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August 24, 2006

Ronald D. Leonhardt, City Clerk  
City Hall, Room 205

Re: Request for revocation of the Class "B" Tavern license of  
All Stars Bar & Grill at 4001 West Fond du Lac Avenue

Dear Mr. Leonhardt:

We have reviewed the letter dated August 2, 2006 and signed under oath by Katina Robertson-Johnson an employee of your office. This complaint seeks the revocation of the Class "B" Tavern license held by Kent L. Parker as co-owner of the entity known as All Stars Bar & Grill located at 4001 West Fond du Lac Avenue.

In substance the complaint alleges that there was a love triangle between Tyrone Robertson, Mr. Parker and a young lady by the name of "Tasha." The complaint alleges that Mr. Robertson was shot by Mr. Parker in the parking lot at 4001 West Fond du Lac Avenue as a result of the claimed love triangle. Various allegations are made and various witnesses are identified, but whose statements do not, as such, appear accompanying this letter.

The complaint goes on to allege that Mr. Robertson has been hesitant to share information with the Milwaukee Police Department for fear of retaliation, and that a charge has not been issued against Mr. Parker because he did not appear at a show-up in the District Attorney's Office on August 1, 2006 and the weapon has not been located.

Wis. Stat. § 125.12(2)(ag), provides in relevant portion:

**REVOCATION OR SUSPENSION OF LICENSES BY LOCAL  
AUTHORITIES.**

...  
(ag) *Complaint.* Any resident of a municipality issuing licenses under this chapter may file a sworn written complaint with the clerk of the

municipality alleging one or more of the following about the person holding a license issued under this chapter by the municipality:

1. The person has violated this chapter or municipal regulations adopted under s. 125.10.
2. The person keeps or maintains a disorderly, riotous, indecent or improper house.
3. The person has sold or given away alcohol beverages to known habitual drunkards.
4. The person does not possess the qualifications required under this chapter to hold the license. . . .

Wis. Stat. § 125.04(5) provides:

(5) QUALIFICATIONS FOR LICENSES AND PERMITS. (a) *Natural persons*. Licenses and permits related to alcohol beverages, issued to natural persons under this chapter, may be issued only to persons who:

1. Do not have a arrest or conviction record subject to ss. 111.321, 111.322 and 111.335;
2. Have been residents of this state continuously for at least 90 days prior to the date of application; and
3. Have attained the legal drinking age.

. . .

(d) *Criminal offenders*. No license or permit related to alcohol beverages may, subject to ss. 111.321, 111.322 and 111.335, be issued under this chapter to any natural person who has habitually been a law offender or who has been convicted of a felony unless the person has been duly pardoned.

It has been held in *State of Wisconsin ex rel. Smith d/b/a Rawson Development Group v. City of Oak Creek*, 139 Wis. 2d 788, 407 N.W.2d 901 (1987) that:

The statute in question [referring to Wis. Stat. § 125.04(5)(d)] , however, neither mentions misdemeanants and ordinance violators, nor states that a conviction is required before a person can be a habitual law offender. Had the legislature intended the phrase to assure that only those who had been convicted of misdemeanors and ordinance violations would, like felons, be prohibited from obtaining alcohol beverage licenses, it could have provided that 'no license . . . may . . . be issued under this chapter to any natural person who has been convicted of a felony or has been convicted of multiple misdemeanors or ordinance violations. . . .

The statute does not so provide nor does the statute contain the phrase, "convicted law offender", or any other indication that a conviction is always required before a person may be found to be a law offender. There is no cross-reference to any other statute dealing with habitual violators or containing a definition of "habitual offender." Indeed, the fact that the legislature has indicated in other statutes that a conviction is required, but has not done so here, validates the premise that a conviction is not always required under Wis. Stat. § 125.04(5).


In view of the foregoing, and with the caution that Ms. Katina Robertson-Johnson is apparently a relative of Mr. Robertson, the victim in this case, and the fact that Ms. Robertson-Johnson is a member of your staff, and, apparently, the legislative aide to Alderman James Witkowiak, the Chair of the Licenses Committee, we believe that as drafted this complaint does, in fact, state sufficient cause for revocation under Chapter 125. We raise the other issues to caution the Licenses Committee to take steps to avoid the appearance of a conflict of interest or bias. We make no opinion in this letter as to whether or not revocation is appropriate in lieu of some lesser sentence, or, that based upon a full development of the facts, the Licenses Committee might recommend to the Common Council that the complaint seeking revocation be dismissed.

We also note that nowhere in the complaint does Ms. Robertson-Johnson allege that she is a resident of the municipality, a statutory precondition for filing a complaint seeking revocation under Wis. Stat. § 125.12(2)(ag). We believe, however, that that deficiency may be made up by her testimony at the time of hearing. Finally, we caution that almost certainly all of Ms. Robertson-Johnson's testimony will be hearsay. The actual witnesses mentioned in her letter will be needed to testify in order to establish a case justifying any action.

Very truly yours,



GRANTE LANGLEY  
City Attorney



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