

# CITY OF MILWAUKEE

Form CA-43

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August 26, 2002

Ronald D. Leonhardt  
City Clerk  
City Hall, Room 205

Re: 8614 North 107<sup>th</sup> Street-Vinny's Pizza revocation

Dear Mr. Leonhardt:

Under cover of a memorandum dated August 8, 2002, you have forwarded to us a sworn complaint of Arthur L. Jones dated August 1, 2002 seeking the revocation of the food dealer license held by Vinza, Inc., for the premises doing business at 8614 North 107<sup>th</sup> Street (hereinafter "Vinny's Pizza"). The facts as alleged by the Chief of Police would indicate that this restaurant was the source of a number of controlled buys of cocaine in the amount of 2 and 4 grams from family members and corporate officers of Vinza, Inc., who operate the pizzeria.

Section 68-4-11 of the Milwaukee Code of Ordinances ("MCO") sets forth the cause for revocation or suspension of a license. Section 68-4-11-d states in relevant portion:

- d. The conviction of the applicant or licensee, his or her agent, manager, operator or any other employee for sale or possession within intent to sell any controlled substance or for any felony related to the licensed operation which, in the judgment of the common council, is pertinent to the license being applied for or renewed.

Under § 68-4-11-g and specifically g-2, a cause for revocation or suspension can be "illegal drug activity."

While the incidents described by Chief Jones in his sworn complaint of August 1, 2002, do not indicate any conviction has yet occurred, it is clear, that under the provisions of § 68-4-11-g-2 illegal drug activity has nonetheless been taking place upon the premises. In *State ex rel. v.*

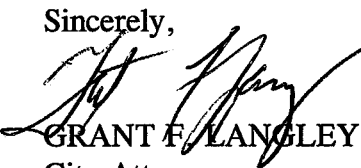
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*Smith v. City of Oak Creek*, 139 Wis. 2d 788, 798-99, 407 N.W.2d 901, 905 (1987), it was held where a sworn statement has been made stating one has committed illegal acts, that is enough to form the basis of a denial of a license to one who was an "habitual law offender." Further, under § 111.335(1)(b), it is perfectly appropriate to refuse to license one who is the subject of a pending criminal charge, where the circumstances of the charge are substantially related to the circumstances of the licensed activity.

On the basis of the sworn charges of the Chief of Police, the restaurant was a place where controlled substances were illegally bought and sold.

We recommend that a summons issue in light of § 68-15-a-1, MCO.

Sincerely,

  
GRANT F. LANGLEY  
City Attorney

  
BRUCE D. SCHRIMPF  
Assistant City Attorney

BDS:wt:56996

c: Seth Foldy, Health Commissioner  
Arthur L. Jones, Chief of Police

1084-2002-2547