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February 4, 2010

Via Email Only (rleonh@milwaukee.gov)

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

Re: Questions, Inc. – 3041 W. North Avenue  
Objections

Dear City Clerk Leonhardt,

Our office is Counsel to Questions, Inc (“Questions”). On January 19, 2010, the Licenses Committee met to consider the renewal of the Class B Tavern and Tavern Amusement (Cabaret / Nite Club) licenses for Questions and its agent, Devon Reid. The Committee voted to recommend that Questions’ license be renewed, but with a 15-day suspension based upon incidents recounted in the police objection and police testimony.

This letter serves as my client’s written objection to the “Findings of Fact and Conclusions of Law” and recommendation of the Licenses Committee (“Committee”). The specific objections are as follows:

1. When Assistant City Attorney Bruce Schrimpf drafted the Findings of Fact, added Chairman Bohl’s digital signature, and distributed the document to the Common Council without any review from the Licenses Committee, he failed to include testimony from any of the African-American witnesses who testified in support of Questions in violation of the 5<sup>th</sup> & 14<sup>th</sup> Amendments of the United States Constitution.
2. The Licenses Committee has failed to forward *its own* report, including Findings of Fact, Conclusions of Law, and a recommendation to the Common Council as required by § 90-11-2-c-2, Milwaukee Code of Ordinances.

Paragraph 5 of the “Findings of Fact” (contained on page 2), states that “Based upon the sworn testimony heard and the evidence received at the hearing, the **Committee finds the following**” [emphasis added]. Questions objects to this statement, as the Committee has never adopted these findings. Because the Findings of Fact and Conclusions of Law were never adopted by the Committee, it would be more properly characterized as the City Attorney’s proposed Findings

of Fact and Conclusions of Law. In fact, Assistant City Attorney Schrimpf confirmed at the end of the hearing that the Findings of Fact and Conclusions of law would be drafted by the City Attorney's office. Further, based upon testimony provided under oath in *Lady Bug Club v. City of Milwaukee et al*, it is our understanding that Chairman Bohl's signature is digitally applied to the City Attorney's document, and that Chairman Bohl is typically not provided an opportunity by the City Attorney's office to review the Findings of Fact and Conclusions of Law for accuracy prior to his signature being applied and the document being disseminated to all Members of the Common Council and the applicant.

3. Due Process, as guaranteed under both the United States Constitution, Wisconsin Constitution, as well as City of Milwaukee Ordinance 90-11-2-a-2-b, requires that the City of Milwaukee prove the allegations made in the police objection prior to those allegations being accepted as fact by the Committee.

The Findings of Fact and Conclusions of Law incorporate the entire police objection. The police objection, as read to the Committee on the day of the hearing, is quadruple hearsay and not a single incident recounted in the objection was proved at the January 19, 2010 hearing. Under cross-examination, Officer McNichol, who represented the Milwaukee Police Department ("MPD") at the hearing, confirmed that he had no evidence, proof, or officer testimony to present to the Licenses Committee to confirm any portion of even a single incident recounted in the police objection.

Of the six incidents recounted in the police objection, two of them had nothing to do with Questions. Paragraph 5(C) recounts a fight that occurred over one block away from Questions between individuals who claimed they had been at Questions that evening. Upon the MPD checking Questions' ID computer, it was revealed that neither of the individuals had been at Questions on the night of the incident. This was conclusive evidence that despite these individuals' presence in the neighborhood, the incident had nothing to do with the establishment. Interestingly, this incident on the police objection contained editorializing by the MPD about the procedures allegedly used by Questions when it has a performing artist at the establishment. However, there was no performing artist at the establishment on the night that the incident described in Paragraph 5(C) occurred.

Additionally, Paragraph 5(G) recounts an incident in which individuals, more than a block away from the establishment, were shot while in their van. As the police objection recounts, these individuals claimed they were at the establishment, but after further questioning from the MPD, these individuals *admitted* that they were never at Questions. This incident should not be part of the police objection.

In violation of Questions' right to Due Process, the allegations of the MPD were taken as fact without *any* evidence being put forth by the MPD to prove the content of its objection as it relates to Questions. As described *supra*, Officer

McNichol *admitted* during the hearing that he had no evidence whatsoever to prove any of the alleged incidents contained in the police objection. Ironically, one piece of evidence the MPD did bring to the hearing was a DVD, recorded by the MPD on November 7, 2009, to show the purported “out of control” behavior of Questions’ patrons. After watching this DVD for more than twenty minutes, Chairman Bohl stopped the video and it was the overall sentiment of the Licenses Committee that the DVD showed nothing more than well-behaved, quiet patrons, who were patiently waiting to enter the establishment.

In addition, while the MPD appeared as a party to object to the license renewal, it at the same time offered the testimony of Sergeant MacGillis, as a purported neutral party to give evidence in the matter. It is a violation of Due Process for the Committee to permit the MPD to take a position in opposition to a license renewal while simultaneously presenting itself as a neutral and disinterested party.

4. There were no neighborhood objections. There were no written neighborhood objections contained in the City Clerk License Division’s files. There were *no* neighbors who testified in opposition at the Licenses Committee Hearing. Alderman Hines’ assistant testified during the hearing that the alderman’s office rarely, if ever, received a complaint from the neighborhood about the operation of Questions. However, numerous individuals testified in favor of renewal of Questions’ license.

The City Attorney’s Findings of Fact demonstrates that the Committee erroneously gave undue weight to the testimony of the MPD and Alderman Hines’ office, as compared to the positive testimony provided by approximately ten people who appeared in support of the renewal of the license.

5. The City of Milwaukee and MPD’s treatment of Pizza Shuttle at its license renewal hearing held on January 27, 2009, demonstrates that Questions’ Equal Protection rights as guaranteed under the United States Constitution were violated.

On January 27, 2009, the Licenses Committee held a hearing to consider the renewal of Pizza Shuttle, 1827 N. Farwell Avenue. Pizza Shuttle had an extensive police report. Attached to this letter is a copy of Pizza Shuttle’s police report. Pizza Shuttle’s report contained a total of 26 items, including 25 from 2008 (of note, Questions’ had *six* items on its 2010 police objection). In addition, Pizza Shuttle’s CADS reports, obtained through the MPD, show that there were approximately 100 police calls related to the establishment between November 2007 and January 2009. There are numerous incidents in the Pizza Shuttle report that presented valid cause for concern. For example, the report recounts numerous fight complaints, numerous issues with guns, complaints of loud music from cars, cars being used to block traffic, disorderly patrons, and drugs. In fact, incident No. 24 on Pizza Shuttle’s police report required the MPD to be on scene for almost two hours, involved multiple fights and also involved hundreds of

patrons who were spectators and encouraged the fighting. Incident No. 24 states at its conclusion, "Police did speak with management regarding the volume of calls received by the restaurant and that no other businesses in the area have needed this type of police response."

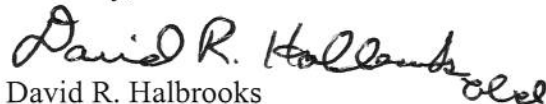
In spite of this extensive police report, the MPD did not object to renewal of the license and the City Attorney's office made no appearance at the hearing to oppose the license renewal or assist the MPD. It is also remarkable that despite the high volume of police calls to Pizza Shuttle, the property received no nuisance letters from the City of Milwaukee.

In stark contrast to the Committee's handling of Questions' renewal, Pizza Shuttle was renewed with only a warning letter. This disparate treatment of the two establishments finds no support in the hearing record, and is clearly a violation of Questions' rights of Equal Protection under the law.

In summary, Questions objects to the Findings of Fact and Conclusions of Law. In violation of § 90-11-2-c-2, Milwaukee Code of Ordinances, the Licenses Committee has never adopted the Findings of Fact and Conclusions of Law. The reasons relied upon for the 15-day suspension are unjust and not substantiated by any reliable evidence as described by Officer McNichol's lack of any proof or evidence discussed *supra*. In violation of Questions' right to Due Process, the Licenses Committee accepted the police objection as fact without any credible substantiation by the MPD or City of Milwaukee. The police objection prepared by the MPD contained two incidents that clearly had no connection to the establishment. The Findings of Fact and Conclusions of Law drafted by the City Attorney's office erroneously fail to recount any of the supporting testimony provided by the approximately ten individuals who testified at the January 19, 2010 hearing in support of Questions' renewal. Finally, Questions' right to Equal Protection was violated as evidenced by the undue weight given to the negative testimony of the MPD, without any proof, with the exception of the MPD's DVD which only showed the excellent behavior of Questions' patrons, compared to the approximately ten people who testified in support of Questions' license renewal, and by the contrasting disposition of Pizza Shuttle in its renewal hearing in January 2009.

Thank you for your attention to this matter.

Sincerely,



David R. Halbrooks  
Attorney at Law  
DRH/abd

Enc.

Cc: Devon Reid  
Members of the City of Milwaukee Common Council (via email w/enclosures)

**MILWAUKEE POLICE DEPARTMENT**  
**LICENSE INVESTIGATION UNIT**

CRIMINAL RECORD/ORDINANCE VIOLATION/INCIDENTS  
**SYNOPSIS**

**DATE:** 12/03/08  
**LICENSE TYPE:** BTAVN  
**NEW:**  
**RENEWAL:** X

**No.** 15252  
**Application Date:** 12/02/08  
**Expiration Date:**

**License Location:** 1827 N Farwell Avenue  
**Business Name:** Pizza Shuttle

**Aldermanic District:** 03

**Licensee/Applicant:** Gold, Mark H  
(Last Name, First Name, MI)  
**Date of Birth:** 01/08/63

**Male:**

**Female:**

**Home Address:** 915 W El Patio Lane  
**City:** Mequon  
**Home Phone:**

**State:** WI      **Zip Code:** 53092

This report is written by Police Officer Kristyn Kukowski, assigned to the License Investigation Unit, Days.

The Milwaukee Police Department's investigation regarding this application revealed the following:

1. On 10/21/07 at 3:00 am, Milwaukee Police were dispatched to Farwell and Royall Streets for a Fight complaint. Investigation revealed a fight had occurred inside the Pizza Shuttle that continued onto the streets. As police arrived, the fight dispersed with the victim not wanting to prosecute the unknown subject who had struck him. While investigating the fight on the street, officers received another call from Pizza Shuttle regarding another fight. Officers responded and issued two citations to the patrons for Disorderly Conduct.

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2. On 02/10/08 at 3:13 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Squads responded and advised the incident.
3. On 02/20/08 at 3:00 am, Milwaukee police were dispatched to 1827 N Farwell for Trouble With A Subject. Police spoke to the manager Don who stated he was having trouble with a customer causing a disturbance. Squads responded and advised the incident.
4. On 02/24/08 at 2:12 am, Milwaukee police were dispatched to 1827 N Farwell for a Subject With Gun complaint. An employee Chad advised the telecommunicator that security for the restaurant had broken up a fight and that a subject was seen with a silver firearm by security personnel. An ambulance was also requested for a female patron who was trampled by the suspect as he fled the scene. Reports were filed regarding this incident.



5. On 03/02/08 at 2:27 am, Milwaukee police were dispatched to 1827 N Farwell for an Indecent Exposure complaint. Police spoke to security for Pizza Shuttle who stated they were detaining a male that had urinating on the building. The subject was cited for Disorderly Conduct and released.
6. On 03/15/08 at 1:13 am, Milwaukee police were dispatched to 1827 N Farwell for a loud music complaint. The caller stated subjects were playing loud music in the parking lot of Pizza Shuttle. Officers arrived and were unable to locate any subjects on the lot playing loud music.
7. 03/16/08 at 2:53 am, Milwaukee police were dispatched to 1827 N Farwell for a Trouble With Subject complaint. Officers spoke to an employee "Bill" who stated he had three armed security guards at the door of his restaurant and that several subjects outside this business were making gestures as if they were armed with guns. "Bill" stated these subjects also were saying that " There is going to trouble if they are not allowed into the restaurant." No gun was found on scene by any patron however one subject was cited for Trespassing.
8. On 03/20/08 at 2:36 am, Milwaukee police were dispatched to 1827 N Farwell for a Trouble With Subject complaint. Officers spoke to the manager "Bill" who stated three subjects were yelling and swearing at him refusing to leave. "Bill" also indicated that the subjects were intoxicated. The incident was advised.
9. On 03/27/08 at 12:46 am, Milwaukee police were dispatched to 1827 N Farwell regarding several calls about males in front of the restaurant that appeared as if they were about to drag race their autos. Calls were also received about several subjects in front of the Pizza Shuttle possibly arguing. The manager "Bill" also called police and stated that there were thirty autos blocking traffic and that subjects were running in the streets and playing music. Squads responded and the area was eventually cleared.
10. On 03/29/08 at 3:52 am, Milwaukee police were dispatched to 1827 N Farwell for Trouble With Subjects complaint. Investigation revealed a group of subjects were at the restaurant arguing and refusing to leave. Once police arrived all parties involved were gone.
11. On 03/30/08 at 2:06 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Police spoke to an employee, Sharin, as well as security who stated a large group had gathered and were fighting in the parking lot of the restaurant. The subjects involved were gone once police arrived.
12. On 04/05/08 at 1:28 am, Milwaukee police were dispatched to 1827 N Farwell for a Trouble With Subject complaint. The call was advised but police ended up writing parking citations for several parking violations found. Police were dispatched again at 4:23 am for subjects that refusing to leave the restaurant. Once police arrived, subjects were gone.
13. On 04/19/08 at 1:06 am, Milwaukee police were dispatched to 1827 N Farwell for Crowd Control at the restaurant. Security personnel requested MPD for a large crowd that gathered outside of the location. Police arrived and cleared the area.

14. On 05/04/08 at 3:32 am, Milwaukee police were dispatched to 1827 N Farwell for a Large Fight complaint. A security guard for the restaurant was injured and had sustained lacerations to the knee and elbow while trying to break up a fight. A report was filed.
15. On 06/23/08 at 1:02 am, Milwaukee police were dispatched to 1800 N Farwell for a Fight complaint. Police arrived and observed numerous subjects standing in and around the Pizza Shuttle restaurant as well as multiple autos stopped in traffic. Due to heavy pedestrian and vehicle traffic, more squads were dispatched to help assist clearing the area. Four traffic citations were issued and the area was eventually cleared.
16. On 05/17/08 at 3:38 am, Milwaukee police were dispatched to 1827 N Farwell Avenue for traffic control. When squads responded they did not locate any autos.
17. On 05/25/08 at 2:10 am, Milwaukee police were dispatched to 1827 N Farwell Avenue for a Trouble With Subject complaint. Police were advised that a patron was refusing to leave but upon officers arrival, the subject left. Squads were again dispatched to the restaurant at 2:39 am regarding a Fight In Progress in which security was detaining subjects. Citations were issued to the parties involved.
18. On 05/31/08 at 1:28 am, Milwaukee police were dispatched to 1827 N Farwell Avenue for a Fight complaint. Security was reporting that 300 plus people were at the location and that there was a fight. The caller stated they had only four security guards and needed more help. Updated calls were given to responding squads that indicated that a male was armed with a revolver. As police approached, they observed security has an auto stopped in the street at gunpoint. Police issued several citations and a report was filed regarding the subject who was armed and fled the restaurant.
19. On 06/01/08 at 1:53 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Investigation revealed people were fighting outside the restaurant and in the parking lot. A victim was identified but he refused to prosecute.
20. On 06/07/08 at 1:00 am, Milwaukee police were dispatched to 1827 N Farwell for reports of Shots Fired and Cruising. Squads responded and were not able to locate any suspects. Police were dispatched again at 2:05 am for a complaint of Battery- DV related. Investigation found security personnel used pepper spray on a suspect that was unrelated to the Battery DV complaint. Reports were filed. Police again were dispatched at 3:26 am, for another Battery complaint between two patrons and citations were issued in the incident.
21. 06/16/08 at 1:08 am, Milwaukee police were dispatched to 1827 N Farwell for a Loud Music complaint. Squads were advised that there were 20-30 subjects outside of the restaurant crowding the streets playing loud music and getting in and out of their cars. Squads responded and cleared the area. At 1:35 am, police were flagged down by an employee of Pizza Shuttle about patrons causing problems inside the restaurant. Police again responded and at the request of management, ordered everyone that was inside the restaurant to leave if they were not ordering food. It should be noted an underage party was held downtown that ended up with numerous patrons from that club going to Pizza Shuttle. On that particular night, the restaurant did not have security personnel on scene.

22. On 06/20/08, Milwaukee police were dispatched to 1827 N Farwell for a Trouble With Subject complaint. Police spoke to Christopher Albert, security for Pizza Shuttle who stated patrons who were intoxicated were refusing to leave the property. Albert stated these patrons were screaming profanities and police were called. Citations were issued to two patrons for Trespassing and one citation was issued for Obstructing An Officer.
23. On 06/17/08 at 1:40 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Police spoke to security who stated there was a verbal altercation in the parking lot between two females. When security approached these two women, one subject's boyfriend jumped in and became loud and disorderly to the security guards. Security asked these subjects to leave but they refused. One citation was issued for Disorderly Conduct.
24. On 07/06/08 at 1:12 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Investigation revealed a fight took place in the parking lot of Pizza Shuttle with approximately 200-300 people scattered though the waiting area of the restaurant. These patrons appeared to be spectators to the fight and were egging the participants on. A report for property damage was also taken. While on scene, police were advised of another fight inside the mens room of the restaurant. Both subjects involved in that were cited for Disorderly Conduct. While police were issuing citations for the fight, security again advised police of a verbal confrontation between other patrons in which security tried to break up but that both parties directed their anger at security. Officers advised these two subjects to leave or they would both receive citations. They left without incident. Police were on scene for 1 hour and 41 minutes. Police did speak with management regarding the volume of calls received by the restaurant and that no other businesses in the area have needed this type of police response.
25. On 07/07/08 at 1:00 am, Milwaukee police were dispatched to a Fight at 1827 N Farwell. Investigation revealed security was detaining four subjects who were observed in an auto parked in the parking lot of Pizza Shuttle with one actor being in possession of marijuana. Police arrested and charged one actor with Possession of Marijuana.
26. On 10/18/08 at 1:01 am, Milwaukee police were dispatched to 1827 N Farwell for A Trouble With Subject complaint. Police spoke to the manager William Kopatichi who stated a group of club juveniles entered his business causing a disturbance in and around the restaurant. Kopatichi stated the juveniles were trashing the dining room area while yelling obscenities and arguing outside of the restaurant so he called police. The subjects were gone upon police arrival. Police observed that no security was on scene of the business. Kopatichi stated that the owner cancelled security services and was in the process of contracting with a new company. No citations were issued regarding the incident.