



"...meeting community needs...enhancing quality of life."

LEGAL SERVICES DEPARTMENT

Office of the City Attorney

100 North Appleton Street

Appleton, WI 54911

Phone: 920/832-6423

Fax: 920/832-5962

TO: Members of the Safety and Licensing Committee

FROM: Christopher R. Behrens, Deputy City Attorney

DATE: December 2, 2014

RE: La Michoacana Liquor License Agreement

On November 2, 2014 there was a serious incident involving a stabbing at La Michoacana Bar & Grill which also operates as Antro Nightclub. The business was functioning as a nightclub at the time of the incident. Following the incident, our office and members of the Police Department met to discuss ongoing concerns regarding the business and, more particularly, the nightclub portion of the business. We then met with the business owner and property owner's representative to discuss the past year's issues including the November 2nd incident and the current and future status of their "Class B" liquor license.

The business owners acknowledged that APD attempted to address various concerns and complaints associated with the nightclub. Again, worth noting, this is a family business operating under a single liquor license but essentially has two operations – the restaurant (operating at La Michoacana), and then the nightclub (Antro). The various issues and concerns discussed during our meetings were all related to the operation of the nightclub portion of the business. It was understood that if the City ultimately revoked the liquor license, the restaurant's operation would also be affected. To that end, an agreement was reached that essentially allows the restaurant to continue its operation, but the nightclub operations will cease. Following is a summary of the essential terms:

- 45 points will be assessed for failure to maintain order on November 2, 2014.
- Based on the severity of the incident an additional 100 point penalty enhancer applies but will not be imposed at this time. Failure to comply with the agreement will result in the 100 points being imposed without contest.
- The business will be closed to all patrons by 10 p.m. every day of the week and only occupied by essential staff (for cleaning, etc.) after that time. This early closing will apply for a period of one year from the date Council approves this agreement.
- The 45 points assessed, including the 100 points held in abeyance, will potentially be in play until May 1, 2016 to comply with the Municipal Code's 18-month look-back for point assessments.
- This agreement will survive any sale, transfer, etc. of the business.

The City Attorney's Office and the Appleton Police Department are jointly recommending the approval of this stipulation between the City of Appleton and La Michoacana Bar & Grill.

CRB:jls

**CITY OF APPLETON
COMMON COUNCIL
SAFETY AND LICENSING COMMITTEE**

CITY OF APPLETON
a Wisconsin Municipal Corporation,

vs.

**LA MICHOACANA BAR & GRILL
PEDRO JUAREZ, AGENT
211 WEST COLLEGE AVE
APPLETON, WI 54915**

STIPULATION

The City of Appleton, by Deputy City Attorney, Christopher Behrens and La Michoacana Bar & Grill, Inc. also d/b/a Antro Nightclub by its agent Pedro Juarez, hereby stipulate and agree as follows:

1. That La Michoacana Bar & Grill, Inc. also d/b/a Antro Nightclub and Pedro Juarez as agent therefore, are the license holders of a "Class B" license issued pursuant to Chapter 125, Wisconsin Statutes, and City of Appleton Municipal Code in conformity therewith, for La Michoacana Bar & Grill and Antro Nightclub, located at 211 West College Avenue, in the City of Appleton, Outagamie County, Wisconsin (also referred to as "licensed premise").
2. That the following violations of the City of Appleton Municipal Code have been committed at La Michoacana within the last eighteen (18) months:
 - a. Sale of an Alcoholic Beverage to an Underage Person, violation on February 1, 2014, conviction on March 19, 2014 (80 points);
 - b. Failure to Maintain Order, violation on November 2, 2014, and conceded as part of this agreement (45 points).
3. That the incident on November 2, 2014 of Failure to Maintain Order, is also subject to this assessment of 100 additional demerit points as a penalty enhancer for conduct which 1) results in bodily harm to any individual, 2)

creates a substantial risk of death or bodily harm, 3) involves the use of a firearm or other dangerous weapon, or 4) demonstrates an ongoing disregard for the requirements of state law or municipal ordinances.

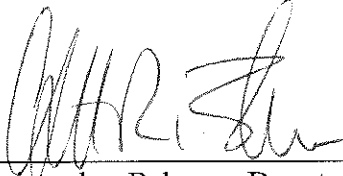
4. That the foregoing are all violations of Appleton Municipal Code adopted pursuant to Sec. 125.10, Wisconsin Statutes, and therefore collectively would form the basis for revocation of the "Class B" license issued to La Michoacana Bar & Grill, Inc. if presently assessed.
5. That Pedro Juarez understands and acknowledges that he has the right to a hearing prior to the City of Appleton revoking the "Class B" license issued to La Michoacana Bar & Grill, Inc. and freely and voluntarily waives that right to a hearing as consideration for this agreement.

NOW THEREFORE, based upon the foregoing it is AGREED by the parties:

6. That the licensed premise shall close to all patrons by 10:00 p.m. every day and, after closing, shall only be occupied by essential staff for conducting such activity that is typically permitted within a licensed establishment following state mandated closing times.
7. That Pedro Juarez does not contest any of the point assessments set forth in this agreement.
8. The City of Appleton agrees to hold in abeyance the application of the 100 demerit point penalty enhancement against the licensed premise until May 1, 2016 subject to the license holder complying with the terms of this agreement, City of Appleton Ordinances and laws of the State of Wisconsin.
9. That the license holder, employees thereof and licensed premise will comply with all City of Appleton Ordinances and laws of the State of Wisconsin including, but not limited to, Department of Revenue requirements.
10. That the failure to comply with this agreement shall result in the uncontested imposition or reinstatement of all demerit points set forth in this agreement, regardless of the original date of the violation resulting in said point assessment.
11. This agreement, including but not limited to the contingencies placed on the subject liquor license, shall remain binding upon La Michoacana Bar & Grill, Inc. also d/b/a Antro Nightclub and Pedro Juarez as agent therefore and any successors, assigns, transferees and the like thereof unless expressly waived by the City of Appleton Common Council.

12. Except where otherwise indicated, the terms of this agreement shall remain in effect for a period of one year from the date it is approved by the Appleton Common Council.

13. That La Michoacana Bar & Grill, Inc. also d/b/a Antro Nightclub and Pedro Juarez as agent therefor have had the opportunity to review and discuss this agreement with counsel or have decided to forego that opportunity and, in either case, enter this agreement freely and voluntarily.



Christopher Behrens, Deputy City Attorney
Attorney for Petitioner, City of Appleton

Date: 12/2/14



Pedro Juarez
Agent for La Michoacana Bar & Grill, Inc. also d/b/a Antro Nightclub

Date: 12/1/14

Pedro Juarez
Print name:

Date: 12/1/14

Attorney for Pedro Juarez as agent for
La Michoacana Bar & Grill, Inc. also d/b/a Antro Nightclub

APPROVED BY APPLETON COMMON COUNCIL ON : _____