

# LEGAL SERVICES DEPARTMENT

## Office of the City Attorney

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**TO:** Members of the Safety and Licensing Committee

**FROM:** Amanda (Jadin) Abshire, Assistant City Attorney *AA*

**DATE:** May 8, 2017

**RE:** Dieter's Place LLC Class B Liquor License

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Dieter's Place LLC, located at 830 E Northland Avenue within the City of Appleton currently holds a "Class B" liquor license. During the months of July and November, the licensed establishment received two separate citations directly related to their liquor license. In July of 2016, a bartender was cited for the sale of an alcoholic beverage to intoxicated person. The latter offense in November 2016 involved a controlled alcohol transaction check (commonly referred to as "CAT Check") performed by the Appleton Police Department. A number of hearings were held in Outagamie County Circuit Court during the past several months to address the citations. The latest violation just concluded in court and both violations resulted in guilty findings.

Dieter's Place LLC now has 160 demerit points assessed against its "Class B" liquor license within the past year, pursuant to the City's Demerit Point System set forth in AC 9-54. As a result, the City through the Safety and Licensing Committee could conduct a hearing and impose a suspension of the liquor license.

Consistent with the City's General Policy Statement on Beer/ Liquor Licensing ("Policy"), the City Attorney's office is now asking whether this committee recommends prosecution be undertaken by our office to address the suspension of the license.

The relevant portion of the Policy is set forth below, for your review:

4. Throughout the license year, the Police and Health Departments shall notify the Safety and Licensing Committee of any convictions which result in the assessment of demerit points against any license.
  - a) Accumulation of demerit points shall be grounds for recommending non-renewal, revocation, suspension, denial or transfer or granting of the license. The Safety and Licensing Committee may recommend that prosecution be undertaken by the City Attorney. Such action shall not preclude independent prosecution by the City Attorney.

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*Assistant City Attorney*

- b) If the Safety and Licensing Committee recommends that prosecution be undertaken by the City Attorney, a hearing shall be scheduled before the Safety and Licensing Committee. If a hearing takes place, the Safety and Licensing Committee shall comply with the requirements of Section 9.54 of the Municipal Code and the suspension or revocation would take place the Friday following Council action. Prior to the hearing date, the City Attorney may work out a settlement agreement with the licensee in lieu of the hearing. Any settlement agreement shall comply with the requirements of Section 9.54 of the Municipal Code and must be approved by the Safety and Licensing Committee and the Common Council, and begin within a 13-day period of Council action.

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