

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE CITY OF MINNEAPOLIS

In the Matter of the Class E On-Sale Liquor  
and Special Late Hours Food Licenses held  
by La Qua Buena, Inc. and Juan and Maria  
Sanchez, d/b/a La Que Buena

**ORDER DENYING MOTION FOR  
CONTINUANCE**

This matter is scheduled to come before Administrative Law Judge Laura Sue Schlatter for a hearing beginning on Monday, June 22, 2015.

Joel M. Fussy, Assistant Minneapolis City Attorney, represents the city of Minneapolis (City). Jordan S. Kushner, Law Office of Jordan S. Kushner, represents Licensees Juan and Maria Sanchez, d/b/a La Que Buena (Licensees).

On June 15, 2015, Licensees filed a Motion for Continuance in this matter. On Tuesday, June 16, 2015, the City sent an e-mail objecting to the Motion for Continuance.

Based upon the submissions of counsel and the hearing record,

**IT IS HEREBY ORDERED:**

1. The Licensee's Request for Continuance is **DENIED**.
2. The Licensees shall serve and file any exhibits they have not already served and filed with the City and the Office of Administrative Hearings by **4:30 p.m. on June 17, 2015**.
3. A hearing in this matter will be held, as previously scheduled, at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101. The hearing is scheduled for **four** consecutive days, beginning on **June 22, 2015 at 9:30 a.m.** and continuing as needed **through June 25, 2015**.

4. All other relevant provisions in the First Prehearing Order remain in effect.

Dated: June 16, 2015

s/LauraSue Schlatter  
LAURASUE SCHLATTER  
Administrative Law Judge

## **MEMORANDUM**

### **Licensees' Arguments**

The Licensees requested a continuance to an unspecified "later date" to accommodate a scheduling conflict for Mr. Sanchez who has an opportunity to accept employment out-of-state from June 20 through July 31, 2015. Mr. Sanchez is co-owner of the licensed premises. The Licensees argue the Mr. Sanchez is an active participant in the management and operation of the business, and that he personally witnessed or participated in numerous incidents that are part of the City's case. In addition, he participated in conversations with City officials regarding the incidents and the measures taken in responses to the incidents. Licensees argue that Mr. Sanchez is therefore an essential participant and witness for the hearing.

The Licensees point out that there have been no significant incidents or complaints regarding its activities during the months since the City initiated this proceeding. Therefore, the Licensees assert, a "modest delay" will not likely cause harm.

### **City's Response**

The City opposed the Licensees' Motion. The City pointed out that this hearing has been on the calendar for over ten weeks and that the City has a strong public interest in moving the case forward. Licensees' license is expired and the City is anxious to make a decision on renewal of the license as soon as possible. While the City acknowledges that there have been no significant violent incidents recently, the City asserts that, in the past, there have been other relatively quiet times, following by renewed incidents of violence resulting in significant injury and even death. The City argues that Mr. Sanchez' choice to accept employment out-of-state after the scheduling of this hearing reflects a lack of seriousness with which the Licensees treat the operation of the establishment in general.

## Analysis

Minnesota Rules part 1400.7500 (2013) requires the Administrative Law Judge to grant a request for continuance “upon a showing of good cause” and to consider “the ability of the party requesting a continuance to effectively proceed without a continuance.” In addition, the rule applies a list of what shall be considered “good cause.” While the list may not be exclusive, it describes narrow conditions:

death or incapacitating illness of a party, representative, or attorney of a party; a court order requiring a continuance; lack of proper notice of the hearing; a substitution of the representative or attorney of a party if the substitution is shown to be required; a change in the parties or pleadings requiring postponement; and agreement for a continuance by all parties provided that it is shown that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the case and the parties and the judge have agreed to a new hearing date, or, the parties are engaged in serious settlement negotiations or have agreed to a settlement of the case which has been or will likely be approved by the final decision maker.

The rule also specifies what good cause does not include:

intentional delay; unavailability of counsel or other representative due to engagement in another judicial or administrative proceeding unless all other members of the attorney's or representative's firm familiar with the case are similarly engaged, or if the notice of the other proceeding was received subsequent to the notice of the hearing for which the continuance is sought; unavailability of a witness if the witness' testimony can be taken by deposition; and failure of the attorney or representative to properly utilize the statutory notice period to prepare for the hearing.

Mr. Sanchez' scheduling conflict does not constitute good cause for a continuance. It does not come close to “death or incapacitating illness of a party . . . .” Furthermore, while the language excluding from good cause a need to participate in another proceeding if “notice of other proceeding received subsequent to the notice of the hearing for which the continuance is sought” does not strictly apply here, it is similar to this situation where Mr. Sanchez arranged for employment after this proceeding was scheduled.

Mr. Sanchez has options. The letter that was attached to the Motion for Continuance indicated that Mr. Sanchez would be traveling back and forth from his out-of-state work site. He could choose to be here for all or part of the hearing. He could request permission to testify by telephone. He could choose to decline the out-of-state employment opportunity. Or he could allow Ms. Sanchez, along with their attorney, to represent his interests in this matter.

The Administrative Law Judge finds that the Licensees can proceed effectively without a continuance and that the Licensees have failed to demonstrate good cause for granting a continuance. Therefore, the Licensees' Motion for Continuance is denied.

**L.S.**