



Legislation Text

File #: 16-0359, **Version:** 1

Resolution Requesting Non-Renewal of the Class C Liquor License held by 5Z Restaurants Ann Arbor, LLC (d/b/a Burger Fi) (Business ID 232181) (License No. 230685-2015)

The attached Resolution requests acceptance and adoption of the Findings and Recommendations of the Liquor License Hearing Officer for the City of Ann Arbor, Council member Lumm, in connection with the objection to Renewal of Liquor License 230685-2015 (Class C) held by 5Z Restaurants Ann Arbor, LLC (d/b/a Burger Fi) (Business I.D. 232181)

The Council Liquor License Review Committee completed its annual review process required by Chapter 109 of the Ann Arbor City Code of all on-premises liquor licenses in the City of Ann Arbor and forwarded it to City Council on February 1, 2016. Objection to renewal of the liquor license held by 5Z Restaurants Ann Arbor, LLC was recommended by the Council Liquor License Review Committee in accordance with the procedures set forth in Section 9:79 of the Ann Arbor City Code based on violation of Section 9:79(1)(b), failure to timely pay all taxes and other outstanding obligations due and payable to the City as of the date of the Annual Review. Those recommendations were approved by Council and enacted as Resolution R-16-038.

On February 26, 2016, an administrative hearing was held pursuant to the provisions of Section 436.1501(2) of Michigan Compiled Laws and in accordance with the provisions of Chapter 109 of the Ann Arbor City Code on the Objection to Renewal of the Liquor License held by 5Z Restaurants Ann Arbor, LLC. Licensee failed to appear and present any evidence, witnesses or statements in the matter.

Hearing Officer Lumm, after the presentation of the City's case and proofs supporting the Objection, issued her Findings and Recommendations in the matter recommending that the City Council object to and recommend that the Michigan Liquor Control Commission not renew the liquor license of 5Z Restaurants Ann Arbor, LLC. unless the entire outstanding delinquency amount, including all interest accrued on the balance after February 29, 2016, was received on or before March 21, 2016. A copy of Hearing Officer Lumm's Finding and Recommendations was served on 5Z Restaurants Ann Arbor, LLC .by certified mail on February 29, 2016; delivery of which was acknowledge by 5Z Restaurants Ann Arbor, LLC by receipt dated March 2, 2016.

As of this date, Licensee has taken no action to satisfy the outstanding delinquency stated in the Findings and Recommendation.

It is recommended the Findings and Recommendations of Hearing Officer Lumm be accepted and adopted by City Council and an Objection to Renewal of Liquor License 230685-2015 ((Class C) held by 5Z Restaurants Ann Arbor, LLC (d/b/a Burger Fi) (Business I.D. 232181) be recommended and filed with the Michigan Liquor Control Commission.

Prepared by: Mary Joan Fales, Senior Assistant City Attorney

Sponsored by: CM Lumm, Liquor License Hearing Officer

Whereas, An administrative hearing was conducted on February 29, 2016, on the Objection to

Renewal of Liquor License 230685-2015 (Class C) held by 5Z Restaurants Ann Arbor, LLC (d/b/a Burger Fi) (Business I.D. 232181);

Whereas, Proper notice of the Hearing having been given to the Licensee, and the Licensee being fully informed of the City of Ann Arbor Liquor Administrative Hearing Rules governing the hearing and its due process rights, including notice of the grounds for the objection, witnesses and evidence to be presented by the City in the matter, the ability to examine and present evidence, confront witnesses and be represented by an attorney;

Whereas, Licensee failed to appear and present any evidence, witnesses or statements in the matter.

Whereas, Based on the testimony presented and the records entered into evidence at the administrative hearing by the City there are sufficient grounds to support the City's objection to renewal of 5Z Restaurants Ann Arbor, LLC.'s liquor license;

Whereas, Hearing Officer Lumm has presented City Council with her Findings and Recommendations in connection with the Hearing, a copy of which is attached hereto and made a part hereof; and

Whereas, The Licensee has received a copy of Hearing Officer Lumm's Findings and Recommendations and has acknowledged receipt thereof and has not made any payment on the outstanding delinquency owed the City; and

Whereas, City Council having examined Statement of Findings and Recommendations of the Hearing Officer and being otherwise fully advised in the matter;

RESOLVED, That City Council accept and adopt the Findings and Recommendations of its Hearing Officer, based on the administrative hearing record held February 29, 2016, in the matter of the Objection to Renewal of Liquor License 230685-2015 (Class C) held by 5Z Restaurants Ann Arbor, LLC (d/b/a Burger Fi) (Business I.D. 232181) ("License"); as stated in the attached Statement of Findings and Recommendations

RESOLVED, That City Council finds that the License is not being used in accordance with the Ann Arbor City Code and the Michigan Liquor Code on the following grounds:

Violations of Chapter 109, Liquor, of the Ann Arbor City Code, being:

Section 9:79(b) Failure to timely pay all personal property taxes and all real property taxes and all other obligations due and payable to the City or have outstanding any personal property tax or real property tax or obligation due and payable to the City as of the date of the annual review.

RESOLVED, That City Council does hereby object to the renewal of Liquor License 230685-2015 (Class C) held by 5Z Restaurants Ann Arbor, LLC (d/b/a Burger Fi) (Business I.D. 232181) on and for the grounds stated herein; and

RESOLVED, That City Council direct the City Clerk to provide the Michigan Liquor Control

Commission a certified copy of this Resolution, the attached written Statement of Findings and Recommendation of the Hearing Officer based on the hearing record and all required substantiating documents no later than March 30, 2016, in compliance with applicable statutory or regulatory requirements.