



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

1900 SW 4<sup>th</sup> Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: [www.portlandoregon.gov/auditor/hearings](http://www.portlandoregon.gov/auditor/hearings)



## HEARINGS OFFICER'S ORDER

CITY OF PORTLAND, Petitioner

vs.

CONCEPT ENTERTAINMENT FOUR, LLC, DBA DIXIE TAVERN, Respondent

CASE NO.: 2110004

PROPERTY: 26-32 NW 3<sup>rd</sup> Avenue

LEGAL DESCRIPTION:

Tax ID Number R140379,

City of Portland, Multnomah County, Oregon

HEARINGS OFFICER: Mr. Gregory J. Frank

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Hearings Officer received, on August 15, 2011, a letter from Ms. Theresa Marchetti ("Marchetti"), the representative of Petitioner City of Portland (Exhibit 58). Exhibit 58 stated, in part that the Petitioner and Respondent in this case had reached a settlement and requested that the Hearings Officer incorporate, into an Order, a Settlement Agreement (Exhibit 58a – hereafter the "Settlement").

The Hearings Officer makes this decision based upon the written documents admitted into the evidentiary record (Exhibits 1 through and including 58a).

Exhibit 54a is an amended Complaint ("Amended Complaint") filed by Petitioner setting forth violations alleged to have been committed by Respondent. Exhibit 54a also included the City's request for relief to be imposed against the Respondent. The Hearing Officer adopts Exhibit 54a as the operative "complaint" in this case.

The Hearings Officer reviewed the Settlement in the context of Exhibit 54a and finds that Respondent has not admitted any of the violations alleged in the Amended Complaint. The Hearings Officer finds that the City and Respondent agreed to specific actions and/or limitations related to alcohol service and security measures to be undertaken at 26-32 NW 3<sup>rd</sup> Avenue, Portland Oregon ("Dixie Tavern") through and including December 24, 2011. The Hearings Officer finds that if the identified actions and/or limitations are not satisfied, Petitioner may request a hearing before the Hearings Officer for the purpose of presenting evidence of violation of the Settlement and the possible imposition of fines for any violations found to exist by the Hearings Officer. The Hearings Officer finds the Settlement to be reasonable and appropriate and therefore incorporates the Settlement into this Order.

**ORDER AND DETERMINATION:**

1. The hearing for case 2110004 scheduled for August 19, 2011, at 9:00 a.m. is cancelled.
2. The Settlement (Exhibit 58a) is incorporated as the Order of the Hearings Officer. Either the Petitioner or Respondent may request a hearing before the Hearings Officer to resolve any alleged breach or violation of the Settlement Agreement until 4:00 p.m. on December 24, 2011.
3. Unless a hearing has been requested, consistent with paragraph 2 above, this case shall be closed on December 27, 2011.
4. This Order has been mailed to the parties on August 17, 2011, and shall become final and effective on August 31, 2011. Any objections to this Order must be in writing and received by the Code Hearings Office prior to the effective date.
5. This Order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: August 17, 2011



Gregory J. Frank, Hearings Officer

GJF:rs/jeg

Enclosures

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Complaint	Reese, Chief Michael	Received
2	Notification List	Reese, Chief Michael	Received
3	OLCC Liquor License Application	Reese, Chief Michael	Received
4	OLCC Limited Liability Company Questionnaire	Reese, Chief Michael	Received
5	OLCC Individual History - Plew, John Keith	Reese, Chief Michael	Received
6	City of Portland, Bureau of Licenses, Personal History Form - Plew, John Keith	Reese, Chief Michael	Received
7	OLCC Individual History - Teising, Russell Carl	Reese, Chief Michael	Received
8	City of Portland, Bureau of Licenses, Personal History Form - Teising, Russell Carl	Reese, Chief Michael	Received
9	OLCC Individual History - Lenzen, Daniel Mark	Reese, Chief Michael	Received
10	City of Portland, Bureau of Licenses, Personal History Form - Lenzen, Daniel Mark	Reese, Chief Michael	Received
11	City of Portland, Bureau of Licenses, Personal History Form - Plew, Jeffrey Scott	Reese, Chief Michael	Received
12	3/11/11 letter, Reese to Plew/Lenzen (Dixie Tavern)	Reese, Chief Michael	Received
13	PPB Investigation Report by Officer John Andonian	Reese, Chief Michael	Received
14	PPB Investigation Report by Officer Jack Hornstein	Reese, Chief Michael	Received
15	PPB Investigation Report by Officer Daniel Barnard	Reese, Chief Michael	Received
16	6/14/11 letter, Amalia Alarcon de Morris to Concept Entertainment Four, Inc., c/o Plews, Lenzen, & Teising	Reese, Chief Michael	Received
17	5/19/11 TPM response letter, Lenzen to Theresa Marchetti	Reese, Chief Michael	Received
18	4/18/11 Dixie Tavern Corrective Measures	Reese, Chief Michael	Received
19	E-mails	Reese, Chief Michael	Received
20	3/21/11 Dixie Tavern Corrective Measures	Reese, Chief Michael	Received
21	PPB Investigation Report by Officer Hornstein	Reese, Chief Michael	Received
22	PPB Custody Report by Officer Hornstein	Reese, Chief Michael	Received

23	PPB Special Report by Officer Brad Jett	Reese, Chief Michael	Received
24	PPB Special Report by Officer Michael J. Hansen	Reese, Chief Michael	Received
25	PPB Investigation Report by Officer John Andonian	Reese, Chief Michael	Received
26	PPB Amended Custody Report by Officer Ridgely	Reese, Chief Michael	Received
27	PPB Custody Repo by Officer Andonian	Reese, Chief Michael	Received
28	PPB Custody Rep by Officer Andonian	Reese, Chief Michael	Received
29	PPB Force Data Collection Report by Officer Ridgely	Reese, Chief Michael	Received
30	PPB Force Data Collection Report by Officer Andonian	Reese, Chief Michael	Received
31	PPB Use of Force Report by Officer Burley	Reese, Chief Michael	Received
32	PPB Special Report by Officer Ridgely	Reese, Chief Michael	Received
33	PPB Force Data Collection Report by Officer Daniel Barnard	Reese, Chief Michael	Received
34	PPB Force Data Collection Report by Officer Rich Steinbronn	Reese, Chief Michael	Received
35	PPB Investigation Report by Officer Jay Gahan	Reese, Chief Michael	Received
36	PPB Special Report by Officer Samson M. Ajir	Reese, Chief Michael	Received
37	PPB Investigation Report by Officer Steinbronn	Reese, Chief Michael	Received
38	PPB Force Data Collection Report by Officer Steinbronn	Reese, Chief Michael	Received
39	PPB Investigation Report by Officer Andonian	Reese, Chief Michael	Received
40	PPB Investigation Report by Officer Daniel Barnard	Reese, Chief Michael	Received
41	Parties to be Notified	Reese, Chief Michael	Received
42	Mailing List	Hearings Office	Received
43	Hearing Notice	Hearings Office	Received
44	Notice of Rights and Procedures	Hearings Office	Received
45	6/30/11 Memo	Hearings Office	Received
46	Parties To Be Notified	Reese, Chief Michael	Received
47	Request to reschedule	Lyon, Jesse D.	Received
48	Mailing List	Hearings Office	Received
49	Hearing Notice	Hearings Office	Received
50	Request for reschedule	Tufty, Duke	Received
51	Hearing Notice	Hearings Office	Received
52	Mailing List	Hearings Office	Received
53	8/4/11 Memo	Marchetti, Theresa	Received
54	8/4/11 Email from Theresa Marchetti to Barbara Erspamer	Reese, Chief Michael	Received
54a	Complaint City Code Violation	Reese, Chief Michael	Received
55	8/11/11 Letter requesting postponement	Marchetti, Theresa	Received
56	8/11/11 Letter for Case #200411	Marchetti, Theresa	Received
57	Hearing Notice	Hearings Office	Received
58	8/15/11 Letter	Marchetti, Theresa	Received
58a	Settlement Agreement, Effective date 8/12/11	Marchetti, Theresa	Received

RECEIVED

AUG 15 2011

Settlement Agreement

Effective Date: August 12, 2011

HEARINGS OFFICE

Concept Entertainment Four, LLC, dba Dixie Tavern ("Concept Entertainment"), and the City of Portland (the "City") agree to the following terms in full and complete settlement of City Code Violation Complaint, Case Hearing 2110004 (the "Complaint").

1. Jurisdiction. The City and Concept Entertainment agree that the Hearings Officer has jurisdiction over this matter until December 24, 2011. This Agreement is a settlement of a disputed matter and may not be considered an admission of a violation for any purpose.
2. Alcohol Service. Concept Entertainment agrees to:
  - a. Undertake all reasonable actions necessary and appropriate to prevent the occurrence of any offensive littering or disorderly conduct violations.
  - b. Sell only one alcoholic beverage to a patron at one time from 10:00PM to close on Friday and Saturday nights. Service staff must be able to interact verbally with each individual ordering an alcoholic beverage. This does not prohibit one individual from paying for an alcoholic beverage for another individual or transporting an alcoholic beverage to a table for another individual.
  - c. Not sell shots, double shots, or drop-shots from midnight to close on Thursday, Friday and Saturday nights. 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.
3. Security. Concept Entertainment agrees to:
  - a. Have a minimum of one DPSST certified security staff per forty (40) patrons at the Dixie Tavern from 10:00PM to close Thursday, Friday and Saturday night.
  - b. Have a minimum of one (1) DPSST certified security staff at the Dixie Tavern from 10:00PM to close Tuesday and Wednesday with the understanding that this individual may need to temporarily leave the establishment for short periods of time, not to exceed 30 minutes, for business purposes.
  - c. Will designate one person as an alcohol monitor between the hours of 10:00PM and close on Friday and Saturday nights whose primary duty is to monitor the premises for intoxicated patrons.
4. 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 Concept Entertainment agree that the appropriate remedy is a \$1,000 fine for each proven violation.

Concept Entertainment  
Four, LLC, dba Dixie  
Tavern

By:   
Jeff Flew, Manager

Date: 8/11/11

Concept Entertainment  
Four, LLC, dba Dixie  
Tavern

By:   
Dan Lenzen, Manager

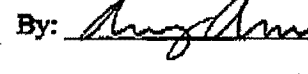
Date: 8/11/11

City of Portland

By:   
Theresa Marchetti,  
ONI Liquor Licensing

Date: 8/11/11

City of Portland

By:   
Amy Archer, Acting ONI  
Director

Date: 8/12/11