

Monday, August 14, 2023

Council Member Michael Rainville
Ward 3
307 City Hall
350 S. 5th St.
Minneapolis, MN 55415
Ward3@minneapolismn.gov

Dear Council Member Rainville:

I am planning to open a new bar and lounge called The Bazemnt in your ward. I have already arranged to lease the property at 501 Washington Ave. S.

The Bazemnt will be a 4500 square foot bar and lounge featuring music, drinks, and finger foods and sandwiches. We are pursuing an On Sale Liquor license.

I already have contacted the Zoning, Environmental Health and Licenses Divisions to determine the requirements for opening this business. Please feel free to call me with your concerns or suggestions regarding this project.

Sincerely,
Peter Juasemai
The Bazemnt
612-940-5068
peterkpannah@gmail.com

Attachment: Business plan

CC: Downtown Minneapolis Business Council -- info@mplsdowntown.com

CC: Downtown Minneapolis Neighborhood Association -- info@thedmna.org

Recommendation to Deny License Application

DBA: The Bazemnt

September 12, 2022

The Agora LLC
Attn: Eric Vedasto
501 Washington Avenue South
Minneapolis, MN 55415

RE: On-Sale Liquor with Sunday Sales, General Entertainment license application at 501 Washington Avenue South, Minneapolis, MN 55415

Mr. Vedasto,

We have reviewed your license application for a proposed nightclub facility to do business as "The Bazemnt." This letter is being provided to you to give you notice of our intent to recommend to the City Council that it deny the license application described above. You had a facility that appeared to operate as a nightclub at 293 Como Avenue, #B19, in St. Paul, from approximately February, 2021 to May, 2021. The basis for this recommendation stems from a review and investigation into the operations at this location and the potential impact that the licensure of the newly proposed nightclub facility might create and is as follows:

1. Approval of this application would not serve the public interest.

Minnesota State Statute 340A.412 (2)(b) states that "No license may be issued, transferred, or renewed if the results of the investigation show, to the satisfaction of the governing body, that issuance, transfer, or renewal would not be in the public interest."

Our investigation shows that members of The Bazemnt operated an unlicensed nightclub at 293 Como Avenue, #B19, St. Paul, MN. The City of St. Paul Fire Inspection Division initially inspected The Bazemnt in St. Paul on March 26, 2021. They found evidence of what appeared to be an unlicensed nightclub operating there. They provided photos of the place set up like a nightclub with led lighting and other low-voltage lights, power strips plugged into other power strips, multiple extension cords powering multiple kinds of equipment, there was a bar with different types of liquor, two small refrigerators behind the bar, a DJ stand, an area with a raised platform with strip lighting around it (dance floor), and only one exit. It was condemned as unfit for human habitation until a re-inspection could occur with the violations no longer present. Eric Vedasto of The Bazemnt told the St. Paul Fire Inspection Division that that it was a hang-out for him and his friends. There is a copy of a flyer for The Bazemnt having an event on May 13, 2021 and they were advertising \$20 at the door with "DJ Chevy". The phone number on the flyer

is the same phone number that belongs to Eric Vedasto.

On May 14, 2021, the St. Paul Fire Inspection Division inspected The Bazemnt again. They found that the condemnation placard had been removed, there was alcohol, hookah pipes, wrist bands, security gates, and hot plates. The landlord gave the tenants of The Bazemnt 24 hours to remove all of their property.

Since this applicant operated illegally in St. Paul, there is a valid concern that their operations in Minneapolis may not be in compliance with all laws.

For these reasons, it would not be in the public interest to recommend approval of this license application.

You may find resolution for this matter in one of two ways:

1. Withdraw your license application.
2. You may opt to have the entire case presented to an administrative hearing officer for an evidentiary hearing. The Minneapolis City Council would still determine if your license application should be approved or denied upon receiving the report and recommendation from the administrative hearing officer.

Please contact us by September 31, 2022, with your decision.

For further questions, please contact Lead License Inspector Michele Harvet at 612-673-5484, or myself at 612-673-2565.

Sincerely,


Amy Lingo, Interim Manager
Licenses and Consumer Services

Request accessible format: If you need help with this information, please [email 311](#), or call 311 or [612-673-3000](#). Please tell us what format you need. It will help us if you say what assistive technology you use. People who are deaf or hard of hearing can use a relay service to call 311 or 612-673-3000. Information in Other Languages: Para asistencia 612-673-2700. Rau kev pab 612-673-2800. Hadii aad Caawimaad u baahantahay 612-673-3500.



THURSDAY
MAY 13TH

EID NITE

BAZEMINT

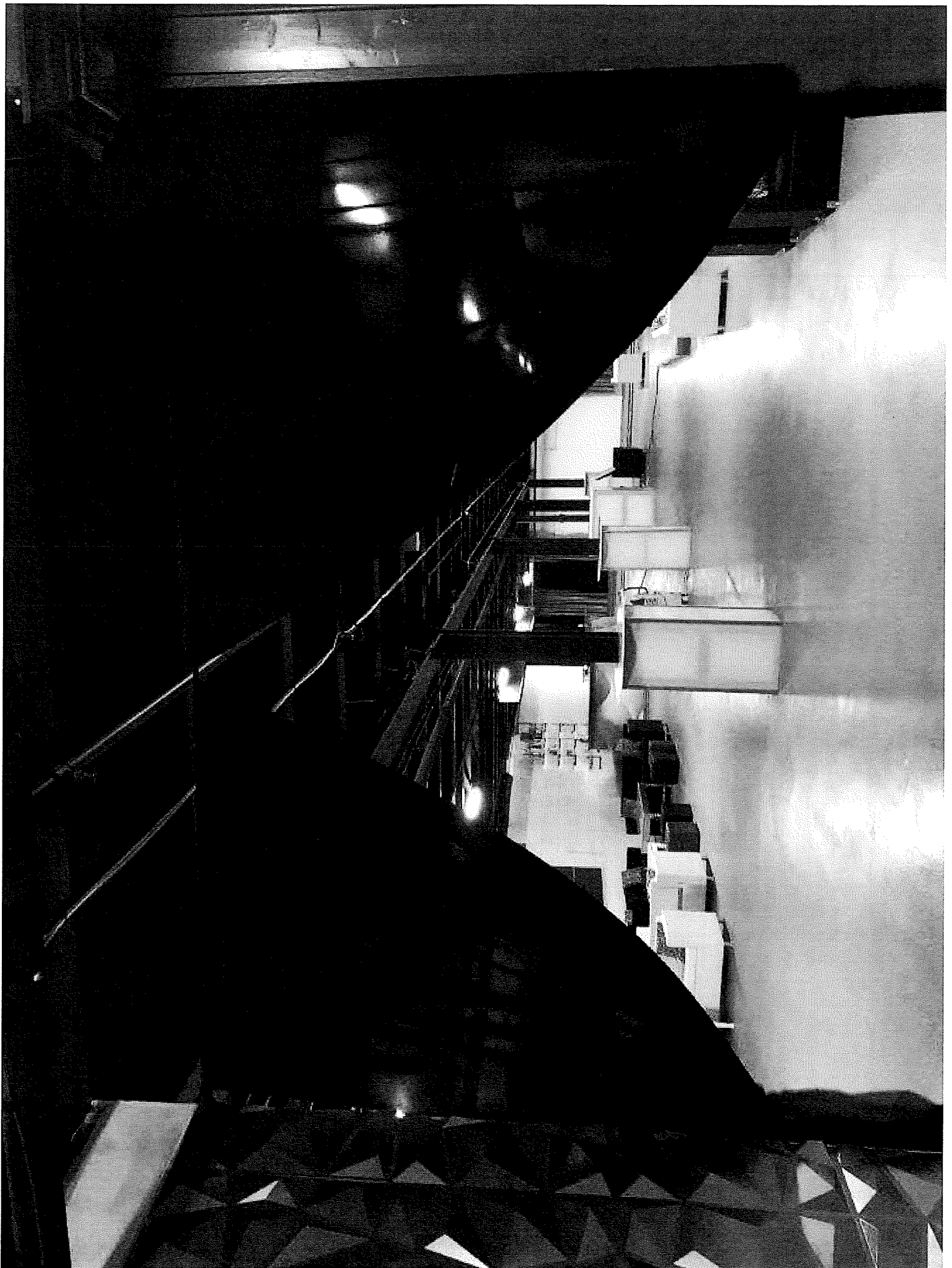
DJ CHEVY

\$20 AT THE DOOR
DOORS OPEN 7:30PM
RESERVATIONS: (763) 334-0001

MASKS REQUIRED

THE BAZEMINT



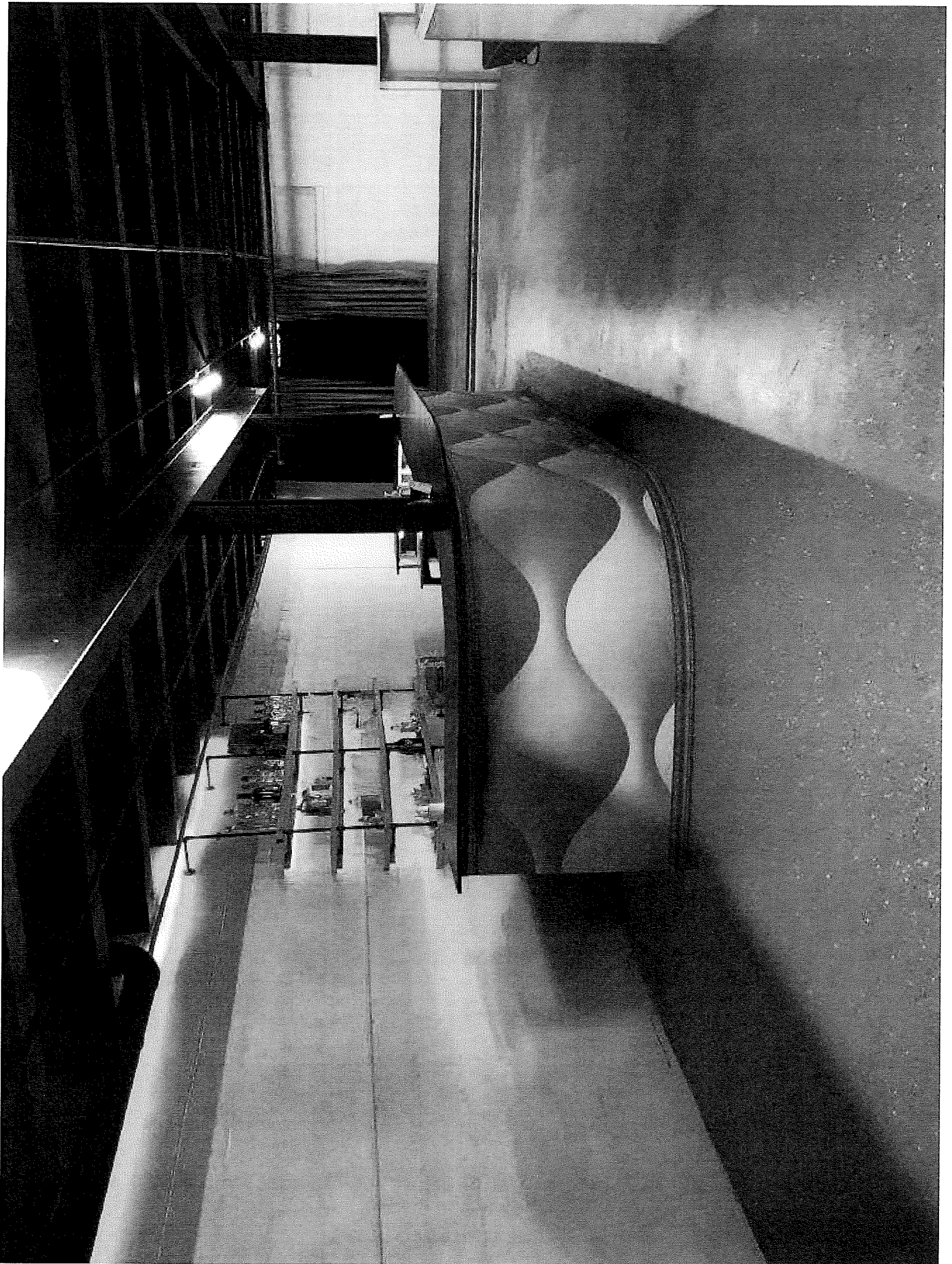




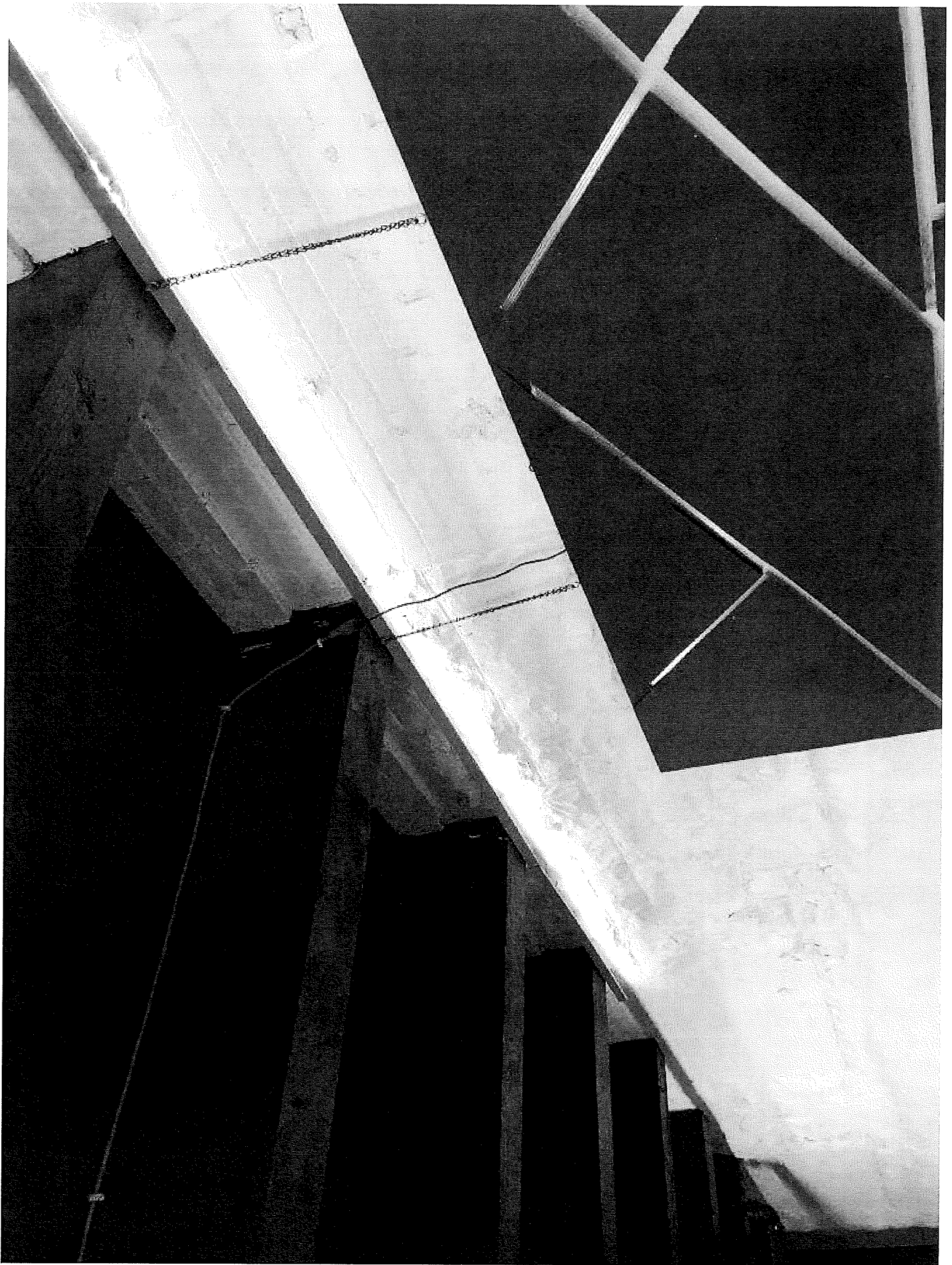








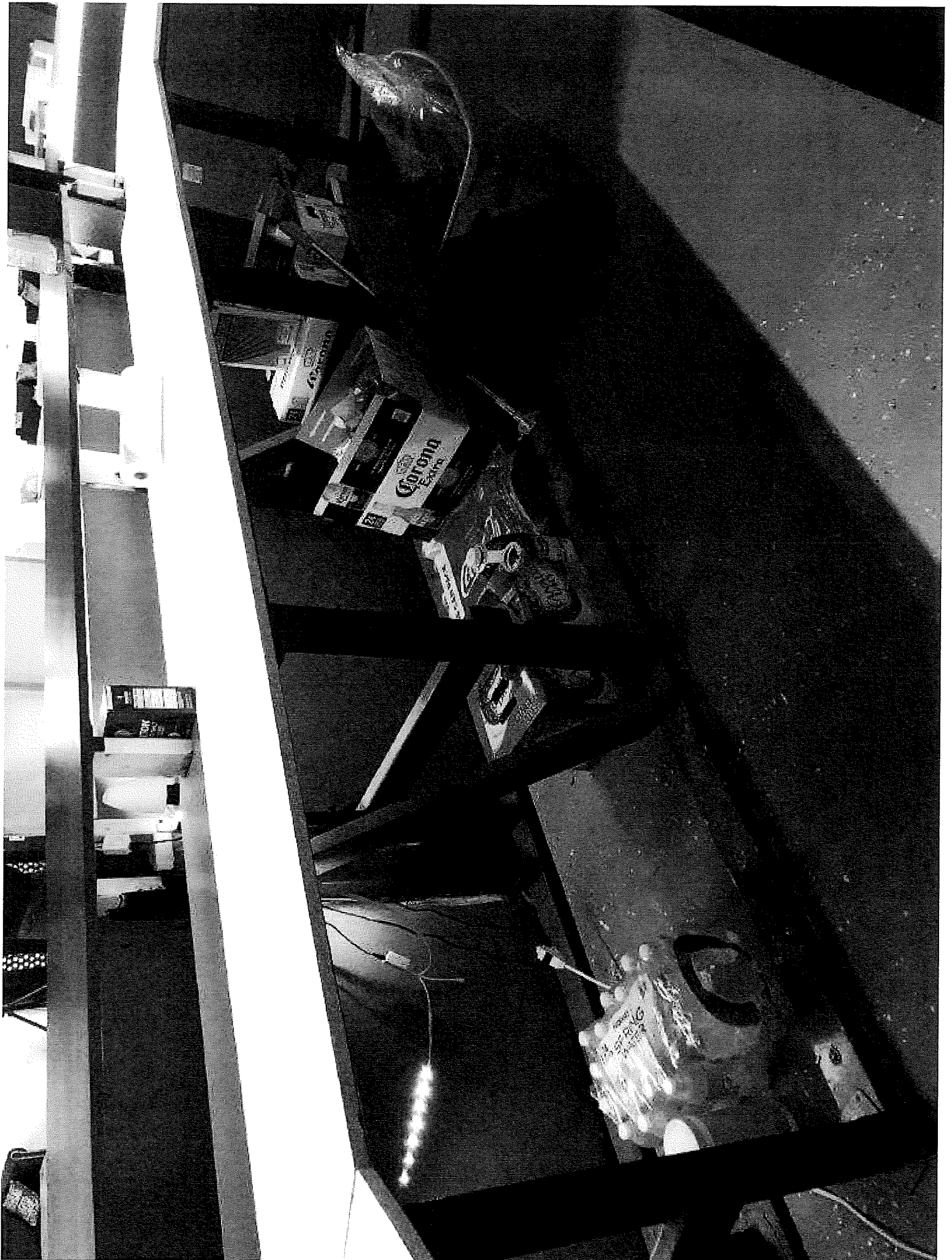




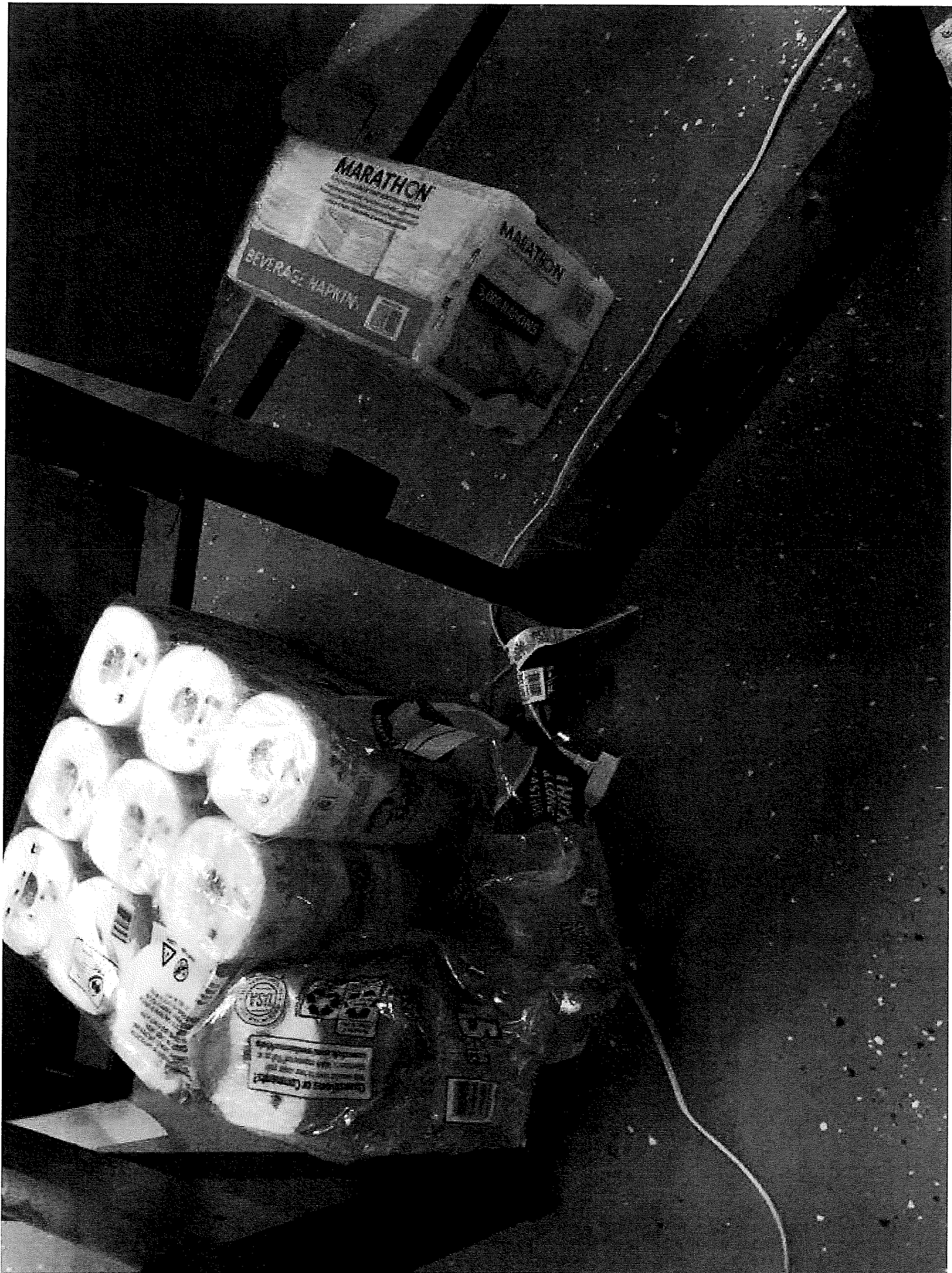






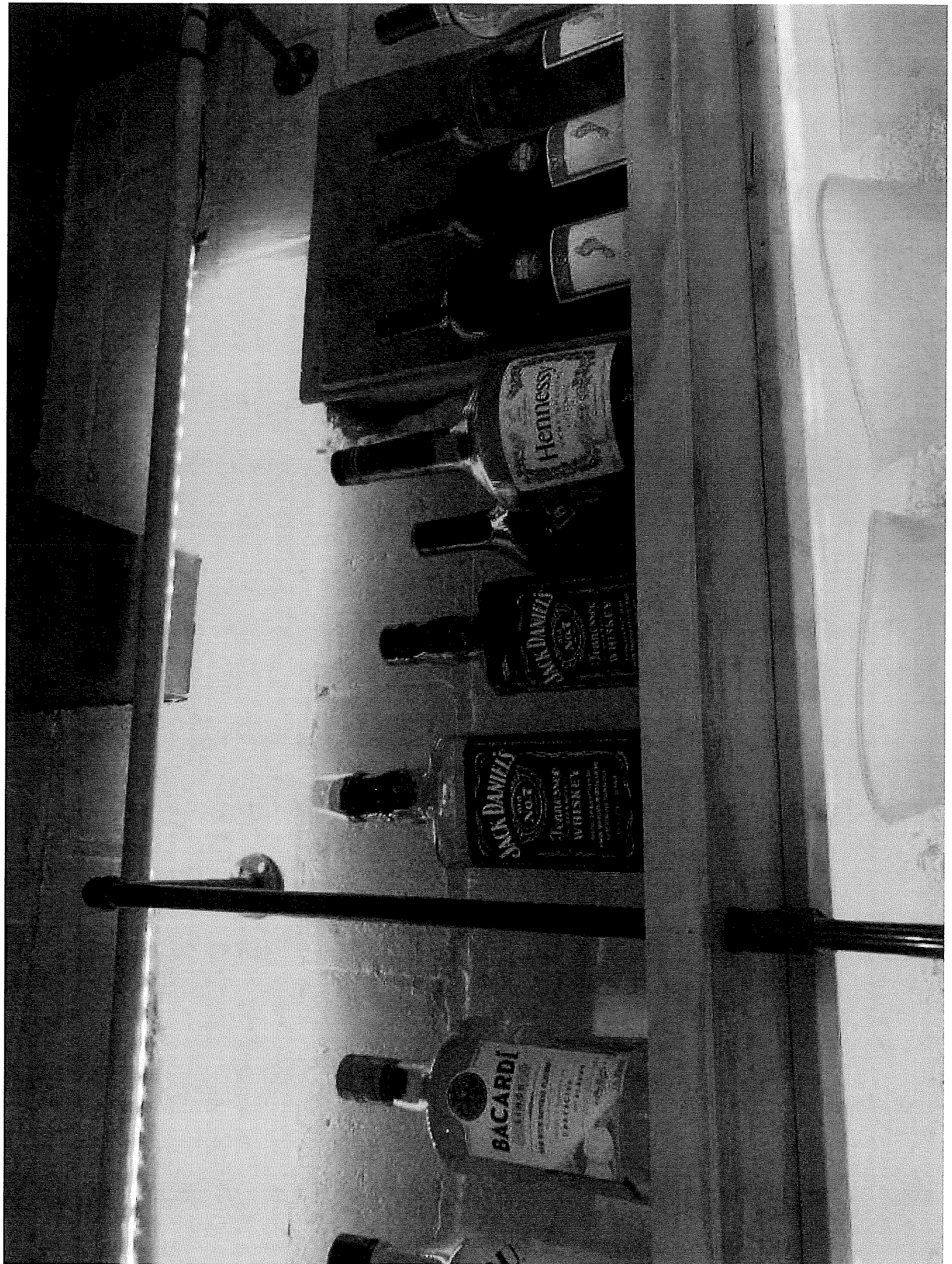












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Liqueur

JACK DANIEL'S
WHISKY
Tennessee Whiskey

JACK DANIEL'S
WHISKY
Tennessee Whiskey

Hennessy

In the Matter of the On-Sale Liquor License
Application of The Agora LLC d/b/a
The Bazemnt at 501 Washington Ave. S.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW &
LICENSING RECOMMENDATION**

Hearing Date: November 1, 2022

This matter came on for hearing before Minneapolis Administrative Hearing Officer Patricia Sifferle on November 1, 2022 at 10:00 a.m. in Room 1A of Minneapolis City Hall pursuant to M.C.O. § 259.255, *Adverse license action evidentiary hearings authorized*.

Minneapolis Lead License Inspector Michele Harvet appeared on behalf of the Business Licensing Division of the City of Minneapolis, which was represented by Assistant City Attorney Joel Fussy. Eric Vedasto and Marcus Harris appeared on behalf of the Agora LLC and The Bazemnt. Based on the testimony and evidence admitted at the hearing, the undersigned hearing officer makes the following:

FINDINGS OF FACT

1. Eric Vedasto is a managing member of The Agora LLC, which has submitted an application for an on-sale liquor license to operate a nightclub doing business as The Bazemnt at 501 Washington Avenue South in downtown Minneapolis.
2. The license application lists Marcus Harris as the primary applicant and managing member. The application lists the following owners and co-applicants in addition to Vedasto and Harris: Edwin Kinara, Angella Lutaaya, Evans Awoshie, and Cabrelle Ngandeu.
3. Michele Harvet is a lead licensing inspector with the City of Minneapolis. Part of her job is to review liquor license applications and make recommendations on whether to approve them. Harvet testified that she met with Harris at her office on March 23, 2022, to discuss the application. At that meeting Mr. Harris told her that the "The Bazemnt" had previously operated in St. Paul but someone else provided the liquor license for the alcohol that was sold there. Harvet found this was "unusual."
4. Harvet followed up with her counterparts at the City of Saint Paul and learned that there was never a liquor license issued for any establishment 293 Como Avenue, which was where The Bazemnt previously operated. She then obtained records of inspections conducted at 293 Como Avenue by Saint Paul Fire Safety Inspector Brian Schmidt, indicating that The Bazemnt had operated at that address as an illegal occupancy and apparent unlicensed nightclub and/or event center during the first half of 2021.

5. Brian Schmidt is a Fire Safety Inspector with the City of Saint Paul. He testified that 293 Como Avenue, Unit B19, was only approved as an F1 occupancy, meaning it could be used for things like factory work, storage or parking and could not be used for public or private parties.
6. Schmidt testified that he went to inspect the entire building at 293 Como Avenue on March 26, 2021, after complaints of apparent nuisance activity at the building. At that time, the property manager informed Schmidt that unit B19 unit was set-up and appeared to be operating as a nightclub.
7. During his March 26, 2021 visit, Schmidt inspected unit B19. He observed and documented that unit B19 was equipped and furnished as what appeared to be a nightclub or an "assembly use" as classified by the applicable Minnesota State Fire Code. There was signage, a bar with multiple bottles of different liquors, refrigerators, a DJ stand, raised platforms, and extensive strip lighting around an open space that appeared to be a dance floor.
8. Schmidt determined that the unit was not safe or approved for the manner in which it was being used. He placed a condemnation placard on the door of Unit B19, dated March 26, 2021, which read in part:

This Building is CONDEMNED. This Structure is Declared Unsafe or Unfit for Human Occupancy or Use. It is Unlawful for Any Person to Use, Occupy or Permit the Occupancy of This Building After March 26, 2021 1:00 p.m.... Address: 293 Como Avenue Unit B-19... Under Penalty of Law, this notice shall not be removed without authorization from the Department of Safety & Inspections.

9. On March 29, 2021, Schmidt issued a detailed "Fire Inspection Correction Notice" to the property owner, listing 39 items that needed to be corrected throughout the building. Regarding unit B19, which was then occupied by The Bazemnt, the order states in part:

Unit B-19 - MSBC 1300.022 Subp. 3 - The occupancy group or use division of this building has been changed from that previously approved. Discontinue the unapproved occupancy or use, or contact the Building Official at 651-266-8989 with your code analysis and to comply with requirements for approved occupancy. ***Unit B-19 is being used as a nightclub/bar use, provide a code analysis with architectural drawings, mechanical prints to plan review and will also need to meet all zoning, licensing requirements.***

Unit B-19 - SPLC 34.23, MSFC 110.1 - This occupancy is condemned as unfit for human habitation. This occupancy must not be used until re-inspected and approved by this office. ***The unit B-19 was condemned as unfit for human habitation. This occupancy must not be used until re-inspected and approved by this office. This space is condemned due to an illegal nightclub/bar in unit B-19. This space has been approved for aS1, F1, B occupancy types. This unit will need to have a change of use for this space and would need to be compliant for zoning requirements, licensing requirements for the use of alcohol. (Short orders were written at the time of the inspection.)***

10. Schmidt testified that his condemnation order was not appealed. He returned on April 28, 2021, for a reinspection. On that date, he spoke with Vedasto, who explained that this was just a “man cave” or “hangout space.” However when Schmidt said it looked like a nightclub, Vedasto replied, “Okay, you got me.” Schmidt then explained to Vedasto how he could get the premises approved for a change of use. He is aware that The Bazemnt did begin working through the change-of-use process with the city.
11. Schmidt testified, and his documentation indicates, that on May 14, 2021, he received new information that 293 Como Avenue, Unit B19, had been used as a nightclub again on May 13, 2021. He went to the location and found that the condemnation placard had been removed. He also found new items in the unit that were not there before, including hot plates that were still on, hookah pipes, wrist bands, and security gates. He observed alcohol bottles at the bar.
12. Schmidt informed the property owner that Unit B19 needed to be vacated immediately. He later received a call from Vedasto explaining that he (Vedasto) was out of town but his business partner had been using the space. Vedasto asked for two weeks to get everything out of the unit. However, after Schmidt threatened to write up a criminal citation for removing the condemnation placard, Vedasto agreed to vacate the unit immediately.
13. Harvet testified that, after learning about what had transpired in Saint Paul, she followed up with Harris about the Minneapolis liquor license application in August of 2022. At that time, Harris told her no alcohol was ever sold at the 293 Como location in Saint Paul. This was different from what Harris had told her in her office on March 23, 2022. An August 2022 email exchange indicates that Harris told Harvet, “we opened a party hall at 293 as a concept,” and they only held two private events there, for which “an acquaintance gave us liquor to provide to our attendees as a compliment.”
14. Harris testified that, when he first met with Harvet, he told her they had merely operated a “concept space” in Saint Paul, with a future intent to open a lounge, and he told her they did not sell alcohol but a friend supplied it for private events.
15. Harris testified that they set up The Bazemnt in Saint Paul just to see what it would take to open a lounge. It was a “dry run.” He testified that he and Vedasto were not involved in the event that took place in May of 2021 after the space was condemned – that was held by their former business partner, who they have since “kicked out” of the partnership. He stated the May 2021 event was to celebrate a religious holiday and he does not know why they had security gates and wrist bands. However, his August 9, 2022, email to Harvet indicated, “We had two private events at the location to get feedback from potential customers.”
16. Harris testified that they leased 293 Como, Unit B19, in October of 2020, and the monthly rent was approximately \$2000. He testified that they began renovating the space in November of 2020 but did not start paying rent until January of 2021.
17. Harris testified that the first event they held at the Saint Paul location was a birthday party for Vedasto in mid-March of 2021, and the second event was held by their previous partner whom he declined to name.
18. Vedasto also testified that they did not pay rent on the Saint Paul space until January of 2021. However, applicants’ documentation shows that Vedasto paid the landlord \$4,400.68 on September 30, 2020.

19. Vedasto testified that there were only two events ever held at the 293 Como location, with the first being his birthday party in March of 2021. He testified that alcohol was provided to the guests but not sold. He testified that they just wanted to see if people would like their concept of having boards on the walls and colorful LED lighting everywhere. They planned to open “a proper lounge” after seeing if people liked their concept. He further testified that they shut the doors shortly after the first event because the property was condemned. He testified that he was not aware of the second event, which was organized by a former business partner whom he declined to name.
20. A social media advertisement indicates the Bazemnt held a “Soft Opening” on March 13, 2021. It states, “This is a private event” and “Invite Only.” Another advertisement, in an almost identical style, announces, “Thursday May 13th ... Eid Nite at the Bazemnt ... DJ Chevy ... \$20 at the door.” The record thus shows that The Bazemnt held a public event on May 13, 2021, after the space was condemned.
21. Edwin Kinara is one of the part owners of The Bazemnt. It is his understanding that they have been met all of the legal requirements for a license and he is surprised that the inspectors are recommending denial.
22. Angella Lutaaya is one of the part owners of The Bazemnt. She testified that The Bazemnt intends to provide a free space for local artists to showcase their talent and also intends to sponsor community events. She further testified that The Bazemnt intends to give a percentage of their profits to charity.
23. Harvet testified that she met with her managers and the City Attorney, reviewed the record, and determined that it would not be in the public interest to grant the license. Because The Bazemnt operated illegally in another location, and continued operating after they knew the location was condemned, there was a valid concern that their new operation in Minneapolis would not be in compliance. Given the photographs she saw of The Bazemnt’s Saint Paul location, in her experience it did not appear to be used just once or twice for private parties with friends. She has not found that the license application to be otherwise deficient thus far.
24. Vedasto stated in his appeal letter that The Bazemnt will serve the public interest because it will bring diversity and promote African culture and community.
25. Harris provided some inconsistent information. He initially told Harvet that they operated The Bazemnt in Saint Paul with another entity holding the liquor license for alcohol that was sold there. He later told Harvet, and testified, that they provided complimentary alcohol but did not sell alcohol. In addition, Harris initially told Harvet that the Bazemnt had operated in Saint Paul; he later told her that they just held two events there, and he testified that he only knew about one of the events. When questioned about why they were paying \$2,000 per month to rent a space where they only held two private parties, Harris testified that they did not begin paying rent until January of 2021. However, records show that Vedasto paid the landlord \$4,400.68 on September 30, 2020.
26. Vedasto provided some inconsistent information. In his appeal letter he states, “We have extensive experience in the entertainment business, we started out in college when we used to do house parties and as we got older, we got into promoting events for our culture and community.” However, he testified that the Bazemnt in Saint Paul was just a “proof of concept” to see whether people would like their lounge and décor. He also testified that they did not pay rent on the space until January of 2022, but records show he paid the landlord \$4,400.68 on September 30, 2020.

27. On September 12, 2022, Harvet, in consultation with her managers and the City Attorney, recommended that the license application be denied. By letter dated Sept 13, 2022, Harris and Vedasto appealed the recommendation and requested a hearing.

CONCLUSIONS OF LAW

1. Section 259.255 of the Minneapolis Code of Ordinances, entitled *Adverse license action evidentiary hearings authorized*, governs this proceeding. It provides that “[u]pon a determination by the licensing official to recommend adverse license action against a license ... applied for ... the licensing official may refer the matter to an administrative hearing officer pursuant to Title 1, Chapter 2 of this Code ... for the purpose of developing a record and providing a recommendation to the city council.” The ordinance further provides that the “hearing officer shall render a decision in writing ... which shall include findings of fact, conclusions of law and a recommendation regarding whether and what adverse license action is appropriate” which shall then be “considered by the appropriate committee of the city council” which shall have the duty of making the “final decision.”
2. The city has broad discretion in determining whether to issue a liquor license. Minnesota Statutes, section 340A.412 (2) (b) provides, “No License may be issued, transferred, or renewed if the results of the investigation show, to the satisfaction of the governing body, that issuance, transfer, or renewal would not be in the public interest.”
3. The denial of a liquor license application may be based upon a finding of “good cause.” See M.C.O. § 259.250(13) (providing that “[a]dverse license action, inclusive of, but not limited to, revocation, may be based upon good cause at any time upon proper notice and hearing”). A license applicant's violation of or noncompliance with existing laws, especially laws relating to business practices and rights associated with the proposed license, constitutes legally sufficient “good cause” to revoke or deny a license. See Hard Times Cafe, Inc. v. City of Minneapolis, et al., (Minn.App. 2001).
4. Relevant and applicable case law clearly establishes (1) that there is no due process property right in a liquor license or in its issuance, (2) that a city's decision to not issue a liquor license is entitled to substantial deference, and (3) that denial of a liquor license is soundly within the discretion of an issuing authority unless arbitrary and capricious. “Under Minnesota law, there is no property right in a liquor license.” Hymanson v. City of St. Paul, 329 N.W.2d 324, 326 n. 1 (Minn. 1983); Movers Warehouse, Inc. v. City of Little Canada, 71 F.3d 716 (8th Cir. 1995). “No citizen has an inherent or vested right to sell intoxicating liquors, and municipal authorities have broad discretion within their geographical jurisdiction to determine the manner in which liquor licenses shall be issued, regulated, and revoked.” Sabes v. City of Minneapolis, 120 N.W.2d 871, 875 (Minn. 1963).
5. A city council has broad discretion in determining whether to issue a liquor license, and a court's scope of review of such a determination is narrow as the applicant bears the burden of proving that the city council acted in an arbitrary manner. Gar-Dar, Inc. v. City of Minneapolis, WL 666087 (Minn.App. 1997); Bergmann v. City of Melrose, 420 N.W.2d 663, 665 (Minn.App. 1988); COACT v. City of Duluth, 701 F.Supp. 1452 (Dist. Minn. 1988). In order for the denial of a renewal of a liquor license to be arbitrary or capricious the action of the city council must be “manifestly unjust.” Tamarac Inn, Inc. v. City of Long Lake, 310 N.W.2d 474 (Minn. 1981). “The Minnesota Supreme Court and the attorney general have said that whether a liquor license should be issued or renewed rests in the sound discretion of the [city] council.” *Liquor*

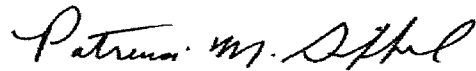
Licensing and Regulation, League of Minnesota Cities, pp. 35 (July 2010) (citing Country Liquors).

6. Good cause exists to deny the present application based on the above Findings of Fact and applicable law. The applicant proposes to open and operate a nightclub in Minneapolis doing business as The Bazemnt. However, the record shows that, regardless of whether they actually sold alcohol, the applicant previously operated The Bazemnt illegally in St. Paul in an unlicensed manner that was in violation of the occupancy use classification of the facility. Furthermore, the applicant continued to operate, and illegally removed a condemnation placard from the door, after being advised that the facility was condemned as unfit for human habitation. In addition, the applicants provided some conflicting or inconsistent information throughout the application process and hearing.
7. Based on the above, the City was not arbitrary or capricious in determining that issuing the license would not be in the public interest.

RECOMMENDATION

Based upon the above Findings of Fact and Conclusions of Law, as well as the entire record in this matter, the undersigned hearing officer recommends that the application of The Agora LLC proposing to do business as The Bazemnt for an on-sale liquor license at 501 Washington Avenue South be **DENIED** by the city council of the City of Minneapolis, in accord with the recommendation of the business licensing division.

Dated: November 7, 2022



PATRICIA M. SIFFERLE
MINNEAPOLIS HEARING OFFICER