

In re the Tavern and Tavern Amusement License of

LOUNGING AROUND, INC
d/b/a Envy Lounge and Nightclub
715-17 South 5th Street
Milwaukee, Wisconsin.

CITY OF MILWAUKEE
2010 MAR 19 PM 2:01
RONALD D. LEONHARDT
CITY CLERK

**OBJECTIONS
TO FINDINGS OF FACT, CONCLUSIONS OF LAW AND
RECOMMENDATION OF LICENSES COMMITTEE**

Samer L. Asad and Lounging Around, Inc., d/b/a Envy Lounge and Nightclub, by their attorneys Gimbel, Reilly, Guerin & Brown LLP, hereby object to the findings of fact of conclusions of law issued by the City of Milwaukee Licenses Committee and object to the Committee's recommendation to deny renewal of Envy's Tavern Amusement License, also known as its Cabaret/Nightclub License, for the premises located at 715-17 South Fifth Street in the City and County of Milwaukee, Wisconsin. As grounds, Asad informs and advises the Common Council as a body of the whole as follows.

1. Asad is a corporate officer for Lounging Around, Inc. and is the owner/operator of Envy. As confirmed by several witnesses at the Committee hearing, Asad is vigilant about safety, both on his premises and in the

surrounding neighborhood, and is an advocate of working with other local business owners to development of the area.

2. The area within which Envy is located has been a target for redevelopment for decades and has grown to be a popular destination for many Milwaukee and area citizens. Within two blocks of Envy are popular establishments such as La Fuente, La Perla, Botanas, Pedranos, Club Tropical and Texture. Club Tropical and Texture, like Envy, are nightclubs.

3. Paragraph 5 of the Findings of Fact outlines police incidents that occurred at Envy from January 26, 2009 through January 2010. All of the incidents described within paragraph 5, subparts A through I, are hearsay reports. The factual basis for those reports was not presented to Asad or his attorney to enable them to confront and cross-examine witnesses to such alleged incidents prior to the Committee hearing.

4. The Findings of Fact outlined in paragraph 5 should be viewed by the Common Council; however, the Council also should consider several significant mitigating circumstances.

5. The first three incidents (¶5.A-C) involve claims that purses were stolen while patrons were at Envy. Whether these purses were actually stolen or simply misplaced by the patrons is unknown. Envy offers both a coat check and a purse check, but those options obviously were not used by these patrons. Asad

was not advised of these thefts until well after the fact. Had he been notified contemporaneously or soon after the incidents, he would have been able to check the Envy's security cameras to assist in identifying the thief. Envy has approximately 30 security cameras located inside and outside the club.

Moreover, the suggestion that any establishment should be responsible for missing purses, when in all likelihood those purses were left unattended while the complaining witnesses were on the dance floor is simply untenable. An establishment's licensure should not hinge on its patrons' failure to be vigilant about the whereabouts of their own possessions.

6. The September 27, 2009 incident (§5.D) involved a fight outside the premises at closing time. A bus was parked on the street picking up people from a party when an unknown person, who is not established to have been a patron of Envy, began shouting obscenities and threats to a patron outside the club. Other people became involved in the argument and a fight broke out. Police officers were on the scene to investigate an unrelated matter and began acting to disperse the crowd. A subsequent check inside the premises revealed that Envy's license "was not properly displayed" and a citation was issued, but was later dismissed without prejudice.

Asad acknowledges this incident occurred outside Envy. He testified that following this incident, he implemented a change in policy whereby "last call" is

announced earlier on the first floor. This early last call results in dissipation of the crowd in shifts, and has avoided dispersing large crowd onto the street at the same time. To Asad's knowledge, large crowds gathering outside the club at closing time has not been an issue since this change in policy.

7. The October 31, 2009 incident (§5.E) involved a confrontation between two women fighting over a man. The incident occurred outside the club's premises while the patrons were walking to their car. It is not clear from the recitation of the incident by Sergeant Mac Gillis at the Committee hearing whether the incident occurred on Envy's premises or somewhere down the street. Although it is true that this particular altercation occurred between Envy patrons, a catfight arising from a jealous rage could happen anywhere at any establishment.

8. The December 12, 2009 incident (§5.F) appears to have involved two patrons who got into a hair-pulling fight inside the club, which was broken up by management and security. The man who pulled the woman's hair ran out the back door and the woman was escorted out the front door. After she was outside the club, the woman was punched by the same man. It is not clear from Sergeant MacGillis's recitation of the incident whether it occurred on Envy's premises or somewhere down the street. Moreover, no facts were presented that indicated the incident arose because of the cabaret aspect of the club.

9. The January 3, 2010 incident (¶5.G) involved a woman being cut with a plastic cup while in the woman's restroom. In the short two months since that incident, Asad has installed "panic buttons" in both men's and women's restrooms so attendants and patrons can contact security immediately. Once again, no facts were presented that indicated the incident arose because of the cabaret aspect of the club.

10. Paragraph 5.H. describes a citation issued to Wisam Asad for sale of alcohol to a minor on December 3, 2009. Asad notes, however, that in reciting the incidents Sergeant MacGillis stated that the citation was issued to Samer Asad. This was incorrect. In addition, Wisam Asad has not been convicted of the cited offense as it is scheduled for a pretrial hearing on April 1, 2010. Moreover, this incident did not occur at Envy -- it occurred at a completely different address -- and Envy has no record of serving to underage persons.

11. Paragraph 5.I. refers to neighborhood complaints. It is Asad's view that since the Committee hearing, individuals who lodged complaints about his establishment have reconsidered the implications of the complaints, that they currently believe that the termination of Asad's Tavern Amusement license is an excessive remedy for the behavior of which they complained, and that these neighbors would not oppose reconsideration and modification of the recommended sanction to the Common Council.

12. Finally, during the hearing there was significant discussion regarding the format of the club and how Asad changed the format from a lounge to a nightclub after obtaining approval and licensure. Asad testified that to his recollection, his business plan referred to the establishment a nightclub. (Transcript at 55). Indeed, the business plan, a copy of which is attached as Exhibit A, refers to the existing format in multiple provisions, including the Mission Statement's reference to a dance floor; the Industry provision's statement that "... operations will focus specifically on the dance club and upscale bar section of this industry"; and the Competitive Edge provision's statement that the upper level "will provide the dance club and 'party' atmosphere." These premises were never intended to be a staid lounge in the vein of an establishment like At Random.

Dated this 19th day of March, 2010.

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Lounging Around Inc.

Mission Statement

Lounging Around Inc. will provide a safe and entertaining location for customers who are leaving local establishments or looking for a refreshing change from the downtown nightlife. We will provide entertainment on multiple fronts such as a upscale bar downstairs and an upstairs dance floor. Our atmosphere will be controlled by the type of music we play, enforcing a strict dress code, and the overall design and marketing strategy used to attract our target market. Our focus will be customer service. We want our customers to have a great experience before they enter, after they leave, and remember this experience so they will return.

Company Description

Our corporate name will be "Lounging Around Inc", a Wisconsin Corporation. A name for the club will be formally chosen at our next company meeting. Our operations will be located at 715 S. 5th Street, Milwaukee, WI 53204. Lounging Around Inc. has not decided on what form of corporation to elect as of yet. The decision of this election involves many key factors such as capital invested, tax planning, legal liability and so on. We have hired Lawrence J. Stein, CPA, to assess our options and suggest what form of entity our business should be.

Industry

We will operate our business in the bar and night club industry. There are a wide variety of businesses that belong to this industry such as sports bars, comedy bars, dance clubs, martini lounges, restaurant and bars, etc. Our operations will focus specifically on the dance club and upscale bar section of this industry. Our focus will be the enjoyment of our patrons by providing a high quality environment for patrons to socialize and drink responsibly. Our plan is to offer reasonably priced drinks, and bottle service to attract a more prominent crowd. We feel it is imperative to create a safe and comfortable atmosphere for customers to be able to enjoy themselves. With this sort of atmosphere, people will stay longer, spend more, and be repeat if not regular customers.

Funding

The owners listed below will provide the funding for this venture. It will be a mixture of bank loans, and personal savings. Wisam Asad, Samer Asad, and Eddie Innab will split the initial investment costs and start up costs. Any future capital needs will be acquired through the use of a line of credit opened with Legacy Bank. Also, we have a cash reserve that will be put into a high yield money market to accrue interest in the event that a cash inflow is needed.

Location

The location of Lounging Around Inc. is an area that has been gradually increasing with new restaurants and other bars. It is located at 715 S. 5th Street, Milwaukee, WI 53204. We feel the location is imperative to attracting our targeted market. In researching a target market, we have found the City of Milwaukee has a total population of 596,974. Of this population, 232,057 are between the ages of 21-44. We feel that being close to two of the most famous restaurants in the city, La Fuentes and La Perla, can help us reach our target market. Our location is very close to I-43, and I-94 which allow easy access to our location. Furthermore, the neighborhood traffic is already quite extensive from our neighboring businesses customer base. Being within a few minute walk of these fabulous restaurants can give us an excellent customer base of people who are done eating and are looking to continue their evening without traveling very far.

Owners

Lounging Around Inc will have three shareholders with equal holdings in the corporation. We will authorize a specific amount of shares and issue less than those shares to potentially keep shares available if we decided to sell shares to raise additional capital to be invested in the business.

Shareholder 1:

Wisam L Asad-Owner/President

As President of our company Mr. Asad will oversee the company and ensure it is on track to meet our expectations laid out by our plan. In this industry, it is imperative that a strategic well thought out plan be put to use and followed. He will also be involved in day to day management of the business. Mr. Asad has vast experience in entrepreneurial ventures at only the age of 29. He has opened and is currently operating a restaurant, grocery store, gas station and fully participates in running a rental complex. At his grocery store named LA Foods, he has obtained and maintained a Class B beer license without any violations, and completed the Responsible Beverage Service Course at MATC. His vendors and contractors used in the current operations of these businesses hold him in the highest regard. He can provide references at any point if desired.

Samer Asad- Owner/Vice President of Operations

As our Vice President Mr. Asad will oversee all operations of the company and make sure business is running as efficiently and cost effective as possible. He will also be in charge of interviewing new employees, training them, and scheduling of hours to meet staffing

requirements. Inventory control is a very important aspect of our operations; Mr. Asad has experience of inventory control from managing Jefferson Mobil and LA Foods. Both businesses require extensive inventory controls to maintain sufficient cash flows to meet liabilities as they come due. LA Foods has a Class B beer license and Samer is trained in retail alcohol sales through the grocery store. His management experience comes from managing LA Foods, a grocery store that has been family owned for over 30 years. Also, our gas station Jefferson Mobil, was acquired in 2005 by Wisam Asad. Samer was in charge of establishing all internal controls, anti-money laundering policies, and operations policies. Samer has a degree in Accounting from the University of Wisconsin-Milwaukee which he received in December of 2007.

Eddie Innab- Owner/ Vice President of Marketing

As our Marketing Vice President, Eddie will be in charge of designing marketing plans to attract our target clientele. Mr. Innab will also have presence among the crowd and be a well known face as he greets regular customers and listens to how we can improve our service to our customers. Eddie has a degree from one of the most prominent schools in the country, Brown University. Furthermore, he worked in New York City as a paramedic for 12 years and is well trained in emergency medical attention. Mr. Innab felt he wanted to continue his medical training and is one test away from receiving his nursing degree. We feel he will be a valuable asset in any emergency situation if one happens to arise. Eddie's father owns multiple grocery and liquor stores in New York City. He was involved in managing these businesses and has experience in retail liquor distribution. He moved to Milwaukee from New York in 2006 because he felt that this would be a better environment to raise his children.

Competition

Current competition is seen in the map in Appendix A. The map shows four other nightclubs and bars that are within one miles of our location: Texture, Steny's, Club Anything, and Rain. Mexican restaurants in the same radius are depicted in the second map.

Texture promotes "casual, funky" bar attire (per listed details on AOL's Cityguide) and has no dress code enforced. Music played is primarily hip-hop, which insights violence through the use of explicit lyrics. These features create an atmosphere which attracts a crowd that we do not feel would mix well with our target market or encourage them to frequent our establishment.

Rain charges a \$5.00 cover and has strict enforcement of their dress code. They provide valet parking, play popular music, and attract a decent crowd (similar to our target in age and spending habits). Rain is open Fridays and Saturdays, and offers a service industry night on Mondays.

Steny's offers a variety of food and has darts and other arcade games. They do not charge a cover. They classify themselves as a pub, and seek a college crowd, open 365 days a year.

Club Anything caters to the alternative crowd, with patrons ranging from grunge to gothic. Their music genres are goth, industrial, metal, punk, rockabilly, and lounge. They are open seven days a week.

Eve's prices are moderate to expensive, which attracts a more prominent, professional crowd and eliminates the presence of casual tavern-goers. There is a cover charge after 10 pm, and valet parking is available. They are not open Sunday or Monday.

Decibel charges a cover on weekends, and has valet parking available. A dress code is enforced. They are Milwaukee's first to offer an exclusive vodka lounge. There are two distinct sections in the bar, with one side being a large open area for dancing with multiple bars available, and another that is smaller, with one bar and fireplaces and tables. The DJ plays a variety of music throughout the evening.

Buckhead's Saloon offers live bands Thursdays, Fridays, and Saturdays, as well as a regular DJ. They have "Ladies Night" every Thursday, and allow guests to book parties during regular hours and receive drink specials during the night. Private events may also be scheduled at Buckhead's.

Competitive Edge

We are planning to compete in our market with a few key elements. First, without a loyal customer base, we can not succeed. Lounging Around Inc. will provide the highest standards of service by employing experienced staff, maintaining a clean facility, and offering free services such as free local phone to use and free coffee. Our company feels that a great experience should not end when you enter the restroom and plan on keeping extremely clean facilities. We have read reviews of some of our competitors and found that they have provided a bad experience before patrons even entered their business. Our door staff will be extremely humble and friendly so that our patrons will have a great experience even before entering our establishment. Once inside they will be greeted with fast drink service, affordable entertainment, and varying experiences depending on what level they are on. The lower level will provide a relaxed atmosphere for people to drink and talk. The upstairs level will provide the dance club and "party" atmosphere. We are planning to make the lower level smoke free. We feel this will attract people who do not frequent bars because of the smoke filled environment. Lounging Around Inc. will also pursue an aggressive marketing campaign to create our image throughout the city. We fill the aforementioned items above will differentiate us from our competition and help us to take market share from them.

Our Dress Code

Our dress code is an important part of our business. Without a proper dress code, we could end up getting a crowd that is other than our target market. We have taken the time to fully draft out how our dress code will be and it is as follows:

Not Acceptable/Denied Entry

“There will be no hats of any kind allowed inside the club, skull caps, t-shirts, baggy clothing, sweat pants, tennis shoes, boots, logos on clothing, sneakers, or clothing with brand name written in big bold lettering or stitching. Clothing manufacturers that are known for doing this are Sean John, ECKO, G-Unit, Roca Wear. Also, clothing may not be worn below the waist all jeans must be at waist level.

Acceptable Clothing

*The following is a list of expected attire to gain entry into our establishment: Dress shoes (any shoe that be buffed to a shine), Dress Shirts with buttons, Polo's, khakis, suits, slacks, sport coats, non-baggy jeans, ties, collared shirts. If you meet these requirements, gaining entry will not be an issue.***

****LOUNGING AROUND INC. IS A PRIVATE CLUB AND CAN REFUSE SERVICE TO ANYONE, ANYTIME AND FOR ANY REASON.**

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