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TO: Safety and Licensing Committee
Common Council

FROM: Lt. Ben Goodin

DATE: 2/20/2024

RE: Police Department's Recommendation for Denial of Miguel Hulke's Bartender License Application

Committee Members:

The police department is requesting that the Safety and Licensing Committee recommend to the Common Council to deny Miguel Hulke's application for a bartender license based upon his criminal and / or arrest record, his unpardoned felony conviction(s), and his status as a "habitual law offender."

Pursuant to Wis. Stat. §111.335(2)(b) and (3)(a), it is not employment discrimination for a licensing agency to deny an applicant based on an arrest or conviction record where the circumstances of the conviction substantially relate to the circumstances of the particular licensed activity.

Pursuant to Wis. Stat. §125.04(5)(a)1., no license or permit related to alcohol beverages may be issued to an individual with an arrest or conviction record where the circumstances of the record(s) substantially relate to the circumstances of the particular licensed activity.

Pursuant to Wis. Stat. §125.04(5)(b), no license or permit related to alcohol beverages may be issued to a "habitual law offender" where the circumstances of the habitual law offenses substantially relate to the circumstances of the particular licensed activity.

Also pursuant to Wis. Stat. §111.335(4)(c), if the licensing agency refuses to license an individual based upon arrest or conviction record, the applicant is allowed an opportunity to show "evidence of rehabilitation and fitness to engage in the licensed activity," *unless the conviction(s) are for "exempt offenses."* Wis. Stat. §111.335(4)(d) provides the following options that the applicant may produce to conclusively demonstrate their rehabilitation and fitness from a given conviction:

A copy of the local, state, or federal release document; and either
(1) a copy of the relevant department of corrections document showing completion of probation, extended supervision, or parole; or

- (2) other evidence that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime along with evidence showing compliance with all terms and conditions of probation, extended supervision, or parole.

Additionally, the licensing agency must consider any of the following evidence if presented by the individual:

- (1) Evidence of the nature and seriousness of any offense of which he or she was convicted.
- (2) Evidence of all circumstances relative to the offense, including mitigating circumstances or social conditions surrounding the commission of the offense.
- (3) The age of the individual at the time the offense was committed.
- (4) The length of time that has elapsed since the offense was committed.
- (5) Letters of reference by persons who have been in contact with the individual since the applicant's release from any local, state, or federal correctional institution.
- (6) All other relevant evidence of rehabilitation and present fitness presented.

STATEMENT ON SUBSTANTIAL RELATIONSHIP

As part of any denial of licensing, the police department must determine if crimes are substantially related to the sale of alcohol. Mr. Hulke has been convicted of the following:

Operating While Intoxicated (5th or 6th) in Outagamie County case # 2019CF000451. This is a felony offense.

Operating While Intoxicated (4th within 5 years) in Outagamie County case # 2013CF000502. This is a felony offense.

Operating While Intoxicated (3rd) in Winnebago County case # 2011CT000865. This is a misdemeanor, criminal offense.

Operating While Intoxicated (2nd) in Outagamie County case # 2011CT000236. This is a misdemeanor, criminal offense.

Operating While Intoxicated in Outagamie County case # 2009TR004031. This is a non-criminal, civil offense.

The convictions for Operating While Intoxicated are substantially related to the sale of alcohol for several reasons. Mr. Hulke has shown a pattern of poor decision-making by getting arrested for Operating While Intoxicated four times in a five-year span; then a fifth time six years later. The convictions for OWI 4th and OWI 5th are felonies. Drunk driving is a serious offense and a major problem not only in Wisconsin but across the entire country. Mr. Hulke has not shown the ability to make sound decisions by understanding when he has had too much to drink and is unsafe to operate a motor vehicle. A person serving alcohol to members of the public must be aware of when a patron has had enough to drink and should not be served any longer.

As a person who wants to be responsible to serve alcohol, Mr. Hulke has not shown the ability to make good decisions related to his own sobriety. The service of alcohol includes coming into contact with individuals in a very vulnerable state, people for whom a bartender may be called upon to refuse service due to their level of intoxication. The circumstances of Mr. Hulke's criminal and felony convictions substantially relate to the ability and willingness to meet this legal obligation associated with the licensed service of alcohol.

Based upon the information provided, at this time Mr. Hulke does not meet statutory eligibility requirements to be granted an Operator/Bartender license. It is therefore recommended that his application be denied.

Very Respectfully:

Lt. Ben Goodin
Appleton Police Department