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CITY OF MILWAUKEE  
LICENSES COMMITTEE HEARING

In the Matter of:  
GRANDVIEW WINDOWS & SIDING, INC.  
Joseph M. Milner

COMMITTEE MEMBERS

ALD. JAMES WITKOWIAK - Chairman  
ALD. JAMES BOHL, JR. - Vice Chairman  
ALD. JOSEPH A. DUDZIK  
ALD. WILLIE WADE

DEPARTMENT OF NEIGHBORHOOD SERVICES by BRIAN KAUFMAN  
LICENSE DIVISION by JIM COPELAND  
POLICE DEPARTMENT by SERGEANT JOHN HOGAN  
CITY ATTORNEY'S OFFICE by BRUCE SCHRIMPF

MARK TISHBERG, 611 North Broadway, Suite  
304, Milwaukee, Wisconsin, appeared on behalf of the  
Applicant.

Proceedings had and testimony given in the  
above-entitled matter before the UTILITIES &  
LICENSING COMMITTEE OF THE CITY OF MILWAUKEE on March  
22nd, 2005, before Terese M. Schiebenes of Milwaukee  
Reporters Associated, Inc.

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PROCEEDINGS

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(City Personnel previously affirmed.)

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CHAIRMAN WITKOWIAK: On the 2:15 agenda,

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Joseph A. Milner, agent for Grandview Windows and

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Siding, Inc., Home Improvement Contractor application

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for Grandview Windows and Siding at 614 West Oakland

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Road in Oak Creek. Good afternoon. Could you

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gentlemen raise your right hands and be sworn in,

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please.

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(JOSEPH MILNER and JIM MILNER duly

11

affirmed.)

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CHAIRMAN WITKOWIAK: Name and address for

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the record, please.

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MR. MILNER: Joseph M. Milner, 3915 West

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Layton Avenue, Greenfield, Wisconsin.

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CHAIRMAN WITKOWIAK: And you, sir.

17

MR. JIM MILNER: Jim Milner, 3915 West

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Layton, Greenfield, Wisconsin, 53221.

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CHAIRMAN WITKOWIAK: And you are related as?

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MR. JIM MILNER: Father.

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CHAIRMAN WITKOWIAK: And state your

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appearances, please, for the record.

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MR. TISHBERG: Attorney Mark Tishberg. I

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represent the corporation of Grandview Windows and

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Siding, Inc. I also represent both Joseph Milner and

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1 James Milner.

2 CHAIRMAN WITKOWIAK: Thank you. Do you  
3 admit to receiving a notice in the mail that there's a  
4 possibility this application could be denied because  
5 of items contained in the police report?

6 MR. TISHBERG: We acknowledge receipt of  
7 that, yes.

8 CHAIRMAN WITKOWIAK: Thank you. Sergeant  
9 Hogan.

10 SGT. HOGAN: Contained in the police report  
11 between the years 1989 and 1998, the applicant has 12  
12 convictions, anywhere from drug-related to theft-  
13 related, bail jumping, business practice violations,  
14 operating while intoxicated. In the year 2000, he had  
15 his driver's license suspended for a drug violation.  
16 He currently has a matter pending in Municipal Court  
17 for not having a home improvement or a contractor's  
18 license. That goes to Municipal Court again on March  
19 the 24th.

20 I will also inform the committee that this  
21 morning my office received a phone call from a Linda  
22 DuPont of the State Department of Consumer Protection,  
23 who informed us that her department has a number of  
24 current active complaints regarding illegal practices  
25 of Grandview Windows pending, including doing business

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1 within the City of Milwaukee without a license. She  
2 is forwarding that information to my office. She did  
3 not know how many violations or how many complaints  
4 they were investigating at this time, but a number of  
5 the complaints stem from the work done in the City of  
6 Milwaukee. That's all I have.

7 CHAIRMAN WITKOWIAK: Thank you very much.  
8 Does that sound like an accurate description? Do you  
9 have any questions of the police report?

10 MR. TISHBERG: No. It seems fairly  
11 accurate. We did meet with Ms. DuPont about, I  
12 believe it was three weeks ago. We went over many of  
13 those same items. Basically, what happened is my  
14 client has been in the business currently of  
15 installing windows and siding for about the last five  
16 years. Most of their work is done outside the City of  
17 Milwaukee, although they do do some in the City of  
18 Milwaukee, and it was only recently that they learned  
19 that they had to be licensed by the City of Milwaukee,  
20 even though they're licensed by the State of  
21 Wisconsin.

22 As soon as they learned that they had to be  
23 licensed by the City of Milwaukee, they did fill out  
24 and submit an application. There was some minor  
25 delays in that due to some misunderstandings and due

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1 to, should I say, incomplete information that was  
2 provided -- or was not provided, actually, by Mr.  
3 James Milner, partially because he did not know that  
4 they were looking for the information. It was only  
5 after I contacted the License Bureau and asked what  
6 the delay was that we found out that they're waiting  
7 for information that they never requested. But  
8 Grandview Windows has acted on getting a license  
9 immediately as it was brought to their attention that  
10 one was needed. I can address the other issues if  
11 anyone has questions about those.

12 ALDERMAN BOHL: Mr. Chairman.

13 CHAIRMAN WITKOWIAK: Alderman Bohl.

14 ALDERMAN BOHL: I'm wondering when the  
15 application was first made to the City of Milwaukee.

16 MR. COPELAND: It was filed January 27th,  
17 2005.

18 ALDERMAN BOHL: January of 2005, and yet the  
19 applicant was cited on April of 2003?

20 MR. TISHBERG: No. I don't think that's  
21 correct. I think it was 2004.

22 ALDERMAN BOHL: Mr. Chairman, maybe Sgt.  
23 Hogan can double check that. The information we have  
24 before us is 2003.

25 SGT. HOGAN: That's what my information

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1 says, too.

2 MR. TISHBERG: I know that case is not two  
3 years old, because I represented Mr. Milner from the  
4 beginning of that, and it was approximately a year ago  
5 that this started, and we were talking to the city  
6 attorney to find out exactly what was needed and  
7 whether or not the state license was sufficient, and I  
8 think we found out actually in November. And then  
9 basically Mr. Milner, Joseph Milner, was out of the  
10 city for a couple months this winter because they're  
11 setting up a location down in Florida, and he was down  
12 there setting up that location and only came back, I  
13 believe, the beginning of January, and an application  
14 then was filed shortly thereafter.

15 SGT. HOGAN: Mr. Chairman. It's very  
16 possible that it is a 2004 citation. I see the case  
17 number is that of a 2004 case. So it's probably a  
18 typo that says a citation was issued in 2003.

19 MR. SCHRIMPF: Mr. Chairman, I have a  
20 question.

21 CHAIRMAN WITKOWIAK: Mr. Schrimpf.

22 MR. SCHRIMPF: Thank you. Counsel, is there  
23 an arrangement between your clients and the City  
24 Attorney's Office that the citation will be dropped if  
25 you get a home improvement contractor's license from

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1 this body?

2 MR. TISHBERG: Yes, there is.

3 MR. SCHRIMPF: And what is the state license  
4 your clients have?

5 MR. TISHBERG: He has a state contractor's  
6 license. Unfortunately, he didn't bring it with him.  
7 It's at his office. Oh, I guess he has it down in his  
8 car. If this board would like to have it, he can go  
9 down and obtain it from his car. But there is a state  
10 contractor's license that he did take out -- I'm not  
11 sure if it was required or not -- but he did apply for  
12 it and did receive a state contractor's license.

13 MR. SCHRIMPF: Which department issued it?

14 MR. COPELAND: Under the law, it requires  
15 that the home improvement contractors in the State of  
16 Wisconsin get certified, bonded, and insured by the  
17 State of Wisconsin. The City of Milwaukee, in having  
18 another type of law, requires that if they're going to  
19 do business in the City of Milwaukee, it requires a  
20 city license, too.

21 MR. SCHRIMPF: And that's a certification  
22 from, what, the Department of Workforce Development?

23 MR. COPELAND: No, no. I can't remember the  
24 exact state department, but it is a requirement.

25 MR. TISHBERG: I believe it's part of the

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1 Agricultural Trade and Consumer Affairs.

2 MR. COPELAND: Yes, it is. Under trade  
3 licenses.

4 ALDERMAN BOHL: Mr. Chairman.

5 CHAIRMAN WITKOWIAK: Alderman Bohl.

6 ALDERMAN BOHL: Thank you. I'm wondering,  
7 it's been indicated here that Mr. Milner has been  
8 practicing this trade for about five years.

9 MR. TISHBERG: No. That was a misstatement.  
10 What I meant is this, and I'll go into great detail.  
11 Mr. Milner has been in the home improvement business  
12 for approximately 15 years or more. Part of that  
13 time, basically, he was doing minor home improvements.  
14 He then got into installing windows along with home  
15 improvements.

16 Grandview Windows and Siding, Inc. was  
17 incorporated approximately, I think it was like  
18 January of 2001, so that corporation has been in  
19 operation for about four years. That's what I meant.  
20 Mr. Milner prior to that -- and I will address the  
21 police reports now -- Mr. Milner did have some --

22 ALDERMAN BOHL: Mr. Chairman, if I may. I'm  
23 sorry to interrupt.

24 MR. TISHBERG: No problem.

25 ALDERMAN BOHL: My question, and I had



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1 follow-up questions to that, and I think you were  
2 going in a different direction. In staying on this,  
3 now, when you talk about January 2001, how long has  
4 Mr. Milner been doing business in the City of  
5 Milwaukee?

6 MR. TISHBERG: Well, that's it. They don't  
7 do much work in the City of Milwaukee. A lot of their  
8 work is in Oak Creek, Waukesha, Racine, North Shore  
9 suburbs. They've maybe done, what, five jobs in the  
10 City of Milwaukee during that period of time. Most of  
11 their remodelings and that are the suburban areas and,  
12 like I say, south of the City of Milwaukee.

13 ALDERMAN BOHL: Well, wouldn't these other  
14 communities still require you to be licensed?

15 MR. TISHBERG: No, they do not require any  
16 license. City of Milwaukee is the only city that we  
17 have been informed of that requires a separate  
18 license from that city.

19 ALDERMAN BOHL: I'm going to guess, though,  
20 that those communities still require you to pull  
21 permits for work that is done.

22 MR. MILNER: It depends on the work. On  
23 replacement windows, unless you're changing the  
24 opening structurally, you don't need a permit.

25 ALDERMAN BOHL: So for the work that you've

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1 done in Milwaukee, you traditionally have not been  
2 required by law to pull permits; is that what you're  
3 saying?

4 MR. MILNER: Yes.

5 MR. COPELAND: Excuse me. What work were  
6 you doing in the City of Milwaukee? Because the city  
7 ordinance is specific as to why you require a home  
8 improvement contractor's license, and it's 95-14, and  
9 it requires a license if you're going to do  
10 improvements on existing homes or buildings used for  
11 residential purposes not exceeding six units,  
12 driveways, sidewalks, other approaches to the  
13 building, it shall include roofing, walls, siding,  
14 windows, doors, floors, partitions, ceilings, porches,  
15 awnings, heating, furnace, air conditioning, chimneys,  
16 water softners, humidifiers, purifiers, electrical  
17 installation, plumbing installation, concrete work,  
18 painting, and sheet metal work.

19 MR. TISHBERG: We're not saying that the  
20 permit was not needed in the City of Milwaukee, but  
21 the question --

22 MR. MILNER: Excuse me. You said that's the  
23 license, right?

24 MR. COPELAND: You're required to have a  
25 license in order to perform those.

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1                   MR. MILNER: Right. But you don't have to  
2 pull permits to do those unless you're changing an  
3 opening structurally or doing siding.

4                   MR. KAUFMAN: He's correct with the  
5 structural openings, as long as you're not changing  
6 them out, you don't require it, but you do require a  
7 license to do siding in any residential or commercial  
8 in the city.

9                   MR. MILNER: Right, which we weren't aware  
10 of, we weren't aware of the license restriction. If  
11 you do HUD or you do work for the city, I was aware of  
12 that, but I thought that was the only reason you  
13 needed a license.

14                   ALDERMAN BOHL: My whole reason in leading  
15 that question was ultimately, unless you were  
16 licensed, you would have never been issued a permit,  
17 so if you were doing work -- and typically people  
18 would pull permits for most types of major repairs --  
19 you would have to come, request a permit, and when you  
20 would have requested a permit, they would have said  
21 no, I'm sorry, you're not licensed in the City of  
22 Milwaukee, we can't issue you a permit.

23                   I don't know, to me, it strikes much as the  
24 young woman who came before us and said I didn't know  
25 that if you weren't 21 you couldn't be in a bar. Just

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1 pretty far fetched to me to have somebody who's been  
2 in that trade for years and doesn't know that you  
3 don't need to pull permits, and therefore, don't have  
4 to be licensed.

5 MR. TISHBERG: Alderman, what I'm saying is  
6 in the City of Milwaukee, it is required, but in many  
7 of the other municipalities, it is not required, and  
8 my client -- Ignorance is no excuse. We're just  
9 saying why it was not done is that my client was not  
10 aware of it and I shall say somewhat negligently did  
11 not research it.

12 ALDERMAN BOHL: Well, obviously, the State  
13 Department of Agricultural, Trade, and Consumer  
14 Protection has contacted the Police Department's  
15 Investigation Unit here. I am just curious, Mr.  
16 Chairman, I think we ought to hold this matter because  
17 the one thing that I do want to see is whether or not  
18 there were individuals, based on complaints made, who  
19 had work performed in the City of Milwaukee between  
20 the time of April of even 2004 -- we'll grant you 2004  
21 -- April 2004 and January 2005 in which the  
22 application came forward for this license, because  
23 there can be no feigning ignorance if you actually  
24 were cited in April of 2004 and you waited  
25 approximately eight months before you applied for a

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1 license if work was done in that interim time.

2 MR. TISHBERG: First of all, one of the  
3 referrals by the Department of Consumer Protection is  
4 the same one which has a citation pending. We did  
5 meet with the Department of Consumer Protection.  
6 Their comments were that -- They were satisfied with  
7 our explanation. We met with them for about an  
8 hour-and-a-half.

9 And basically one other issue that was was  
10 the particular contract that we had had a clause in it  
11 which is not allowed by a court case and that  
12 indicated has never been enforced by our corporation  
13 is that if somebody breaches a contract, they could be  
14 responsible for actual attorney's fees. We have  
15 removed that from our contract because we found out  
16 that there was a court case that indicates that such  
17 contracts, the total contract is null and void if said  
18 clause is in it, and that was another issue that was  
19 brought up by the Consumer Protection people.

20 No one has suffered any financial losses  
21 because of any of these issues, including the ones  
22 that are cited on the police reports. These prior  
23 cases, if I may address it, all relate to Mr. Milner  
24 and his now deceased wife having a controlled  
25 substance problem, which has been dealt with. The

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1 citations, although they were cited for various  
2 reasons, basically were modified to unfair trade  
3 practices primarily because -- and all these contracts  
4 were at about the same time -- because Mr. Milner  
5 failed to include in his contract a start and  
6 completion date, and by not having that, that was a  
7 violation of the criminal law, and basically he was  
8 slow in getting some jobs done. But every job was  
9 completed, and a couple people that did not want their  
10 jobs completed were refunded their full monies, even  
11 though half the work or more was completed. So in all  
12 these cases, no one lost even one dime other than Mr.  
13 Milner.

14 ALDERMAN BOHL: Mr. Chairman, follow-up.  
15 Sgt. Hogan, when was it that this representative from  
16 Consumer Protection contacted you?

17 SGT. HOGAN: 10:45 a.m. this morning.

18 CHAIRMAN WITKOWIAK: Mr. Chairman, we would  
19 be doing a disservice to the public if we moved  
20 forward and granted this license here, in light of not  
21 having all the facts before us, because it sounds like  
22 there still are some outstanding issues, and I think  
23 it would be prudent before we act that we have all  
24 those pieces of information before us.

25 And I still say that if Mr. Milner here

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1 knowingly -- if one is going to feign ignorance of the  
2 law, that's one thing, it's another thing if after a  
3 person is issued a citation and told now you know you  
4 need to have a valid license here in the City of  
5 Milwaukee, if we were to find out that four months  
6 later he was signing contracts for business in the  
7 City of Milwaukee, then it's no longer ignorance, then  
8 it ultimately is outright defiance of the law.

9 And I think that's a possibility, I think  
10 that there may be information that will come before  
11 this body from the state, and it's our duty to ensure  
12 that we have all that information before we issue a  
13 license.

14 MR. TISHBERG: Alderman Bohl, I can tell you  
15 as an officer of the court that none of the issues  
16 brought up by the Consumer Protection Department nor  
17 have any citations or any problems taken place since  
18 the citation. In fact, Mr. Milner or Grandview  
19 Windows has not done any City of Milwaukee properties  
20 since being cited about a year ago. He does do  
21 suburbs, but he has not done any in the City of  
22 Milwaukee.

23 There was also a delay, partial delay, in  
24 getting a license due to my client having to get  
25 bonding in the City of Milwaukee for insurance bonding

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1 for this. Even though he had state bonding, there was  
2 a problem with the bonding company, which we  
3 subsequently resolved getting bonding in the City of  
4 Milwaukee. I don't know what the reason for that was,  
5 but primarily because of his prior record. But that  
6 was resolved, and the bonding company was satisfied.

7 But I can tell you -- if the sergeant wants  
8 to check, fine, we have no problems -- there was no  
9 new referrals basically of any job that started or was  
10 even worked on over a year ago, since a year ago.  
11 Also, we met with the Department of Consumer  
12 Protection four or five weeks ago, and I don't  
13 understand why they wait until the almost 12th hour to  
14 contact the police, because our meeting with them,  
15 like I say, was, I believe, at the end of January.

16 ALDERMAN WADE: Mr. Chair.

17 CHAIRMAN WITKOWIAK: Alderman Wade.

18 ALDERMAN WADE: Does your client have any  
19 contracts pending in the City of Milwaukee for the  
20 next 30 to 60 days? Is there a reason why he has to  
21 have this right away?

22 MR. TISHBERG: The reason why he has to have  
23 it right away is because of the municipal citation,  
24 where we have a hearing -- actually, it's in two days,  
25 and basically, the city is requiring him to be



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1 licensed by that date or is asking us to show proof  
2 that he will be licensed, that his license has been  
3 approved. I'm not sure if the court is going to  
4 accept a delay or not. I'm hoping they will, based on  
5 -- If this committee is going to delay it, fine. I  
6 mean, hopefully the city will delay and keep their  
7 offer open.

8 But Mr. Milner has been doing -- since  
9 Grandview Windows started, they've done over 2,000  
10 jobs, and like I say, maybe five of them might have  
11 been in the City of Milwaukee, none of them have been  
12 since April of last year, and he has had no  
13 complaints, although, like with any company, you've  
14 got some people that feel like after the job is done  
15 that they paid too much for it, but all those have  
16 been resolved, except a couple people have contacted  
17 Consumer Protection Department, but that has all been  
18 satisfied with them, like I say, about five or six  
19 weeks ago.

20 ALDERMAN WADE: Mr. Chair.

21 CHAIRMAN WITKOWIAK: Alderman Wade.

22 ALDERMAN WADE: How long have you known that  
23 you've needed this approval from the City before you  
24 went in front of the court system? You just found out  
25 30 days ago, you just found out 60 days ago, how long

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1 did you know that you needed this information?

2 MR. TISHBERG: I believe it was like in  
3 November, but like I say, Mr. Milner, Joseph Milner,  
4 who was out of town, had to apply himself because the  
5 citations are actually against him and not against  
6 Grandview Windows. He is the main salesman for  
7 Grandview Windows, and as a salesman, he has to be  
8 licensed, it's not just the corporation. So he was  
9 issued the citation, and because he was not in the  
10 city, he could not make application until he came back  
11 in January.

12 ALDERMAN WADE: Okay.

13 CHAIRMAN WITKOWIAK: Any further questions  
14 by members of the committee? Before we proceed any  
15 further with this, there's six -- these are letters of  
16 recommendation, and Alderman Dudzik moves to make  
17 these part of the permanent record in this matter.  
18 Hearing no objections, so ordered. I'll just identify  
19 them. There's one from Countrywide Home Loans,  
20 another one from Wells Fargo Financial, third one from  
21 Lang Exterior, a fourth one from Paul Newendorf, PM  
22 Professional Sales, Inc., the fifth one from Express  
23 News, and the sixth one from Anderson-Smith  
24 Advertising Consultants. Alderman Dudzik moves to  
25 make those items part of the record in this matter.

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1 Hearing no objections, so ordered.

2 MR. TISHBERG: Alderman Witkowski, can I say  
3 one other thing?

4 CHAIRMAN WITKOWIAK: I'm Alderman Witkowiak.

5 MR. TISHBERG: I apologize. Now, it's been  
6 suggested that you put off this approval until  
7 somebody could talk to the Consumer Protection  
8 Department. It's my understanding that even if this  
9 committee approves this, it goes to the full committee  
10 on about April 12th. That gives, approximately, three  
11 weeks for Sgt. Hogan or the police department to  
12 double check anything that I've said, and like you've  
13 told everyone else, if there have not been any  
14 changes, the license will be issued.

15 Well, I'm saying that if you find out that  
16 there is something that we have not disclosed to you  
17 or something in those reports that is persuasive as to  
18 not issue a license that at that point the license be  
19 denied and we be afforded basically an appellant  
20 procedure if we want to challenge it. But I'm sure  
21 that there's not going to be anything in those reports  
22 that is going to change this committee's mind, and I  
23 don't want to have to wait or my client to wait  
24 another 30 days or 60 days before they can, should I  
25 say, sell their wares in the City of Milwaukee.

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1                   We are getting into the season where people  
2 do remodeling in the spring and summer of the year,  
3 and a delay could financially affect my client. If  
4 you wish to delay it, I'll understand, but I'm asking  
5 this committee to not delay it.

6                   CHAIRMAN WITKOWIAK: Thank you. Members of  
7 the committee?

8                   ALDERMAN BOHL: Mr. Chairman. I would move  
9 to hold this matter to the call of the chair. I'm  
10 hopeful that the License Division could get in contact  
11 with the representative from the State Department of  
12 Consumer Protection, Linda DuPont, and at least issue  
13 notice with the possibility of having this person come  
14 forward and providing testimony to the committee. I  
15 think it would only be appropriate if we would  
16 potentially notice individuals who contacted Consumer  
17 Affairs. We may find an individual in the City of  
18 Milwaukee who would come forward and want to testify.

19                   I, for one, would like to see if there are  
20 complaints made from the City of Milwaukee that would  
21 be on record with the state, in which we would find  
22 out if Mr. Milner knowingly, knowingly was soliciting  
23 and performing business in the City of Milwaukee after  
24 he had been made aware of the circumstance. I don't  
25 think that it's the burden of the committee to approve

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1 and then find out later and then backtrack.

2 You don't have a license, you don't have  
3 vested property rights in this. It is our burden to  
4 ensure that if we're going to grant a license that  
5 we're doing so with the public's interest, with the  
6 health and welfare in mind, and that burden is not  
7 harmed by a 30-day delay. I think it's our best bet  
8 to have all the facts. We don't have them all here  
9 before us. That's why I make this motion.

10 CHAIRMAN WITKOWIAK: Motion by Alderman Bohl  
11 is to recommend that this matter be held at the call  
12 of the chair. Are there any objections to that  
13 motion? Hearing none, so ordered.

14

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