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June 10, 2010

Honorable Members of the City of Milwaukee Common Council
City Hall, Room 205
200 East Wells Street
Milwaukee, Wisconsin 53202

Re: Class "B" Tavern & Billiard Hall Licenses for the premises at 8340 W. Lisbon Ave.
 ("Old Lamp Inn's Frenchies")

Dear Members of the Common Council:

We are in receipt of the Licenses Committee's report recommending non-renewal of the above-referenced licenses. We have reviewed the video recording of the Licenses Committee hearing which took place June 2, 2010, and we have the following objections to the committee's report.

The committee relied heavily on a police report authored by City of Milwaukee Police Officer Darcie Trunkel who cited reports of two City of Milwaukee Police Detectives who did the actual interviews of the victims and other persons whose unsworn, out-of-court statements are cited in the report. The report is littered with inaccuracies, embellishments and outright false information. We objected to the use of and reliance on the report by the members of the Licenses Committee because it is unreliable, multi-layer hearsay. There was no testimony as to the veracity and reliability of that report. No indicia of its reliability were tendered at the hearing. See *Heggy v. Grutzner*, 156 Wis. 2d 186 (1990); *Wilder v. Classified Risk Ins. Co.*, 47 Wis. 2d 286 (1970). Though the committee chair noted our objection to their referring to and relying on the contents of the report, the members cited the hearsay statements as if they contained true and correct facts.

Two shootings were reported. One occurred February 24, 2010 in/on the licensed premises and a second occurred March 13, 2010 at the corner of N. 84th Street and W. Lisbon Avenue, outside and away from the premises. The victim of the first shooting is licensee Josef Lepold's landlord and father. He testified that the shooting was an accident and that it occurred after hours, when the tavern was closed. It is important to note that no alcohol, violence, or unruly behavior played any part in that accident, nor were there any charges filed by the police. In addition to approximately only 13 out of a total of 24 persons from the district present at the hearing who were allowed to come forward to testify in support of this renewal, even the two shooting victims testified that they supported or did not object to the renewal of these licenses. The second victim who was shot in fact testified that "the incident had nothing to do with the bar." In contrast, we tallied only five residents from the district who came forward to object to this renewal; one resident admitted that her objection was based solely on what she had heard from others, and not personal observation.

As I just alluded to, the committee unfairly limited the amount of time allotted to the supporters – more people than those allowed to speak were present and wanted to testify with sincerity in support of the applicants. They were real people from District 5 who had all taken time out of their schedules to come to the hearing who were certainly not “putting on an act,” as one of the committee members sarcastically stated. Many of them found that remark to be highly offensive – it effectively mocks the system in place for these hearings. And though the objectors in fact had *twice* the amount of time that the applicants had to present their witnesses and evidence (as can be easily gleaned from the video recording of the hearing), the applicants themselves were not permitted enough time to fully testify. This was a violation of their due-process rights under the United States and Wisconsin Constitutions, and it was simply unfair and prejudicial to them.

The recommendation by the committee to not renew this license for the reasons given contributes to the arbitrary and capricious disparity between other license applications and committee recommendations which Alderman Donovan has rightly criticized in the past.

An example of this unfair disparity is Infinity Lounge, located at 5318 W. Center St., which was renewed in June of 2007 with a 90-day suspension after testimony to the effect that "There's a lot of gun shooting, a lot of drug dealing and a lot of urinating in public going on." Alderman Michael Murphy is reported to have told the committee then that he has been trying for years to close Infinity Lounge. The police incident report apparently contained allegations that ten to twelve shots were fired in the bar and, when police arrived, a stream of patrons were seen running out the back door. The argument between supporters and objectors is reported to have escalated to the point that the committee chair (then Alderman Witkowiak) had to call break in the proceedings.

And, late last year, the committee recommended the renewal of the license of Lady Bug Club, 618 N. Water St., with only a 20-day suspension, despite a lengthy police incident report and neighborhood and police recommendations that the license not be renewed. This came after the premises received a 45-day suspension the year before.

In May of this year, Martini Mike's downtown was granted a renewal with a 90-day suspension after “[a] fatal shooting half a block from Martini Mike's, a downtown Milwaukee club, early Saturday . . . after months of escalating complaints of loud noise, fights and an earlier shooting that neighbors have said are associated with the establishment.” (JSOnline, May 15, 2010.)

Just this month, Alderman Kovac recommended a 30-day suspension after the owners of Quarters Night Club, 900 E. Center St., submitted a business plan for changes in the music format and adding a metal detector at the door. A June-3rd JSOnline article cites that “Ronnell Donyell Farr is charged with first-degree intentional homicide in the May 28 death of Michael Lamar Bender, and is awaiting an August trial. Police say both were in the bar before the shooting, which happened outside the bar at the corner of N. Bremen and E. Center streets.”

It further quotes Alderman Kovac as saying at that Licenses Committee hearing that “. . . in the months leading up to the shooting, ‘a large criminal element felt very comfortable in this bar.’”

The building in which this establishment is located has operated very successfully, and without incident, as a tavern since about 1947. It was the Old Lamp Inn between 1952 and 1993, and the New Lamp Inn from 1993 to 2003. In 2003, it was then leased to new licensees who operated it as Mixer's until 2008. The landlord was eventually forced to evict Mixer's for non-payment of rent.

The closing of Mixer's was a financial blow to Mr. Lepold's family. Having managed to recoup only part of the lost rent generated by the building in question by leasing the front half of it out to a pizza restaurant, Mr. Lepold and his father sought to mitigate their losses by resurrecting the former tavern in the back portion of the building. Again, this neighborhood landmark has been in operation as a tavern for approximately 52 years now, and this past year has been the only span of time in which any neighborhood or police complaints have been generated.

Contrary to the committee's perception, Mr. Lepold has never denied responsibility for failing to adequately police his patrons this past year for underage infringements. I noted for the committee's information the defense Mr. Lepold and his partner have to the two pending underage citations. Mr. Lepold is a responsible individual, an Afghanistan-War veteran with half a decade of honorable military service on behalf of our country who, incidentally, had to attend the committee hearing in his army fatigues because he had to immediately ship out to Ft. McCoy after the hearing to report for his annual reserve duty. It was not our intent to deny responsibility by trying to fully inform the committee as possible that Mr. Lepold and his partner are stuck between a rock and a hard place now when it comes to making statements about the pending citations, and also about the shootings themselves, because Police Officer Trunkel has threatened them with criminal charges related to the second shooting incident, thereby forcing them to invoke their right to remain silent. But this did not happen until both Mr. Lepold and Mr. Angelo did cooperate with law enforcement by immediately giving them all of the names and information that they had about those persons who may have played a role in the second shooting. The fact is that they have no other information to provide besides what has already been given. Nobody seemed to understand that at the hearing.

Curiously, certain members of the committee appeared to base their support for the motion to not renew primarily on what they perceived to be a total lack of remorse on the applicants' parts, but the motion came immediately on the heels of very remorseful statements by Mr. Angelo that he was "sick" about what happened. Mr. Lepold is the first to admit – and regret – his failures with this tavern. He was in shock at the hearing and unable to do much speaking, having only just been fully advised of the extent of the underage problem on his premises. Having very little time before the hearing to implement adequate remedial measures, he did invest in an ID-verification machine and started new procedures at the door to insure that no more underage people get in. The committee's recommendation not to renew gives him no fair and just opportunity to demonstrate that the new procedures and equipment will rectify everything, as the owners of Quarters were permitted to do.

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Mr. Lepold hereby commits in writing to you to continuously implement the following new policies, should the full Common Council decide not to follow the Licenses Committee's recommendation.

*No firearms are allowed on the premises.

*No person under the age of 25 years will be admitted onto the premises during operating hours.

Additionally, the mutual decision between Mr. Lepold and his partner, Mr. Thomas Angelo, that Mr. Angelo convey his 40% interest in the business to Mr. Lepold has been finalized. Mr. Angelo will therefore have no continuing ownership or control of the LLC for the new license period.

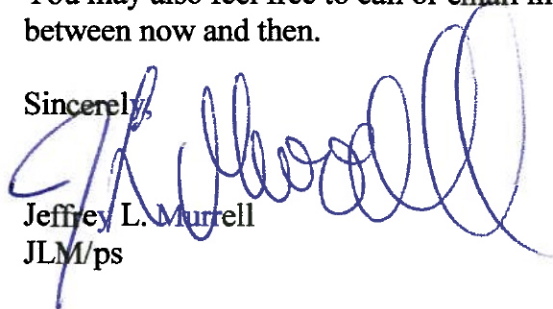
A fair and appropriate measure to take with these licenses is to renew them, but with a suspension. That will more than adequately serve to give Mr. Lepold a taste of what it's like to get shut down this summer, it will give him time to think about past oversights and to implement more corrective measures, and it will be more in conformity and congruent with the results of other problematic Licenses Committee hearings.

Please vote to renew Mr. Lepold's licenses June 15th and give him at least one chance to show you that he can fix the problems from this past year. In my many years of practice experience showing up before the Licenses Committee with clients in these matters, I cannot recall seeing an application for renewal with this type of history get an out-right nonrenewal. The history of this tavern would normally bring a warning or renewal with a suspension, and at least one year to clean things up. This Licenses Committee's decision to not renew these licenses is the most unfair, double standard that I have seen exercised by that body.

Though we will not take up anymore of your time on the 15th, Mr. Lepold's soon-to-be former partner, Tom Angelo, will be available to answer any questions you might have then because Mr. Lepold is away on military duty and Mr. Angelo is the next best person to answer your questions with as good a knowledge of the premises and the operation of the business as Mr. Lepold.

You may also feel free to call or email me at the number and e-mail address on this letterhead between now and then.

Sincerely,



Jeffrey L. Murrell
JLM/ps

cc: Bruce Schrimpf, Esq.

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RONALD D. LEONHARDT
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