

JAMES N. WITKOWIAK

ALDERMAN, 12TH DISTRICT

September 16, 2005

To the Honorable, the Common Council

Dear Members:

Re: Common Council File 050369

Recommendation of nonrenewal, based on non-appearance, of the Class "D" Bartender license of Regina Ard.

Recommendation of renewal with a 10-day suspension, based on the police report, of the Class "B" Tavern license of Jessica Stewart for the premises at 1422 W. Atkinson Ave. ("Stewart's Rest Spot") in the 6th Aldermanic District. (Committee vote: Ayes: 4, Noes: 1)

Recommendation of denial of the request by Erick Uecke for a permanent extension of the Class "B" Tavern premises to include extension of premises 12' on the north side of the current premises, reconfiguring the bar, kitchen and restroom areas and providing handicapped access for the premises at 2496 S. Wentworth Ave. ("Cactus Club") in the 14th Aldermanic District. (Committee vote: Ayes: 3, Noes: 1)

With regard to the items listed above, the Utilities and Licenses Committee held an evidentiary hearing on September 13th, 2005.

Pursuant to section 90-11, Milwaukee Code of Ordinances, and section 125.12(12), Wis. Stats., the Committee is transmitting a copy of its Report and Recommendations, regarding the above matters to your Honorable Body.

Pursuant to City Ordinances, prior to the time the Common Council acts on the Committee's Report, **a roll call vote will be taken** to confirm that all members present and voting have read the Committee's Report and any objections that have been filed by the Licensee.

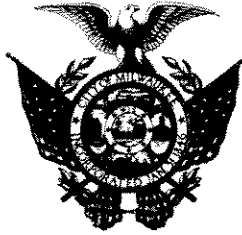
These matters have been scheduled for a hearing before the full Common Council at its meeting on **Tuesday, September 27, 2005** at 9:00 A.M. in the Common Council Chambers.

Respectfully,

A handwritten signature in black ink that reads "JAMES N. WITKOWIAK". The signature is written in a cursive, slightly slanted style.

James N. Witkowiak, Chair
Utilities & Licenses Committee

cc: All Council Members
CCF 050369



JAMES N. WITKOWIAK
ALDERMAN, 12TH DISTRICT

Date: September 16, 2005

To: All Members of the Milwaukee Common Council

From: Utilities and Licenses Committee

Re: Report on the Renewal Application of the Class "D" Bartender License of Regina D. Ard.

FINDINGS OF FACT

1. Regina D. Ard (hereinafter the "Licensee") is the holder of a Class "D" Bartender License in the City and County of Milwaukee, Wisconsin. Said license expired at midnight, December 31, 2004.
2. An application to renew said license was untimely filed with the Office of the City Clerk on August 9, 2005.
3. Pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes, the matter was referred to the Milwaukee Police Department for investigation. On August 10, 2005, the Milwaukee Police Department responded with a police report that could form a basis for non-renewal or suspension of said license.
4. On August 30, 2005, the City Clerk's Office provided timely notice to the Licensee pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes of the report of the Milwaukee Police Department and included therewith a copy of the Milwaukee Police Department report. The matter was scheduled for a hearing on the Police Department report on September 13, 2005, commencing at 2:00 p.m. in Room 301B of City Hall. At said date, time and place, the licensee did not appear and was not represented by counsel.
5. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. Notice of the hearing as well as a copy of the police report was sent to Regina D. Ard at 2247 North 49th Street, Milwaukee, Wisconsin 53208 on

August 30, 2005 by U.S. prepaid first-class mail in an envelope bearing the return address of the License Division. The address of 2247 North 49th Street, Milwaukee, Wisconsin 53208 is the address given by the applicant on her application. The envelope was not returned to the License Division by the United States Postal Service. The licensee failed to appear at the hearing on September 13, 2005.

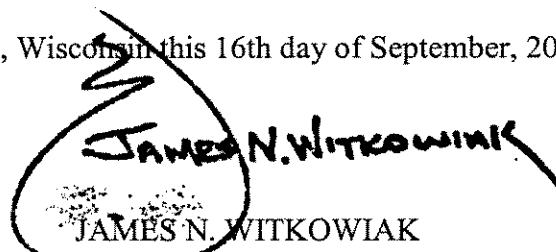
CONCLUSIONS OF LAW

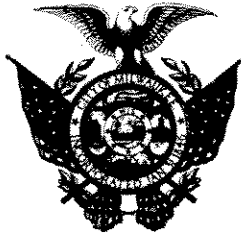
1. The Committee has jurisdiction to hold hearings and provide Findings of Fact, Conclusions of Law and a Recommendation to the full Common Council pursuant to Chapter 125 of the Wisconsin Statutes and Chapter 90 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found, the Committee recommends that the Class "D" Bartender licensee of Regina D. Ard be denied based upon nonappearance.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of five (5) ayes and zero (0) noes, recommends that the Class "D" Bartender License be denied based upon nonappearance.

Dated and signed at Milwaukee, Wisconsin this 16th day of September, 2005.


JAMES N. WITKOWIAK
Chairman of the Utilities
and Licenses Committee



JAMES N. WITKOWIAK

ALDERMAN, 12TH DISTRICT

Date: September 16, 2005

To: All Members of the Milwaukee Common Council

From: Utilities and Licenses Committee

Re: Report on the Renewal Application of the Class "B" Tavern license of Jessica Stewart for the license premises at 1422 West Atkinson Avenue in the City and County of Milwaukee, Wisconsin ("Stewart's Rest Spot").

FINDINGS OF FACT

1. Jessica Stewart (hereinafter the "Licensee") is the holder of a Class "B" Tavern license in the City and County of Milwaukee, Wisconsin. Said license expires at midnight, October 10, 2005.
2. An application to renew said license was filed with the Office of the City Clerk on August 1, 2005.
3. Pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes, the matter was referred to the Milwaukee Police Department for investigation. On August 2, 2005, the Milwaukee Police Department responded with a police report that could form a basis for non-renewal or suspension of said license. There were also neighborhood objections to loitering, littering, underage persons on the premises, drug activity, fights, shootings, robberies, disorderly patrons, prostitution and conduct which is detrimental to the health, safety, and welfare of the neighborhood.
4. On August 31, 2005, the City Clerk's Office provided timely notice to the Licensee pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes of the neighborhood objections and of the report of the Milwaukee Police Department and included therewith a copy of the Milwaukee Police Department report. The matter was scheduled for a hearing on the Police Department report on September 13, 2005, commencing at 10:00 a.m. in Room 301B of City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202. At said date, time and place, the licensee appeared and admitted receipt of the

police report. She was represented by Attorney Michael A.I. Whitcomb, 633 West Wisconsin Avenue, Suite 510, Milwaukee, WI 53203.

5. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. On February 23, 2005 at 7:12 p.m. officers of the Milwaukee Police Department conducted a license check of the licensed premises at 1422 West Atkinson Avenue in the City and County of Milwaukee, Wisconsin ("Stewart's Rest Spot"). Their investigation revealed that there were amusement machines on the premise but the license on the premise for the machines had expired. Jessica Stewart was issued a citation for license and permit required amusement machines and found guilty on May 18, 2005 and fined \$50.00.

The following incident has been added as a supplement to this attachment on August 30, 2005.

- B. On July 16, 2005 a shooting occurred at the licensed premises at 1422 West Atkinson Avenue in the City and County of Milwaukee, Wisconsin ("Stewart's Rest Spot"). One witness in the tavern stated that she heard 3 or 4 gunshots while she was seated at the bar. She thought they came from outside the tavern. Another witness stated that he heard at least 4 shots. After the shooting he noticed Thelma Stewart, who was seated at the bar, bleeding from her head. A third witness stated he observed 2 males standing outside of the bar with shotguns. He noticed a male from inside the tavern walk to the front door of the tavern with a .357 handgun. Once the male was in the doorway, the witness heard about 8 to 10 shots. No further information is available.
 - C. On August 11, 2005 at 10:57 p.m. an armed robbery occurred at the licensed premises at 1422 West Atkinson Avenue in the City and County of Milwaukee, Wisconsin ("Stewart's Rest Spot"). The robber fired one shot into the ceiling of the tavern.
 - D. No objecting neighbors testified as to any of the neighborhood objections noticed for hearing.

CONCLUSIONS OF LAW

1. The Committee has jurisdiction to hold hearings and provide Findings of Fact, Conclusions of Law and a Recommendation to the full Common Council pursuant to Chapter 125 of the Wisconsin Statutes and Chapter 90 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found, the Committee recommends that the licensee, Devon Brown, has not met the criteria of Chapter 125, Wis. Stats. or Chapter 90

of the Milwaukee Code of Ordinances to allow renewal of the Class "B" Tavern license held by the licensee without undergoing a ten (10) day suspension. The Committee finds the police report as stated above to be true.

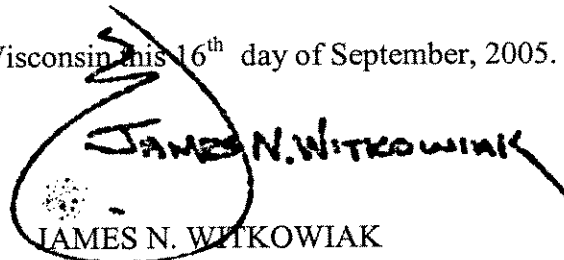
3. The Committee recommends that the full Common Council of the City of Milwaukee exercise its judgment to grant renewal of the Class "B" Tavern license for the licensed premises at 1422 West Atkinson Avenue in the City and County of Milwaukee, Wisconsin ("Stewart's Rest Spot") held by Jessica Stewart with a ten (10) day suspension based upon the danger that her conduct represents to the health, safety and welfare of the citizens of the City of Milwaukee.

RECOMMENDATION

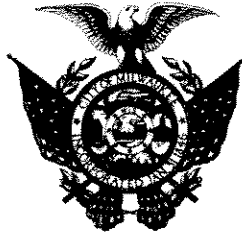
Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of four (4) ayes and one (1) no, recommends that the Class "B" Tavern license be renewed with a ten (10) day suspension based on the police report.

Said suspension is to be in effect between 12:01 a.m. October 11, 2005 and 12:00 a.m., October 20, 2005.

Dated and signed at Milwaukee, Wisconsin this 16th day of September, 2005.

A handwritten signature in black ink that reads "JAMES N. WITKOWIAK". The signature is written in a cursive style and is enclosed within a hand-drawn oval.

JAMES N. WITKOWIAK
Chairman of the Utilities
and Licenses Committee



JAMES N. WITKOWIAK
ALDERMAN, 12TH DISTRICT

Date: September 16, 2005

To: All Members of the Milwaukee Common Council

From: The Utilities and Licenses Committee

Re: Report of the request of Eric J. Uecke for the permanent extension of the Class "B" Tavern premises located at 2496 South Wentworth Avenue in the City and County of Milwaukee, Wisconsin ("Cactus Club")

FINDINGS OF FACT

1. Eric J. Uecke (hereinafter the "Licensee") is the holder of a Class "B" Tavern License for the premises located at 2496 South Wentworth Avenue in the City and County of Milwaukee, Wisconsin ("Cactus Club").
2. Said premises currently is contained in an area described as a premises 22'0" wide on the west side, a length of 69'21½" along the south side, 27'4" on the east side, and with the dimension of 27'4" extending 17'4" to the west where it decreases to a width of 22'0" to the extreme west end of the building.
3. On August 7, 2005, Eric J. Uecke submitted a permanent extension application form altering the current premises to 34'3" on the extreme west end, 69'2½" on the extreme south end to the east end, 44'3" on the extreme east end, and on the extreme end going to the west, 10'1½" to the point where it narrows 34'3" to the extreme west end of the premises. The proposed alteration changes the bar area from an east-west to a north-south direction, and increases the proposed bar area from 613 square feet to 687 square feet. The bar area is in the extreme west end of the building. The proposed alteration increases the number of available bathrooms and entrances and exits, and increases the standing room in front of a stage area from 751 square feet to 1,137 square feet according to the proposed floor plans.
4. As a result of the proposed alterations to the premises, not only does the interior square footage increase, but because of the proposed improvements to bathrooms and availability of exits, it is anticipated that the capacity of the location will increase from a present capacity of 80 to a capacity of as much as 200 persons.

5. The adjoining neighbors have objected to granting the proposed alterations to extension of this premises because of: loitering, littering, loud music and noise, parking and traffic problems, disorderly and unruly patrons, public intoxication and urination, late night disturbances, and conduct which is detrimental to the health, safety, and welfare of the neighborhood.
6. Neighborhood objectors have testified to the following facts regarding the proposed alteration:
 - A. Currently, they suffer from loud music from patrons at closing time, public urination from patrons exiting the premises and urination generally outside of the premises.
 - B. Currently neighbors are awoken by loud noises from the patrons of the tavern exiting at closing time and leaving the area on a regular basis.
 - C. Currently neighbors have observed patrons of this establishment drinking beer in cars, patrons swearing at them, and litter from patrons exiting the premises. Neighbors have experienced current patrons of the Cactus Club parking in front of their driveways, consuming alcoholic beverages outside of the premises and from motor vehicles parked in the adjacent area, and using abusive and profane language directed at the neighbors at closing time.
 - D. The problems with parking in the neighborhood are exacerbated in the winter time when parking is restricted to one side of the street. This results in patrons being required to park as many as three and four blocks away from the location. This has caused litter to be spread from the location of this premises to adjoining neighbors' homes on a larger area.
 - E. At least one neighbor testified that she has moved away from the location because of the noise and litter at the Cactus Club. She observed that what was once a quiet tavern expanded during the period of time between the time she bought her home in the area and the time she moved away. This caused an increase of noise, litter, disturbances and parking problems. These problems have increased according to this neighbor, at the point in time that the current licensee took over the location.
 - F. The neighbors generally complain that the traffic density in the area is already too high, and that increasing the capacity of this location will only increase traffic problems in the area to include parking problems.
 - G. The neighbors complain that any expansion of the capacity of the licensed outlet will exacerbate the problems testified to because these problems exist with a capacity of 80, and an increase in that capacity will only increase the number of these problems.

- H. The licensee and the supporters of the remodeling and result and expansion of this location argue that the intention is not to increase the capacity of this location, but to improve the physical plant, and as a result of improving the physical plant, the capacity will increase.
- I. The licensee and the licensee's supporters argue that, in fact, the actual number of patrons that will attend the location will remain relatively constant because the bands that draw patrons to this location have only a certain number of people who are interested in attending them, and that despite the resultant increase in capacity, in fact a relatively small increase in patronage will actually occur.
- J. The licensee and the licensee's supporters argue that the purpose of this plan is to allow increased usage of the facility during what are normally "off days" during the week and that they do not anticipate an actual increase in the amount of patronage, particularly on the weekends.
- K. The licensee and his supporters argue that other licensed locations in the area are attributable for much of the noise and that those other locations include "Mama DeMarini's", "At Random", "The Club Palomino", which is immediately to the west of the Cactus Club, "Club Garibaldi", and "Groppi's", which are immediately to the southwest of the Cactus Club, or in the immediate area. Indeed, the neighbors note that a grocery store known as "Groppi's" was approved for a Class "B" license for the service of wine and beer at an outdoor seating area. The Committee notes Groppi's closes at 7:00 p.m. and does not cater to or attract large crowds of persons that will roam the streets late at night hours. The Committee notes that the remaining clubs have not sought an alteration to the premises in question.
- L. The licensee and his supporters argue that the noise and traffic congestion is at least attributable to the other locations as to the Cactus Club, as well as traffic off the Hoan Bridge.
- M. Most of the objections to the proposed alterations are close neighbors while the supporters of the premises are younger professionals not close to the premises. Many of the supporters of the alteration are customers, employees, or entertain at the premises.

CONCLUSIONS OF LAW

1. The Committee is empowered by § 90-13 of the Milwaukee Code of Ordinances as follows:

Any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the utilities and licenses committee prior to issuance of a permit pursuant to s. 200-24 by the department of city development. An applicant

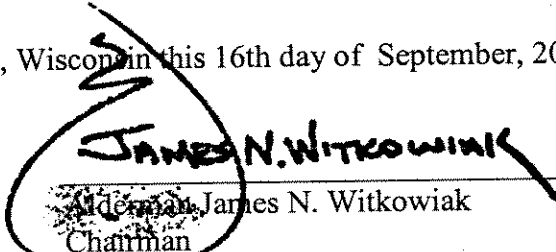
whose permit application has been denied by the committee may appeal the decision to the common council.

2. The Committee understands and recognizes that the testimony regarding the appropriateness of allowing the resultant expansion in the capacity of this location is mixed. However, on whole, the Committee finds that the supporters of the license expansion tend not to be neighbors located close by and include a large number of individuals who are employees or individuals who are in bands that are employed by the licensed premises and the licensee.
3. The Committee also recognizes and gives credence to the fact that the objectors tend to be neighbors that live close in to the licensed premises and have credibly testified to complaints regarding operations of the licensed premises resulting in neighborhood objections to loitering, littering, loud music, noise, parking and traffic problems, disorderly and unruly patrons, public intoxication and urination, late night disturbances and conduct detrimental to the health, safety and welfare of the neighborhood.
4. The Committee finds the neighborhood objections to the proposed alteration as stated above, to be true.

RECOMMENDATION

The Committee pursuant to the provisions of § 90-13, Milwaukee Code of Ordinances, recommends that the proposed expansion of the licensed premises as set forth in findings of facts set forth above be denied.

Dated and signed at Milwaukee, Wisconsin this 16th day of September, 2005.


Alderman James N. Witkowiak
Chairman
Utilities and Licenses Committee