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ANDREW P. ARENA

July 21, 2011

Ronald D. Leonhardt  
City Clerk  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, WI 53202-3570

Re: Caesars World Enterprises, LLC d/b/a Club Bari  
Robert F. Cesarz, agent  
Address 628 North Water Street

CITY OF MILWAUKEE  
11 JUL 21 PM 4: 06  
RONALD D. LEONHARDT  
CITY CLERK

Dear Clerk:

Pursuant to Chapter 90 of the City of Milwaukee Ordinances the Caesars World Enterprises, LLC and its Registered Agent, Robert Cesarz, by their Attorney, Arena Law Offices, LLC files these written objections to the findings of fact and conclusions of law entered by Alderman James Bohl on July 11, 2011. Furthermore, the Licensee also objects to the Gentlemen from the 4<sup>th</sup> being allowed to make a statement or vote on this matter.

The Licensee objects to the findings of fact and specifically objects to items 5A. Through J. As being a legal basis for the non-renewal of the Class B License and Tavern and Dance License. The Licensee denies that the police report forms a basis for non-renewal or suspension and additionally the Licensee denies that any testimony provided by the Police Department forms a basis for the non-renewal of the license.

As to item A. There was no fight observed and a citation for the failure to post the proper licenses was dismissed by the Municipal Court. It is inappropriate to base a non-renewal on a dismissed citation. Additionally, Officer Ferrell, who wrote the citation admitted to the Committee in his testimony that the licenses were on the premises. This issue surely isn't one worthy of a non-renewal.

The Licensee objects that this item should be in the notice or report. This involves an alleged fight that never occurred and the citation for improper posting of license was dismissed. Because this item was dismissed, it can't be the basis for any discipline of the license.

As to Item 5C. The Licensee objects to this item as it is based completely on hearsay. This hearsay is from an individual that works at 618 Live, which is a club that has had to engage in litigation to keep its liquor license. The ownership and employees have an incentive to lie about Club Bari and try to establish that Club Bari is the problem for the police department in that block and not 618 Live. The individual that was arrested created a problem in the line for 618 Live and it would seem that 618 Live enticed that

individual to behave poorly. Additionally the Licensee provided testimony from Mario Morgese, who is owns 50% of Club Bari that he observed the entire incident and what had occurred was that the individual was not allowed to enter Club Bari due to his improper dress. This individual then went to the line of the 618 and created a disturbance.

As to Item 5D. The Licensee objects to this item. There was no fight and one person was issued a citation. It doesn't appear that the situation involved weapons or shocking violence. Club Bari was pro-active in preventing a larger problem by calling the Police and engaged in the type of conduct that has been commended by the Common Counsel in the past.

As to Item 5E. The Licensee objects to this item in that the complaint by the Police was the manner in which the licenses were hung. The Officer complained that the items has to be surrounded by a frame. The manner in which the items were hung was changed to appease the Officer, although, the Licensee denies that there was an actual violation of the ordinance and this was the reason that a citation was not issued.

As to Item 5F. The Licensee submits that this item, even if true, does not establish a pattern of a poorly run location. This item does not involve dangerous weapons or outrageous violence and therefore it is not established that Club Bari should be closed to protect the welfare, health, and safety of citizens. In reviewing the actual tape of the incident it is clear that the larger 618 was closed early and abruptly, as the video shows that a large crowd exits on the street and part of the crowd immediately goes down the street to the door of Club Bari. Club Bari presented eye-witness testimony that they were not allowing anyone to enter because they were already at capacity. The crowd started to try to enter and the video shows that the door staff of Club Bari was not allowing people to enter. Individuals from the crowd that were from 618 Live then started to fight. This incident was clearly and obviously caused by 618 Live. The Committee refused to review the video that was submitted by the Licensee and an additional copy was submitted by Asst. City Attorney Jay Unora. As this is very important evidence it is a due process violation of the rights of the Licensee and is a denial of his right to a fair hearing. The Licensee presented testimony that supported the contentions as stated above. Also, the video itself supports the testimony of the Licensee.

In any event this one incident was not repeated again. In fact Captain Basting admitted that there have not been problems at Club Bari since October 10, 2010. There have been no new CAD reports or PA-33 Police reports that demonstrate that this is a problem location. There were other officers that testified to the clientele being 30 to 40 year olds and sometimes individuals that are younger. There were no items of violence that could be verified with arrest reports or police reports that showed any relation to Club Bari.

As to Item 5H. The Licensee denies that its operation requires an undue expense of police resources. There have been no incidents or police calls since October, 2010. The neighbor at 618 operates a large club known as 618 Live, which is a notorious location for police activity. This location in fact has had its license disciplined by the Common Counsel and has engaged in litigation in Circuit Court to stay in business. There have been hours of testimony taken by the Licenses Committee that has included video evidence, that establishes that 618 Live is the cause of police resources being expended. By his own admission Captain Basting stated that the problems at Club Bari has ceased. The statement that more officers are used in this location than others is due to the operations at 618 Live. The providing of Police on the public street to maintain order should not be blamed on any business operating within lawful

means.

As to the remaining items of Paragraph 5 there was testimony that the location has changed from a sports lounge into a club business. The original plan was not changed or deviated. The only plan that matters is the one in the application, which clearly states that the applicants were seeking a tavern/dance license. This license allows disc jockeys to play music and patrons to dance to that music. The application has categories of music that will be played and the applicant checked 17 boxes, which demonstrates that the licensee was not committing to one style of music or music by one single artist. The application indicates that the licensee's plan of operation was to have a variety of music. There was not one witness that testified as to a song they heard, or a type of music that was being played. The location remains a sports lounge and has three very large screens and two smaller screens that are 55". There is an assertion being made that certain events established that the operators were not running an Italian (Chicago style) sports lounge and grill with a sophisticated, upbeat atmosphere appealing to 30-40 professional clientele."

The Licensee submits that not a single witness testified concerning what an Italian-Chicago style sports lounge was. There was no evidence submitted that even establishes what such a description is. Not one witness established that they checked the ages of patrons to establish that the individuals were not 30 to 40 and not one witness testified concerning the atmosphere as something that wasn't sophisticated or upbeat. The fact that 4 officers are dispatched to the block has no bearing on the operation and does not establish that the plan of operation was not followed.

The Committee by Alderman Zielinski and Alderman Coggs heard statements that certain items they saw on internet searches caused them to believe that the Licensee was operating a hip hop club. These assertions were inappropriate because there was no evidence presented in the record. This was improper fact finding by members of the decision making body, and this was a violation of the due process rights of the Licensee. These items are in fact disputed by the licensee as pure hearsay. Alderman Zielinski was talking about a Facebook page that was not authored by the Licensee and these statements were objected to. Alderman Coggs made statements that she knew what a certain D.J. was about which was not verified by any evidence in the record. There was testimony by several officers that demonstrated that none of the Officers could verify that a song they heard was not popular music or on the Billboard Top 40.

Alderman Bauman's assertions that Club Bari is not an Italian Style Lounge are not supported in the actual record. The Licensee submits that the location asked for a Tavern Dance License because it intended to offer dancing until the legal closing time. It is not improper to have a night club until the legal closing time. The term late night does not have any significance at all and it is ridiculous to say that a place should lose its license because it is doing business until legal bar closing time. Additionally, the true police record does not establish that customers of Club Bari are unruly and disorderly. In fact Alderman Bauman admitted that he received no e-mail complaints from any local resident and there were no local residents present in person to testify against the location. Alderman Bauman stated that the problem was that the two locations in the block were a problem. The 618 is a larger club with over 38 items on its police report. It is a violation of the equal protection rights of Club Bari to say that they shouldn't have a license, but 618 Live should have a license which allegedly causes disorder at closing time. There is clearly an arbitrary and capricious decision being made by the Committee and if the Counsel supports the recommendation it is clearly engaging in an arbitrary decision that is imposing the will of certain individuals. This decision would not be based on the true evidence that was adduced at the hearing.

Based upon the above reasons the licensee requests that this matter be sent back to committee or that a motion be made and accepted to issue the license.

Respectfully Submitted this 21<sup>st</sup> day of July, 2011.

By:



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Attorney Andrew P. Arena