

**LICENSES AND CONSUMER SERVICES
LICENSE INSPECTOR'S REPORT**

License Number: L198-50161 **Police File Number:** 13695

Date of Application: May 22, 2015

Inspector: Michele Harvet, 612-673-5484

Applicant/Legal Entity: The Underground, LLC

DBA/Trade Name: Exchange Nightclub / Alibi Lounge

Complete Address: 10 South 5th Street, #B100, Minneapolis, MN 55402

Responsible person within 75 miles of Minneapolis City Hall: Jacob Toledo

Public Hearing Required: No

License Conditions: None at this time.

License Requested: On-Sale Liquor with Sunday Sales, Class A

Most Recent License Approved at this Location: On-Sale Liquor with Sunday Sales, Class A

Purpose of Application: To obtain a new On-Sale Liquor with Sunday Sales, Class A license

Neighborhood/Ward: Downtown West / 3

Zoning: B4S-2/DP – This is a permitted use in the Downtown Service/Downtown Parking Overlay/ District

7 acre requirement: Met

Off-Street Parking: The Office of the Zoning Administrator has determined that zero spaces are required to be provided on site.

Seating: Inside: 230 Seats Outside: 0

Maximum Capacity: Inside: 720

Food Service Requirement: This establishment meets the minimum food service requirements set forth in MCO 360.65.

Alcohol Server Training: Training will be provided by Alcohol Compliance Services.

Hours of operation proposed: **Monday through Sunday:** 3:00 P.M. to 2:00 A.M.

Metropolitan Council Service Availability Charges: A SAC determination letter dated April 3, 2015, advised that there are 11 SAC units due for this establishment. This has been paid by the applicant under BIRE-3097059.

HISTORY OF LOCATION

Rogue held an On-Sale Liquor License with Sunday Sales, Class A, at this location, from at 1992 to 1995. Foundation held an On-Sale Liquor License with Sunday Sales, Class B, from 2005 until 2008. Club New York held an On-Sale Liquor License with Sunday Sales, Class A from 2009 until 2014.

APPLICANT

The applicant is The Underground, LLC; a Minnesota limited liability company, formed on November 12, 2014, under Chapter 322B (File Number 793459700026) having the required restriction on the transfer of shares and has the following members:

<u>Name</u>	<u>Shares</u>
Empire Entertainment, LLC	40%
Kenneth Sherman	20%
Samuel Cannon, LLC	5%
TeraTech Global, Inc.	10%
20 Minority members each with less than 5% each	25%

Ownership Structures

Individuals @ 10% or member interest in The Underground, LLC:

- Deepak & Sara Nath (through Empire Entertainment, LLC)
- Jay Ettinger (through Empire Entertainment, LLC)
- Rohit Shirole (through TeraTech Global, Inc)
- Kenneth Sherman

Governors of The Underground, LLC: Per Member Control Agreement/Action of Governors dated 3/1/15

- Deepak Nath
- Jacob Toledo
- Jay Ettinger
- Kenneth Sherman
- Samuel Cannon
- Rohit Shirole

Officers of The Underground, LLC: Per Action of Governors dated 3/1/15

- Jacob Toledo, President
- Deepak Nath, Vice President

Empire Entertainment LLC (40% member of The Underground, LLC):

Member:	Empire Units:
DE3, LLC; Deepak Nath: Governor; Treasurer of Empire (Sole Members: Deepak & Sara Nath; sole govts/officers: Deepak)	450 units; 45%
DPJE, LLC; Jay Ettinger: Governor Secretary of Empire (Sole member, gov/officer: Jay)	450 units; 45 %
Jester Concepts, LLC: Brent Frederick & Jacob Toledo (Members: Brent & JT @ 50% each; both govts & officers of Jester)	10 units; 10 %

The applicants have experience in owning/operating restaurants and business in the food/alcohol service industry. Deepak and Sara Nath have held and operated on-sale liquor licenses in Minneapolis for approximately the past 10 years with former licenses at Fahrenheit, Envy Nightclub and Bootleggers. Jacob Toledo and Brent Frederick currently own and operate the Maple Tavern in Maple Grove MN, Borough, Marche, and Coup D'Etat in Minneapolis. They meet all minimum requirements including criminal and financial background checks.

MANAGER

The general manager at Exchange Nightclub will be Jacob Toledo. Mr. Toledo has several years of experience working in/owning/operating the food and alcohol service industry.

POLICE REVIEW

Police Licensing and this Inspector have reviewed the expenses and source of funds reported in this application. The applicant has provided documentation showing adequate legal and traceable funding for this venture and has passed the criminal background check. The First Precinct of the Minneapolis Police Department has discussed security issues with the applicant.

PREMISES

The premises occupy the basement level of the Lumber Exchange Building. This building houses several other businesses including other food and alcohol establishments. The space to be licensed has approximately 11,000 square feet. There is table, booth and bar seating for approximately 230 patrons. The rest of the establishment consists of a dance floor, coat room and storage. This space is compact and contiguous. There are no undefined spaces.

BUSINESS PLAN/OPERATIONS

The Exchange will utilize Empire Entertainment's collective 30 years' experience with nightclubs and restaurants in partnership with Ken Sherman, the resident building owner of the Lumber Exchange. The Alibi Lounge side of the Exchange Nightclub will utilize approximately 2500 square feet and will create a Nantucket style lounge feel where one can grab oysters and a martini seven days a week. The space will cater to the business clientele of downtown and it will function as a fun space for people to meet up and enjoy the beauty of the space and their food and beverages. The other side of the Exchange Nightclub will be approximately 7500 square feet of space operating approximately four nights (with additional evenings based upon demand and special events/occasions) a week as a VIP style nightclub. The space will play host to a myriad of events throughout the week ranging from corporate holiday parties to DJ shows and events.

Alcohol Server Training Materials & Plan

Initial Training

They contracted with Alcohol Compliance Services (ACS) to conduct their initial alcohol compliance training for their staff; they anticipate offering the training either preopening, or if not logistically feasible, within 30 days of opening of The Exchange.

Ongoing & Regular Training

Alcohol compliance training will be offered to their pertinent employees on at least an annual basis by a qualified, outside training provider, ACS. Company training materials will consist of memos, emails, handouts, company policy handbooks, outside professional providers and vendor's seminars/lectures, and ongoing verbal training via management and ownership.

All new employees handling alcohol who present evidence of completion of an acceptable alcohol compliance training program within the last year will be trained by management staff using the materials given during on-site training and internal company training materials. New employees who cannot demonstrate acceptable alcohol compliance training within the last year will be required to attend such training offered by ACS.

Carding Policy & Use of Electronic ID Devices

Guests will be carded at the point of entry after 9 pm and will be required to show proper identification to gain entrance if they appear to be under 40 years of age in the judgment of security personnel; guests not at least 21 years of age, who are intoxicated, or are of questionable character will be denied entrance. Once guests become recognized or regular customers, formal ID may not be required. Prior to 9 pm, all servers and bartenders will be responsible for carding guests, and they will be thoroughly trained to card anyone that appears to be under 40 years of age. No one under the age of 21 will be served alcohol, nor will anyone be served any alcohol that appears to be intoxicated.

They do not intend to utilize electronic ID devices at this time, but may consider utilizing such at a future point. It is their longstanding policy that while many tools are available to assist in verifying the age of their guests, they expect their servers/bartenders to be proficient at carding. It is their position that their employees' professional knowledge and expertise on carding is both critical and irreplaceable.

Reward & Discipline Policy for Serving/Selling Alcohol to Underage Persons

At this time, they are considering an incentive system consisting of a variety of prizes for passing a compliance check or catching an underage attempt to purchase alcohol. It is their experience that an incentive program of this nature encourages their staff to be compliant with their internal policies and the pertinent statutes and ordinances with respect to underage sales/service; however, it is the case that their company philosophy views adhering to the law as an essential and integral part of the job requirement of wait staff and alcohol-related sales positions in this industry and as such, no reward should be necessarily expected.

The first violation for an employee failing a compliance check or discovered willfully, or by means of carelessness/negligence, selling/serving to an underage person will result in the employee's immediate termination of employment.

Self Audits

At this time, they don't anticipate the need for self-audits. However, they will consider conducting such audits in the event they feel there is need or suspect a problem with the staff selling/serving alcohol to underage persons.

Staffing Model

The Exchange will employ a total staff of approximately 40 persons working in the following areas: managers/assistant managers, floor supervisor, wait staff/servers, bartenders, cooks/food prep, food runners, hosts, and security personnel. On a typical Friday or Saturday evening, they intend to employ approximately three to four persons in a managerial-level position all cognizant of and responsible for security matters, as well as at least 10 persons dedicated to security and security-related matters.

Security Plan

Management and staff are trained in the basic principles of establishment security and their expected protocols for handling security-related issues. There is a philosophy of respectful enforcement; unruly and disruptive guests will be asked to leave the premises and when necessary, physically escorted off the premises.

Security at The Exchange will consist primarily of their employees; however, they may consider participating in the WDBA off-duty beat officer patrol program. The Exchange will designate one employee to be the head of security, as well as an assistant head of security; one of these employees will be on premises at all times that live entertainment is offered to the public. It is the duty of the on-site head of security/assistant head to keep an accurate count of all guests in order to avoid over occupancy. Once at capacity, additional guests will be denied entrance into the premises. All staff will be trained not to admit or serve intoxicated persons.

All security employees will be identifiable by means of a required uniform consisting of a specialized uniform shirt. The shirt is a "gas station" style shirt that has their company logo on the front and will be distinguishable from server & bartender attire. On a typical Friday or Saturday evening, they anticipate that at least 10 dedicated security employees will be on premises at The Exchange.

Security personnel will be stationed at all entrances, next to the stage and dance floor areas, and near the bars, and will cycle through the licensed premises a minimum of every 60 minutes, more during busy times. Typical security duties inside the establishment include: assisting customers, deescalating situations, walking their assigned areas at least every 30 minutes during times of live entertainment, communicating with management-level staff and employees on the floor on negative behavior, potentially difficult or escalating situations. They have security present internally until all customers are out of the building.

Typically, they will have at least 1-2 members of security at the main entrances after 9 pm and at all times of live entertainment. All exits and entrances accessible by their guests will be under the continual review/surveillance by their staff.

All security personnel will have radio communication devices to stay informed and aware of the entire venue at all times.

Security Cameras will be located inside and immediately outside their main doors with over 30 cameras covering all bars, kitchen, stage, main dance and gathering areas, exits and entrances.

They will ensure that lighting at entry/access points is appropriate for customer security as well as for surveillance of these areas.

The head of security, or in his absence, the assistant head of security or general manager on duty is responsible for keeping guest counts and ensuring The Exchange does not exceed maximum occupant loads. Their staff will communicate via radio communication to coordinate guests allowed in at their entrance points which will consist of one main entrance and one VIP entrance.

Their exit strategy incorporates defined tools utilized by their staff to ensure orderly and peaceable exiting from the building and surrounding outdoor area. Beverage alcohol service ends no later than 2:00 a.m. with last call generally announced no later than 1:45 a.m. Once they stop serving alcohol, customers receive verbal notice from security personnel, any live entertainment ceases, announcements are made, and lights begin to come up. Security personnel will talk to patrons to encourage them to finish their drinks. They will also begin directing customers to the door by approximately 2:10 a.m. in order to achieve a gradual emptying of The Exchange by no later than 2:30 a.m.

They may consider applying for a special late night food license; if this is the case, they anticipate hours of operation will extend to approximately 4 a.m. for the sale and service of food and non-alcoholic beverages. All alcohol will be stored and secured in accordance with City approved policy/MPD approval for such.

Their staff will also be responsible for working with The Pourhouse to ensure that their guests and other people do not loiter on the public sidewalk outside their premises and employ techniques to move them along, encouraging departure from the area. Security staff will assist with clearing the sidewalk area and commit to security presence in the for at least 30 after the time of closing; in the case of a special event or a situation warranting additional attention, their security staff will remain for additional time. Security will regularly inform exiting guests to have a safe evening and to respect the surrounding area and neighborhood. Security will work with Minneapolis Police to escort potentially problematic guests away from the area.

The Exchange will maintain a "do not admit list" and agrees to participate in any reasonable, coordinated non-admittance program the downtown area on-sale establishments are actively participating in.

Their staff will practice an emergency evacuation plan and will cooperate with the Minneapolis Police Department when told to evacuate the premises. Staff will also be trained to call for police, fire or emergency medical services response if any employee or guest is severely injured, needs medical services, or when any injury is the result of a criminal act.

Communication with their staff reviewing security measures and recent incidents will take place when they are hired, during routine staff meetings held at a minimum on a quarterly-basis, and during routine security meetings held at a minimum every other month. Generally, security staff meetings are held more often, sometimes taking place before the night is to begin, or after work is over and patrons have left the premises. Staff and security meetings are also held on an as-needed basis.

Their staff will always be available to meet with representatives of the City of Minneapolis to address any security concerns. They will also provide any available video surveillance utilized on the premises to the Minneapolis Police Department upon request.

They recognize that their security needs may change depending on a temporary or special event or temporary expansion held at The Exchange. In that instance, their staffing (and corresponding security) levels will be adjusted accordingly. Their security plan must remain somewhat fluid to properly address these types of events or when the establishment is at capacity.

If they feel they have underestimated their security needs, they will implement the necessary security improvements immediately. Security is a priority for them, and they commit to having in place the necessary and appropriate personnel and measures at all times. In fact, as operators and owners of The Pourhouse, Empire Entertainment has demonstrated their commitment to a responsible, secure place of business; these same operators have successfully owned/operated other venues at various Minneapolis and Twin Cities establishments such as: The Maple Tavern in Maple Grove, Borough, Coup D'Etat, Marche in Minneapolis. They commit to making reasonable adjustments to this security plan immediately as needed and to address potential future concerns.

Entertainment

The liquor license application for The Underground, LLC is for a class A on-sale liquor license with Sunday sales. They intend to offer live entertainment in the form of: DJ services, live bands, dance floor, go-go type dancers (no nudity or semi-nudity allowed), art events, prerecorded music, and TV/video as primary forms of entertainment. Other entertainment allowed under a class A license may be offered; however, they are not seeking nor will they offer any adult entertainment on the premises. Further, there exists in the premise lease agreement a provision prohibiting adult entertainment on the premises. All live entertainment will cease no later than 2:00 a.m. or, in the event the City amends its ordinance to allow for later entertainment hours, at the time dictated by such a future license code amendment.

During the weeknights, they hope to attract people to the lounge area where a bar and food service are available. On the weekends and possibly a few additional evenings, they will open up the entire space and provide DJ music and a lounge/nightclub mix for guests to enjoy.

Entertainment offered at The Exchange is directed at a wide, yet sophisticated, demographic, typically the 21 - 60 years of age range who love music, and a lounge atmosphere. They intend to market to private parties and corporate events as well.

Community Impact Plan

Effect of Business on Area Safety & Welfare

It is their belief that The Exchange brings a welcomed, desirable concept with correspondingly generally well-mannered patronage to the Warehouse Business District. The reopening of this vacant space with a food menu and lounge concept, with a focus on private parties/events and corporate events, is a departure from the typical nightclub scenario, and fills a current void in the variety of entertainment offerings in the area. Their venue brings perhaps a more genteel crowd to the area. The Exchange contributes to an active presence along Fifth Street and Hennepin Avenue that should help to deter potential criminal activity and lend towards safer streets in the area in general. Further, common ownership of The Pourhouse above allows for efficient communication and coordination of information and security activities. Their track record of, and commitment to, a positive hospitality and entertainment experience with minimal negative impact upon the surrounding area is evident from operations at their other current licensed locations.

Noise Management/Noise Abatement Plan

Due to the placement of their business in the downtown central commercial district, their typical and expected clientele, the absence of residential buildings and uses in the vicinity, the absence of a licensed outdoor area, the solid block wall construction of the building, their placement in the basement of the building, and the nature of their concept at The Exchange, they anticipate noise concerns will be minimal in comparison to other live entertainment and nightclub venues downtown. Regardless, staff of The Exchange will regularly monitor noise emanating beyond the interior premises as well as noise generated from the outdoor sidewalk area where staging may occur on busy nights.

Security personnel and employees will ask and remind their patrons to leave quietly and respectfully depart from the premises.

Employees will monitor the adjacent sidewalk area regularly to ensure guests are not becoming boisterous and respectfully depart from the premises. Dedicated security personnel will also make rounds to the sidewalk area approximately every 30-60 minutes depending on the business of the event/club & lounge.

They will train their employees to address: loud or unruly behavior from any patron in sidewalk area; removal procedures for unruly or disruptive patrons, and the importance of minimizing unwanted noise in the outdoor area. They commit to managing any wait lines and to remove any person exhibiting undesirable behavior or who is obviously intoxicated from such a wait line.

They commit to responding promptly to any concerns with improper or unacceptable noise levels. All noise-related complaints and concerns will be handled by the general manager or assistant manager or in his/her absence, to the shift manager/supervisor on duty. It is the intent of The Exchange to comply with all noise-related ordinances and to be a good neighbor to the surrounding community.

Litter Removal Plan

Their staff is thoroughly trained properly sort and dispose of trash. They have a separate, internal trash room on premises which is emptied by security and bar backs during and at the end of each evening. They will assign one dedicated employee to daily patrol the 100' perimeter of their venue, to sweep the area especially directly in front of their entrances where smoking may occur, and to remove any and all litter found thereon. Additionally, they will work with The Pourhouse security making their exterior rounds, who are trained to collect any trash and dispose of it properly. The Pourhouse security makes exterior grounds checks at a minimum of once per hour after sunset until close. Security is additionally expected to walk the nearby areas, at least 100 feet outside of the premises perimeter, and additionally collect trash and dispose of it. Litter patrol will be concentrated prior to opening of The Exchange and during final patrols made prior to employees' leaving after closing.

Team Sponsorship

At the present time, they have no immediate intent to sponsor competitive sports teams.

Hours of Operation

The anticipated initial hours of operation for Alibi Lounge at The Exchange will be from 3 pm to 2:00 a.m. daily. Upon initial opening, they anticipate the nightclub area at The Exchange will open on

Thursday – Saturday evenings, with added days of the week based upon customer demand for such, special events/occasions, conventions, sporting events, and other similar events.

All beverage alcohol sales/service will cease no later than 2:00 a.m. Hours are subject to change depending upon customer demand, including the seasonality of demand, but in no case will exceed the maximum hours without the appropriate, approved pertinent license/permit.

They may consider applying for a special late night food license; if this is the case, they anticipate hours of operation will extend to approximately 4 a.m. for the sale and service of food and non-alcoholic beverages. All alcohol will be stored and secured in accordance with City approved policy/MPD approval for such.

Minimum Food Service Requirement/Menu/Kitchen Hours of Operation

The Exchange will meet the minimum food service requirement and will feature a cold seafood menu on-site, initially offering oysters with fresh shaved horseradish, Poached Shrimp Cocktail served with Cocktail sauce, Fresh Florida Stone Crab Claws served with horseradish aioli, and Chilled whole Alaskan King Crab Legs with a variety of sauces, as well as combination chilled seafood platters. They also intend to offer a selection of hot food items prepared and delivered from the full service kitchen at The Pourhouse located immediately upstairs. Their Environmental Health Plan Review application evidences the kitchen equipment necessary to support their cold seafood menu on premises.

Please note that the menu is subject to change depending upon customer demand and supplier issues. Their menu is typically available from opening until late evening. In the event they obtain a special late night food license, they commit to meeting the minimum food service requirement during any such late night food license hours of operation.

Charitable Gambling Activities

They may offer charitable gambling on the premises. At this time, they are considering offering pull tabs operated by a local charity. The local charity will comply with all local and State laws pertaining to charitable gambling.

There are no mechanical amusement devices.

PUBLIC HEARING SUMMARY

A public hearing is not required for this license application.

RECOMMENDATION

The Licenses and Consumer Services Division recommends approving this application for an On-Sale Liquor with Sunday Sales, Class A license for Exchange Nightclub.

LICENSE CONDITIONS

None at this time.