

JAMES N. WITKOWIAK
ALDERMAN, 12TH DISTRICT

April 26, 2005

To the Honorable, the Common Council

Dear Members:

Re: Common Council File 041686

Recommendation of nonrenewal, based on nonappearance, of the Class "D" Bartender license of Amber Hernke.

Recommendation of nonrenewal, based on nonappearance, for the 24 Hour Establishment renewal application of Gregory Pingry, Agent for "Heartland Food Corporation" with change of officer and plan of operation for "Burger King #6091" at 1841 S. 14th St. in the 12th Aldermanic District.

Recommendation of renewal, with a 10-day suspension based on the police report, of the Class "B" Tavern and Tavern Amusement (Cabaret/Nite Club) application for Charles Cicirello, agent for "BRC Enterprises, Inc." for the premises at 219 S. 2nd St. ("219") in the 12th Aldermanic District.

With regard to the items listed above, the Utilities and Licenses Committee held an evidentiary hearing on April 19th, 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, May 3, 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 style and is enclosed within a hand-drawn circle.

James N. Witkowiak, Chair
Utilities & Licenses Committee

cc: All Council Members
File No. 041686

Date: April 22, 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 Amber E. Hernke.

FINDINGS OF FACT

1. Amber E. Hernke (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 March 14, 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 March 15, 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 April 7, 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 April 19, 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 Amber E. Hernke at 5340 South McCreedy Avenue, Cudahy, Wisconsin 53110 on April 7, 2005 by U.S. prepaid first-class mail in an envelope bearing the return address of the License Division. The address of 5340 South McCreedy Avenue, Cudahy, Wisconsin 53110 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 April 19, 2005.

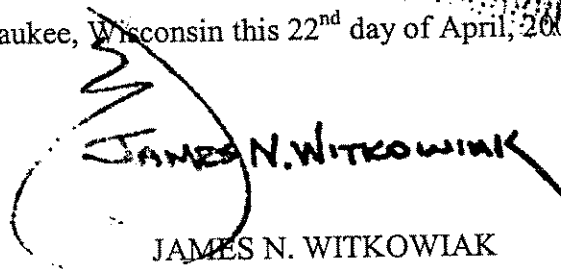
CONCLUSIONS OF LAW

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 Amber E. Hernke 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 22nd day of April, 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, irregular oval shape.

JAMES N. WITKOWIAK
Chairman of the Utilities
and Licenses Committee

Date: April 22, 2005

To: All Members of the Milwaukee Common Council

From: The Utilities and Licenses Committee

Re: Report on the 24-hour establishment renewal application of Gregory A. Pingry, agent for Heartland Food Corporation, d/b/a "Burger King #6091" located at 1841 South 14th Street, in the City and County of Milwaukee, Wisconsin.

FINDINGS OF FACT

1. Gregory A. Pingry, agent for Heartland Food Corporation (hereinafter the "Licensee") is the holder of a 24-hour establishment license for the premises located at 1841 South 14th Street, in the City and County of Milwaukee, Wisconsin ("Burger King #6091"). Said license expires at midnight, April 30, 2005.
2. An application to renew said license was filed with the Office of the City Clerk on February 17, 2005. The application also sought renewal with a change in plan of operation from 6:00 a.m. to 3:00 a.m. on weekends.
3. Pursuant to Section 84-7 of the Milwaukee Code of Ordinances, the matter was referred to the Milwaukee Police Department for investigation. There were no police objections. There were, however, neighborhood objections to the change in the plan of operation. The change in hours will lead to noise, litter, unruly patrons, traffic problems and conduct which is detrimental to the health, safety, welfare and prosperity of the neighborhood. All this could form the basis for nonrenewal or suspension of the license.
4. On April 8, 2005 the City Clerk's Office provided timely notice to the Licensee, pursuant to Section 84-7 of neighborhood objections that could form the basis for suspension or nonrenewal of the license of the Licensee. The matter was scheduled for a hearing on the police objections on April 19, 2005 at 3:15 p.m. in Room 301B of the third floor of City Hall. At said date, time and place, the licensee did not appear nor was he represented by counsel.
5. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. Notice was sent to the licensee by United States first class prepaid mail in an envelope bearing the return address of the License Division addressed to Gregory A. Pingry, agent for Heartland Food Corporation, W175 S7806 Castle Glen Court, Muskego, Wisconsin 53150 on April 8, 2005 advising the licensee of the objections to the change in operation. The address of Gregory A. Pingry, agent for Heartland Food Corporation, W175 S7806 Castle Glen

Court, Muskego, Wisconsin 53150 was the address listed by the applicant on his application. The notice bearing the objections was not returned to the License Division by the United States Postal Service. The licensee failed to appear at the hearing on April 19, 2005.

- B. The alderman's aide for the 12th aldermanic district was present and stated there was opposition to the change in the plan of operation as there are already three fast food operations within a block area.

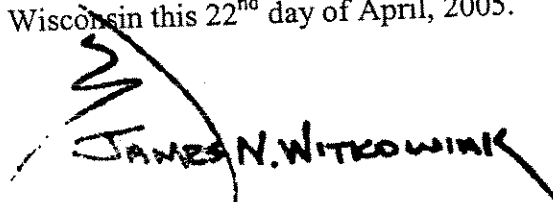
CONCLUSIONS OF LAW

1. The Committee has jurisdiction to hold hearings and provided Findings of Fact and Conclusions of Law and a Recommendation to the full Common Council pursuant to Section 84-7 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found, the Committee concludes that the licensee, Gregory A. Pingry, agent for Heartland Food Corporation for the premises at 1841 South 14th Street in the City and County of Milwaukee, Wisconsin ("Burger King #6091") has not met the criteria of Section 84-7 of the Milwaukee Code of Ordinances to allow renewal of his 24-hour establishment license, 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 24 hour establishment application held by Gregory A. Pingry, agent for Heartland Food Corporation for the premises at 1841 South 14th Street in the City and County of Milwaukee, Wisconsin ("Burger King #6091") not be renewed based upon nonappearance.

Dated and signed at Milwaukee, Wisconsin this 22nd day of April, 2005.



JAMES N. WITKOWIAK
Chairman of the Utilities
and Licenses Committee

Date: April 22, 2005

To: All Members of the Milwaukee Common Council

From: The Utilities and Licenses Committee

Re: Report of the Class "B" Tavern and Tavern Amusement (Cabaret/Nite Club) renewal application of Charles Cicirello, agent for BRC Enterprises, Inc., d/b/a "219" located at 219 South 2nd Street, in the City and County of Milwaukee, Wisconsin.

FINDINGS OF FACT

1. Charles Cicirello, agent for BRC Enterprises, Inc., d/b/a "219" is the holder of a Class "B" Tavern and Tavern Amusement (Cabaret/Nite Club) license for the premises located at 219 South 2nd Street, in the City and County of Milwaukee, Wisconsin ("219"). Said license expires at midnight, May 18, 2005.
2. An application to renew said license was filed with the Office of the City Clerk on March 29, 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. There was a Milwaukee Police Department report dated April 10, 2005, which could form the basis for nonrenewal or suspension of the license.
4. On April 12, 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 police objections that could form the basis for suspension or nonrenewal of the license of the licensee. The matter was scheduled for a hearing on the police objections on April 19, 2005 at 3:30 p.m. in Room 301B of the third floor of City Hall. At said date, time and place, the licensee did appear but 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. On February 26, 1999, officers of the Milwaukee Police Department conducted a tavern check of the premises at 219 South 2nd Street in the City and County of Milwaukee, Wisconsin ("219"). There was a licensed bartender on the second floor, but an unlicensed bartender on the first floor, who was not under immediate supervision of a licensed bartender. An officer of the Milwaukee Police Department began to check the open liquor behind the bar and observed three bottles of contaminated liquor with deceased bugs floating in the liquor. The officers checked the bottles

in the upper level rear. The officers found nine bottles of contaminated liquor with deceased bugs floating in the liquor. The licensee was charged with Responsible Person on licensed premises which was dismissed on August 2, 1999. The licensee was charged with Tavern Sanitation which was not issued by the City Attorney on May 6, 1999. the bartender was charged with Class "D" bartender license required which was not issued by the City Attorney on May 6, 1999.

- B. On March 20, 2002, at 9:45 PM, officers of the Milwaukee Police Department, with a police aide, went to the licensed premises at 219 South 2nd Street in the city and County of Milwaukee, Wisconsin ("219"), to investigate a complaint regarding sale to underage persons. Upon arrival, the underage police aide entered the premises and proceeded to the bar. He asked the bartender for a Corona beer. The officers, in plainclothes also entered the premises, and ordered alcoholic beverages. The bartender brought the three drinks, and charged them \$12.50, which the police aide paid. He was not asked for identification or proof of age. The bartender told the officers he did not ask for ID, or proof of age, because he thought the police aide was of age. The bartender was charged with Sale of alcoholic beverage to underage person. On May 21, 2002 he was found guilty and fined \$150.00.
- C. On April 12, 2003 at 9:45 pm an underage Milwaukee Police Department police aide entered the licensed premises at 219 South 2nd Street in the city and County of Milwaukee, Wisconsin ("219"). The aide was able to purchase three Corona beers from the bartender, Daniel Gain. The licensee Charles Cicirello was on the premises. The licensee Charles Cicirello was charged with Underage Licensee's Responsibility and on June 3, 2003 he was found guilty of this charge and fined \$341.00. The bartender, Daniel A. Gain was charged with Sale to Underage and found guilty on June 3, 2003 and fined \$150.00.
- D. On February 26, 2004 a city of Milwaukee Police Department police aide entered licensed premises at 219 South 2nd Street in the city and County of Milwaukee, Wisconsin ("219"). The aide was able to purchase three Corona beers from the bartender Roger J Shawhan. The licensee, Charles Cicirello, was charged with Licensee Responsibility for which the disposition is not known. The bartender Roger J Shawhan was charged with Sale To Underage and found guilty and fined \$152.00.
- E. Between June 17, 2004 and July 31, 2004 Milwaukee Vice Control Officers working undercover, were able to make buys of Cocaine and Ecstasy at the licensed premises at 219 South 2nd Street in the city and County of Milwaukee, Wisconsin ("219"). Some of the drug buys were made between the DJ employed by "219" and another employee of the "219" and the undercover officer. Also a series of controlled drug buys

were made by a confidential informant. The licensee Charles Cicirello stated that he doesn't spend much time in the bar and was unaware of what was going on, although he did suspect it. He also stated, "What am I supposed to do about it when over 60% of the people coming in here are using the stuff?"

Seven (7) arrests were made for Delivery Of Controlled Substance (Cocaine) and one of those had an added count of Delivery Of Controlled Substance (MDMA).

CONCLUSIONS OF LAW

1. The Committee has jurisdiction to hold hearings and provided Findings of Fact and 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 concludes that the licensee, Charles Cicirello, agent for BRC Enterprises, Inc., d/b/a "219" is the holder of a Class "B" Tavern and Tavern Amusement (Cabaret/Nite Club) license for the premises located at 219 South 2nd Street, in the City and County of Milwaukee, Wisconsin ("219") has not met the criteria of Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes to allow renewal of his license, without undergoing a ten (10) day suspension.
3. In order to protect the health, safety and welfare of the citizens of the City of Milwaukee, it is the recommendation of the Utilities and Licenses Committee that the full Common Council of the City of Milwaukee should exercise its discretion to renew the Class "B" Tavern and Tavern Amusement (Cabaret/Nite Club) license held by Charles Cicirello, agent for BRC Enterprises, Inc., for the premises located at South 2nd Street, in the City and County of Milwaukee, Wisconsin ("219") with a ten (10) day suspension.

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 "B" Tavern and Tavern Amusement (Cabaret/ Nite Club) license held by Charles Cicirello, agent for BRC Enterprises, Inc., for the premises located at South 2nd Street, in the City and County of Milwaukee, Wisconsin ("219") be renewed with a ten (10) day suspension.

Said suspension is to be in effect between midnight, May 18, 2005 and midnight, May 28, 2005.

Dated and signed at Milwaukee, Wisconsin this 22nd day of April, 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 circle. A large, stylized number "3" is written above the signature.

JAMES N. WITKOWIAK
Chairman of the Utilities
and Licenses Committee

92252



Office of the City Clerk

Ronald D. Leonhardt
City Clerk

Carolyn Hill Robertson
Deputy City Clerk

April 22, 2005

Charles Cicirello, Agent
BRC Enterprises, Inc.
2355 North 55th Street
Muskego, WI 53210

Dear Mr. Cicirello:

You are hereby notified that the Milwaukee Common Council will hold a hearing on May 3, 2005 commencing at 9:00 a.m., or as soon thereafter as this matter may be heard, in the Common Council Chambers on the third floor of City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202 to consider your Class "B" Tavern and Tavern Amusement (Cabaret/Nite Club) license as agent for BRC Enterprises, Inc. for the premise located at 219 South 2nd Street, Milwaukee, Wisconsin ("219").

Attached you will find a copy of the Report of the Utilities and Licenses Committee which includes their Findings of Fact, Conclusions of Law and Recommendation, recommending renewal of the license with a ten (10) day suspension based upon a police report. The recommendation is the result of a public hearing before the Committee held on April 19, 2005 and a police report.

You may file a written objection to the Report of the Utilities and Licenses Committee and shall have the opportunity to present arguments in writing supporting that objection to the Common Council. Any written objections to the Committee's Report must be filed with the City Clerk at least two (2) days prior to the above-mentioned date set for hearing by the Common Council. You or a legal representative may also appear at the Common Council meeting and request an opportunity to address the Common Council for approximately five (5) minutes to present an oral argument on your own behalf.

Respectfully,

RONALD D. LEONHARDT
City Clerk

Enclosure
92274



Office of the City Clerk

Ronald D. Leonhardt
City Clerk

Carolyn Hill Robertson
Deputy City Clerk

April 22, 2005

Gregory A. Pingry, Agent
Heartland Food Corporation
W175 S7806 Castle Glen Court
Muskego, WI 53150

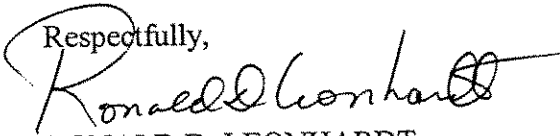
Dear Mr. Pingry:

You are hereby notified that the Milwaukee Common Council will hold a hearing on May 3, 2005 commencing at 9:00 a.m., or as soon thereafter as this matter may be heard, in the Common Council Chambers on the third floor of City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202 to consider your 24-hour establishment license as agent for Heartland Food Corporation for the premise located at 1841 South 14th Street, Milwaukee, Wisconsin ("Burger King #6091").

Attached you will find a copy of the Report of the Utilities and Licenses Committee which includes their Findings of Fact, Conclusions of Law and Recommendation, recommending nonrenewal of the license based upon neighborhood objections. The recommendation is the result of a public hearing before the Committee held on April 19, 2005 and neighborhood objections.

You may file a written objection to the Report of the Utilities and Licenses Committee and shall have the opportunity to present arguments in writing supporting that objection to the Common Council. Any written objections to the Committee's Report must be filed with the City Clerk at least two (2) days prior to the above-mentioned date set for hearing by the Common Council. You or a legal representative may also appear at the Common Council meeting and request an opportunity to address the Common Council for approximately five (5) minutes to present an oral argument on your own behalf.

Respectfully,


RONALD D. LEONHARDT
City Clerk

Enclosure
92272



Office of the City Clerk

Ronald D. Leonhardt
City Clerk

Carolyn Hill Robertson
Deputy City Clerk

April 22, 2005

Amber E. Hernke
5340 South McCreedy Avenue
Cudahy, WI 53110


Dear Ms. Hernke:

You are hereby notified that the Milwaukee Common Council will hold a hearing on May 3, 2005 commencing at 9:00 a.m., or as soon thereafter as this matter may be heard, in the Common Council Chambers on the third floor of City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202 to consider your Class "D" Bartender License Renewal Application.

Attached you will find a copy of the Report of the Utilities and Licenses Committee which includes their Findings of Fact, Conclusions of Law and Recommendation, recommending nonrenewal of the Class "D" Bartender License. The recommendation is the result of a public hearing before the Committee held on March 22, 2005 a police report and nonappearance before the Committee to answer a police report that could form the basis of nonrenewal or suspension of this license.

You may file a written objection to the Report of the Utilities and Licenses Committee and shall have the opportunity to present arguments in writing supporting that objection to the Common Council. Any written objections to the Committee's Report must be filed with the City Clerk at least two (2) days prior to the above-mentioned date set for hearing by the Common Council. You or a legal representative may also appear at the Common Council meeting and request an opportunity to address the Common Council for approximately five (5) minutes to present an oral argument on your own behalf.

Respectfully,


RONALD D. LEONHARDT
City Clerk

Enclosure

c: License Division
MPD License Investigation Unit
File