



Office of the City Clerk

Jim Owczarski
City Clerk

Rebecca N. Grill
Deputy City Clerk

October 4, 2013

Jennie Nuell
Maximum Capacity, LLC
4001 W. Fond du Lac Ave.
Milwaukee, WI 53216

Atty. Andrew Arena
Arena Law Offices, LLC
1110 N. Old World 3rd St.
Milwaukee, WI 53203

Dear Ms. Nuell and Atty. Arena:

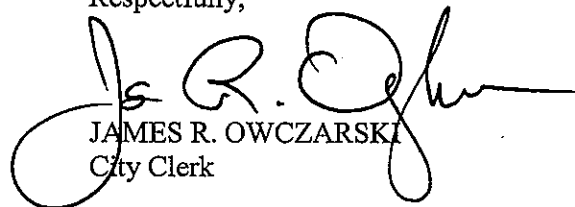
You are hereby notified that the Milwaukee Common Council will hold a hearing on Tuesday, October 15, 2013, commencing at 9:00 a.m., or as soon thereafter as this matter may be heard, in the Common Council chambers on the third floor of City Hall, 200 East Wells Street, Milwaukee, Wisconsin to consider 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 4001 W. Fond du Lac Ave. ("All Star Sports Bar").

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 renew your Class "B" Tavern and Public Entertainment Premises licenses with a forty five (45) day suspension based on items 23-36 of the police report. In addition, the Committee also denied your request to remove the 25 and older age restriction request. This recommendation is the result of a public hearing before the Committee held on Tuesday, October 1, 2013.

Please be advised that the Common Council will determine whether to renew, renew with a suspension between 10 and 90 days, or not renew your Class "B" Tavern and Public Entertainment Premises 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. The written objections must be filed with the City Clerk by 4:45 p.m. on Thursday, October 10, 2013 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 the written objections. You will be given approximately five minutes to present the oral argument.

Respectfully,



JAMES R. OWCZARSKI
City Clerk

Enclosure



Date: October 4, 2013

To: All Members of the Milwaukee Common Council

From: The Licenses Committee

Re: Report of the Renewal Application of Jennie M. Nuell, Agent for "Maximum Capacity, LLC" for Class "B" Tavern and Public Entertainment Premises licenses, removing the 25 and older age restriction for the premise located at 4001 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("All Star Sports Bar").

FINDINGS OF FACT

1. Jennie M. Nuell (hereinafter the "Licensee") is the holder of Class "B" Tavern and Public Entertainment Premises licenses for the premise located at 4001 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("All Star Sports Bar"). Said license expires at midnight, October 22, 2013.
2. An application to renew said license was filed with the Office of the City Clerk on August 21, 2013.
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. The Milwaukee Police Department responded with a report that could form the basis of non-renewal or suspension of this license on August 21, 2013.
4. On September 19, 2013, the City Clerk's Office provided notice to the Licensee pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes of the police report that could form the basis for nonrenewal or suspension and included a copy of the police report. The matter was scheduled for a hearing on the police report on October 1, 2013 at 10:15 a.m. in Room 301B of the third floor of City Hall. At said date, time and place the licensee did appear and was represented by Attorney Andrew Arena.
5. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. On October 22, 2012 at 12:32 a.m., Milwaukee police conducted a license premise check at 4001 West Fond du Lac Avenue. The investigation revealed the bar was over the capacity limit by 29 patrons. The agent, Jennie Nuell, was cited for the violation.
 - B. On December 15, 2012 at 1:57 a.m., Milwaukee police were dispatched to St. Joseph's Hospital for a battery/cutting complaint. The investigation

revealed the victim was at the All Star Sports with friends when she observed a female she knew and at one time, had a restraining order on, in the bar. A confrontation took place and the suspect took a cocktail glass and hit the victim in the face cutting her. The victim stated no one called police while she was there and that her friends took her to the hospital for treatment. Officers followed up at the bar and spoke with Jennie Nuell regarding what occurred, Officers were able to view video footage of the incident reports were filed.

- C. On February 6, 2013 at 9:25 p.m., Milwaukee police conducted an investigation at 4001 West Fond du Lac with officers in plain clothes. Two officers walked into the bar and set off the metal detector due to their cell phones. A security guard met the UC officers at the door and asked for identification. The security guard did check the ID of the undercover officer, but not the purse she was carrying. The ID she provided showed a date of birth that depicts that she was 24 years old. The other undercover officer was patted down and allowed in. The bar's license had an age restriction of 25 and older.
- D. On March 10, 2013 at 1:20 a.m., Milwaukee police conducted a license premise check at 4001 West Fond du Lac Avenue. The investigation revealed the bar was over capacity by 98 patrons. Police attempted to have the agent, Jennie Nuell, comply with the occupancy limit, to which she refused, saying there was no way they were over capacity. Nuell was advised to shut the bar down, to which she complied, and was to provide police with video surveillance from the bar. Nuell was cited for the violation.
- E. On March 24, 2013 at 12:45 a.m., Milwaukee police conducted a license premise check at 4001 West Fond du Lac Avenue. The investigation found the bar was over capacity by 81 patrons. Officers spoke to Jennie Nuell, who was on scene, and told her to shut down the bar for the night due to the violation. There were security guards at the front door hired by the bar to keep track of the number of patrons, but they have never had an accurate count.
- F. On March 31, 2013 at 1:30 a.m., Milwaukee police conducted a license premise check at 4001 West Fond du Lac Avenue. The investigation found the bar was over capacity by 26 patrons. There were security officers at the front door who were to be keeping track of the number of occupants.
- G. On April 13, 2013 at 1:19 a.m., Milwaukee police observed a crowd of 20 people fighting in the roadway in the 4000 Block of West Fond du Lac. Due to the fight, traffic was backing up and additional squads were needed to help disperse the crowd. Police observed an employee of the bar,

Charles Cleveland, who confirmed to police that he was employed by the bar. Police attempted to obtain information from Cleveland who was uncooperative and placed into custody and conveyed to the district station. Police advised the agent, Jennie Nuell, who was on scene, how her employee refused to cooperate with police. Nuell also advised officers that there was a fight in the bar and that her security staff had just removed the participants. Capacity was found to be at 86 patrons.

- H. On May 11, 2013 at 12:59 a.m., a license premise check was conducted at 4001 West Fond du Lac Avenue. The bar was found to over capacity by three patrons. A bartender was also found to have an expired bartender's license and was cited for the violation. Nuell was cited for over capacity.
- I. On June 2, 2013 at 1:23 a.m., Milwaukee police conducted a license premise check at 4001 West Fond du Lac. Investigation found that the bar had patrons who were under the age of 25, contrary to the bar's age restriction of 25 and older. The agent, Jennie Nuell, was uncooperative with police and cited for the violation.
- J. On June 10, 2013 at 1:11 a.m., Milwaukee police were dispatched to 41st and Auer for a shots fired complaint. Investigation found that shots had been fired in the area of 41st and West Fond Du Lac because security from the All Star Sports Bar denied entry to a patron who did not have his ID on him. The subject threatened to shoot up the place and close it down. Video surveillance captures the subject at the front door and showed him driving by the tavern multiple times prior to shooting his firearm.
- K. On July 1, 2013 at 1:39 a.m., Milwaukee police, while on routine patrol in the area of 4000 West Fond du Lac, observed a battery occurring in front of 4002 West Fond du Lac. The investigation found the two subjects had been inside the bar prior to the battery occurring. One victim sustained lacerations to the lip due to two severely chipped teeth, and one tooth being knocked out. Abrasions were also observed on the victim's face. Stitches were required to close the lacerations. The suspect was arrested and charged with substantial battery.
- L. On July 13, 2013 at 12:30 a.m., Milwaukee police were flagged down for a trouble with subject at the All Star Sports Bar. Officers spoke with a security guard who stated two males were causing problems and that the owner did not want them in the bar anymore. He further stated that one of the subjects was armed with gun and that the gun was initially missed on the first pat down, but found on a secondary pat down and that they escorted the two subjects out of the bar. The licensee, Jennie Nuell, was on scene at the time of the incident.
- M. On September 13, 2013 at approximately 1:45 a.m. squads were

dispatched to 4001 West Fond du Lac Avenue (All Stars Bar and Grill) for a complaint of shots fired. Upon arrival officers were able to locate 6 spent cartridge casings in front of the address 3301 North 40th Street from a .40 caliber handgun. A description was given by a caller of a silver 4DR SUV that was being driven by a black male with a red baseball cap. Squads were able to locate a vehicle matching the description and a black male driver with a red baseball cap. Officers observed a black handgun in plain view in the third row seat of the vehicle.

The driver and two passengers were taken into custody for their actions at All Stars Bar and Grill. Officer LaRoque responded back to All Stars Bar and Grill where Officer LaRoque observed security camera footage of the tavern. Officer LaRoque observed a fight break out between approximately 6 patrons in the corner near the side exit. Officer LaRoque observed that one of the patrons was pulled and forced onto the pool table where multiple subjects were striking her. Officer LaRoque observed that other patrons and security approached to break up the fight and security escort the main two actors out of the tavern.

While security was outside of the tavern Officer LaRoque observed a second fight start between two male subjects that appeared to be with the two female subjects. The two males were observed striking each other several times with closed fists. Security reentered the tavern and then escorted the two males out through separate doors. It should be noted that officers found shoes and hair on scene where the fight took place.

On the camera footage you can see what appears to be one of the male subjects that were in the fight going back to his vehicle and retrieving an unknown object. According to Eddie Nuell, the object that the subject retrieved was a black handgun and that the subject concealed the handgun in his back pocket. Mr. Nuell stated that the subject then was looking into passing vehicles while holding the gun. Mr. Nuell stated that it appeared that he was looking for the subject that he was fighting with in the tavern.

Mr. Nuell stated that he then observed the subject walk onto North 40th Street where he fired 2-3 rounds from the handgun. Mr. Nuell stated that at no time did he or anyone from All Stars Bar and Grill call police regarding neither the fights nor the subject with gun. Both of the females identified via security camera footage and by their own statements were found to be only 24 years old, which is a violation of All Stars Bar and Grill's license. Security camera footage shows her dancing, playing pool, and drinking what appears to be an alcoholic beverage. It should be noted that when she was arrested she had a strong odor of an intoxicant and was appeared to be under the influence of an intoxicant.

Mr. Nuell does not have a Class "B" manager's license or a Class "D" license. The bartender was Summer S. Mayes, who does not have a Class "D" license. It was noted that a licensed person was not on scene at the tavern.

It should be noted that Mr. Nuell was cooperative and that he provided us access to the camera system while on scene. A citation was issued per ordinance number 90-3-1. It should also be noted that Jennie M. Nuell (the agent for All Stars) was not on scene when the incident occurred. On September 18, 2013 at approximately 12:30 a.m. Officer LaRogue delivered the citation to Jennie Nuell.

- N. Captain Jackson said that All Stars continues to be a problem with a number of violent crimes and continues to use a lot of police resources. He feels that because of bad management individuals with weapons are able to enter the tavern and there are numerous incidents of over capacity - once 98 individuals and once 81 individuals, and that leads to more fights and escalating violence. His other concern is loitering outside the establishment. He does not support lowering the age requirement at this establishment.
- O. Atty. Arena noted that no guns have been fired inside the establishment and that individuals with guns are removed from the establishment. Item #33 in the police report actually occurred across the street and All Stars management was unaware of any problems occurring across the street.
- P. Sgt. Tom Lieske - 7th district - testified that he has gone to the establishment nearly every weekend for over a year. He has seen, on numerous occasions, over capacity, a metal detector that isn't used, nor do they wand individuals and they miss weapons on pat-downs, which are later found. They have let individuals under 25 into the establishment and have traffic issues after closing. Over capacity causes public safety concerns, the possibility that security staff may be overwhelmed, and overall congestion at closing. He was present when 5 incidents of over capacity were ticketed; he feels they were all valid tickets. There were no cases in which it was suspected they were over capacity and a full-blown count was done and they weren't over capacity. His other concern is letting in individuals in who are under the age of 25.
- Q. Attorney Arena noted that a full-blown count isn't verified by a second officer counting as well. He is concerned that the video surveillance from the bar does not show that counting procedures were being performed in the manner in which police said they were being performed. Ms. Nuell says that she has 12 cameras and all of them are operational. For those 5 nights in which the bar was cited for over capacity, the investigator calculated capacity from the video (when available - one night was not

available), and the establishment, per his calculations, was always under capacity. The committee watched various videos from the establishment's video.

- R. Police Officer Brian LaRoque - District 7 - deals with All Stars on a weekly basis. The establishment does have a parking lot, but customers also park on the street. He has responded to a shots-fired call after a patron was denied access, an altercation across the street, and another shots-fired report on three separate occasions. Security at the establishment did not call police for the last incident, which involved a patron leaving the establishment. On multiple occasions, the security guards at the door didn't know what the patron count was, or what the capacity of the establishment was. Nuell said that that was the first night those security guards were working.
- S. Marcus Nuell, the licensee's son, oversees All Stars or DJs if needed, and assists security. The establishment got new security right after shooting by the individual in the car and the security force is now more diligent in all respects. Mr. Nuell was present during all 5 counts in question and never saw the police perform a full count in the manner in which they said they did.
- T. Jason Beverly works security at All Stars. He has observed the counting, but said the sergeant stands by the front door and the side door and alley are blocked off. The police start at the front of the bar. He can't explain how a patron got through with a gun.
- U. Trinaga Smart goes to the establishment approximately twice a month. She does not really see any problems or hear any noise. She does not see exiting patrons loitering, except for maybe 10 minutes, but there are also patrons from Gene's. She has never observed officers at the establishment.
- V. Nuell said that they are upgrading the camera system, added security personnel, and the police department did a security survey. They also use cones and staff to block off streets to deal with individuals who cruise the area. The police said she could not use the cones.

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, Jennie M. Nuell who holds a Class "B" Tavern and Public Entertainment Premises

license for the premise located at 4001 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("All Star Sports Bar") has not met the criteria of Chapter 90, of the Milwaukee Code of Ordinances together with the police report to allow renewal of her license without undergoing a forty-five (45) day suspension. The Committee finds the police report and testimony as stated above to be true.

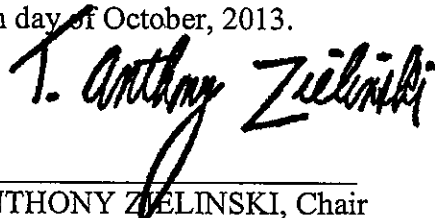
3. In order to protect the health, safety and welfare of the citizens of the City of Milwaukee, it is the recommendation of the Licenses Committee that the full Common Council of the City of Milwaukee should exercise its judgment to renew the Class "B" Tavern and Public Entertainment Premises licenses of Jennie M. Nuell for the premise located at 4001 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("All Star Sports Bar") with a forty-five (45) day suspension based upon items 23-36 of the police report.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of four (4) ayes and one (1) no recommends that the Class "B" Tavern and Public Entertainment licenses held by Jennie M. Nuell for the premise located at 4001 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("All Star Sports Bar") be renewed with a forty-five (45) day suspension based upon the police report. The committee also recommended denial of the request to remove the 25 and older age restriction.

Said suspension is to be in effect between 12:01 a.m. October 23, 2013 through midnight, December 6, 2013.

Dated and signed at Milwaukee, Wisconsin this 4th day of October, 2013.



T. ANTHONY ZIELINSKI, Chair
Licenses Committee