

IN THE FRANKLIN COUNTY MUNICIPAL COURT
ENVIRONMENTAL DIVISION
FRANKLIN COUNTY, OHIO

STATE EX. REL
COLUMBUS CITY ATTORNEY
ZACH M. KLEIN

FILED
Franklin Co. Municipal Court

Relator-Plaintiff

JUL 11 2023

Case No. 2023 EVH 60476

v.

Lori M. Tyack, Clerk
CNY
By _____
Deputy Clerk

Judge Stephanie Mingo

SPEEDWAY LLC, ET. AL

Respondents-Defendants.

Parcel No. 010-088348-00

AGREED COURT ORDER AND JUDGMENT ENTRY

THIS CAUSE came before the Court on July 10, 2023 upon the Complaint of Relator-Plaintiff filed on July 10, 2023. The following parties appeared before the Court on July 10, 2023: Sarah C. Pomeroy and Christopher C. Clark, Attorneys for the Relator-Plaintiff; Hal D. Coffey, Attorney for Respondents-Defendants Speedway LLC ("Speedway") and the Real Property at 3304 East Broad Street (a.k.a. 3328 East Broad Street) (hereinafter, collectively, "Respondents-Defendants" and, collectively with Relator-Plaintiff, the "Parties"). The Court finds that all necessary parties have been properly served according to law and are properly before the Court.

On July 10, 2023, the Parties reached a stipulated resolution of this case to their mutual satisfaction. It is the intent of the parties that this Agreed Court Order and Judgment Entry document their respective stipulations and agreements.

**STIPULATIONS AND AGREEMENTS BETWEEN RELATOR-PLAINTIFF AND RESPONDENTS-
DEFENDANTS.**

- 1) Speedway is the owner of the real property at 3304 East Broad Street (a.k.a. 3328 East Broad Street), Columbus, Ohio, 43213, Parcel No. 010-088348 (hereinafter, “the Premises”), as alleged in Relator-Plaintiff’s Verified Complaint for Preliminary and Permanent Injunctive Relief filed on July 7, 2023.
- 2) Speedway accepts and stipulates to the fact that it is the owner of the business known as Speedway #9706 (hereinafter “Business”) at 3304 East Broad Street, and the holder of liquor permit #84189942450, as alleged in Relator-Plaintiff’s Verified Complaint for Preliminary and Permanent Injunctive Relief filed on July 7, 2023.
- 3) Without further stipulation, the Parties agree to the requirements of this Order in order to resolve the matter.

THEREFORE BE IT ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

- 4) All of the provisions of the preceding paragraphs are incorporated as though fully repeated and rewritten herein.
- 5) Respondents-Defendants are permanently and perpetually enjoined from maintaining a public nuisance at the property located at the Premises.
- 6) Upon execution of this Agreed Court Order and Judgment Entry, the City of Columbus will withdraw and forgo its December 5, 2022, objection to the renewal of the liquor license for the Business (#84189942450), and instead recommend renewal.

- 7) At all times at the Premises, Respondents-Defendants shall ensure that the following rules, policies, and conditions be implemented and maintained:
- a. Respondents-Defendants shall not knowingly permit any violations of liquor law, pursuant to the Ohio Revised Code, the Columbus City Code, or the Ohio Administrative Code, to occur at the Premises;
 - b. no unauthorized sale or possession of alcohol to (i) individuals under the age of 21 years, (ii) intoxicated individuals, (iii) vagrants or loiterers, shall occur at the Premises;
 - c. a point-of-sale identification reader such as “Patron Scan” shall be at the Business and in full operation at all times;
 - i. The Parties agree that such system and equipment currently in use as of the date of the entry of this Order satisfies this provision.
 - d. all those wishing to possess, receive, or purchase an alcoholic beverage shall be required to provide valid government identification at the point of sale, at which point said identification shall be scanned through a card reader such as “Patron Scan” or some other substantially similar service;
 - e. Respondents-Defendants shall not sell illegal drugs, to include illegal synthetic drugs, or illegal drug paraphernalia at the Premises; Respondents-Defendant shall make reasonable best efforts to prohibit the sale, use, or possession of illegal drugs, to include illegal synthetic drugs and drug paraphernalia, at the Premises;

- f. Respondents-Defendants shall not knowingly permit there to be any illegal lewdness or prostitution at the Premises; Respondents-Defendant shall make reasonable best efforts to prohibit lewdness or prostitution at the Premises;
- g. there shall be no expired alcohol, food, tobacco, or other perishable products kept for sale at the Premises;
 - i. Relator-Plaintiff agrees to provide notification and reasonable time to cure prior to moving for contempt of this provision;
- h. Respondents-Defendants shall not knowingly permit any tobacco violations at the Premises, to include but not limited to violations involving, acquisition, possession, proper licensing, sale/distribution, or taxation of tobacco;
- i. Full HD 1080p Indoor/Outdoor Dome Cameras, or cameras of a comparable equivalent as agreed upon by the Parties, shall be maintained to monitor all facets of the interior and the exterior of the Premises. The camera system shall be maintained at all times with the following stipulations:
 - i. all cameras shall be operational and recording footage during all hours of operation;
 - ii. monitors displaying the real-time footage captured by all interior and exterior cameras shall be situated in such a manner as to be easily viewed by anyone working at the counter at all times;

- iii. footage captured by all interior and exterior cameras shall be recorded, stored, and held for no less than thirty (30) days;
 - iv. footage captured by all interior and exterior cameras shall be made available to law enforcement upon request;
 - v. The Parties agree that the cameras and monitors/viewing equipment currently in use as of the date of the entry of this Order satisfies this provision.
- j. Respondents-Defendants shall ensure that all interior and exterior lights are in working order and fully illuminate the Premises;
 - k. Respondents-Defendants shall not knowingly permit loitering or trespassing upon the interior or exterior of the Premises; management shall take reasonable, safe, lawful action to monitor for loitering and trespassing and to encourage any person found to be loitering or trespassing to leave, including if necessary contacting the Columbus Police Department, with the expectation that the Columbus Police Department will remove the loiterer or trespasser;
 - l. To this end, Respondents-Defendants shall maintain an up-to-date Trespass Authorization Form on file with the Columbus Police Department at all times;
 - m. Respondents-Defendants shall ensure that “No Loitering” signs are posted throughout the exterior of the Premises;

- i. The Parties agree that the existing posting of “No Loitering” signs as of the date of the entry of this Order satisfies this provision.
- n. a trespass list of those who have been trespassed from the property and whose identities are known to Respondents-Defendants shall be kept at the Premises and shall be made available to law enforcement upon request;
- o. there shall be visibility from the inside of the Premises through all windows and doors of the Premises, such that there is an unobstructed view of the outside as observable from the windows and doors.
 - i. The Parties agree that the visibility from inside the Premises through current windows and doors as of the date of the entry of this Order satisfies this provision.
- p. Respondents-Defendant shall take reasonable, safe, lawful action to remove any patrons or members of the public found to be using the restroom at the Premises for illicit purposes, including but not limited to illegal drug use or consumption of alcohol, including if necessary contacting the Columbus Police Department , with the expectation that the Columbus Police Department will remove the loiterer or trespasser;
 - i. Respondent-Defendant shall add any such individual to the trespass list, if they can be identified by name;

- q. Respondents-Defendants and/or their agents/employees/assigns agree to clean the lot of the Premises on a regular basis to remove any trash and debris, at a minimum of every three (3) days.
 - r. the Premises shall be kept in compliance with the Ohio State Fire Code and the Columbus City Fire Code;
 - i. Relator-Plaintiff agree to provide written notification and reasonable time to cure (at a minimum, the deadline dictated by the department or division issuing any such violation), prior to moving for contempt of this provision;
 - s. the Premises shall be kept in compliance with Columbus City Code as it pertains to Code Enforcement, Building Code, and Health Code;
 - i. Relator-Plaintiff agree to provide written notification and reasonable time to cure (at a minimum, the deadline dictated by the department or division issuing any such violation), prior to moving for contempt of this provision;
 - t. all employees shall participate in Speedway's training on personal safety, and shall be adequately trained in the laws of selling and/or providing alcohol and compliance with the provisions of this Order Proof of each employee's completion shall be provided to law enforcement upon request within a reasonable time frame not to exceed seven (7) days. Speedway shall maintain procedures for the discipline or termination of employees found to be violating the law or this Order.
- 8) Respondents-Defendants shall be assessed all costs of this action.

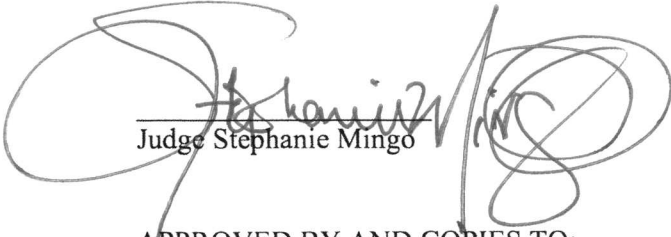
- 9) Noncompliance with any paragraph of this Order and Entry shall be a violation of this Order and may result in a finding of Contempt of Court. Additionally, Relator-Plaintiff will provide Respondents-Defendants with 15-day's written notice and an opportunity to cure any violation of this Order before initiating contempt proceedings.
- a. Curative mechanisms may include, but are not limited to: review of security recordings and/or procedures; additional updates to security and safety procedures; additional employee training; termination of employees; and disposal of products in violation.
 - b. In any future proceeding concerning an alleged violation of this Order and Entry, Relator-Plaintiff shall be given opportunity to submit evidence of the violation, and Respondents-Defendants shall be given opportunity to introduce evidence and assert defenses to any charge.
- 10) Paragraph 9 of this Order and Entry shall not be construed to limit or affect in any way a future Contempt finding associated with any future Nuisance Abatement ruling or action filed against the property located at 3304 East Broad Street, Columbus, Ohio and/or the property owner(s).
- 11) Each Party and signatory counsel warrants and represents that the person signing this Agreement has the authority to do so on behalf of their respective client(s).
- 12) This Court shall retain jurisdiction over this action for the purpose of enforcing or modifying this Order. Additionally, in order to monitor compliance with this Order, the Court's Environmental Specialist is authorized to make inspections, assessments, or inquiries as deemed appropriate by the Court.

13) This case shall be set back in for a status conference on

October 19, 2023 @ 1pm.

This is a final appealable order. Pursuant to Ohio Civil Rule 58, the Clerk is directed to notify the parties as they appear below.

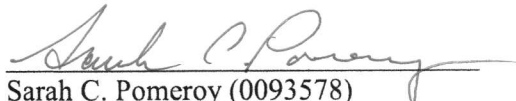
SO ORDERED.



Judge Stephanie Mingo


7-10-23
Date

APPROVED BY AND COPIES TO:



Sarah C. Pomeroy (0093578)
Christopher C. Clark (0096257)
Assistant City Attorneys
375 South High Street, 17th Floor
Columbus, Ohio 43215
Phone: (614) 645-8619
Phone: (614) 645-5670
Fax: (614) 645-6548
Email: scpomeroy@columbus.gov
Email: ccclark@columbus.gov

Attorney for Relator-Plaintiff Columbus City Attorney Zach M. Klein.



Hal D. Coffey (0081972)
Clark Hill PLC
One Oxford Centre, 14th Floor
301 Grant Street
Pittsburgh, PA 15219
Phone: (412) 394-2366
Fax: (412) 394-2555
Email: hcoffey@clarkhill.com

Attorney for Respondents-Defendants Speedway LLC and the Real Property at 3304 East Broad Street