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**NOTICE OF MEETING  
of the  
JUDICIARY COMMITTEE OF THE  
BOARD OF TRUSTEES OF THE VILLAGE OF WILMETTE**

**Monday, September 18, 2017 at 1:45 P.M.  
Training Room – Second Floor of Wilmette Village Hall  
1200 Wilmette Avenue, Wilmette, Illinois**

**AGENDA**

- I. Call to Order.**
- II. Approval of Minutes.**  
Minutes of the Judiciary Committee meeting of February 14, 2017.
- III. Discussion and recommendation to the Village Board of an amendment to the General Penalty provision of the Wilmette Village Code, 1993 as amended**
- IV. New Business**
- V. Public Comment**
- VI. Adjournment**

IF YOU ARE A PERSON WITH A DISABILITY AND NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN AND/OR ATTEND A VILLAGE OF WILMETTE PUBLIC MEETING, PLEASE NOTIFY THE VILLAGE MANAGER'S OFFICE AT (847) 853-7509 OR TDD (847) 853-7634 AS SOON AS POSSIBLE.

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**MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE OF THE  
BOARD OF TRUSTEES OF THE VILLAGE OF WILMETTE, TUESDAY,  
FEBRUARY 14, 2017 AT 7:00 P.M. IN THE TRAINING ROOM, SECOND FLOOR,  
WILMETTE VILLAGE HALL, 1200 WILMETTE AVENUE, WILMETTE, IL 60091**

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Members Present: Trustee Senta Plunkett, Chair  
Trustee Carol Ducommun,  
Trustee Cameron Krueger

Staff Present: Michael Zimmermann, Corporation Counsel

Guests Present: David Kane, Mather Lifeways  
Cheryl Lucas, Mather Lifeways  
Floyd Perkins, Nixon Peabody Law Firm

**I. Call to Order.**

Trustee Plunkett called the meeting to order at 7:00 p.m. Committee members Ducommun and Krueger were present.

**II. Approval of Minutes: Judiciary Committee Meeting of September 27, 2016.**

Trustee Plunkett directed the Committee's attention to the draft minutes of the Judiciary Committee meeting of September 27, 2016.

Trustee Krueger moved that the Committee approve the minutes, seconded by Trustee Ducommun.

No further discussion occurred on the motion. Upon a call of the roll the following voted:

Ayes Trustees Plunkett, Ducommun and Krueger.

Nays: None.

**The motion carried.**

**III. Application of Mather LifeWays for a liquor license at Mather Place of Wilmette, 2801 Old Glenview Road.**

Mr. Perkins said Mather Place is a senior facility and they would like to provide an alcoholic beverage service to the residents at lunch, dinner and possibly during the day for a cocktail hour. They would like to limit alcohol to beer, wine and possibly a specialty drink of the day. Liquor would be locked and the resident would be charged, there would be no cash bar. The servers will make sure that liquor is served to guests of the appropriate age.

Mr. Kane said there are two restaurants in the facility and the liquor would be in a locked case in a locked store room accessible by management personnel only. They have an electronic charge card system for food and liquor would also be charged to that card.

Trustee Krueger asked if they serve and charge for alcohol at other facilities.

Mr. Kane said they have a liquor license in Evanston and also at a facility in Arizona.

Trustee Ducommun asked if the servers at Mather Place would go through the Bassett training that is required for serving alcohol.

Ms. Lucas said their servers are all required to have Bassett training.

Mr. Zimmermann noted that the applicant is applying for a Class A liquor license to serve beer, wine and liquor.

Trustee Plunkett asked if the restaurants are open only to the residents.

Mr. Kane said the restaurants at Mather Place only serve the residents of the facility.

Trustee Krueger asked if the residents can drink liquor in their rooms and or bring their own liquor to the residents.

Mr. Kane said residents may have alcohol in their residences and they usually have liquor with guests in their own residences.

Trustee Krueger moved to recommend that the Village Board approve an ordinance to increase the number of Class A liquor licenses, seconded by Trustee Plunkett. No further discussion occurred on the motion. Upon a call of the roll the following voted:

Ayes Trustees Plunkett, Krueger and Ducommun.

Nays: None.

**The motion carried.**

**IV. Public Comment**

None.

**V. New Business**

No Report

**VI. Adjournment**

Trustee Ducommun moved, seconded by Trustee Krueger to adjourn. Upon a voice vote, the motion passed unanimously.

Trustee Plunkett declared the meeting adjourned at 7:15 P.M.

Respectfully Submitted,

Michael F. Zimmermann,  
Corporation Counsel



## Law Department

**DATE:** July 27, 2017

**To:** Village Board Judiciary Committee

**From:** [Jeffrey M. Stein](#), Corporation Counsel

**SUBJECT:** Amendment to the Village's General Penalty to restrict issuance of licenses, permits and certifications for those applicants that have an outstanding debt due and owing to the Village

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### VILLAGE'S GENERAL PENALTY UPDATE

As part of the Village's set of laws (Wilmette Village Code), there is a General Penalty which applies to all violations within the Village (unless there is a specific penalty provision for a specific violation). As the Village Code reads today that penalty: 1. can be a fine not to exceed \$750, 2. can require restitution to the private party, 3. impose community service and/or 4. impose counseling/treatment. There are no recommended amendments to the text of those specific penalties; rather, upon review of the Wilmette Village Code, there is a common provision in other municipalities that is not present in the Village's General Penalty section.

That provision would restrict the issuance of licenses, permits, certifications and any other authorization as required by the laws and ordinances of the Village if an applicant (or an interest party to the application<sup>1</sup>) has any debt due and owing to the Village. Such debts can be, but are not limited to, delinquent water billing, business/liquor licensing fees, and adjudicated fines. All of these debts must be due and owing directly to the Village and not to another governmental or private entity.

### APPELLATE COURT HAS UPHeld A SIMILAR PROVISION

Recently, the Illinois Appellate Court affirmed the legality of a similar provision to the one proposed in the attached draft ordinance. The City of Kankakee had, and enforced, a similar provision. A brief overview of the case may be helpful to the discussion of Wilmette's enactment of such a provision. In *Willie Pearl Burrell Trust v. City of Kankakee*, an owner and landlord of numerous rental units within Kankakee ("City") owed to the City a debt of over \$40,000. This debt was incurred because of certain code violations that the plaintiff was deemed to have violated in a different set of lawsuits. The City requires a rental license for certain landlords and rental properties, and without such a license, rental

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<sup>1</sup> An "interested party" need not be the actual applicant, but a party that would receive a benefit from such license, permit, etc. An example of such an interested party would a homeowner who will receive the benefit of certain work when a permit is applied for by a contractor. While the contractor is the applicant, it is the homeowner (and contractor) that will need ensure all debts are paid before the permit is issued. Therefore, if the homeowner has not paid his water bill for over 30 days, this provision may apply. Furthermore, if the contractor did not pay for his business license, then the permit will not issue until the contractor has come into compliance.

units cannot be occupied by tenants. When the plaintiff went to renew its rental license, the City did not issue the license because of the debt due and owing.

The Kankakee provision is as follows:

No licenses required by this Code for the engaging in any business or the sale of any article shall be issued to any person who is indebted to the City, or any department thereof or who is indebted to the City for any fine or penalty adjudged against such person for the violation of any ordinances of the City, unless the indebtedness or the fine or penalty is first paid.

Plaintiff sued under three separate theories, all of which were rejected by the court.

1. **The City had a duty and obligation to issue the rental license:** The Court ruled that the plaintiff did not have a right to rental license since the City code expressly made payment of all debts a threshold requirement to the issuance of any license and that threshold has not been met by the plaintiff.
2. **The City violated the Plaintiff's due process rights by not issuing the license:** The Court ruled the since the plaintiff's license had expired and was only seeking a renewal of said license, plaintiff did not have a right to the renewal until all criteria was met, including the no debt due and owing criteria. Further, the Court also determined that a renewal of a license is not a property right; and therefore, due process rights do not attach.
3. **The City's demand for unpaid debts was an unconstitutional taking of property:** The Court ruled since the plaintiff did not have to relinquish any property right to the City, and rather, just had to pay its old outstanding debts; therefore, there was no unjust taking by the City in its demand to collect such debts prior to the issuance of a license as no property was lost or taken by the Village.

#### STAFF RECOMMENDATION

The draft provision is broader than the Kankakee provision as it does not just apply to "business" but rather any required license, permit, etc. Despite that distinction, the same principles of law should apply to the draft ordinance. Accordingly, it is the Corporation Counsel's recommendation that the attached ordinance be recommended by the Judiciary Committee for approval to the Village Board. Doing so will allow the Village to collect debts that were rightfully imposed and has a potential positive impact upon the Village's budget.

**ORDINANCE NO. 2017-O-X**

**AN ORDINANCE AMENDING VILLAGE'S GENERAL PENALTY  
(General Penalty)**

**WHEREAS**, the Village of Wilmette is a home rule municipality as provided in Article VII, Section 6 of the Constitution of the State of Illinois, 1970, and may pursuant to said authority undertake any action and adopt any ordinance relating to its government and affairs; and

**WHEREAS**, the Village has the right and desire to collect any and all debts due and owing to it in any manner as authorized by law; and

**WHEREAS**, the Village may restrict or deny the issuance of any license, permit, certification or other authorization required by the Village's laws if the applicant, or interested party, for such license, permit, certification or other authorization has a debt due and owing to the Village, until such debt is paid in full; and

**WHEREAS**, the Village President and Board of Trustees find that amending the Village's General Penalty, is in the best interests of the health, safety and welfare of the public.

**NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES** of the Village of Wilmette, Cook County, Illinois in the exercise of its home rule authority as follows:

**SECTION 1:** Each of the foregoing recitals and findings are hereby made a part of this Ordinance and are incorporated by reference as if set forth verbatim herein.

**SECTION 2:** The Wilmette Village Code, 1993, as amended, is further amended in Chapter 1, General Provisions, Section 1-12, by adding a new section 1-12.5 titled PAYMENT OF UNPAID DEBT and inserting the new text shown in underlined, bold type below, so that said new Section 1-12.5 shall hereafter read as follows:

**1-12.5 PAYMENT OF UNPAID DEBT**

**No licenses, certificates, and/or permits, or renewal of the same, required by the laws and ordinances of the Village shall be issued to any person or entity who is indebted to the Village for any Village water service or other Village services or utilities, fees, fines, judgments, levies or any other debts due and owing to the Village from such person, entity, or otherwise interested party to such requested license, certificate and/or permit, until the indebtedness is paid in full.**

**SECTION 3:** This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

**PASSED** by the President and Board of Trustees of the Village of Wilmette, Illinois, on the **XX<sup>th</sup> day of XXXXX, 2017**, according to the following roll call vote:

**AYES:** \_\_\_\_\_

**NAYS:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Village of Wilmette, IL

**APPROVED** by the President of the Village of Wilmette, Illinois, this **XX<sup>th</sup> day of XXXX, 2017**.

\_\_\_\_\_  
President of the Village of Wilmette, IL

**ATTEST:**

\_\_\_\_\_  
Clerk of the Village of Wilmette, IL