

## **COMMITTEE ASSIGNMENTS**

### **CHAIR**

- Licenses Committee

### **VICE CHAIR**

- Zoning, Neighborhoods and Development



**MILELE A. COGGS**  
ALDERWOMAN, 6TH DISTRICT

### **MEMBER**

- Finance and Personnel Committee
- Library Board
- Neighborhood Improvement Development Corporation Board
- Special Joint Committee on the Redevelopment of Abandoned and Foreclosed Homes
- Steering and Rules Committee
- Wisconsin Center District Board

November 16, 2023

To the Honorable, the Common Council

Honorable Members:

Re: Common Council File Number 231024

Attached are written objections to File Number 231024 Motion relating to the recommendations of the Licenses Committee relative to licenses, relating to a recommendation of:

Renewal with a 43 (forty three) day suspension of the Food Dealer license for Alfred C. Savaglio, based upon the preponderance of the neighborhood, aldermanic and applicant testimony which represents excessive littering and failure to comply with the plan of operations and requests made at the previous hearing (September 26, 2023); for the premises located at 1300 E Locust St. ("Dollar General Store # 14272") in the 3<sup>rd</sup> aldermanic district.

This matter will be heard by the full Council at its Tuesday, November 21, 2023 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached statement and materials.

Respectfully,

Milele Coggs, Chair  
Licenses Committee

cc: All Council Members  
City Attorney's Office  
Common Council/City Clerk – License Division  
CCF 231024





November 15, 2023

**VIA E-MAIL**

**jowcza@milwaukee.gov**

Mr. James R. Owczarski

City Clerk

City of Milwaukee

City Hall – Room 205

200 East Wells Street

Milwaukee, WI 53202

**RE: *Dolgencorp, LLC – Application for Food Dealer Renewal License for Dollar General #14272 at 1300 East Locust Street in the 6<sup>th</sup> Aldermanic District***

**SUBJ: Common Council File No. 231024: Written Response to the Report of the Committee dated November 10, 2023**

Dear Mr. Owczarski:

We represent Dolgencorp, LLC in connection with the above-referenced matter, an application for renewal of the Food Dealer License for Dollar General #14272 at 1300 East Locust Street. By copy of your November 10, 2023 letter, we received the Report of the Licenses Committee and Findings of Fact, Conclusions of Law and Recommendation reporting the committee's recommendation to renew the license with a suspension of forty three (43) days.

Pursuant to § 85-5-2, Milwaukee Code of Ordinances, the licensee objects to the Report of the Licenses Committee and the recommendation for suspension. We hereby request to be heard by the Common Council at its November 21, 2023 meeting.

**I. KEY FACTS, OMITTED FACTS, & ERRORS IN THE REPORT**

As explained below, the Report sets forth key facts that merit the Council's attention. *See* III.1.-3., below. However, as explained in III.4. – 9., below, the Report omits several important facts and it contains significant errors.

1. While ¶ 5.C. of the Report references our written supplemental plan, the full multi-page document with a total of 8 commitments/updates and their associated subsections should be considered by the Council and made available to the members in the record including in Legistar File No. 231024.
2. While ¶ 5.E.2. of the Report references our power point presentation from the prior meeting, the full multi-page Management Presentation document with photographs



evidencing the comprehensive cleaning and full reset of store that is Document #48 in Legistar File No. 230791 should be considered by the Council and made available to the members in the record including in Legistar File No. 231024.

3. Dollar General proactively updated its plan of operation and implemented a site sweep for litter and checking dumpster corral three (3) times per day as noted in ¶ 5.E.6. of the Report.
4. The Report omitted facts that (i) the testimony that the public alley was allegedly being improperly used was corrected by City staff in that the area is private property after the City vacated the alley in 1969; (ii) the Dollar General property has been zoned for commercial use for decades and the Gordon Knoll residential condominium complex was developed and its owners purchased units knowing of the adjacent commercial zoning; (iii) Dollar General has operated a store at the property for many years serving the community with goods and services; (iv) Dollar General offers a variety of employment opportunities at different levels and time commitments to members of the community; (v) community members – including residents of Locust Court Apartments, the next door 24-story, 230 unit apartment complex – rely on Dollar General for buying goods and service and its convenient location accessible by sidewalk, bike, transit, or vehicle; and (vi) Dollar General representatives engaged with the District Alderperson and attended the community meeting held by the District Alderperson on September 20, 2023, to discuss the issues with the neighbors.
5. In ¶ 5.L., the Report states that the preponderance of the evidence included excessive littering but the testimony as a whole did not support such statement; rather, the testimony of Attorney Randall was, in fact, the exact opposite in that he found the Dollar General property relatively litter free over the past 60 days. *See* ¶ 5.E.2.
6. There is not a police report documenting any issues with the store operations. *See* supplemental plan #8.b.
7. In ¶ 4.C. of the Report, it is incorrectly stated that copies of a police report were part of the hearing notice and that a hearing was scheduled on the police report.
8. While ¶¶ 5.E.I-K. of the Report makes general reference to the response by Attorney Randall to certain statements and photographs of the District Alderperson for a lack of foundation, as hearsay testimony, and as to the relevance of photos of a trespasser and a damaged fence both from the Gordon Knoll Condos' property, the references in the Report accord improper weight and credibility to the statements and photographs where an objection was made at the hearing.
9. In the second last paragraph of the Recommendation, the Report incorrectly states that the recommended suspension, if approved by the Council, will be in effect “between 12:01 am on November 21, 2023 until 11:59 pm January 3, 2023.” (emphasis added) Rather, if

approved by the Council, a 43 day suspension will be in effect between 12:01 am on November 22, 2023 (the day after the Council's action) until 11:59 pm January 3, 2024.

## **II. OBJECTIONS**

Dollar General formally objects to the Report of the Licenses Committee and the recommendation of a 43-day suspension under the following grounds:

- A. The committee failed to adopt the Report pursuant to § 85-4-6 and instead had the City Clerk's or City Attorney's Office prepare it, and allowed it to be forwarded to the full Common Council without the approval or consent of the entire Licenses Committee;
- B. The October 25, 2023 notice and enclosures provided insufficient notice to Dollar General for the possible reasons for a 43-day suspension or imposition of penalties;
- C. The committee failed to deliberate, and voted unanimously to approve, the recommended 43-day suspension set by the motion of the District Alderperson who provided lengthy testimony in opposition to the renewal at the September 26, 2023 and November 7, 2023 hearings;
- D. The committee failed to conduct a hearing on the severity of the penalty imposed on Dollar General separate from the hearing addressing whether the license renewal application should be renewed in the first instance, and failed to provide Dollar General the opportunity to be heard on the issue of the severity of the penalty;
- E. The committee failed to follow its customary and required principles of progressive discipline when considering imposing sanctions such that it should have recommended a warning letter or lesser suspension rather than a 43-day suspension where the City repeatedly renewed Dollar General's license without any issue over the past 3 years and a warning letter in 2019 (Wisconsin courts have noted that such principles are appropriate in order to satisfy the equal protection requirements of the U.S. Constitution, 14th Amendment. *See Village of Menomonee Falls v. Michelson*, 104 Wis. 2d 137, 145-46, 311 N.W.2d 658 (Ct. App. 1981)); and
- F. The committee recommendation of a 43-day suspension constitutes an unreasonable action and a violation of the vested rights possessed by Dollar General in its Food Dealer License.

## **III. CONCLUSION**

Dollar General has recognized the recent challenges it has had in operating the Locust Street store and the impacts on the community. In response, Dollar General engaged with the District

Alderson, replaced all of its store employees, altered its operational plans and filed written updates of the same, and implemented the necessary changes over time.

The Committee could have – and should have – recommended renewal with a lesser sanction because a 43-day suspension is an unreasonable penalty in light of all of the circumstances including Dollar General's documented challenges and progress in operational improvements at the store.

Please do not hesitate to contact me should you or any other City official have questions, wish to discuss, or need anything further from us.

Very truly yours,

Davis & Kuelthau, s.c.



Brian C. Randall

BCR:las

cc: All Via E-Mail  
stasst5@milwaukee.gov  
S. Todd Farris, Esq. – Deputy City Attorney  
Ald. Jonathan Brostoff  
Dollar General  
Kelly A. Anderson, Esq. – Amundsen Davis, LLC