

HOLDEN & HAHN, S.C.

ATTORNEYS AT LAW
903 NORTH SIXTH STREET
SHEBOYGAN, WI 53081
TELEPHONE: (920) 458-0707
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RICHARD B. HAHN
email: consult@holdenandhahn.com

ROBERT C. HAHN
OF COUNSEL

CHRISTOPHER M. EIPPERT
email: c.eippert@holdenandhahn.com

July 3, 2024

Via Hand Delivery

Licensing, Hearings and Public Safety Committee
Sheboygan City Hall
828 Center Avenue
Sheboygan, WI 53081

received
7-3-24
hand delivery

RE: Dave's Who's Inn, Inc. – 835 Indiana Avenue
Class B Liquor License
Our File No. 21952

To the Licensing, Hearings and Public Safety Committee:

I write to you in anticipation of a meeting of the Licensing, Hearings and Public Safety Committee (the "Committee") relating to the Class B Liquor License of Dave's Who's Inn, Inc. ("Dave's Who's Inn"), which is set to be considered on July 8, 2024 at 3:00 p.m. On June 30, 2024, David Repinski ("Mr. Repinski") was presented with a number of conditions to the issuance of his license. Instead of agreeing to these conditions, Mr. Repinski has decided to close his business until these conditions can be reviewed. Mr. Repinski requests that the appeal and/or review of those conditions occur at the July 8th meeting of the Committee.

Mr. Repinski believes that the request that his license be issued on certain conditions and acknowledged by him in writing is something unprecedented for taverns in the City of Sheboygan. He considers two of the conditions particularly problematic. The first is that no underage persons can be on the premises. This prohibits Mr. Repinski from having families enter the premises in what has now become a business that is at least equally devoted to the service of food and beverages.

The second concern is somewhat related to the first, and that is the requirement that a metal detector be used on all patrons entering the premises. This is another unprecedented condition to the knowledge of Mr. Repinski, as this has never been requested of another tavern in the City of Sheboygan. This condition would apply to persons entering the premises who merely want a steak sandwich, or other food, without any intention to order alcoholic beverages.

Licensing, Hearings and Public Safety Committee
July 3, 2024
Our File No. 21952
Page Two

Mr. Repinski believes that these conditions are designed to harm his business and severely limit and alienate current patrons. Over the past 10 years, a disturbing pattern has developed between the City of Sheboygan and Mr. Repinski and his tavern. The City Attorney will notify Mr. Repinski of an alleged concern regarding his liquor license and will give him notice that he has the option to either voluntarily surrender his license for a period of days, or contest the alleged violation with the potential of permanent revocation. Obviously, the Hobson's choice that he has had to face to this point has been a challenging one for him. He has invariably agreed to the suspension and then contested the underlying allegations in municipal court. Invariably, he has successfully challenged those allegations before a neutral and detached municipal court judge.

The most recent example of what Mr. Repinski has had to endure is a notice of suspension from City Attorney Charles Adams ("City Attorney Adams") on February 24, 2022, which is attached hereto and marked as Exhibit 1. The allegations of the City Attorney's Office relate to an incident that occurred on January 1, 2022. The municipal citations of failing to comply with an abatement plan and selling, or giving alcohol to an intoxicated person relate to that same set of facts and was tried before the municipal judge, the Honorable Natasha Torry, on March 1, 2023. (Judge Natasha Torry is now a circuit court judge). The order dismissing those charges after a trial was issued on June 9, 2023 and is attached hereto and marked as Exhibit 2.

Even though Mr. Repinski was found not guilty of the two charges relating to the January 1, 2022 New Year's Day prosecution, he has decided to forego having Dave's Who's Inn open on New Years to avoid any further conflict with the City of Sheboygan. Dave's Who's Inn was closed both on December 31, 2023 and January 1, 2024. This resulted in significant loss of income to the business.

Mr. Repinski has modified his business model significantly within the past two years. As indicated above, his focus is now equally on food service, as well as being a traditional tavern. Nevertheless, proposed conditions on his license create a significant problem on him moving forward with his intentions.

On December 14, 2023, Mr. Repinski received a letter from the City Attorney, a copy of which is attached hereto and marked as Exhibit 3. Once again, the City Attorney requested voluntary surrender of Mr. Repinski's Class B Liquor License for 30 consecutive days, asserting that there were "several issues" relating to his license requirements that had not been followed. I responded with an email dated December 19, 2023, which is attached as Exhibit 4. There was no response from the City Attorney.

Licensing, Hearings and Public Safety Committee
July 3, 2024
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Page Three

Thereafter, I attempted to make a number of open records requests to both the City and Police Department regarding the basis of the December 14, 2023 request by City Attorney Adams. Those requests are attached hereto and collectively marked as Exhibit 5. The responses to those requests are attached hereto and collectively marked as Exhibit 6. Needless to say, it has been a frustrating undertaking to determine the basis for the December 14, 2023 letter from City Attorney Adams, as well as the unprecedented conditions attached to the issuance of the Class B Liquor License.

Mr. Repinski merely requests that you treat his business on a similar plane with other local taverns. He requests that the metal detector or wand requirement be deleted, as well as the prohibition on underage persons being on the premises. Your attention to this matter is greatly appreciated.

Very truly yours,

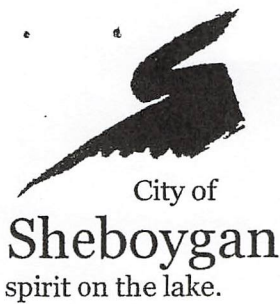


Richard Hahn

RH/jl

Enc.

cc: David Repinski (Via Email)



February 24, 2022

Mr. David A. Repinski, Agent
Dave's Who's Inn
835 Indiana Avenue
Sheboygan, WI 53081

✓ Attorney Christopher Eippert
Holden & Hahn, S.C.
903 North 6th Street
Sheboygan, WI 53081

Dear Mr. Repinski and Attorney Eippert:

Following the meeting on February 14, 2022, staff from the City of Sheboygan City Clerk's Office, Police Department, and City Attorney's Office have made the decision to revoke the Dave's Who's Inn "Class B" alcohol beverage license permanently.

However, as an alternative to the permanent revocation, staff is willing to give Mr. Repinski the opportunity to voluntarily surrender the "Class B" alcohol beverage license for thirty (30) consecutive working days of his choosing, excluding the day(s) of the week he is normally closed, to begin within thirty (30) days, if Dave's Who's Inn abides by the following conditions upon re-opening and signs an agreement so stating:

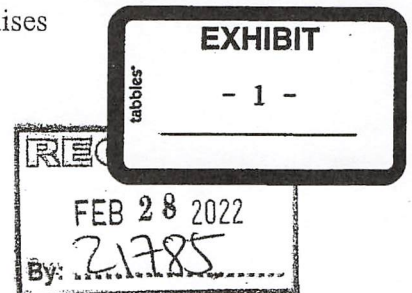
- Cooperate with the police
- Continue to be a member of the Tavern Safety Coalition and follow its guidelines
- Prohibit all weapons and use a metal detector on all patrons entering the premises
- Use a scanner that also takes photos on all patrons entering the premises
- Ensure all video cameras (inside and outside) are operational and recording when open for business
- No underage persons on the premises
- Do not serve intoxicated people
- Deny entry to any patrons who are visibly intoxicated and do not allow patrons who are visibly intoxicated to remain on the premises
- Prohibit staff from drinking while working
- Communicate these expectations to all staff

CITY ATTORNEY'S OFFICE

CITY HALL
828 CENTER AVENUE
SUITE 210
SHEBOYGAN, WI 53081

920/459-3917
FAX 920/459-3919

www.sheboyganwi.gov



Mr. David A. Repinski
Attorney Christopher Eippert
February 24, 2022
Page 2

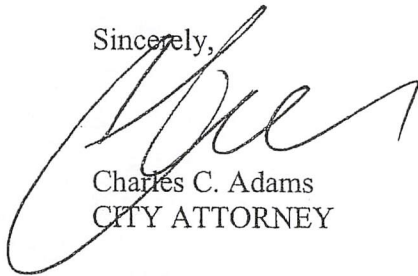
Any violation of these guidelines would result in revocation of the license; review of whether these guidelines were violated could be had via an appeal to the Licensing, Hearings, and Public Safety Committee of the Common Council.

If you choose to voluntarily surrender your license for 30 days, please advise me of the days you will surrender your license, and then turn it in for those thirty (30) days to the City Clerk's Office, City Hall, 828 Center Avenue, Sheboygan. If you do not agree to surrender the license, please let me know as soon as possible and we will make arrangements for a revocation hearing.

Pursuant to state statute, we are required to provide notice of this revocation directly to the license holder, but we are also providing notice to the license holder's attorney via this letter.

Please call with any questions you may have.

Sincerely,



Charles C. Adams
CITY ATTORNEY

CCA/kah

cc: City Clerk Meredith DeBruin
Lt. William Adams
Licensing Clerk Melissa Fassbender

CITY OF SHEBOYGAN;

Citation Nos.

G780B7D71K, G780B8M85V and G780B8M85W

V.

DAVID REPINSKI

ORDER

I. APPEARANCES

A trial was held before Judge Natasha Torry, on March 1, 2023, regarding citations issued for Failure to Comply with Abatement Plan and Sell/Give Alcohol to Intoxicated Person. The City of Sheboygan appeared by Attorney Charles Adams. The defendant appeared in person and by Attorney Richard Hahn.

II. STATEMENT OF FACTS

The defendant was operating a bar under an abatement plan which contained several provisions for continued operation of Dave's Who's Inn, hereinafter DWI. On January 1, 2022, there were several police calls made to respond to the bar due to a person who appeared to be experiencing a medical emergency and a separate altercation. Both individuals had consumed alcohol within the past several hours.

Calayah Thomas was employed as a bartender at DWI and working on the night of the incident. She testified that she had consumed approximately five drinks over the course of seven hours. Immediately after consuming the last two shots she became extremely ill and experienced symptoms of being drugged. Her drinks had been left unattended and in the presence of strangers immediately before she consumed them. Ms. Thomas was not tested for drugs.

The altercation involved a patron, named Marquisha Stallings, who assaulted an employee of DWI. She appeared to be intoxicated. This patron testified that she drank alcohol at a location other than DWI. An employee of DWI testified that the patron was not served alcohol at DWI, only water.

III. APPLICABLE WISCONSIN STATUTES and SHEBOYGAN ORDINANCES**Sec. 66-104. - Nonabatement prohibited.**

(1) *Failure to comply with order to abate.* No person shall fail to comply with a lawful order to abate a public nuisance issued pursuant to this section. Each day of noncompliance with a lawful order to abate issued pursuant to this section is a separate violation.

(2) *Failure to appear for hearing.* No person shall fail to comply with an order to appear for an abatement hearing pursuant to section 66-102.

EXHIBIT

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tabbles

(3) *Failure to observe abatement plan.* No person shall fail to comply with the terms of an abatement plan.

Sec. 10-9. - Restriction on sales of alcohol beverages to intoxicated person; penalty.

(a) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.

(b) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

IV. BURDEN OF PROOF

The City of Sheboygan must prove to a reasonable degree of certainty by evidence which is clear, satisfactory and convincing that the defendant did not comply with the terms of an abatement plan and also that they sold or gave alcohol to a person who was intoxicated.

V. DISCUSSION

The issues that must be addressed in this matter are:

1. Whether the fact that an employee required medical treatment while working a shift at DWI constitutes a nuisance.
2. Whether a patron who is not served alcohol at DWI and causes a disturbance constitutes a nuisance.
3. Whether a licensee can be found in violation of Sec. 10-9 if a person who is employed at a licensed tavern serves themselves alcohol.

Ms. Thomas testified in detail that she felt that she was drugged and that her medical condition was not the result of alcohol. There was no evidence presented regarding blood alcohol levels. She indicated that she has consumed the same amounts of alcohol previously and without similar effect. The description of her condition included being paralyzed, mentally conscious and yet unable to move or speak. Two hours later she was discharged from the hospital and able to drive. The fact that Ms. Thomas had consumed alcohol is not enough to show that any medical complication that she suffered was the result of alcohol intoxication. An employee experiencing a medical episode while working should not be deemed a nuisance in these circumstances.

Ms. Stallings was undeniably intoxicated on January 1, 2022. What is not clear is whether she drank any alcohol at DWI. She had a poor recollection of events from that evening. DWI staff indicate that she did not consume alcohol on the DWI premises. There was no testimony or evidence as to Ms. Stallings alcohol consumption at DWI.

VI. FINDINGS

Based on the testimony, evidence and facts presented at trial the Court finds that burden of proof has not been met. There is not evidence to find that the defendant failed to comply with the abatement plan or that alcohol was served to Ms. Stallings. Ms. Thomas consumed alcohol that can be found to

.City of Sheboygan v. David Repinski
Citation No. G780B7D71K, G780B8M85V and G780B8M85W

either have been sold, vended, dealt or trafficked by the defendant but it was not proven by clear convincing and satisfactory evidence that her medical condition was the result of being intoxicated as opposed to being the result of another cause.

VII. ORDER

The matters are dismissed.



Hon. Natasha Torry
Sheboygan Area Municipal Court Judge

FILED

JUN 09 2023

SHEBOYGAN/KOHLER
MUNICIPAL COURT

THE SHEBOYGAN AREA MUNICIPAL COURT

City Of Sheboygan,
Plaintiff,

COURT DISPOSITION

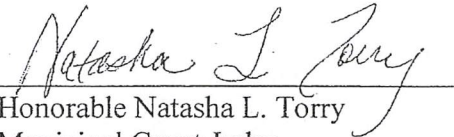
vs.

Citation Number: G780B7D71K
Failure to Comply w/ Abatement Plan

David A Repinski JR
835 Indiana Ave
Sheboygan, WI 53081,
Defendant.

Arresting Agency: Sheboygan Police Department
Disposition: Dismissed
Due Date: N/A
Balance Due: **\$0.00**

Dated at Sheboygan, Wisconsin, June 9, 2023.



Honorable Natasha L. Torry
Municipal Court Judge
The Sheboygan Area Municipal Court

- **To pay your citation:** Mail checks or money orders to Municipal Court, 1315 N 23rd Street, Suite 102, Sheboygan, WI 53081.
- **Credit Card payments:** Pay online at www.sheboyganwi.gov or scan QR to make payments with your smart phone.



THE SHEBOYGAN AREA MUNICIPAL COURT

City Of Sheboygan,
Plaintiff,

COURT DISPOSITION

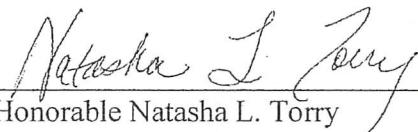
vs.

Citation Number: G780B8M85V
Sell/Give Alcohol to Intoxicated Person

David A Repinski JR
835 Indiana Ave
Sheboygan, WI 53081,
Defendant.

Arresting Agency: Sheboygan Police Department
Disposition: Dismissed
Due Date: N/A
Balance Due: **\$0.00**

Dated at Sheboygan, Wisconsin, June 9, 2023.



Honorable Natasha L. Torry
Municipal Court Judge
The Sheboygan Area Municipal Court

- **To pay your citation:** Mail checks or money orders to Municipal Court, 1315 N 23rd Street, Suite 102, Sheboygan, WI 53081.
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THE SHEBOYGAN AREA MUNICIPAL COURT

City Of Sheboygan,
Plaintiff,

COURT DISPOSITION

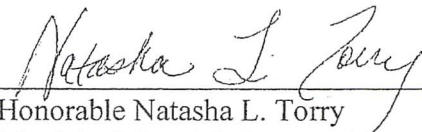
vs.

Citation Number: G780B8M85W
Sell/Give Alcohol to Intoxicated Person

David A Repinski JR
835 Indiana Ave
Sheboygan, WI 53081,
Defendant.

Arresting Agency: Sheboygan Police Department
Disposition: Dismissed
Due Date: N/A
Balance Due: **\$0.00**

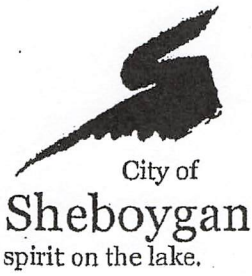
Dated at Sheboygan, Wisconsin, June 9, 2023.



Honorable Natasha L. Torry
Municipal Court Judge
The Sheboygan Area Municipal Court

- **To pay your citation:** Mail checks or money orders to Municipal Court, 1315 N 23rd Street, Suite 102, Sheboygan, WI 53081.
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December 14, 2023

COPY

CERTIFIED MAIL

Mr. David A. Repinski, Agent
Dave's Who's Inn
835 Indiana Avenue
Sheboygan, WI 53081

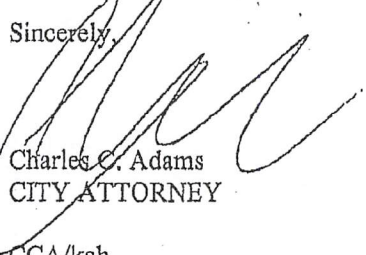
Dear Mr. Repinski:

City staff from the City of Sheboygan City Clerk's Office, Police Department, and City Attorney's Office are requesting the voluntary surrender of your "Class B" alcohol beverage license for thirty (30) consecutive working days of your choosing, excluding the day(s) of the week you are normally closed, to begin within twenty (20) days, due to several issues with compliance with the license requirements you agreed to in April of 2022. This group of staff members meets in conjunction with the Licensing, Hearings, and Public Safety Committee of the Common Council.

If you agree, please advise me of the days you will surrender your license, and then turn it in for those thirty (30) days to the City Clerk's Office, City Hall, 828 Center Avenue, Sheboygan. If you do not agree to surrender the license, please let me know as soon as possible.

If you choose not to voluntarily surrender the license, or if you do not do so within twenty (20) days, the matter will be scheduled for a quasi-judicial hearing before the Licensing, Hearings, and Public Safety Committee of the Common Council, at which time you would be given an opportunity to be heard. However, if the committee finds there was a violation, the penalty could include outright revocation and the costs of the hearing.

Please call with any questions you may have.

Sincerely,

Charles C. Adams
CITY ATTORNEY
CCA/kah

CITY ATTORNEY'S OFFICE

CITY HALL
828 CENTER AVENUE
SUITE 210
SHEBOYGAN, WI 53081

920/459-3917
FAX 920/459-3919

www.sheboyganwi.gov

cc: City Clerk Meredith DeBruin
Lt. Matthew Walsh
Licensing Clerk Melissa Fassbender
Attorney Richard Hahn

EXHIBIT
- 3 -

consult@holdenandhahn.com

From: consult@holdenandhahn.com
Sent: Tuesday, December 19, 2023 1:18 PM
To: 'Adams, Charles'
Subject: David Repinski

I am in receipt of a letter from you dated December 14, 2023 relating to Mr. Repinski. The letter refers to "several issues" regarding compliance with licensing requirements that were allegedly agreed to in April, 2002. Please identify the agreement and the alleged violations as well. I will be meeting with Mr. Repinski tomorrow at 10AM and would like to have this information at that time.

Richard Hahn

Holden & Hahn, S.C.
903 North Sixth Street
Sheboygan, WI 53081
Tel: (920) 458-0707
Fax: (920) 458-4359

The information contained in this communication is confidential and/or legally privileged and is intended only for the recipient named above. Unless you are the intended addressee, any review, reliance, dissemination, distribution, copying or use whatsoever of this communication is strictly prohibited. If you received this communication in error, PLEASE reply immediately to sender and delete the material from your computer system. Thank you for your cooperation.

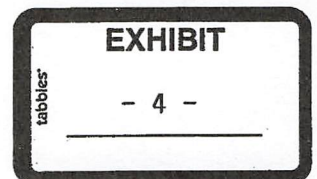
-----Original Message-----

From: Adams, Charles <Charles.Adams@sheboyganwi.gov>
Sent: Wednesday, September 20, 2023 4:18 PM
To: consult@holdenandhahn.com
Subject: Automatic reply: David Repinski

I am out of the office at meetings on Wednesday and Thursday with only sporadic opportunity to check email. If you need immediate assistance, please contact my office at 920-459-3917.

Thanks,

Chuck Adams
City Attorney



NOTICE: This e-mail may contain confidential information and is intended only for the individual named. If you are not the intended recipient, you should not disseminate, distribute or copy this e-mail;

please notify the sender immediately and delete this e-mail from your system. Also, please be aware that email correspondence to and from "The City of Sheboygan" may be subject to open record requests.

HOLDEN & HAHN, S.C.

ATTORNEYS AT LAW
903 NORTH SIXTH STREET
SHEBOYGAN, WI 53081
TELEPHONE: (920) 458-0707
FACSIMILE: (920) 458-4359

RICHARD B. HAHN
email: consult@holdenandhahn.com

ROBERT C. HAHN
OF COUNSEL

CHRISTOPHER M. EIPPERT
email: c.eippert@holdenandhahn.com

December 21, 2023

Via Hand Delivery & Email

City Clerk
Sheboygan City Hall
828 Center Avenue
Suite 103
Sheboygan, WI 53081


RE: Dave's Who's Inn
Our File No. 21952

Dear Clerk:

I represent Dave's Who's Inn and David Repinski. I write to you regarding a letter from the city attorney, Charles Adams, dated December 14, 2023, a copy of which I enclose for ease of reference. The letter from Attorney Adams references "several issues with compliance with the license requirements you agreed to in April of 2022." My client does not know what issues to which this letter refers. As such, I am making an Open Records request and ask that you provide me with copies of all written or electronic communications, minutes, narrative reports, licenses, or addendums thereto, and any other documents relating to the issues referenced in the letter of Attorney Adams.

I appreciate your attention to this issue, and pending compliance by your office and the police department, I respectfully request that the 20 days referenced in the letter of Attorney Adams be stayed until such time as my investigation is completed. I attempted to address this issue through Attorney Adams by email on December 19th, but have yet to receive a reply.

Very truly yours,


Richard Hahn

RH/jl

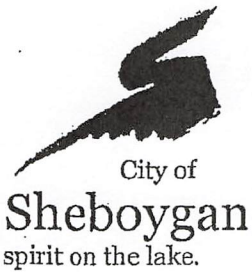
Enc.

cc: Attorney Charles Adams (Via Email)
Lt. Matthew Walsh (Via Email)
Licensing Clerk Melissa Fassbender (Via Hand Delivery)
David Repinski (Via Email)

EXHIBIT

- 5 -

tabbles



December 14, 2023

CERTIFIED MAIL

COPY

Mr. David A. Repinski, Agent
Dave's Who's Inn
835 Indiana Avenue
Sheboygan, WI 53081

Dear Mr. Repinski:

City staff from the City of Sheboygan City Clerk's Office, Police Department, and City Attorney's Office are requesting the voluntary surrender of your "Class B" alcohol beverage license for thirty (30) consecutive working days of your choosing, excluding the day(s) of the week you are normally closed, to begin within twenty (20) days, due to several issues with compliance with the license requirements you agreed to in April of 2022. This group of staff members meets in conjunction with the Licensing, Hearings, and Public Safety Committee of the Common Council.

If you agree, please advise me of the days you will surrender your license, and then turn it in for those thirty (30) days to the City Clerk's Office, City Hall, 828 Center Avenue, Sheboygan. If you do not agree to surrender the license, please let me know as soon as possible.

If you choose not to voluntarily surrender the license, or if you do not do so within twenty (20) days, the matter will be scheduled for a quasi-judicial hearing before the Licensing, Hearings, and Public Safety Committee of the Common Council, at which time you would be given an opportunity to be heard. However, if the committee finds there was a violation, the penalty could include outright revocation and the costs of the hearing.

Please call with any questions you may have.

Sincerely,



Charles C. Adams
CITY ATTORNEY

CCA/kah

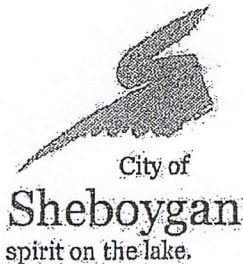
cc: City Clerk Meredith DeBruin
Lt. Matthew Walsh
Licensing Clerk Melissa Fassbender
Attorney Richard Hahn

CITY ATTORNEY'S OFFICE

CITY HALL
828 CENTER AVENUE
SUITE 210
SHEBOYGAN, WI 53081

920/459-3917
FAX 920/459-3919

www.sheboyganwi.gov



May 26, 2023

Mr. David A. Repinski, Agent
Dave's Who's Inn
835 Indiana Avenue
Sheboygan, WI 53081

Dear Mr. Repinski:

Staff from the City of Sheboygan City Clerk's Office, Police Department, and City Attorney's Office reviewed your renewal application for a "Class B" Alcohol Beverage License at its May 22nd meeting and recommended approving it with the same conditions as previous:

- Cooperation with the police
- Continued membership in the Tavern Safety Coalition and following its guidelines
- Prohibition of all weapons and use of a metal detector on all patrons entering the premises
- Use of a scanner that also takes photos of all patrons entering the premises
- Ensuring all video cameras (inside and outside) are operational and recording when open for business
- No underage persons on the premises except pinsetters who are actually working and being paid
- No serving intoxicated people
- Denial of entry to any patrons who are visibly intoxicated
- Removal of all patrons who are visibly intoxicated from the premises
- Prohibiting staff from drinking while working
- Communication of these expectations to all staff

The Sheboygan Police Department has confirmed that you were cooperative during recent incidents at the premises.

Please contact me at the phone number indicated on this letterhead if you have any questions.

Sincerely,

Charles C. Adams (kah)

Charles C. Adams
CITY ATTORNEY

CCA/kah

cc: City Clerk Meredith DeBruin
Lt. Michael Stelter
Licensing Clerk Melissa Fassbender

CITY ATTORNEY'S OFFICE

CITY HALL
828 CENTER AVENUE
SUITE 210
SHEBOYGAN, WI 53081

920/459-3917
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FILE COPY

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ATTORNEYS AT LAW
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FACSIMILE: (920) 458-4359

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email: consult@holdenandhahn.com

ROBERT C. HAHN
OF COUNSEL

CHRISTOPHER M. EIPPERT
email: c.eippert@holdenandhahn.com

December 29, 2023

Via Email

Licensing Clerk Melissa Fassbender
Sheboygan City Hall
828 Center Avenue
Suite 103
Sheboygan, WI 53081

RE: Dave's Who's Inn
Our File No. 21952

Dear Clerk Fassbender:

I am following up on my letter to the City Clerk dated December 21, 2023. I have not received a response, except for an email from Lieutenant Matthew Walsh referring the letter to the records clerk at the Sheboygan Police Department. On behalf of my client, Dave's Who's Inn and its agent, David Repinski, I respectfully request that a hearing or meeting be scheduled with the Licensing, Hearings, and Public Safety Committee of the Common Council, or one of its subcommittees, to address my letter of December 21, 2023 and the letter of City Attorney Charles Adams dated December 14, 2023. One of the reasons for the meeting would be to clarify the letter of Attorney Adams and to address other concerns of both the City and my client relating to the allegations contained therein.

I look forward to hearing from you.

Very truly yours,


Richard Hahn

RH/jl

Enc.

cc: Attorney Charles Adams (Via Email)
Lt. Matthew Walsh (Via Email)
City Clerk Meredith DeBruin (Via Email)
David Repinski (Via Email)

HOLDEN & HAHN, S.C.

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FACSIMILE: (920) 458-4359

RICHARD B. HAHN
email: consult@holdenandhahn.com

ROBERT C. HAHN
OF COUNSEL

CHRISTOPHER M. EIPPERT
email: c.eippert@holdenandhahn.com

January 22, 2024

Via Email


Lieutenant Matthew Walsh
Sheboygan City Hall
828 Center Avenue
Suite 103
Sheboygan, WI 53081

RE: Dave's Who's Inn
Our File No. 21952

Dear Lieutenant Walsh:

I am in receipt of a letter dated January 11, 2024 with accompanying police reports. My letter to you of December 21, 2023 intended to cast a wider net relating to the requested records. I am resending a copy of the letter of Attorney Charles Adams and I am also sending along of another copy of the letter dated May 26, 2023. Please provide me with copies of all written or electronic communications, minutes, narratives reports, or other documents relating to the requirement in the third bullet point in the letter of Attorney Adams regarding the use of metal detectors and the bullet point as to the requirement of scanners on all patrons entering the premises. I would like to know what information precipitated these conditions in the May 26, 2023 letter from Attorney Adams. I am sending a copy of this letter to Christin Koenig and the City Clerk, as well as Attorney Adams.

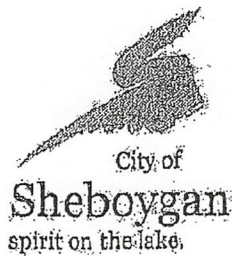
Very truly yours,


Richard Hahn

RH/jl

Enc.

cc: Attorney Charles Adams (Via Email)
Christin Koenig (Via Email)
David Repinski (Via Email)



May 26, 2023

Mr. David A. Repinski, Agent
Dave's Who's Inn
835 Indiana Avenue
Sheboygan, WI 53081

Dear Mr. Repinski:

Staff from the City of Sheboygan City Clerk's Office, Police Department, and City Attorney's Office reviewed your renewal application for a "Class B" Alcohol Beverage License at its May 22nd meeting and recommended approving it with the same conditions as previous:

- Cooperation with the police
- Continued membership in the Tavern Safety Coalition and following its guidelines
- Prohibition of all weapons and use of a metal detector on all patrons entering the premises
- Use of a scanner that also takes photos of all patrons entering the premises
- Ensuring all video cameras (inside and outside) are operational and recording when open for business
- No underage persons on the premises except pinsetters who are actually working and being paid
- No serving intoxicated people
- Denial of entry to any patrons who are visibly intoxicated
- Removal of all patrons who are visibly intoxicated from the premises
- Prohibiting staff from drinking while working
- Communication of these expectations to all staff

The Sheboygan Police Department has confirmed that you were cooperative during recent incidents at the premises.

Please contact me at the phone number indicated on this letterhead if you have any questions.

Sincerely,

Charles C. Adams (kah)
Charles C. Adams
CITY ATTORNEY

CCA/kah

cc: City Clerk Meredith DeBruin
Lt. Michael Stelter
Licensing Clerk Melissa Fassbender

FILE COPY

CITY ATTORNEY'S OFFICE

CITY HALL
828 CENTER AVENUE
SUITE 210
SHEBOYGAN, WI 53081

920/459-3917
FAX 920/459-3919

www.sheboyganwi.gov

HOLDEN & HAHN, S.C.
ATTORNEYS AT LAW
903 NORTH SIXTH STREET
SHEBOYGAN, WI 53081
TELEPHONE: (920) 458-0707
FACSIMILE: (920) 458-4359

RICHARD B. HAHN
email: consult@holdenandhahn.com

ROBERT C. HAHN
OF COUNSEL

CHRISTOPHER M. EIPPERT
email: c.eippert@holdenandhahn.com

February 21, 2024

Via Email

Christin Koenig
Sheboygan Police Department
1315 North 23rd Street
Sheboygan, WI 53081

RE: Dave's Who's Inn
Our File No. 21952

Dear Ms. Koenig:

Thank you for the letter and attachments dated February 2, 2024. I do not believe that the letter and the attachments were responsive to what I was requesting. I am sending you another copy of the letter of City Attorney Charles Adams dated May 26, 2023. I ask that you focus on the bullet points entitled "Prohibition of all weapons and use of a metal detector on all patrons entering the premises" and second, the "use of a scanner that also takes photos of all patrons entering the premises".

What I am looking for is all narrative reports and other documents in your possession providing the motivation or backdrop for these two conditions in the letter of Attorney Adams. I would presume that any reports or other documents in your possession would predate the May 26, 2023 letter? Please supplement your response in this regard.

Very truly yours,


Richard Hahn

RH/jl
Enc.

cc: City Clerk (Via Email)
Lieutenant Matthew Walsh (Via Email)
David Repinski (Via Email)

HOLDEN & HAHN, S.C.
ATTORNEYS AT LAW
903 NORTH SIXTH STREET
SHEBOYGAN, WI 53081
TELEPHONE: (920) 458-0707
FACSIMILE: (920) 458-4359

RICHARD B. HAHN
email: consult@holdenandhahn.com

ROBERT C. HAHN
OF COUNSEL

CHRISTOPHER M. EIPPERT
email: c.eippert@holdenandhahn.com

March 12, 2024

Via Email

Cassandra Wohlgemuth
Sheboygan Police Department
1315 North 23rd Street, Suite 101
Sheboygan, WI 53081

RE: Dave's Who's Inn
Our File No. 21952

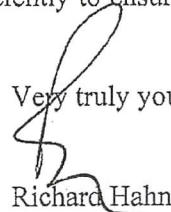
Dear Ms. Wohlgemuth:

This letter is sent in response to your correspondence of February 22, 2024. I share your frustration regarding the lack of specificity in the request as it is based upon a letter of the City Attorney dated December 14, 2023, alleging several issues of noncompliance with license requirements. Unfortunately, those issues of noncompliance are not specified, and that is the crux of the problem that I am faced with at present.

Against that backdrop, I am requesting that you provide me with all narrative or police reports, or any documents of any description, in your possession, relating to weapons of any kind and associated with Dave's Who's Inn and/or David A. Repinski from January 1, 2010 through May 26, 2023.

I hope that this letter clarifies the request sufficiently to ensure compliance under the Open Records Law.

Very truly yours,



Richard Hahn

RH/jl

cc: Lt. Matthew Walsh (Via Email)
Christin Koenig (Via Email)
Diane Marmes (Via Email)

Holden & Hahn, S.C.

From: Walsh, Matthew <Matthew.Walsh@sheboyganwi.gov>
Sent: Thursday, December 21, 2023 5:15 PM
To: 'Holden & Hahn, S.C.'; DeBruin, Meredith
Cc: Adams, Charles; Fassbender, Melissa; r.hahn@holdenandhahn.com
Subject: RE: Dave's Who's Inn (21952)

Thank you. I have forwarded the email to our open records specialist, Christin Koenig.

Lt Walsh

From: Holden & Hahn, S.C. <consult@holdenandhahn.com>
Sent: Thursday, December 21, 2023 5:03 PM
To: DeBruin, Meredith <Meredith.DeBruin@sheboyganwi.gov>
Cc: Walsh, Matthew <Matthew.Walsh@sheboyganwi.gov>; Adams, Charles <Charles.Adams@sheboyganwi.gov>; Fassbender, Melissa <Melissa.Fassbender@sheboyganwi.gov>; r.hahn@holdenandhahn.com
Subject: Dave's Who's Inn (21952)

Please see the attached from Attorney Hahn.

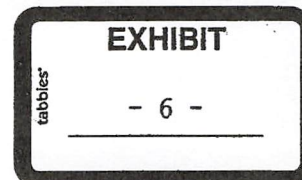
Thank you for your attention to this matter,

Josephine Lee

Holden & Hahn, S.C.
903 North Sixth Street
Sheboygan, WI 53081
Tel: (920) 458-0707
Fax: (920) 458-4359

The information contained in this communication is confidential and/or legally privileged and is intended only for the recipient named above. Unless you are the intended addressee, any review, reliance, dissemination, distribution, copying or use whatsoever of this communication is strictly prohibited. If you received this communication in error, PLEASE reply immediately to sender and delete the material from your computer system. Thank you for your cooperation.

NOTICE: This e-mail may contain confidential information and is intended only for the individual named. If you are not the intended recipient, you should not disseminate, distribute or copy this e-mail; please notify the sender immediately and delete this e-mail from your system. Also, please be aware that email correspondence to and from "The City of Sheboygan" may be subject to open record requests.





Thursday, January 11, 2024

Holden & Hahn
Attn: Attorney Richard Hahn
903 North 6th Street
Sheboygan, WI 53081

Re: Dave's Who's Inn, File No. 21952

Dear Attorney Hahn:

This letter is in response to your open records request dated 12/21/2024 sent to the City Clerk's Office and forwarded over to me by Lieutenant Walsh to process as an open records request. You requested the following: "copies of all written or electronic communications, minutes, narrative reports, licenses, or addendums thereto, and any other documents relating to the issues reference in the letter of Attorney Adams."

Responsive to your request I have located and enclosed Sheboygan Police Department incident C23-18254. If this police report does not satisfy your request please contact our records department directly to further clarify your request.

The public policy in this state is to give the public the greatest amount of access to public records as possible Wis. Stat. 19.31. The general presumption is that public records are open to the public unless there is a clear statutory or common law exception.

In regards to the enclosed records, certain information has been redacted, either because specifically required by law or pursuant to Wis. Stat. 19.35(1)(a) balancing test. These redactions are outlined below.

Personally identifiable information, as defined by WI Statute 19.62(5), has been removed from this report for public policy reasons of protecting privacy and preventing identity theft.

My decision is subject to review by application to the Sheboygan County District Attorney, the Attorney General or by action for mandamus in Sheboygan County Circuit Court.

Sincerely,

CHRISTOPHER D. DOMAGALSKI
CHIEF OF POLICE

CHRISTIN N. KOENIG
ADMINISTRATIVE SPECIALIST

DEPARTMENT
OF POLICE

1315 N. 23RD STREET
SUITE 101
SHEBOYGAN, WI
53081-3180

920/459-3333
FAX 920/459-0205

www.sheboyganpolice.com



SHEBOYGAN POLICE DEPARTMENT

Incident C23-18254

Nature: DEPT INFO

Address: 835 INDIANA AVE; DAVES

WHOS INN

Location: N43

SHEBOYGAN WI 53081

Offense Codes: 9824

Received By: LUBBERT, KATIE

How Received: T

Agency: SPD

Responding Officers: WALSH, MATTHEW

Responsible Officer: WALSH,
MATTHEW

Disposition: SIT 11/09/23

When Reported: 16:16:18 10/09/23

Occurred Between: 16:16:18 10/09/23 and 16:17:30 10/09/23

Assigned To:

Detail:

Date Assigned: **/**/**

Status:

Status Date: **/**/**

Due Date: **/**/**

Complainant:

Last:

First:

Mid:

DOB: **/**/**

Dr Lic:

Address:

Race:

Sex:

Phone:

City:

Offense Codes

Reported: 9824 DEPARTMENT
INFORMATION

Observed: 9824 DEPARTMENT
INFORMATION

Additional Offense: 9824 DEPARTMENT
INFORMATION

Circumstances

LT03 BAR OR NIGHTCLUB

Responding Officers:

WALSH, MATTHEW

Unit :

244

Responsible Officer: WALSH, MATTHEW

Agency: SPD

Received By: LUBBERT, KATIE

Last Radio Log: 17:24:39 10/09/23 CMPLT

How Received: T TELEPHONE

Clearance: RTF REPORT TO FOLLOW

When Reported: 16:16:18 10/09/23

Disposition: SIT Date: 11/09/23

Judicial Status:

Occurred between: 16:16:18 10/09/23

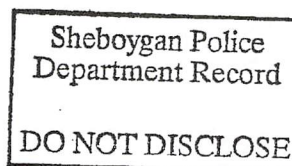
Misc Entry:

and: 16:17:30 10/09/23

Modus Operandi:

Description :

Method :



01/11/24

Involvements

Date	Type	Description
Narrative		

SHEBOYGAN CITY POLICE DEPARTMENT
INVESTIGATION NARRATIVE

Reference: Andrew Joseph Schuessler, [REDACTED]

Contact: David Allan Repinski, [REDACTED]

Contact: Holden and Hahn Attorneys, 903 N 6th St., 458-0707

Reference: Dave's Who's Inn, 835 Indiana Ave., 457-9832

Contact: Coralie Sue Kunstman, [REDACTED]

Contact: Diane K. Marmes, [REDACTED]

Contact: Gregory Thomas Herr, [REDACTED]

Contact: Henry Van Thompson, [REDACTED]

Reference: Law Incident C23-14987

On 8/19/23, at approximately 1:00 am, the Sheboygan Police Department responded to an assault that occurred at 9th and Indiana Avenue in the City of Sheboygan. The case number for this incident is C23-14987. The incident did not occur inside of Dave's Who's Inn, however four or five suspects were in the bar and were involved in a confrontation with two or three young men bicycling past the bar. These young men were under the legal drinking age and were not in the bar. This was later confirmed with surveillance video. These young men on their bicycles were intoxicated and it was later learned that they were celebrating their last night in Sheboygan before heading off to college. One of the young men made a smart remark to the four or five adult male Asians standing directly outside of Dave's Who's Inn on the sidewalk and a fight ensued.

Surveillance video was later obtained from Dave's Who's Inn that showed the four or five male Asians in the bar previously, as well as several other witnesses who had been in the bar but may have witnessed the assault on one of the young college aged boys. Further surveillance video gathered from the gas station across the street from Dave's Who's Inn showed parts of the altercation of what happened and how one of the suspects dropped his phone while he was assaulting the young man. The young man was hospitalized. The police, as a routine manner of investigation, know that Dave's Who's Inn runs an ID scanner and they sought to obtain that information from the bar so as to further identify suspects and witnesses from the assault, in particular the four or five male Asians. Even more particular, the main actor, the person who dropped his phone and assaulted the young man. It was later learned that this ID scanner was not functioning on that evening. This was extremely frustrating the officers.

The proprietor of Dave's Who's Inn is Dave Repinski, who since February of 2022 is subject to the following conditions from the City Clerk's office, the police department, the City Attorney's office so that his Class B alcoholic beverage license wouldn't be revoked permanently. As an alternative to a permanent revocation, Mr. Repinski was given the opportunity to voluntarily surrender his Class B alcoholic beverage license for thirty consecutive days and then was allowed to reopen under the following circumstances:

- Cooperate with the police
- Continue to be a member of the Tavern Safety Coalition and follow its guidelines
- Prohibit all weapons and use a metal detector on all patrons entering the premises
- Use a scanner that takes photos on all patrons entering the premises
- Ensure all video cameras, both inside and outside, are operational and recording when open for business
- No underage persons on the premises
- Do not serve intoxicated people
- Deny entry to any patrons who are visibly intoxicated and do not allow patrons who are visibly intoxicated to remain on the premises
- Prohibit staff from drinking while working
- Communicate these expectations to all staff

Any violations of these guidelines would result in revocation of the license, subject to an appeal to the Licensing Hearing Public Protection Safety Committee of the Common Council.

Dave Repinski was called in to appear in front of the LHPS Committee on September 25th at 3:00 pm and I subsequently met with Dave at his attorney's office on 10/9/23 to conduct a fact finding interview. This interview took place at Holden and Hahn Law Offices, present was Dave Repinski, Coralie Kunstman (a bartender), Greg Herr (a technician), Henry Thompson (jack of all trades), Diane Marmes (administrative assistant), and Attorney Richard Hahn.

I was provided with emails and the following statement of facts. The emails reflect that in late July, Andrew Schuessler sent an email to Mark at markcards@aol.com, 1-800-830-2225. This Mark Cards business provides the ID scanner. The Dave's Who's Inn ID scanner was not working at that time and the bar sent the ID scanner in for service, receiving them back later and in fact receiving two ID scanners so they would have a spare, but they still did not work and they needed to get some barcodes to make them run. This is the timeline that I was provided with. The one scanner was sent in on July 22nd because it failed when Henry tried to use it. Henry stated that the ID scanner wasn't working, it wasn't taking scans and they didn't realize it until they went to download the results. Henry told Dave Repinski and Greg sent it into Mark Cards. Coralie called Mark Cards on 7/24 and was told to send in the scanner. Coralie told Dave and they ordered a back-up scanner, which didn't arrive. On August 1st, Coralie called Mark Cards again and left a voicemail, so she called again on the following day. The two ID scanners arrived back at Dave's Who's Inn on 8/7 or 8/8. Dave stated that it wasn't until the next weekend on August 19th that they realized there was a problem with the scanners, so they contacted Mark

again who was going to send the barcodes to keep on file to run through the scanners in case there were error problems.

The emails that were provided to me are not consistent with this timeline. The email indicates on Tuesday, August 1, 2023 at 6:34 pm markcards@aol.com wrote "Just found your email... will send set of three barcodes to read to reprogram second reader".

Andrew Schuessler wrote to Mark Cards on Friday, August 4, 2023 at 8:53 am "any updates on those scanner codes".

I will attempting to contact Mark Cards to continue the investigation by reaching him at 1-800-830-2225.

I explained to Dave and the rest of the group that I had watched the surveillance video from the assault case and I explained the circumstances about what happened with the suspects who were in the bar and how the young men pedaled by and most likely made a disparaging remark that brought the assault upon the one. I explained that I watched their video surveillance and noted that there was no one at the door checking ID's, although it's possible that happens at the bar, but more concerning was that they were not using a metal detector on patrons. I asked Dave about this and he stated they don't do wand with a metal detector and never have. I asked if they have a metal detector and he said yes, he said but they are not using it. Henry said this is ridiculous and he felt the bar was being targeted.

There was a discussion that was held with the group on how it seemed unfair and ridiculous to wand each and every patron that might come in for breakfast or lunch from the neighborhood. I suggested that they appear before the committee to request the rules be modified so that they only wand between possibly 9:00 pm on a Friday night until Sunday morning at 2:30 am.

This entire explanation that was provided to me is completely contradictory to the explanation that was provided to Officer Matthew Braesch, who responded to the bar on 9/8/23 at 9:48 am and spoke to Coralie. At that time, Coralie made no mention of barcode problems or scanner problems and she pointed out that there was a gap in the drivers license scanner machine where it wasn't reading from August 12th to August 26th. Coralie stated that the scanner is used spottily to check for people who are underage or their age is questionable. Coralie stated that the scanner is primarily used in the evening hours on weekends, Fridays and Saturdays going into Sunday mornings, but the bouncers at the front door. Coralie stated that if the license scanner was not used, the parties responsible were likely not doing their job. She did provide the surveillance video, which assisted in the investigation of the case of the assault which is the same that I used to review when I noticed they were not wandng or using a metal detector.

Coralie made no reference to this statement that she made to Officer Braesch during our meeting at Holden and Hahn Law Firm. I did not feel that it was appropriate to question or interrogate her about her statement in front such a large group of her coworkers. This investigation will resume in approximately the third to latter part of October when I attempt to reach out to the ID

scanner company, which is located in California. End of report. Lt. Walsh/mjl

Supplement

SHEBOYGAN CITY POLICE DEPARTMENT
INVESTIGATION NARRATIVE

On 10/22/23, I, Lt. Walsh sent an email to Mark Cards to try and arrange to speak with them regarding the ID Scanner at Dave's Who's Inn.

End of Report

Lt. Walsh

Sun Oct 22 16:52:50 CDT 2023

Supplement

SHEBOYGAN CITY POLICE DEPARTMENT
INVESTIGATION NARRATIVE

On 10/25/23, I, Lt. Walsh sent another email to Marks Cards to try and obtain information about the scanner at Daves' Whos' Inn. I did receive a call back from a woman almost immediately after sending the first email. She stated that they were going to put together a report and send it to me. I have not received it, but did also send an email to IT to see if it is caught in the city's spam filter.

End of Report

Lt. Walsh

Wed Oct 25 20:30:41 CDT 2023

Supplement

SHEBOYGAN CITY POLICE DEPARTMENT
INVESTIGATION NARRATIVE

11/6/23 Unit 244

Video: No (body cam)

Statements/Evidence: No

Photos: No

On 11/6/23, I, Lt. Walsh attempted to call Mark Cards and left them a voice mail. I have not received anything from them to date.

End of Report

Lt. Walsh

Mon Nov 06 18:07:56 CST 2023

Supplement

4-244

11/9/23 Unit 244

Video: No (body cam)

Statements/Evidence: No

Photos: No

On 11/9/23, I, Lt. Walsh closed this investigation. Mark Cards has not returned my calls or emails.

End of Report
Lt. Walsh
Thu Nov 09 17:20:23 CST 2023

Supplement

5-244

11/17/23 Unit 244
Video: Yes (body cam)
Statements/Evidence: No
Photos: No

Contact: Andrew J. Schuessler [REDACTED]

On 11/17/23, I, Lt. Walsh made contact at Dave's Whos Inn in hopes of making personal contact with Dave Repinski. I have been trying to get in touch with Dave for several days. Today, he texted me that he starts work at 1800 hours. I tried calling him twice between 6 and 7 PM. I decided to go there and was told by the bartender, Andrew, that Dave was not working. Andrew messaged Dave, who did not call back.

I made contact with 4 male Asians who were enjoying a pitcher of beer on the east side of the bar on the main floor. I asked them if they had been wanded with a metal detector this evening upon entering the premises. They told me no, but they did have their ID's checked.

This contact was captured on body camera.

End of Report
Lt. Walsh
Fri Nov 17 19:30:32 CST 2023



Friday, February 2, 2024

Holden & Hahn
Attn: Attorney Richard Hahn
903 North Sixth Street
Sheboygan, WI 53081

Re: Dave's Who's Inn
File No. 21952

Dear Attorney Hahn:

This letter is in response to your open records request received by our department on 01/22/2024 requesting copies of police reports in regards to the use of metal detectors and scanners at Dave's Who's Inn.

After your phone conversation on 01/23/2024 with Cassandra Wohlgemuth clarifying your request, I have located C23-14987. Responsive to your request regarding the use of metal detectors/ID scanners I have enclosed supplements 3 and 4 only as this investigation relates to an ongoing criminal prosecution.

The public policy in this state is to give the public the greatest amount of access to public records as possible. Wis. Stat. § 19.31. The general presumption is that public records are open to the public unless there is a clear statutory or common law exception. However, "when the release of a police record would interfere with an on-going prosecution or investigation, the general presumption of openness will likely be overcome." Id. at ¶30, Cf. Portage Daily Register, 2008 WI App at ¶20.

I must be mindful that Wisconsin's Legislature and the Courts have treated law enforcement records more carefully than other general classifications of public records. The Wisconsin Supreme Court stated:

Law enforcement records are generally more likely than most types of public records to have an adverse effect on other public interests if they are released. First and foremost, there is a strong public interest in investigating and prosecuting criminal activity, and when the release of a police record would interfere with an on-going investigation, the general presumption of openness will likely be overcome...

Linzmeier v. Forcey, 2002 WI 84, 254 Wis. 2d 306, 646 N.W.2d 811

I have performed the balancing test and have determined that disclosure of C23-14987 in a less redacted manner would interfere with an active investigation and prosecution. I believe that release of these records may jeopardize the investigator's ability to obtain accurate and truthful information in additional or follow-up interviews, may result in intimidation of potential witnesses or the victim, could jeopardize the ability to obtain

DEPARTMENT
OF POLICE

1315 N. 23RD STREET
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SHEBOYGAN, WI
53081-3180

920/459-3333
FAX 920/459-0205

www.sheboyganpolice.com



an unbiased jury pool, and otherwise interferes with the defendant's constitutional right to a fair trial.

In regards to the enclosed records, certain information has been redacted, either because specifically required by law or pursuant to Wis. Stat. 19.35(1)(a) balancing test. These redactions are outlined below.

Personally identifiable information, as defined by WI Statute 19.62(5), has been removed from this report for public policy reasons of protecting privacy and preventing identity theft.

You are welcome to request these records at a later time and we will be happy to assess the status of the investigation at that time.

My decision is subject to review by application to the Sheboygan County District Attorney, the Attorney General or by action for mandamus in Sheboygan County Circuit Court.

Sincerely,

CHRISTOPHER D. DOMAGALSKI
CHIEF OF POLICE

CHRISTIN N. KOENIG
ADMINISTRATIVE SPECIALIST

DEPARTMENT
OF POLICE

1315 N. 23RD STREET
SUITE 101
SHEBOYGAN, WI
53081-3180

920/459-3333
FAX 920/459-0205

www.sheboyganpolice.com



SHEBOYGAN POLICE DEPARTMENT

Incident C23-14987

Nature: ASSAULT A
Location: N43

Address: S 9TH ST & INDIANA AVE
SHEBOYGAN WI 53081

Offense Codes: 1313

Received By: KAAT, ARDIS

How Received: T

Agency: SPD

Responding Officers: DOWLING, ANASTA

Responsible Officer: DOWLING,
ANASTA

Disposition: CAA 09/25/23

When Reported: 02:00:31 08/19/23

Occurred Between: 01:00:00 08/19/23 and 02:02:58 08/19/23

Assigned To: DOWLING,
ANASTA

Detail: SFT2

Date Assigned: 08/21/23

Status: CLO

Status Date: 09/26/23

Due Date: 09/30/23

Complainant:

Last:

First:

Mid:

DOB: **/**/**

Dr Lic:

Address:

Race:

Sex:

Phone:

City:

Offense Codes

Reported: 5312 DISTURBING PEACE

Observed: 1313 ASSAULT/SIMPLE

Additional Offense: 1313 ASSAULT/SIMPLE

Circumstances

LT13 HIGHWAY, ROAD OR ALLEY

BM88 NO BIAS

SUA SUSPECTED ALCOHOL USE

Responding Officers:

DOWLING, ANASTA

Unit :

493

Responsible Officer: DOWLING, ANASTA

Agency: SPD

Received By: KAAT, ARDIS

Last Radio Log: 05:38:40 08/19/23 CMPLT

How Received: T TELEPHONE

Clearance: CLR CLEARED

When Reported: 02:00:31 08/19/23

Disposition: CAA **Date:** 09/25/23

Judicial Status: DA

Occurred between: 01:00:00 08/19/23

Misc Entry: IBR 8/22/23

and: 02:02:58 08/19/23

Modus Operandi:

Description :

Method :

Sheboygan Police
Department Record

DO NOT DISCLOSE

01/23/24

RELATIONSHIP	RELATIONSHIP	VICTIM STRANGER
Weapon, Force	Weapon or Force Used	HANDS/FEET
Preferred Drugs	Drugs of Preference	ALCOHOL
Preferred Drugs	Drugs of Preference	MARIJUANA

Involvements

Date	Type	Description
3-#493		SHEBOYGAN CITY POLICE DEPARTMENT INVESTIGATION NARRATIVE

Investigation Complete: (Y/N): N
 Squad Video: (Y/N): N
 Body Camera Video: (Y/N): Y
 Digital Photos: (Y/N):
 Digital Evidence from Outside Sources: (Y/N):
 Interview/Booking Room Video: (Y/N):
 Handheld Philips Audio Recorded Interview: (Y/N):
 Cellebrite Download Report (Y/N):
 Physical Evidence (Y/N):
 Written Statements (Y/N):
 Proxy Form (Y/N):
 Domestic Violence Offense (Y/N):

Suspect was arrested (Y/N):
 Suspect was armed when arrested (Y/N):
 If yes, indicate weapon type:
 Force was used to make the arrest: (Y/N):
 DRUGS are a factor in this incident: (Y/N):
 ALCOHOL is a factor in this incident: (Y/N):
 A COMPUTER was utilized in the crime: (Y/N):

Contact: Dale L. Maurer, [REDACTED]

Contact: Coralie S. Kunstman, [REDACTED]

On 9/6/23, at approximately 12:00 pm, I, Officer Dowling, along with Training Officer Johnson, in full police uniform in marked squad, followed up on this case per request from Captain Kuszynski.

I went to Dave's Who's Inn and spoke with Coralie Kunstman in regards to the video footage that I had requested a few weeks back. Coralie had told me that Dave was on vacation and would not be back until tomorrow, and only he has access to the outside cameras. She mentioned another bartender by the name of Andrew who had access to the inside cameras. Coralie was asked about the ID machine and she told me that in order to access it, she needed names as the software has to be downloaded because of an encryption. I left Coralie with dates and times of video footage that I needed along with descriptions of suspects. I

then went to End Zone Bar and Grill and spoke to the bartender, Dale. Dale told me that the owner and wife had been in the day after my original request and had checked the video footage. Dale told me that the owner had found nothing in the video footage for the investigation.

Further follow-up needed to collect video footage from Dave's Who's Inn as well as information from the ID machine. Further follow-up also continued to re-initiate contact with [REDACTED]. Case is active. End of report. Off.
Dowling/mjl

Supplement

4-#281

SHEBOYGAN CITY POLICE DEPARTMENT
INVESTIGATION NARRATIVE

Investigation Complete: (Y/N):
Squad Video: (Y/N):
Body Camera Video: (Y/N):
Digital Photos: (Y/N):
Digital Evidence from Outside Sources: (Y/N):
Interview/Booking Room Video: (Y/N):
Handheld Philips Audio Recorded Interview: (Y/N):
Cellebrite Download Report (Y/N):
Physical Evidence (Y/N):
Written Statements (Y/N):
Proxy Form (Y/N):
Domestic Violence Offense (Y/N):

Suspect was arrested (Y/N):
Suspect was armed when arrested (Y/N):
If yes, indicate weapon type:
Force was used to make the arrest: (Y/N):
DRUGS are a factor in this incident: (Y/N):
ALCOHOL is a factor in this incident: (Y/N):
A COMPUTER was utilized in the crime: (Y/N):

SUMMARY:

On 09/08/2023 at 0948 hours, I, Officer Braesch, was tasked with making contact at Dave's Who's Inn located at 835 Indiana Avenue, reference a previous disturbance. I was asked by Captain Kuszynski to follow up on case #C23-14987, for the purposes of picking up video from Dave's Who's Inn that was captured on 08/19/2023. I was advised that several male Asians had assaulted a white male, near the gas station across from Dave's Who's Inn, and that video had been obtained from other businesses, however, they requested that I make contact at Dave's Who's Inn with staff to check the records regarding the license reader, and obtaining the video. It was requested that I learn how the license scanner works, and how the information is saved and stored.

INVOLVEMENTS:

Contact: Dave's Who's Inn, 835 Indiana Avenue, 920-457-9832

Contact: Coralie S. Kunstman, [REDACTED],

920-627-0042

NARRATIVE:

Upon my arrival, I met with Coralie. She advised that she had a copy of the video from the night of the assault. She advised that there was a gap in the driver's license log machine from 8/12/2023 at 11:15 p.m. to 8/26/2023. She stated that she has not deleted the original file off of the scanning machine, and in order to document this, I did do a test scan of my driver's license so she could download a new batch file from the machine to ensure that the information had not been deleted once on the computer. Upon retrieving a new batch file, I did see that the gap between 8/12/2023 at 11:15 p.m. till 8/26/2023 was still vacant. Going back in the log, I could see that again from 7/30/2023 to 8/4/2023, there was also a gap in which there were no scans.

Coralie stated that she was not familiar in which the terms that Dave had made with the City in order to maintain his liquor license, however, states that during the day and during the week, the scanner is used spottily to check for people who are under age or their age is questionable. She states that the scanner is primarily used in the evening hours on the weekends, Friday, Saturday, going into Sunday by the bouncers at the front door. She advises that at that time, the front door is the only point of entrance, and that the side door is locked to control access to the bar.

She advises that during that time that the scanner would be used, and that if there was a problem with the scanner, that they were equipped with a backup scanner that could be used in it's place. Coralie states that she had checked the other scanner, and there were no scans on that scanner to account for the timeframe missing. She advises that the only scans on that device were the original test scans that she had used to verify that the machine was working properly.

I did question her as to who was working the front door and scanning the night of August 18th/19th. She advises that she does not have that information, and states that without downloading the information on her computer, it would be impossible to delete the group of days in question, that the whole list would have to be deleted. She states that her computer is exclusively used for the purposes of downloading the scanner, and that her computer is password protected to prevent Dave and/or any other staff from using her work computer.

When asked to account for the missing days, she states that the license scanner was not used, and that the parties responsible were likely not doing their job. She states that she works only during the daytime hours, and has a significant investment in the success of the bar; as she has been part of the bar since it's opening.

Upon conclusion, she did provide me with a thumb drive, which was tagged into evidence, and the working copy will be provided to Officer Dowling.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

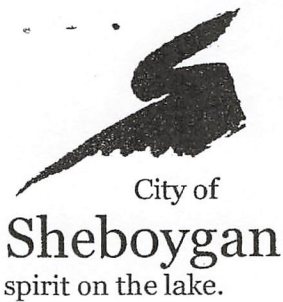
[REDACTED]

[REDACTED]

[REDACTED]

Upon my return, I advised Captain Kuszynski of my findings, and conducted a priority follow up. My involvement in this case is considered resolved.

End of report. OFFICER BRAESCH/jlk



Thursday, January 11, 2024

Holden & Hahn
Attn: Attorney Richard Hahn
903 North 6th Street
Sheboygan, WI 53081

Re: Dave's Who's Inn, File No. 21952

Dear Attorney Hahn:

This letter is in response to your open records request dated 12/21/2024 sent to the City Clerk's Office and forwarded over to me by Lieutenant Walsh to process as an open records request. You requested the following: **"copies of all written or electronic communications, minutes, narrative reports, licenses, or addendums thereto, and any other documents relating to the issues reference in the letter of Attorney Adams."**

Responsive to your request I have located and enclosed Sheboygan Police Department incident C23-18254. If this police report does not satisfy your request please contact our records department directly to further clarify your request.

The public policy in this state is to give the public the greatest amount of access to public records as possible. Wis. Stat. 19.31. The general presumption is that public records are open to the public unless there is a clear statutory or common law exception.

In regards to the enclosed records, certain information has been redacted, either because specifically required by law or pursuant to Wis. Stat. 19.35(1)(a) balancing test. These redactions are outlined below.

Personally identifiable information, as defined by WI Statute 19.62(5), has been removed from this report for public policy reasons of protecting privacy and preventing identity theft.

My decision is subject to review by application to the Sheboygan County District Attorney, the Attorney General or by action for mandamus in Sheboygan County Circuit Court.

Sincerely,

CHRISTOPHER D. DOMAGALSKI
CHIEF OF POLICE

CHRISTIN N. KOENIG
ADMINISTRATIVE SPECIALIST

DEPARTMENT
OF POLICE

1315 N. 23RD STREET
SUITE 101
SHEBOYGAN, WI
53081-3180

920/459-3333
FAX 920/459-0205

www.sheboyganpolice.com



SHEBOYGAN POLICE DEPARTMENT

Incident C23-18254

Nature: DEPT INFO

Address: 835 INDIANA AVE; DAVES
WHOS INN
SHEBOYGAN WI 53081

Location: N43

Offense Codes: 9824

Received By: LUBBERT, KATIE

How Received: T

Agency: SPD

Responding Officers: WALSH, MATTHEW

Responsible Officer: WALSH,
MATTHEW

Disposition: SIT 11/09/23

When Reported: 16:16:18 10/09/23

Occurred Between: 16:16:18 10/09/23 and 16:17:30 10/09/23

Assigned To:

Detail:

Date Assigned: **/**/**

Status:

Status Date: **/**/**

Due Date: **/**/**

Complainant:

Last:

First:

Mid:

DOB: **/**/**

Dr Lic:

Address:

Race:

Sex:

Phone:

City: ,

Offense Codes

Reported: 9824 DEPARTMENT
INFORMATION

Observed: 9824 DEPARTMENT
INFORMATION

Additional Offense: 9824 DEPARTMENT
INFORMATION

Circumstances

LT03 BAR OR NIGHTCLUB

Responding Officers:

WALSH, MATTHEW

Unit :

244

Responsible Officer: WALSH, MATTHEW

Agency: SPD

Received By: LUBBERT, KATIE

Last Radio Log: 17:24:39 10/09/23 CMPLT

How Received: T TELEPHONE

Clearance: RTF REPORT TO FOLLOW

When Reported: 16:16:18 10/09/23

Disposition: SIT Date: 11/09/23

Judicial Status:

Occurred between: 16:16:18 10/09/23

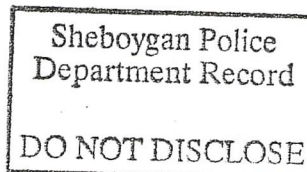
Misc Entry:

and: 16:17:30 10/09/23

Modus Operandi:

Description :

Method :



01/11/24

Involvements

Date	Type	Description
Narrative		

SHEBOYGAN CITY POLICE DEPARTMENT
INVESTIGATION NARRATIVE

Reference: Andrew Joseph Schuessler, [REDACTED]

Contact: David Allan Repinski, [REDACTED]

Contact: Holden and Hahn Attorneys, 903 N 6th St., 458-0707

Reference: Dave's Who's Inn, 835 Indiana Ave., 457-9832

Contact: Coralie Sue Kunstman, [REDACTED]

Contact: Diane K. Marmes, [REDACTED]

Contact: Gregory Thomas Herr, [REDACTED]

Contact: Henry Van Thompson, [REDACTED]

Reference: Law Incident C23-14987

On 8/19/23, at approximately 1:00 am, the Sheboygan Police Department responded to an assault that occurred at 9th and Indiana Avenue in the City of Sheboygan. The case number for this incident is C23-14987. The incident did not occur inside of Dave's Who's Inn, however four or five suspects were in the bar and were involved in a confrontation with two or three young men bicycling past the bar. These young men were under the legal drinking age and were not in the bar. This was later confirmed with surveillance video. These young men on their bicycles were intoxicated and it was later learned that they were celebrating their last night in Sheboygan before heading off to college. One of the young men made a smart remark to the four or five adult male Asians standing directly outside of Dave's Who's Inn on the sidewalk and a fight ensued.

Surveillance video was later obtained from Dave's Who's Inn that showed the four or five male Asians in the bar previously, as well as several other witnesses who had been in the bar but may have witnessed the assault on one of the young college aged boys. Further surveillance video gathered from the gas station across the street from Dave's Who's Inn showed parts of the altercation of what happened and how one of the suspects dropped his phone while he was assaulting the young man. The young man was hospitalized. The police, as a routine manner of investigation, know that Dave's Who's Inn runs an ID scanner and they sought to obtain that information from the bar so as to further identify suspects and witnesses from the assault, in particular the four or five male Asians. Even more particular, the main actor, the person who dropped his phone and assaulted the young man. It was later learned that this ID scanner was not functioning on that evening. This was extremely frustrating the officers.

The proprietor of Dave's Who's Inn is Dave Repinski, who since February of 2022 is subject to the following conditions from the City Clerk's office, the police department, the City Attorney's office so that his Class B alcoholic beverage license wouldn't be revoked permanently. As an alternative to a permanent revocation, Mr. Repinski was given the opportunity to voluntarily surrender his Class B alcoholic beverage license for thirty consecutive days and then was allowed to reopen under the following circumstances:

- Cooperate with the police
- Continue to be a member of the Tavern Safety Coalition and follow its guidelines
- Prohibit all weapons and use a metal detector on all patrons entering the premises
- Use a scanner that takes photos on all patrons entering the premises
- Ensure all video cameras, both inside and outside, are operational and recording when open for business
- No underage persons on the premises
- Do not serve intoxicated people
- Deny entry to any patrons who are visibly intoxicated and do not allow patrons who are visibly intoxicated to remain on the premises
- Prohibit staff from drinking while working
- Communicate these expectations to all staff

Any violations of these guidelines would result in revocation of the license, subject to an appeal to the Licensing Hearing Public Protection Safety Committee of the Common Council.

Dave Repinski was called in to appear in front of the LHPS Committee on September 25th at 3:00 pm and I subsequently met with Dave at his attorney's office on 10/9/23 to conduct a fact finding interview. This interview took place at Holden and Hahn Law Offices, present was Dave Repinski, Coralie Kunstman (a bartender), Greg Herr (a technician), Henry Thompson (jack of all trades), Diane Marmes (administrative assistant), and Attorney Richard Hahn.

I was provided with emails and the following statement of facts. The emails reflect that in late July, Andrew Schuessler sent an email to Mark at markcards@aol.com, 1-800-830-2225. This Mark Cards business provides the ID scanner. The Dave's Who's Inn ID scanner was not working at that time and the bar sent the ID scanner in for service, receiving them back later and in fact receiving two ID scanners so they would have a spare, but they still did not work and they needed to get some barcodes to make them run. This is the timeline that I was provided with. The one scanner was sent in on July 22nd because it failed when Henry tried to use it. Henry stated that the ID scanner wasn't working, it wasn't taking scans and they didn't realize it until they went to download the results. Henry told Dave Repinski and Greg sent it into Mark Cards. Coralie called Mark Cards on 7/24 and was told to send in the scanner. Coralie told Dave and they ordered a back-up scanner, which didn't arrive. On August 1st, Coralie called Mark Cards again and left a voicemail, so she called again on the following day. The two ID scanners arrived back at Dave's Who's Inn on 8/7 or 8/8. Dave stated that it wasn't until the next weekend on August 19th that they realized there was a problem with the scanners, so they contacted Mark

again who was going to send the barcodes to keep on file to run through the scanners in case there were error problems.

The emails that were provided to me are not consistent with this timeline. The email indicates on Tuesday, August 1, 2023 at 6:34 pm markcards@aol.com wrote "Just found your email... will send set of three barcodes to read to reprogram second reader".

Andrew Schuessler wrote to Mark Cards on Friday, August 4, 2023 at 8:53 am "any updates on those scanner codes".

I will attempting to contact Mark Cards to continue the investigation by reaching him at 1-800-830-2225.

I explained to Dave and the rest of the group that I had watched the surveillance video from the assault case and I explained the circumstances about what happened with the suspects who were in the bar and how the young men pedaled by and most likely made a disparaging remark that brought the assault upon the one. I explained that I watched their video surveillance and noted that there was no one at the door checking ID's, although it's possible that happens at the bar, but more concerning was that they were not using a metal detector on patrons. I asked Dave about this and he stated they don't do wandering with a metal detector and never have. I asked if they have a metal detector and he said yes, he said but they are not using it. Henry said this is ridiculous and he felt the bar was being targeted.

There was a discussion that was held with the group on how it seemed unfair and ridiculous to wand each and every patron that might come in for breakfast or lunch from the neighborhood. I suggested that they appear before the committee to request the rules be modified so that they only wand between possibly 9:00 pm on a Friday night until Sunday morning at 2:30 am.

This entire explanation that was provided to me is completely contradictory to the explanation that was provided to Officer Matthew Braesch, who responded to the bar on 9/8/23 at 9:48 am and spoke to Coralie. At that time, Coralie made no mention of barcode problems or scanner problems and she pointed out that there was a gap in the drivers license scanner machine where it wasn't reading from August 12th to August 26th. Coralie stated that the scanner is used spottily to check for people who are underage or their age is questionable. Coralie stated that the scanner is primarily used in the evening hours on weekends, Fridays and Saturdays going into Sunday mornings, but the bouncers at the front door. Coralie stated that if the license scanner was not used, the parties responsible were likely not doing their job. She did provide the surveillance video, which assisted in the investigation of the case of the assault which is the same that I used to review when I noticed they were not wandering or using a metal detector.

Coralie made no reference to this statement that she made to Officer Braesch during our meeting at Holden and Hahn Law Firm. I did not feel that it was appropriate to question or interrogate her about her statement in front such a large group of her coworkers. This investigation will resume in approximately the third to latter part of October when I attempt to reach out to the ID

scanner company, which is located in California. End of report. Lt. Walsh/mjl

Supplement

SHEBOYGAN CITY POLICE DEPARTMENT
INVESTIGATION NARRATIVE

On 10/22/23, I, Lt. Walsh sent an email to Mark Cards to try and arrange to speak with them regarding the ID Scanner at Dave's Who's Inn.

End of Report
Lt. Walsh
Sun Oct 22 16:52:50 CDT 2023

Supplement

SHEBOYGAN CITY POLICE DEPARTMENT
INVESTIGATION NARRATIVE

On 10/25/23, I, Lt. Walsh sent another email to Marks Cards to try and obtain information about the scanner at Daves' Whos' Inn. I did receive a call back from a woman almost immediately after sending the first email. She stated that they were going to put together a report and send it to me. I have not received it, but did also send an email to IT to see if it is caught in the city's spam filter.

End of Report
Lt. Walsh
Wed Oct 25 20:30:41 CDT 2023

Supplement

SHEBOYGAN CITY POLICE DEPARTMENT
INVESTIGATION NARRATIVE

11/6/23 Unit 244
Video: No (body cam)
Statements/Evidence: No
Photos: No

On 11/6/23, I, Lt. Walsh attempted to call Mark Cards and left them a voice mail. I have not received anything from them to date.

End of Report
Lt. Walsh
Mon Nov 06 18:07:56 CST 2023

Supplement

4-244

11/9/23 Unit 244
Video: No (body cam)
Statements/Evidence: No
Photos: No

On 11/9/23, I, Lt. Walsh closed this investigation. Mark Cards has not returned my calls or emails.

End of Report

Lt. Walsh

Thu Nov 09 17:20:23 CST 2023

Supplement

5-244

11/17/23 Unit 244

Video: Yes (body cam)

Statements/Evidence: No

Photos: No

Contact: Andrew J. Schuessler [REDACTED]

On 11/17/23, I, Lt. Walsh made contact at Dave's Whos Inn in hopes of making personal contact with Dave Repinski. I have been trying to get in touch with Dave for several days. Today, he texted me that he starts work at 1800 hours. I tried calling him twice between 6 and 7 PM. I decided to go there and was told by the bartender, Andrew, that Dave was not working. Andrew messaged Dave, who did not call back.

I made contact with 4 male Asians who were enjoying a pitcher of beer on the east side of the bar on the main floor. I asked them if they had been wanded with a metal detector this evening upon entering the premises. They told me no, but they did have their ID's checked.

This contact was captured on body camera.

End of Report

Lt. Walsh

Fri Nov 17 19:30:32 CST 2023



February 22, 2024

Attorney Richard Hahn
Holden & Hahn, S.C.
903 N. 6th Street
Sheboygan, WI 53081

RE: February 21st, 2024 Open Records Request

Dear Attorney Richard Hahn

This letter is in response to your records request dated 02/21/2024 in which you specifically requested "all narrative reports and other documents in your possession providing motivation or backdrop for these two conditions in the letter of Attorney Adams."

The Records Department of the Sheboygan Police Department can provide contact histories for the address or specific incident reports as requested. We have already provided incident C23-18254 and portions of incident C23-14987. To submit a sufficient open records request, you should be able to reasonably describe the record or information you would like to view (Wis. Stat. 19.35(1)(h)) and the custodian should not have to guess what you are requesting (Seifert, 2007 WI App 207, ¶ 42.).

I have attached a contact history for the address of Dave's Who's Inn for all of 2023 to help you try to frame your request in a way to which the Police Department is able to respond.

Should you have further questions or concerns, I can be contacted at phone (920) 459-3343.

Sincerely,

CHRISTOPHER DOMAGALSKI
CHIEF OF POLICE

CASSANDRA L WOHLGEMUTH
OFFICE MANAGER

DEPARTMENT
OF POLICE

1315 N. 23RD ST.
SUITE 101
SHEBOYGAN, WI
53081-3180

920/459-3333
FAX 920/459-0205

www.sheboyganpolice.com

02/22/2024
CNK355

DAVE'S WHOS INN
01/01/2023 - PRESENT

SHEBOYGAN POLICE DEPARTMENT
ADDRESS HISTORY REPORT

Record #	Date	Description	Relationship
C23-18677	10/16/23	THEFT	Contact
C23-18482	10/13/23	ASSAULT A	Referenced
C23-18254	10/09/23	DEPT INFO	Contact
C23-15346	08/24/23	SUSPICIOUS	Referenced
C23-14987	08/21/23	ASSAULT A	Contact
C23-12529	08/17/23	DISTURBANCE	Referenced
C23-11988	07/08/23	TRAFFIC STOP	Referenced
C23-10555	06/21/23	DISTURBANCE	Referenced
C23-08201	05/14/23	ASSAULT A	Contact
C23-04718	03/19/23	TRAFFIC STOP	Referenced



March 27, 2024

Attorney Richard Hahn
Holden & Hahn, S.C.
903 N. 6th Street
Sheboygan, WI 53081

RE: February 21st, 2024 Open Records Request

Dear Attorney Richard Hahn

This letter is in response to your records request dated 03/12/2024 in which you requested "all narrative or police reports, or any documents of any description, in your possession, relating to weapons of any kind and associated with Dave's Who's Inn and/or David A Repinski from January 1, 2010 through May 26, 2023."

As stated in Section 19.35(1)(h), Wis. Stat., "A request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request." Your request for "all narrative or police reports, or any documents of any description, in your possession, relating to weapons of any kind and associated with Dave's Who's Inn and/or David A. Repinski from January 1, 2010 to May 26, 2023" here fails because it inadequately describes the records requested.

Further, this request is unduly burdensome, as it would require us to identify, examine and produce copies of numerous incident reports. See *Schopper v. Gehring*, 210 Wis. 2d 208, 213, 565 N.W.2d 187 (Ct.App. 1997) "While this state favors the opening of public records to public scrutiny, we may not in furtherance of this policy create a system that would so burden the records custodian that the normal functioning of the office would be severely impaired."

At this time your request is denied. If you submit a new request narrowing the scope of your request we will happily process your open records request at that time.

Should you have further questions or concerns, I can be contacted at phone (920)459-3343.

DEPARTMENT
OF POLICE

1315 N. 23RD ST.
SUITE 101
SHEBOYGAN, WI
53081-3180

920/459-3333
FAX 920/459-0205

www.sheboyganpolice.com

Sincerely,

CHRISTOPHER DOMAGALSKI
CHIEF OF POLICE

CASSANDRA L WOHLGEMUTH
OFFICE MANAGER