



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

CITY OF PORTLAND, petitioner, vs. THERAPY LOUNGE, INC., respondent

CASE NO. 2110005

PROPERTY: 205 NW 4th Avenue

LEGAL DESCRIPTION:

Tax ID Number: R140429,

City of Portland, Multnomah County, Oregon

DATE OF HEARING: August 1, 2011

APPEARANCES:

Mr. Duke Tufty, Attorney for Respondent

Ms. Ellen Osoinach, Attorney for the City

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A hearing in this appeal case was heard on August 1, 2011. Mr. Duke Tufty ("Tufty"), attorney, appeared on behalf of Respondent Therapy Lounge, Inc, licensee and operator of Crown Room ("Respondent") and Ms. Ellen Osoinach, attorney, appeared on behalf of the City of Portland ("City"). Tufty and Osoinach agreed, on behalf of their clients, that Exhibit 61 shall be considered the operative "complaint" in this case; excepting violations occurring between February 19, 2011 and March 13, 2011 (bottom of page 1 of Exhibit 61) as well as violations occurring between April 9, 2011 and April 30, 2011 (top of page 2 of Exhibit 61) were dismissed by the City. Exhibits 1 through and including 61 were admitted into the evidentiary record at the August 1, 2011 hearing and Exhibits 62 through and including 72 are admitted by the Hearings Officer on his own motion. Witnesses Ridgely, Harris, Andonian, Gahan, Steinbronn, Hornstein and Marchetti testified at the August 1, 2011 hearing.

Exhibit 71, a transmittal letter from Marchetti, on behalf of the City, states that the "parties....have reached settlement...The parties request that a Final Order be issues incorporating the terms outlined in the attached document." The Hearings Officer reviewed Exhibit 72, a copy of the proposed Settlement Agreement. The Hearings Officer finds the terms and agreements contained in Exhibit 72 to be reasonable. The Hearings

Officer notes that one of the terms of Exhibit 72 is that the Hearings Officer retain jurisdiction until September 1, 2012. The Hearings Officer, noting that September 1, 2012 is a Saturday, finds it appropriate to retain jurisdiction until 4:30 p.m. on September 4, 2012.

The Hearings Officer finds it appropriate to incorporate the terms and agreements of Exhibit 72 into this Order (with the retention of jurisdiction date modification to September 4, 2012). The Hearings Officer finds that any violation of Exhibit 72 should be considered a violation of this Order and that paragraph 7 of Exhibit 72 shall apply.

ORDER AND DETERMINATION:

1. The Hearings Officer adopts Exhibit 72 as the Order in this case (excepting the Hearings Officer shall retain jurisdiction of this case until 4:30 p.m. on September 4, 2012). Neither party shall be considered the prevailing party.
2. If no request for additional hearing is received by the Hearings Office by 4:30 p.m. on September 4, 2012, this case shall be closed on September 5, 2012.
3. This order has been mailed to the parties on September 20, 2011, and shall become final and effective on October 4, 2011. Any objections to this order must be in writing and received by the Code Hearings Office prior to the effective date.
4. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: September 20, 2011


Gregory J. Frank, Hearings Officer

GJF:jeg/rs

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Complaint	Reese, Chief Michael	Received
2	Liquor License Application	Reese, Chief Michael	Received
3	Individual History (Macomber, Brad Alan)	Reese, Chief Michael	Received
4	Personal History Form (Macomber, Brad Alan)	Reese, Chief Michael	Received
5	Individual History (Macomber, Gary A)	Reese, Chief Michael	Received
6	Personal History Form (Macomber, Gary Alan)	Reese, Chief Michael	Received
7	6/14/11 Letter from Amalia Alarcon de Morris to Therapy Lounge INC c/o Brad Macomber dba: Crown Room	Reese, Chief Michael	Received
8	3/31/11 Letter from Michael Reese to Brad Macomber, Crown Room, Therapy Lounge, Inc.	Reese, Chief Michael	Received
9	4/22/11 Abatement Plan	Reese, Chief Michael	Received
10	The Crown Room's Policies	Reese, Chief Michael	Received
11	The Crown Room Security Guidelines	Reese, Chief Michael	Received
12	5/6/11 (corrected date) Amended Abatement Plan	Reese, Chief Michael	Received
13	Investigation Report, Case 11-013667	Reese, Chief Michael	Received
14	Investigation Report, Case 11-013667 (duplicate)	Reese, Chief Michael	Received

15	Investigation Report, Case 11-015820	Reese, Chief Michael	Received
16	Investigation Report, Case 11-018765	Reese, Chief Michael	Received
17	Custody Report, Case 11-020060	Reese, Chief Michael	Received
18	Investigation Report, Case 1128025	Reese, Chief Michael	Received
19	Special Report, Case 11-033078	Reese, Chief Michael	Received
20	Special Report, Case 11-033078 (2 page)	Reese, Chief Michael	Received
21	Property Evidence Receipt, Case 11-033078	Reese, Chief Michael	Received
22	Custody Report, Case 11-033078	Reese, Chief Michael	Received
23	Special Report, Case 11-035463	Reese, Chief Michael	Received
24	Special Report, Case 11-43984	Reese, Chief Michael	Received
25	Special Report, Case 11-048297	Reese, Chief Michael	Received
26	Special Report, Case 11-048751	Reese, Chief Michael	Received
27	Parties to be notified	Reese, Chief Michael	Received
28	Hearing Notice	Hearings Office	Received
29	Mailing List	Hearings Office	Received
30	Notice of Rights	Hearings Office	Received
31	7/8/11 Request to reschedule with attachment	Tufty, Duke	Received
31a	E-mails	Tufty, Duke	Received
32	Updated Mailing List	Hearings Office	Received
33	Hearing Notice	Hearings Office	Received
34	7/19/11 Fax Cover Sheet	Marchetti, Theresa	Received
35	6/20/11 Complaint, City Code Violation	Marchetti, Theresa	Received
36	Special Report: 11-048297	Marchetti, Theresa	Received
37	Investigation Report: 11-53187	Marchetti, Theresa	Received
38	Custody Report: 11-53187	Marchetti, Theresa	Received
39	Custody Report: 11-53187	Marchetti, Theresa	Received
40	Custody Report: 11-53188	Marchetti, Theresa	Received
41	Investigation Report: 11-052908	Marchetti, Theresa	Received
42	Special Report: 11-050870	Marchetti, Theresa	Received
43	Special Report: 11-057457 (page 2 of 2)	Marchetti, Theresa	Received
44	Special Report: 11-055817	Marchetti, Theresa	Received
45	7/27/11 Fax Cover Sheet	Marchetti, Theresa	Received
46	7/26/11 Complaint City Code Violation	Marchetti, Theresa	Received
47	OLCC Corporation Questionnaire	Marchetti, Theresa	Received
48	3/10/08 Letter from Roseann Cotton to Therapy Lounge, Inc., The Crown Room	Marchetti, Theresa	Received
49	OLCC License Inquiry	Marchetti, Theresa	Received
50	Special Report: 11-050870	Marchetti, Theresa	Received
51	Special Report: 11-052933	Marchetti, Theresa	Received
52	Special Report: 11-055817	Marchetti, Theresa	Received
53	Special Report by Officer Rich Steinbronn	Marchetti, Theresa	Received
54	Special Report by Officer Samson M. Ajir	Marchetti, Theresa	Received
55	Investigation Report by Officer Jay Gahan	Marchetti, Theresa	Received
56	Custody Report by Officer Rigley	Marchetti, Theresa	Received
57	Special Report by Officer Andonian	Marchetti, Theresa	Received
58	Special Report by Officer Ridgely	Marchetti, Theresa	Received
59	Continuation Report	Marchetti, Theresa	Received
60	Special Report by Officer DeLand	Marchetti, Theresa	Received
61	Complaint	Marchetti, Theresa	Received
62	Map	Tufty, Duke	Received
63	8/1/11 letter, Vincent L. Jarmer to Gregory J. Frink	Osoinach, Ellen	Received
64	Special Report by Officer R. Steinbronn	Osoinach, Ellen	Received
65	8/9/11 Request to reschedule with attachments	Tufty, Duke	Received
65a	8/9/11 letter from Brad Macomber	Tufty, Duke	Received
65b	E-mail	Tufty, Duke	Received
66	E-mail	Tufty, Duke	Received

67	Hearing Notice	Hearings Office	<u>Received</u>
68	8/26/11 Fax Requesting Set-Over	Osoinach, Ellen	<u>Received</u>
69	Hearing Notice	Hearings Office	<u>Received</u>
70	Hearing Notice	Hearings Office	<u>Received</u>
71	9/15/11 Cover Letter	Marchetti, Theresa	<u>Received</u>
72	Settlement Agreement	Marchetti, Theresa	<u>Received</u>

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HEARINGS OFFICE

Settlement AgreementEffective Date: September 19th, 2011

Therapy Lounge, Inc., dba the Crown Room ("Crown Room"), and the City of Portland (the "City") agree to the following terms in full and complete settlement of City Code Violation Complaint, Case Hearing 2110005 (the "Complaint").

1. Jurisdiction. The City and Crown Room agree that the Hearings Officer has jurisdiction over this matter until September 1, 2012. Crown Room acknowledges that a violation of the Portland City Code 14B.120 Time Place and Manner Regulation of establishments that serve and sell alcoholic beverages occurred at 204 NW 4th ave.
2. No Entry after 1:30AM. Crown Room agrees to not allow any new patrons to enter the premises after 1:30AM on Friday and Saturday nights and to stop alcohol service at 2:00AM.
3. Crown Room agrees to undertake all reasonable actions necessary and appropriate to prevent the occurrence of any offensive littering or disorderly conduct violations.
4. Alcohol Service. Crown Room agrees to:
 - a. Limit each patron to possessing no more than two containers of alcohol. Service staff must be able to interact verbally with each individual ordering an alcoholic beverage. This does not prohibit one patron from paying for an alcoholic beverage for another patron or transporting an alcoholic beverage to a table for another patron.
 - b. Not sell shots, double shots, or drop-shots. Shots are alcoholic beverages served in a shot glass and do not include alcoholic beverages served in snifters or rock glasses without ice, such as a Grand Marnier in a snifter or scotch in a rocks glass.
 - c. Limit the amount of alcohol in a container to no more than 16 ounces of malt beverage, 6 ounces of wine, or 2 ounces of distilled spirits.
 - d. Only serve bottles of wine or champagne to groups of two or more patrons.
5. Security. Crown Room agrees to:
 - a. Have a minimum of six (6) DPSST certified security staff at the Crown Room from 10:00PM to close on Friday and Saturday nights. On Friday and Saturday nights from 10:00PM to close, Crown Room agrees to:
 - i. Designate two persons* as entrance security leads who will monitor and control entrance to the establishment, enforce the dress code, and use a metal detector on individuals before allowing them into the establishment.
 - ii. Designate one person* as the side exit monitor whose primary duty is to monitor and control the side exit into the smoking area and exterior of the establishment. The side exit monitor will not allow an individual entry or

re-entry into the establishment through the side door. Individuals seeking re-entry must wait in line for entry through the front entrance.

- iii. Designate one person* as an alcohol monitor whose primary duty is to monitor the premises for intoxicated patrons.

1. *The actual individual performing these functions during the evening may vary as staff take breaks, or otherwise shift roles over the course of the evening.

- b. Have a minimum of two (2) DPSST certified security staff at Crown Room from 10:00PM to close on Tuesday, Wednesday, and Thursday evenings.

6. Entertainment. Crown Room agrees to:

- a. Discontinue its "Massive" event.

7. Violations. During the time specified in section 1, the City may set a hearing with the Hearings Office to present evidence that this order has been violated. If the Hearings Officer determines that the order has been violated, the City and Crown Room agree that the appropriate remedy is a \$1,000 fine for each proven violation.

Therapy Lounge, Inc., dba
Crown Room

By: 

Brad Macomber, President

Date: 9/14/11

City of Portland

By: 

Theresa Marchetti, ONI
Liquor Licensing

Date:

City of Portland

By: 

Amalia Alarcon de Morris,
ONI Director

Date: