

**IN THE CITY OF APPLETON,
OUTAGAMIE COUNTY, STATE OF
WISCONSIN, BEFORE THE
SAFETY AND LICENSING COMMITTEE**

IN RE THE ALCOHOL LICENSE OF CORE'S LOUNGE, LLC

AGENT: KOR XIONG
d/b/a CORE'S LOUNGE
1350 W. COLLEGE AVE., SUITE D
APPLETON, WI 54911

REPORT TO THE COMMON COUNCIL OF THE CITY OF APPLETON

Following the public hearing held before the Safety and Licensing Committee of the Common Council of the City of Appleton held on June 21, 2023 in the City of Appleton, Outagamie County, Wisconsin, the committee makes the following Findings of Fact, Conclusions of Law, and recommendations for the council's approval:

Findings of Fact

1. The "Original Alcohol Beverage Retail License Application" is made in the name of Core's Lounge LLC, with Kor Xiong named as the president and only named member. Wisconsin Department of Financial Institutions records show this entity to have been administratively dissolved as of December 14, 2022.
2. On November 5, 2022 Kor Xiong was cited at Core's Lounge for Operating a Premises without a Liquor License in violation of Appleton City Ordinance 9-51. Kor Xiong was found guilty of this offense on or about January 4, 2023.
3. On 04/24/22 Kor Xiong was cited at Core's Lounge for Operating a Premises without a Liquor License in violation of Appleton City Ordinance 9-51. Kor Xiong was found guilty of this offense on or about June 29, 2022.
4. On 02/13/22 Kor Xiong hosted an event at Core's Lounge. During this event a person was shot. The individual arrested for this shooting was subsequently convicted of 1st Degree Reckless Injury on or about 10/12/22. Multiple underage drinkers were located and cited. Underage drinkers admitted to being in Core's Lounge that evening. Noua Vang was cited for Permitting Underage Persons to Loiter on Premises, the premises being Core's Lounge. Noua Vang was found guilty of the offense on or about March 9, 2022.

5. On 09/04/21 Kor Xiong was cited at Core's Lounge for being Open After Hours / Failing to vacate in violation of Appleton City Ordinance 9-52(4). Kor Xiong was found guilty of this offense on or about November 10, 2021.
6. On 07/25/21 Nou Vang was cited at Core's Lounge for being Open After Hours / Failing to vacate and Loud and Excessive Noise in violation of Appleton City Ordinance 9-52(4) and 12-80. Nou Vang was convicted of this offense on or about November 10, 2021.
7. On 12/24/19 Kor Xiong was cited at Core's Lounge for Loud and Excessive Noise in violation of Appleton City Ordinance 12-80. Kor Xiong was found guilty of this offense on or about July 15, 2020.
8. Nou Vang was a bar manager at Core's Lounge at all times relevant to the citations listed above.
9. Kor Xiong and Nou Vang committed the offenses for which they were found guilty.
10. As a result of the above discussed law violations, the Alcohol Beverage Retail License previously held by Core's Lounge LLC was revoked by the Common Council of the City of Appleton in April of 2022.
11. No evidence has been brought forth which might demonstrate efforts by the applicant to rehabilitate their suitability to be issued they license for which they have applied.
12. The applicant provided false information on the Alcohol License Questionnaire by responding "no" to the question "(h)ave you or any member of your organization ever been convicted of a misdemeanor or ordinance violation?"
13. Residents near Core's Lounge have expressed frustration with the applicant's past disregard for the peace and enjoyment of other members of the neighborhood during the time in which the applicant was previously licensed. Neighborhood residents report that they remain concerned about similar behavior resuming if a new license were to be issued and that they have seen nothing to lessen that concern.
14. No public comments in support of the application were made to the Safety and Licensing Committee when this application was under consideration.
15. The applicant was not present for the Committee's consideration of the application and therefore provided no information addressing public concerns, any of the facts as asserted within Lt. Nagel's memorandum on behalf of the Appleton Police Department, and no comments in support of their application generally.

Conclusions of Law

1. The Safety and Licensing Committee of the Common Council of the City of Appleton has proper jurisdiction to review Alcohol Beverage Retail License applications and to make a recommendation to the full council pursuant to Section 9-77 of the Municipal Code of the City of Appleton and Wisconsin Statutes §125.12.

2. Pursuant to Wisconsin Statutes §125.12(3m), the Common Council of the City of Appleton is not obligated to approve an application for an Alcohol Beverage Retail License, but must provide written notice to the applicant of the reason for not issuing the license.
3. Wisconsin Statutes §125.51(1)(a) provides a municipality the authority to grant retail licenses for intoxicating liquor as it "deems proper." Reasons for denial need not be provided for by statutes. State ex rel. Ruffalo v. Common Council of City of Kenosha, 38 Wis. 2d 518, 526, 157 N.W.2d 568, 572 (1968).
4. Pursuant to Wisconsin Statutes §125.04(5)(b), no permit related to alcohol beverages may be issued to any person who has habitually been a law offender. Kor Xiong is a "Habitual Law Offender" and may not be granted any license or permit related to alcohol beverages. The applicant's citation record demonstrates that they are someone who has repeatedly violated the law. These repeated law violations involve unlawful activity that is specifically regulated in association with the business activity of selling alcohol beverages.
5. Wisconsin Statutes §111.335(4)(c)1.b. requires that the applicant denied a license based on their conviction record be allowed to show evidence of rehabilitation and fitness to perform the licensed activity. No evidence of rehabilitation has been submitted, and the record does not support the applicant's rehabilitation.
6. Appleton Municipal Code section 9-52(10) (as authorized by Wisconsin Statutes section 125.10(1)), prohibits issuance of a retail class A, B, or C license to an applicant that has been convicted of selling alcohol beverages without a proper retail license in the previous 18 months. Applicant's June 29, 2022 conviction therefore renders them ineligible to be issued a license until 18 months have elapsed from that date.
7. Applicant's January 4, 2023 conviction is for a different offense and does not automatically disqualify them from receiving a retail license, but it factually requires the applicant to have been selling alcohol beverages without having a proper retail license. It remains an appropriate consideration in determining whether to grant the applicant's application.
8. Appleton Municipal Code section 9-22(b) (as authorized by Wisconsin Statutes section 125.10(1)), authorizes but does not require false information provided on the Alcohol Beverage Retail License Application to be taken as such an admission of ineligibility for the license and as grounds for denial. The applicant provided false or inaccurate information in the application, and the Safety and Licensing Committee concludes that this falsity constitutes an admission of ineligibility and grounds for denial.
9. It is the conclusion of the Safety and Licensing Committee that approving the application would interfere with the peace, quiet, and enjoyment of the residential neighborhood situated in close proximity to the establishment, and that it would significantly hamper

the Appleton Police Department's ability to provide adequate law enforcement services to the establishment and to the balance of the community.

10. Based upon the above, the applicant is barred from being granted the applied for license by Wisconsin Statutes and by the Municipal Code of the City of Appleton.

Recommendation

Based upon the above findings and fact and conclusions of law, it is the conclusion of the Safety and Licensing Committee that for both discretionary and mandatory reasons, that the Alcohol Beverage Retail License Application submitted on behalf of Core's Lounge LLC should be denied and recommends that the Common Council of the City of Appleton **deny said application.**

Dated this 17th day of July 2023



Aldersperson Christopher Croatt
Chairperson, Safety and Licensing Committee