

COPY



Resolution No. 2000-910

A RESOLUTION ADOPTING AND APPROVING THE MEMORANDUM OF UNDERSTANDING - LIQUOR LICENSE RENEWALS FOR OLD TOWN SALOON AND THE PEDDLER

RESOLVED, the City Council of the City of Sherwood, Oregon hereby adopts and approves the attached "Memorandum of Understanding" dated October 12, 2000 signed by Walt Hitchcock, Mayor; and Bill Middleton, Chief of Police; as well as the attorney acting for the City in this matter, Charles Williamson. In accordance with the terms of the Memorandum of Understanding, the City will withdraw its objections to renewal of the licenses of Mr. C's Old Town Saloon and the Peddler in accordance with the terms and conditions of the attached Memorandum of Understanding.

Duly passed by the City Council this 24th day of October 2000.

A handwritten signature in cursive script that reads "Walt Hitchcock".

Walt Hitchcock, Mayor

ATTEST:

A handwritten signature in cursive script that reads "C.L. Wiley".

C.L. Wiley, City Recorder

Resolution 2000-910

October 24, 2000

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MEMORANDUM OF UNDERSTANDING

October 12, 2000

Walt Hitchcock, Mayor, and Bill Middleton, Chief of Police agree to recommend to the City Council, City of Sherwood, Oregon, that the Council approve a resolution containing the material provisions set out below. RSJ Ventures, Inc., Cata Ventures, Inc., and Joseph Catanese agree that such a resolution (and the rules and enforcement mechanism described therein) are acceptable to them.

The signatories to this Memorandum agree to proceed in good faith to attempt to achieve passage of such a resolution, and upon such passage, this Memorandum agreement becomes binding on all parties.

The proposed resolution would contain the following material terms:

The City of Sherwood recommends approval to OLCC of applications for liquor licenses for the Old Town Saloon (including 8' x 25' room for video poker) and the Sherwood Peddler, such licenses to be subject to the following terms and conditions:

1. No free pour on any alcoholic beverages
2. No Long Island style cocktails served at any time at Peddler; no more than one per person before 9:00 pm at Old Town and none after 9:00 pm
3. No service of straight shots (without ice or at least an equal amount of water) of whiskey, rum, vodka, gin or tequila
4. Identification of all customers appearing to be age 26 or less to be run through the identifier device to confirm validity of the document; only valid identification to be valid driver license or DMV-issued identification card with photo that the device approves
5. All refusals and incidents to be immediately recorded in a log book to be made available at any time during business hours by OLCC or City of Sherwood police
6. Any customer who is visibly intoxicated will be refused service and the incident recorded in the log
7. No doubles of any drink
8. No multi-liquor drink except nominal amounts of additional alcoholic beverage or beverages added only for flavoring (such as a martini) or coloring
9. The foregoing rules (nos. 1-8) to be posted conspicuously in each establishment
10. The establishments shall install videotape camera systems to record all activities in all public areas other than rest rooms during business hours, and such tapes shall be made available for inspection and copying immediately upon request of OLCC or City of Sherwood police. The tapes shall be retained for at least 30 days.

In the event the City contends that a material and substantial violation of rules 1-10 has occurred, it shall give notice to Catanese within seven days of discovery thereof, and may file a demand for arbitration with Richard G. Spier. If he is unable to serve and if the parties are unable to agree upon a substitute within two business days, either side may request the Presiding Judge of the Washington County Circuit Court to appoint an arbitrator.

The hearing shall be held within ten days of filing the demand for arbitration (or within ten days of appointment of the arbitrator if a substitute is necessary). The arbitrator shall be requested to issue an award within ten days of the hearing. The arbitrator shall have the power to establish all rules of procedure. Each side shall pay one-half of the arbitrator's fees.

The City shall have the burden of proving by a preponderance of the evidence that a substantial and material violation of one of the foregoing rules has occurred, or that a customer has been convicted of DUII after being served an alcoholic beverage at one of the establishments as his or her last stop before the arrest.

A rule violation shall consist of a discrete event. For example, pouring two consecutive straight shots to one customer is one substantial and material violation, but simultaneously serving straight shots to two separate customers constitutes two substantial and material violations.


If the arbitrator determines (in one or more hearings) that there were three or more rule violations at one of the establishments within any 12-month period (beginning upon passage of the resolution) or two or more DUIIs arising out of one of the establishments within any 12-month period (beginning upon passage of the resolution), he or she shall issue an award containing an injunction directing that the establishment in question permanently cease the service of alcoholic beverages within three business days of issuance of the award. Such prohibition shall continue during any judicial review of the Award. The Award may be confirmed as a judgment in Washington County Circuit Court.

This agreement shall remain in full force and effect as to a given establishment until RSJ Ventures, Joe Cantanese, Cata Ventures, Inc., or any

person or organization in which they have any financial interest no longer own the respective establishments (other than solely as landlord).



Walt Hitchcock



Bill Middleton


Joseph R. Catanese

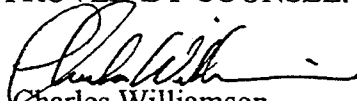
RSJ Ventures, Inc.


Cata Ventures, Inc.

by 
Joseph R. Catanese

by 
Joseph R. Catanese

APPROVED BY COUNSEL:


Charles Williamson


David Nepom