

WHITCOMB LAW

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December 13, 2012

The Honorable Common Council
of the City of Milwaukee
Room 205, City Hall
200 E. Wells Street
Milwaukee, WI 53202

CITY OF MILWAUKEE
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CITY CLERK'S OFFICE

Re: Renewal of Class "B" Tavern, and Public Entertainment Premises Licenses
Licensee: Whiskey River Saloon—Milwaukee, LLC
Premises: 023 N Old World 3rd St
Trade Name: Irish Rec Room

Honorable Members of the Common Council:

Please be informed that this office represents the above-referenced license renewal applicant. This communication is submitted as the applicant's written objections to the December 6, 2012, report of the Licenses Committee (hereinafter "Committee"), recommending to not renew the licenses. The applicant requests that these written objections be considered at the Common Council meeting of Tuesday, December 18, 2012, at which time the Committee's recommendations regarding the license renewals will be considered. The recommendation of the Committee was based only upon two minor incidents contained in a report of the Milwaukee Police Department, neighborhood objections from competitors and the tavern's decision to not be open seven days a week. Non-renewal for these reasons is severe and excessive punishment.

One month prior to the December 6, 2013, Committee hearing, the owner and agent, John Shemitis, took proactive steps in improving his tavern operation by terminating his management staff, and by partnering with Kelly Vecitis to assist in the management of the

tavern. Mr. Vecitis is the Vice President of the Tavern League and has close to thirty years of experience in operating successful and responsible taverns—among others, “Kelly’s Bleachers on Bluemound.” Mr. Vecitis is fully committed to this establishment as he has already invested \$20,000 of his own money in improvements.

As he admitted at the hearing, Mr. Shemitis was not pleased with the past operation of his tavern and he even agreed with some of the neighborhood complaints. These complaints were: 1) promotion by outside parties; 2) the elimination of lunch service; and 3) not operating seven days a week. However, Mr. Shemitis had already decided to change and improve his establishment well before the Committee hearing making these complaint moot.

In addition to partnering with Mr. Vecitis, Mr. Shemitis has invested close to \$100,000 in improvements in recent months. These improvements, among others, include new kitchen equipment, luxury leather seating for sports viewing, a new audio/video systems and new tables and chairs. This reinvestment is evidence of a tavern owner taking proactive steps to ensure he lives up to his plan of operation—it is not evidence of an owner squeezing the last bit of life out of a tavern through risky outside promotions. As Mr. Shemitis said during the Committee hearing, he will not use these promoters as he has partnered with a very experienced and respected tavern owner—Kelly Vecitis. It must be noted that the promoters were engaged by his manager, now terminated, without his prior approval.

Mr. Shemitis understood the direction his tavern may be heading and took significant steps to guarantee a responsible tavern operation. These actions were done without the suggestion of counsel and before he became aware of the dissatisfaction of his neighbors. These actions should be commended not punished—especially the punishment of non-renewal

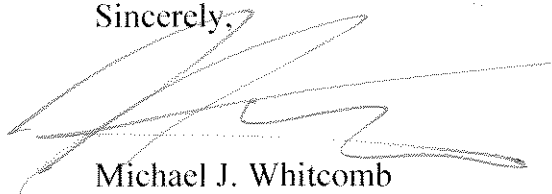
Mr. Shemitis did not have benefit of a lawyer at the Committee. However, this office has been able to review the video of the hearing. It cannot be argued reasonably that the non-renewal is justified in any respect by the police report, neighborhood complaints and deviation from the plan of operation. The Committee relied heavily on the tavern’s alleged deviation of their original plan. What was that alleged deviation?—the elimination of lunch and/or food service and operating every day of the week. And for this change, the tavern’s licenses were non-renewed. Despite claimed deviation, Mr. Shemitis testified that it is his and Mr. Vecitis’ intention to continue to serve food and remain open throughout the week. This intention is backstopped by the recent reinvestment of Mr. Shemitis and Mr. Vecitis. An owner does not improve a tavern’s kitchen and related fixtures if he does not plan on using them.

Mr. Shemitis hereby respectfully requests the following relief:

1. Vote not to accept the recommendation of the Licenses Committee and grant renewal of the licenses; or
2. In the alternative, vote to return this matter to the Licenses Committee to conduct a full and fair hearing with the benefit of counsel.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Whitcomb", written over a horizontal dotted line.

Michael J. Whitcomb

c: Whiskey River Saloon—Milwaukee, LLC



Office of the City Clerk

Jim Owczarski
City Clerk

Rebecca N. Grill
Deputy City Clerk

December 6, 2012

John R. Shemitis, Agt.
Whiskey River Saloon – Milwaukee, LLC
2935 N. 73rd St.
Milwaukee, WI 53210

Dear Mr. Shemitis:

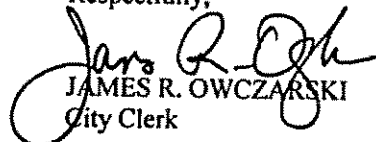
You are hereby notified that the Milwaukee Common Council will hold a hearing on Tuesday, December 18, 2012, commencing at 9:00 a.m., or as soon thereafter as this matter may be heard, in the Common Council chambers on the third floor of City Hall, 200 East Wells Street, Milwaukee, Wisconsin to consider whether to renew, renew with a suspension between 10 and 90 days, or not renew your Class "B" Tavern and Public Entertainment Premises licenses for the premises located at 1023-27 N. Old World Third St. ("Irish Rec Room").

Attached you will find a copy of the Report of the Licenses Committee, which includes its Findings of Fact, Conclusions of Law and Recommendation, recommending to not renew your Class "B" Tavern and Public Entertainment Premises licenses based on the police report, neighborhood objections, and deviation from the plan of operation. The recommendation is the result of a public hearing before the Committee held on Monday, December 3, 2012.

Please be advised that the Common Council will determine whether to renew, renew with a suspension between 10 and 90 days, or not renew the licenses based upon the Findings of Fact contained within the Licenses Committee report.

You may file written objections to the report of the Licenses Committee. Your written objections must be filed with the City Clerk by 4:45 p.m. on Thursday, December 13, 2012 in Room 205 of City Hall. If you file written objections, you or a legal representative may then also appear at the Common Council to make oral arguments supporting your written objections. You will be given approximately five minutes to present your oral argument.

Respectfully,


JAMES R. OWCZARSKI
City Clerk

Enclosure



CHAIR

- Licenses Committee

MEMBER

- Community and Economic Development Committee
- Steering and Rules Committee



TONY ZIELINSKI
ALDERMAN, 14TH DISTRICT

Date: December 6, 2012

To: All members of the Milwaukee Common Council

From: Licenses Committee

Re: Report on the Renewal Applications of John R. Shemitis, Agent for "Whiskey River Saloon –Milwaukee, LLC," for Class "B" Tavern and Public Entertainment Premises Licenses for the premises at 1023-27 North Old World Third Street in the City and County of Milwaukee, Wisconsin ("Irish Rec Room")

FINDINGS OF FACT

1. John R. Shemitis, Agent for "Whiskey River Saloon – Milwaukee, LLC" (hereinafter the "licensee"), is the holder of a Class "B" Tavern and Public Entertainment Premises Licenses for the premises located at 1023-27 North Old World Third Street in the City and County of Milwaukee, Wisconsin.
2. Applications to renew said licenses were filed with the Office of the City Clerk on November 8, 2012.
3. Pursuant to Chapters 90 and 108 of the Milwaukee Code of Ordinances, the matter was referred to the Milwaukee Police Department for investigation. On November 9, 2012, the Milwaukee Police Department responded with a police report which could form the basis of non-renewal or suspension of said licenses.
4. On November 20, 2012, the City Clerk's Office provided notice to the licensee pursuant to Chapters 90 and 108 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes, of the police report and neighborhood objections and included a copy of the police report and neighborhood objections. The matter was scheduled for a hearing on December 3, 2012 at 10:00 a.m. in Room 301B of the third floor of City Hall. At said date, time, and place, the licensee appeared and admitted to service of the notice. He was not represented by counsel.
5. Based upon the sworn testimony heard and the evidence received at the hearings, the Committee finds the following:
 - A. On April 17, 2012, the applicant was issued a citation at 1023 North Old World Third Street for underage consumption of alcohol on Class "B" premises. He was found guilty on June 15, 2012 and fined \$100.00.



- B. On April 18, 2012, the applicant was issued a citation at 1023 North Old World Third Street for disorderly premises prohibited. He was found guilty on this citation on June 15, 2012 and fined \$200.00.
- C. Jacob Dehne, 6923 West Wisconsin Avenue, owner of neighboring establishment Buckhead Saloon, testified in opposition because the bar deviated from its original plan of operation and rents out its bar to promoters that host disorderly functions.
- D. Edward A. Stray, 1009 North Old World Third Street, testified that the premise is not a full scale restaurant, DJs bring in violent crowds, loitering occurs outside the business at the back alley, all you can drink events occur, there are drunk patrons, the owner does not open at 11:00 a.m. as the plan of operation indicates, and the bar only operates on Thursday, Friday and Saturday.
- E. Stacie Callies, 633 West Wisconsin Avenue, on behalf of the Westown Association, testified in opposition due to the bar's deviation from its plan of operation. Mr. Shemitis wrote that the business would be a country bar with live music, serving lunch, open every weekday, would refrain from utilizing event promoters, and have Mr. Shemitis managing the bar on a daily basis. The bar does not serve lunch, is now an Irish sports bar, does not have Mr. Shemitis as the daily manager, and has used event promoters. Ms. Callies has personally observed the bar not being open from Monday to Tuesday on two occasions but could not remember exactly when. The association has received complaints from neighboring businesses and the police department regarding the disorderly behavior, loitering, and fighting caused by patrons of the bar.
- F. Mr. Shemitis gave testimony. The business does not serve lunch as originally planned. He is not there everyday but is hands-on with many operations. There have been event bookings with and without his knowledge. Event planners and promotions have occurred but some were done without his knowledge by the previous management team. Mr. Vecitis was recently hired to head the management team. Staff and the kitchen are being changed so that food can be served going forward. The business is open six days a week.
- G. Mr. Vecitis testified that he has been the new manager for ten days, the business had been recently shut down for two weeks between Monday and Wednesday for renovation, erroneous social media promotions will be removed, and future booked events have or will be cancelled.
- H. Alderman Robert Bauman expressed concerns of deviation from the original business plan of a restaurant, which was to open at 11:00 a.m. and serve lunch during the daytime. Operating during the daytime by this premise was important to help daytime business activity. Alderman Bauman opposed the renewal of the license due to neighborhood testimony, deviation from the plan of operation, subleasing of the bar, nuisance behavior of patrons, and the police report.

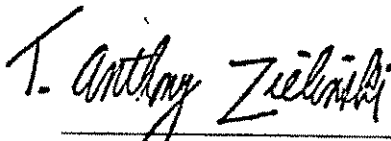
CONCLUSIONS OF LAW

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 Chapters 85, 90, and 108 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found, the Committee concludes that the licensee, John R. Shemitis, Agent for "Whiskey River Saloon – Milwaukee, LLC," has not met the criteria of Chapters 85, 90, or 108 of the Milwaukee Code of Ordinances to allow renewal of the Class "B" Tavern and Public Entertainment Premises Licenses. The Committee finds the police report, neighborhood objections, and deviation from the plan of operation, as stated above, to be true.
3. In order to protect the health, safety, and welfare of the citizens of the City of Milwaukee, it is the recommendation of the Licenses Committee that the full Common Council of the City of Milwaukee should exercise its discretion to not renew the Class "B" Tavern and Public Entertainment Premises Licenses held by John R. Shemitis, Agent for "Whiskey River Saloon – Milwaukee, LLC," for the premises located at 1023-27 North Old World Third Street in the City and County of Milwaukee, Wisconsin based upon the police report, neighborhood objections, and deviation from the plan of operation.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of three (3) ayes, one (1) no, and one (1) abstention, recommends that the Class "B" Tavern and Public Entertainment Premises Licenses held by John R. Shemitis, Agent for "Whiskey River Saloon – Milwaukee, LLC," for the premises located at 1023-27 North Old World Third Street ("Irish Rec Room") not be renewed based on the police report, neighborhood testimony, and deviation from the plan of operation.

Dated and signed at Milwaukee, Wisconsin this 6th day of December, 2012.



T. ANTHONY ZIELINSKI
Chair, Licenses Committee