

**CITY OF MINNEAPOLIS
CITY COUNCIL
PUBLIC SAFETY AND REGULATORY SERVICE COMMITTEE**

In the Matter of the Class A on-sale
Liquor License with Sunday Sales,
Held by South Beach LLC,
Dbu Tabu

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATIONS**

This matter came on for a Technical Advisory Committee (TAC) Hearing on April 15, 2004 to discuss issues related to the operation of South Beach LLC, dba Tabu located at 323-5 First Avenue North, Minneapolis, Minnesota. Farzad Fereshtehkhou and Brian Zimmerman, both of Tabu, were present, and were represented by their Attorney Michael T. Norton, of Kennedy & Graven. Also present were the following representatives of the City of Minneapolis (the City): Lieutenant Phil Hafvenstein, Lieutenant Tony Diaz, Sergeant Kent Warnberg, Sergeant Dave Hansen, Sergeant Travis Glampe, Officer Melissa Chiodo, CPS Luther Krueger of the Minneapolis Police Department, and Assistant City Attorney Henry T. Reimer.

While Tabu denies the allegations presented at the TAC hearing, Tabu agrees with the City that the City could conclude that certain actions of Tabu and its agents may have violated the terms of Tabu's license, and that this matter should be settled according to the Recommendations herein.

Based upon the agreement between the parties and all files and records herein, the following Findings of Fact, Conclusions, and Recommendations may be presented to the City Council:

FINDINGS OF FACT

1. South Beach LLC, dba Tabu, (Tabu) 323-5 First Avenue North, Minneapolis, Minnesota, has an On-Sale class A liquor license granted by the City of Minneapolis.

2. Mr. Farzad Fereshtekhou is a 40% owner of Tabu. Mr. Fereshtekhou has an application pending with the City for approval to acquire an additional 30% ownership, bringing his interest to 70% of all outstanding shares.

3. On or about September 14, 2003, a young woman (Complainant) celebrating her 20th birthday met Mr. Fereshtekhou outside in front of Tabu. Complainant reported that Mr. Fereshtekhou invited her and her friend inside for drinks to celebrate her birthday. Complainant alleges that Mr. Fereshtekhou stated that her underage status would not be a problem because he was the owner. Mr. Fereshtekhou denies that she was under legal drinking age. Tabu's manager, Brian Zimmerman, stated he identified her as 21 by means of an ID she presented. The Complainant admitted to police officers that she had consumed alcohol at O'Donovan's prior to meeting Mr. Fereshtekhou. The Complainant further admitted to police officers that she was underage. At no time did the complainant allege that she was coerced or forced into consuming alcohol.

4. Complainant states she accompanied Mr. Fereshtekhou inside where he gave her an alcoholic beverage. After midnight on September 15, 2003, Complainant stated that Mr. Fereshtekhou said that he was good friends with the owners of the Escape nightclub and suggested they go there. They did.

5. Complainant reported that Mr. Fereshtekhou provided her with additional alcoholic beverages at Escape and then sexually assaulted her in an unoccupied area of the establishment. This charge was investigated by the Police Department. Mr. Fereshtekhou also had the incident investigated. The Hennepin County Attorney declined to prosecute Mr. Fereshtekhou. Tabu and Mr. Fereshtekhou vigorously deny the allegations of sexual assault made by the Complainant in this paragraph.

6. Tabu has been the location of several police calls for service including disorderly conduct and/or serious assaults on November 27, 2003, December 25, 2003, January 4, 2004, January 18, 2004 and January 25, 2004. Lt. Diaz and Sgt. Wamberg both state Tabu had shown good business practices overall and had cooperated fully with the Police Department. Tabu and Mr. Fereshtekhou deny that those service calls were as a result of any deficient management practices of Tabu.

CONCLUSIONS

1. The City Council could conclude that Tabu personnel including Mr. Fereshtekhou, served alcohol to underage persons, in violation of Minn. Stat. § 340A.503, subd. 2(1).

2. The City Council could conclude that Mr. Fereshtekhou engaged in conduct detrimental to his moral character and repute.

3. The City Council could conclude that Mr. Fereshtekhou facilitated the service of alcohol to an underage person at the Escape nightclub.

4. The City Council could conclude that Tabu's security and practices, both inside and outside the establishment, have sometimes been inadequate to control the crowds that Tabu attracts.

RECOMMENDATION

That the Class A On Sale Liquor License, with Sunday sales issued to South Beach, LLC be suspended for fifteen days, and that thirteen days of the suspension be stayed for a period of 6 months effective from the date of this agreement on the following conditions:

1. The "date of this agreement" shall be defined as the date the full City Council approves the included findings of fact, conclusions, and recommendations.
2. That the two days of the executed suspension be served on two consecutive operating days, a Sunday and a Tuesday of the licensee's choosing, but no later than November 30, 2004. The licensee shall give 14 days prior notice to the Minneapolis Police 1st Precinct and the Minneapolis Police License Investigation Division.
3. That South Beach, LLC pay an administrative fee of \$15,000.00 within 60 days of the effective date of this Agreement.
4. That Mr. Fereshtekhou withdraw his application to increase his ownership interest to 70%. Mr. Fereshtekhou shall divest himself of any ownership interest over 40% of outstanding shares.

5. That this Agreement shall be applicable only to the current ownership and management of South Beach, LLC. The 13 days stayed suspension shall not be applicable to any subsequent purchaser(s) of the assets of South Beach, LLC where the present such ownership is changed in its entirety by such sale to the new ownership.
6. That South Beach, LLC operate in compliance with all licensing and liquor code requirements.
7. That South Beach, LLC operate in compliance with all other federal, state and local laws and ordinances.
8. This agreement shall not preclude any other adverse license action, including but not limited to suspension or revocation, for subsequent violations of this agreement, or for subsequent violation of any federal, state or local laws, ordinances, or regulations during the six months period from the effective date of this Agreement.

South Beach LLC.
d/b/a Tabu

Minneapolis Police Department

By: _____
Its: _____

By: _____
Lt. Phil Hafvenstein
Commander, License Division

Date:

Date: