

In re the Class “B” Tavern, Cigarette and Tobacco, Food Dealer – Restaurant, Sidewalk Dining Facility and Public Entertainment Premises licenses of:

A1 Waterstreet, LLC  
Rajvir S. Bains, Agent  
as the Licensee for the licensed premises  
known as Elmnt Lounge, located at  
618 N. Water St., Milwaukee, Wisconsin 53202

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### **COMPLAINANT’S WRITTEN STATEMENT REGARDING COMMITTEE REPORT**

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Pursuant to Milwaukee Code of Ordinances (“MCO”), § 90-12-5-c-2, Complainant, by their attorney, provides the following written statement including arguments of law and fact to the issues preserved in the Licenses Committee Report dated October 23, 2025.

First, there is no normal hearing procedure outlined in Wis. Stat. ch. 125 relative to how and when specific witnesses must be called by a complainant. Attorney Bobot questioned when Captain Thiel was set to testify and consistently referred to the complaint procedure outlined in Wis. Stat. ch. 125 which he argued should have had Captain Thiel testify first.

A review of Wis. Stat. ch. 125 does not provide the procedure the Licensee claimed existed. Licensing revocations are provided for in Wis. Stat. §125.12. Revocation of a license by local authorities for a statutory complaint revocation hearing is found at Wis. Stat. § 125.12(2)(b). The statute merely states that “both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel”. § 125.12(2)(b).

Additionally, and as argued at the hearing, the City of Milwaukee is authorized by Wis. Stat. § 125.10(1) to enact additional regulations that are not in conflict with Wis. Stat. ch. 125. The City did that with MCO § 90-12-3 where it stated that, except as otherwise provided, Wis. Stat. § 125.12(2)(ag)-(c) were adopted. The difference, as otherwise provided in ordinance,

between the statute and ordinance procedures is that the City permitted the chief of police to commence revocation proceedings pursuant to MCO § 90-12-4. This is not in conflict with any provision of Wis. Stat. ch. 125.

Second, the argument that a police captain is unable to initiate a revocation proceeding is faulted from the beginning. The Licensee argued that MCO § 90-12-4 says “chief of police” and does not account for any “designee”.<sup>1</sup> This argument is not supported by the very structure and common interpretation of the ordinances at issue.

“Designee” is mentioned four times in MCO ch. 90. Twice were in relation to the chief of police designating someone other than a community liaison officer to conduct a CPTED survey. MCO §§ 90-5-1.5 and 90-5-8-a-2-e. Once was during the appropriateness of a tavern location, (MCO § 90-11-2-c-1-c), and once was related to the presence of underage persons, (MCO § 90-19.5-1).

“Chief of police” or “police chief”, however, is mentioned numerous times throughout MCO ch. 90. In fact, “chief of police” is mentioned 34 times in MCO ch. 90 and “police chief” is mentioned four times. The majority of the references to “chief of police” in MCO ch. 90 relate to the “chief of police” conducting investigations, or summarizing investigations, or preparing reports on investigations or offering the report into the record for the Committee.

In fact, the chief of police, without mention of a designee, shall prepare a report with information relating to the allegations in the written revocation complaint where that report shall be offered and made part of the permanent record of the revocation hearing without motion. MCO § 90-12-4-a-3.

That report and that investigation as required of the “chief of police” in revocation

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<sup>1</sup> The Licensee did not argue, and there was no evidence introduced, that Captain Thiel was not an official designee of Chief Norman acting that official capacity for purposes of initiating these revocation proceedings.

proceedings, as was done in this case, is clearly prepared and offered into the record by the Milwaukee Police Department Licensing Investigation Unit even though the ordinances refer to the “chief of police” and not a designee.

The Licensee did not question the authority or the ability of Licensing Investigation Unit Police Officer Penny Monreal in preparing the revocation hearing police report or the authority or the ability of Licensing Investigation Unit Sgt. Guadalupe Velasquez in offering the revocation hearing police report into the record.

The Licensee did not challenge these actions at the revocation hearing because the common, everyday understanding of the term “chief of police” as used in the structure of the City’s ordinances is to meant to include Chief Norman or his official designee acting in their official capacity with the Milwaukee Police Department such as the Licensing Investigation Unit or Captain Thiel.

Accepting the Licensee’s argument regarding the meaning of “chief of police” would mean that Chief Norman would have to personally investigate all incidents related to all licensed premises or applicants in the City of Milwaukee. Licensee’s argument would also require Chief Norman to personally prepare the report for every single item on the agenda and then offer it into the permanent record at the hearing. Licensee’s interpretation would lead to absurd results, is contrary to basic ordinance interpretation and does not account for the City of Milwaukee’s legislative intent in crafting these ordinances.

In that regard, the revocation proceedings were properly initiated. MCO § 90-12-4 requires “sworn written charges made and filed with the city clerk by the chief of police”. Evidence in the record clearly establishes that Captain Thiel, in his official capacity as Chief Norman’s designee, was sworn prior to signing the document and that he believed that he was

sworn in before signing the document.

Licensee's argument concerning the right hand of Captain Thiel during this process is frivolous. The hearing discussed the Wisconsin Supreme Court case of *State v. Moeser*, 2022 WI 76, 405 Wis. 2d 1, 982 N.W.2d 45. In that case, an officer stopped a suspected drunk driver and obtained a search warrant for the driver's blood. *Id.* at ¶¶ 4-5. The officer signed the warrant's affidavit as "subscribed and sworn to before me" and the affidavit was notarized. *Id.* at ¶ 6.

The defendant challenged the warrant and affidavit stating that it did not satisfy the constitutional oath or affirmation requirements. It was undisputed in the *Moeser* case that the officer made no oral oath or affirmation before signing the affidavit. *Id.* at ¶ 8. The State of Wisconsin argued that the written statement manifested the intention to be under oath. *Id.* at ¶ 9.

The Wisconsin Supreme Court found, that under those circumstances, the affidavit fulfilled the oath or affirmation requirement. *Id.* ¶ 48. The conclusion was that "constitutional requirements, relevant case law, and the Wisconsin Statutes all indicate that the oath or affirmation requirement is an issue of substance, not form." *Id.*

In fact, the Wisconsin Supreme Court analyzed persuasive case law from other jurisdictions which found that a person may be under oath without raising a hand. *Id.* at ¶¶ 30-31. The Wisconsin Supreme Court even analyzed Wis. Stat. § 906.03 which governs oaths/affirmations administered to testifying witnesses. *Id.* at ¶ 38. § 906.03 says the oath or affirmation "may be manifested by the uplifted hand". *Id.* The Wisconsin Supreme Court found this to be flexible language and is not required. *Id.*

If the fact pattern in *Moeser* meets the constitutional requirements of that case, then the facts in the present case equally meet the ordinance requirements of the current proceedings. Here, Captain Thiel said he swore to the complaint and was involved in the drafting of the

complaint. The title of the complaint begins with “sworn charges”. The notary provision stated it was subscribed and sworn to before the notary. If the purpose of the oath or affirmation is to impress upon the swearing person an appropriate sense of obligation to tell the truth, (*Moeser*, 2022 WI 76, ¶ 44), then that purpose was fulfilled here.

Finally, the correct decision was made with respect to revocation of the licenses. The evidence in the record is clear that the loitering of the patrons in close proximity to the establishment have endangered, injured or taken the lives of numerous individuals in the proximity of the establishment.

The people who were shot or discharged the firearms were only in this densely populated area due to events condoned or promoted by the establishment. There is a direct connection between these repeated acts of escalated violence and the operation of this establishment. For these reasons, the Committee made the correct decision in revoking the licenses.

Dated and signed at Milwaukee, Wisconsin this 29<sup>th</sup> day of October, 2025.

*Electronically signed by Nathaniel E. Adamson*

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NATHANIEL E. ADAMSON  
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