

**OFFICE OF THE DIRECTOR OF EXCISE AND LICENSES
CITY AND COUNTY OF DENVER, COLORADO**

RECOMMENDED DECISION

**IN THE MATTER OF THE APPLICATION OF RAHI INC., DBA PARK HOUSE, FOR
A SPECIAL EVENT CABARET PERMIT ON AUGUST 23 AND SEPTEMBER 27, 2014
DURING SPECIFIED HOURS AND FOR SPECIFIED PREMISES AT 1515 MADISON
ST., DENVER, COLORADO.**

This matter came on for hearing on August 20, 2014 at 10:00 a.m. The Applicant, RAHI, Inc. dba Park House (Park House or Applicant), appeared through its attorney, Shawn Hauser. Susan Meadoff, Dona Dodson, and William Meadoff appeared as interested parties in opposition to the application. The Licensing Authority was represented by Assistant City Attorney Dan Douglas. At the hearing, Applicant's Exhibits A-1 through A-3 and City's Exhibits C-1 and C-2 were received into evidence.

After review of the testimony and exhibits as summarized below, the undersigned Hearing Officer enters the following findings of fact, conclusions of law, and recommended decision:

1. The Applicant currently has a liquor license for the premises at 1515 Madison St., Denver. By this application, it seeks a Special Event Cabaret Permit for the parking lot on the northwest corner of Colfax Ave. and Madison St., which is immediately to the south of its building. The permit will allow the Applicant to play live and recorded music in the parking lot while alcohol is being served and consumed on premises. The dates for which a permit is sought are August 23, 2014 from noon to 8:00 p.m., and September 27, 2014 from noon to 9:00 p.m. It has already obtained a temporary extension of its premises for the August 23rd event, which will allow it to serve alcohol beverages in the parking lot, whether the Special Event Cabaret Permits are issued or not.
2. Drew Gottlieb is the owner of the Park House. It is a bar/restaurant that offers live music five nights per week. The building is located between a front parking lot, located on the northwest corner of Colfax and Madison, and a rear parking lot, located to the north of the building. To the west of the building and parking lots is an alley. Much of the clientele of the Park House is from the neighborhood, and much of his staff lives in the neighborhood. Mr. Gottlieb envisions the August 23rd event as a block party, with music from three different bands commencing at 2:00 p.m. and ending at 7:00 p.m. He has not programmed the September 27th event, but would like to provide music until 8:30 p.m. Park House has sponsored two prior outdoor events, one in September of 2013 and one on August 9, 2014. He received no complaints from the 2013 event, getting nothing but positive feedback.

3. The August 9, 2013 event caused some noise complaints. Mr. Gottlieb stated that Park House had ordered a stage of a certain size, but on the day of the event the production company arrived with a much larger stage and sound system, telling him that he had been upgraded for free. Mr. Gottlieb concedes that the stage and sound system were much too big for his event; however, he took noise measurements with a decibel meter throughout the event and did not obtain a reading beyond what is allowable under the Denver Municipal Code. The police did come in response to a noise complaint, but after speaking with Mr. Gottlieb and viewing his noise meter declined to cite the Park House or take any other enforcement action. For the August 23rd event, Park House is planning on using a flat bed trailer for a stage and using its own sound system moved outdoors, which is much smaller than what was used last time.

4. For the August 23rd event, Park House intends to enclose the parking lot, with one main entrance near the street corner; a second, emergency exit will be located on the west end of the parking lot and lead to the alley. ID's will be checked at the main entrance, with color-coded wrist bands used to identify persons over the age of 21. All of Park House's staff are TIPS certified and will check ID bands before serving alcohol. Park House will have three managers "floating" during the event, and Mr. Gottlieb will be on site for the duration of the event. The past two events have been for all ages. Mr. Gottlieb believes that Park House generally, and these planned events specifically, make a positive contribution to the health, safety, welfare, and morals of the neighborhood. Prior to Park House's opening in September of 2012 the property had been abandoned for several years. There was a noise complaint last September that led to a disturbing the peace citation and conviction. Mr. Gottlieb attributes that to a door and window being open inappropriately and against company policy, and he has educated his employees as to the need to keep them closed.

5. On August 5, 2014 Park House sent a post card mailing to 2500 postal addresses in the vicinity of Park House listing the August 9, August 23, and September 27, 2014 events. The majority of feedback has been positive. In addition, Mr. Gottlieb attended a meeting of the South City Park Neighborhood Association, hosted by the Park House, and spoke to the membership about the upcoming events.

6. Sean Mandel lives at 1341 St. Paul St., and he owns and manages several residential rental properties in the Designated Area. He believes the neighborhood has been activated by the opening of the Park House. He believes that community music events benefit the neighborhood; past outdoor events at Park House that Mr. Mandel attended have drawn neighbors. Mr. Mandel saw nothing at the past event that had a negative impact on the health, safety, welfare, or morals of the neighborhood. He plans on attending both the August 23rd and September 27th events, and he personally desires that the application be granted. He knows Mr. Gottlieb and believes the events will be operated lawfully.

7. Chris Swank owns Mescal Restaurant and Goosetown Tavern, as well as the building housing the Bluebird Theater, all of which are in the Designated Area. He is over the age of 21. He has been active in this stretch of Colfax for about 20 years. In his opinion, the neighborhood is filling in and music events are a positive part of this. His businesses have had no issues concerning noise from the Park House. He believes that an outdoor music event that is operated within the noise limits will not disrupt the character and enjoyment of the neighborhood. Colfax

Ave. is a busy commercial corridor with lots of traffic, not quiet at all. He can think of no reason not to grant the application, and he personally desires that it be granted.

8. Ben Lochridge lives at 1432 Madison St., about a half block from the Park House. He has lived in the Designated Area for two and a half years. He has been coming to this part of town since he moved to Denver in 2004. He has attended past outdoor events at Park House and enjoyed them, and he plans to attend future events there. Mr. Lochridge thinks of Park House as a “neighborhood-centric” business, a place where he has gotten to know his neighbors. He has had no issues with noise from the Park House, and he believes the outdoor events are good for the neighborhood. He has not seen any negative impact on the health, safety, welfare, or morals of the neighborhood from past outdoor events, nor does he foresee any from future outdoor events.

9. Susan Meadoff lives at 1510 Cook St., which is directly across the alley to the west of the Park House, and she opposes this application. The August 9th event setup began around 10:00 a.m., which included the starting of a generator in the alley which ran continuously until 9:00 p.m. The sound system checks began well before the music did. The noise she perceived during the day was a discomfort to her. She has two young grandchildren who live with her who were unable to play outdoors that day. Ms. Meadoff saw patrons and band members take alcohol into the alley from the parking lot. She perceived the sound level at the last event as painful, and she believes music events should be held indoors. She does not see any benefit to the health, safety, and welfare of the neighborhood in granting this application.

10. Doña Dodson lives at 1558 Madison St., and she has been there for 37 years. She opposes the application. She doesn’t believe that outdoor music benefits her block, which has 10 children under the age of 10 living on it. Ms. Dodson views her block as tranquil, and she doesn’t notice the Colfax noise from her mid-block location. She thinks the August 9th event was too loud, although she didn’t take any decibel readings from her property, and her husband called the police about the noise. Ms. Dodson is concerned that the character of her neighborhood may be changing, and she doesn’t want it to become an area with lots of night clubs.

11. William Meadoff lives and has a home office at 1510 Cook St., directly across the alley to the west of Park House, and he opposes the application. He has been at this location since 1974, and he sees lots of kids living on his block. He was unhappy with the August 9th event for many reasons. Some band members parked on his property, blocking his access, which led to an upsetting confrontation before the situation was resolved. The generator in the alley ran for 11 straight hours, and it was noisy. And the music from the last event was too loud. Mr. Meadoff didn’t contact the Park House or Mr. Gottlieb on that day; he has contacted them many times in the past on other issues (primarily noise from inside the Park House) and is dissatisfied with the response. He thinks music events should be held indoors, at such venues as the Bluebird Theater.

12. One additional witness testified generally that his testimony would agree with the opponents.

13. Mr. Gottlieb offered rebuttal testimony to clarify that there will be no generator used this time, with the smaller sound system being powered by the Park House service. Also, he was unaware of band members and patrons taking alcohol into the alley, and he is willing to hire a security guard to ensure it doesn't happen at future events.

14. The issuance of Special Events Cabaret Permits is governed by D.R.M.C. § 6-64. Section 6-64(d) provides that the issuance shall be in accordance with D.R.M.C. § 6-55, which as pertinent to this proceeding states as follows:

(a) No cabaret license shall be issued when...

(3) The information or evidence available to and considered by the director reasonably established: that the character or reputation of the applicant or manager of the establishment or business or the past record of operation of the establishment or business for which application is made is such so as not to warrant the confidence of the director that the establishment or business will be lawfully operated; or that the health or welfare or morals of the neighborhood would be adversely affected thereby; or that the applicant has failed to establish that the residents of the designated neighborhood desire the granting of the license...

15. The Hearing Officer finds and concludes that the proposed August 23rd event will be lawfully operated. The Park House's past history, while not perfect, evinces a desire to operate within the applicable rules, regulations, and laws. The willingness of the Park House to hire a security guard, which is made a condition of this Order below, is further evidence of that. The Park House's frequent checks of decibel readings at past events are also evidence of its intent to comply. The Hearing Officer also finds and concludes that residents of the designated neighborhood desire the granting of the license, although not all do. Clearly the residents closest to the planned August 23rd event will be inconvenienced. However, outdoor music events are lawful as long as they comply with the noise and other ordinance limitations.

16. Concerning the health, welfare, and morals of the neighborhood, the Hearing Officer is concerned with the frequency of the outdoor events. Three events within a seven-week period could have an adverse effect on the welfare of the neighborhood. This is particularly true if the increased security is not successful at preventing unlawful behavior. Given that the efficacy of the increased security is unknown, along with the uncertain nature of the proposed September 27th event, the Hearing Officer will recommend granting the Permit for the August 23rd event only. The decision on the September 27th event will be held in abeyance, pending an additional hearing to be held after the August 23rd event.

ACCORDINGLY, the Hearing Officer concludes that the application of RAHI, Inc., dba Park House, for a Special Event Cabaret Permit for August 23rd should be granted.

IT IS RECOMMENDED that the application be approved for August 23, 2014, and that the following conditions be attached to the special event cabaret permit:

1. No live or deplayed music shall be played in the parking lot under this Permit before 2:00 p.m. or after 7:00 p.m. Reasonable sound checks may occur before 2:00 p.m.
2. Applicant shall have at least one Security Guard present for the duration of the event.

RECOMMENDED this 21st day of August, 2014.

/s/ Ken F. Kirkpatrick
Ken F. Kirkpatrick
Hearing Officer

Any party in interest may file objections to the foregoing Recommended Decision by noon on August 22nd, 2014.

All filings shall be made by email to the Director, stacy.loucks@denvergov.org, copying ruthie.sullivan@denvergov.org, john.jennings@denvergov.org, and any opposing parties.

The Director of the Department of Excise and Licenses will issue a **FINAL DECISION** in this matter following review and consideration of the Recommended Decision, and if applicable, any objections.

CERTIFICATE OF SERVICE

The undersigned hereby states and certifies that one true copy of the foregoing Recommended Decision was sent via email, on the date above, to the following:

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Hearing Officer