basis for Action:

Based upon a recent analysis of CFS at convenience stores throughout the City, the Community Service and Safety Team (“CSAST”) arranged an inspection operation to visit the five businesses with the highest CFS. The CSAST operation consisted of RPD, Code, the Building Department, the Reno Fire Department, and the Business License Division. Assignments were as follows:

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| Reno Police: | Provide safety and security for the team, confirm identities for citations if necessary. |
| Code Enforcement: | Identify any violations of the Downtown Property Maintenance Code, Reno Municipal Code, and any blight situations. Confirm Alcohol Awareness Education card compliance. |
| Building Dept: | Inspect the premises and ensure that all building requirements are met. Identify any building alterations that are not to code. |
| Reno Fire: | Inspect and ensure that all applicable RMC requirements and any adopted Fire Codes are met. |
| Business License: | Ensure compliance with all business license requirements per RMC. |

Upon completion of the operation, data was collected, analyzed, and summarized in a memo by RPD and Code in which they recommended a show cause hearing to consider suspension.

Hearing:

The hearing to show cause was conducted in accordance with RMC Sec. 4.04.170 on November 15, 2022 via Zoom with Administrative Hearing Officer Robert Bell presiding. The City presented its case by summarizing the RDP/Code memo before the licensee was allowed to rebut. The licensee stated that the majority of the CFS are the result of the business location more than the business itself. Additionally, the licensee stated that all noted violations had been or were in the process of being corrected.

After a thorough discussion of the case, staff went on to answer questions from both the licensee and the hearing officer. Ultimately, the hearing officer ruled to suspend the privileged license activity and require that the licensee appear before Council to determine if their privileged license could be renewed upon expiration.

License Conditions:

While reviewing information in preparation for this report, staff found documentation revealing that Council's original approval included a voluntary agreement to limit alcohol sales to no more than 500 square feet of the retail floor.

Upon inspection of the property, staff compared the square footage noted on the store diagram to the actual product on the floor. Based on the assessment, it was determined that the licensee is in compliance although the store diagram should be updated to reflect current details. The licensee was notified that if their renewal was approved by Council, compliance with this condition must be met and maintained at all times.

Financial Implications:

There are no financial implications associated with this item.

Legal Implications:

Legal review completed for compliance with City procedures and Nevada law.

Recommendation:

Staff recommends Council deny the privileged business license renewal.

Proposed Motion:

I move to deny the privileged business license renewal.

Attachments:

Exhibit A - Wrightway Market - Order to Show Cause Memo

Exhibit B - Wrightway Market - Hearing Notification

Exhibit C - Wrightway Market - Suspension and Order

Exhibit D - NRS 241.033(1) Waiver