

CHAIR

- Licenses Committee

MEMBER

- Community and Economic Development Committee
- Steering and Rules Committee



TONY ZIELINSKI
ALDERMAN, 14TH DISTRICT

June 9, 2016

To the Honorable, the Common Council

Dear Members:

Re: Common Council File Numbers 151666 and 160154

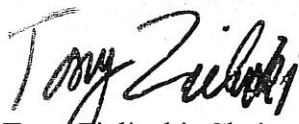
Attached are the written objections to file number 151666, Motion relating to the recommendations of the Licenses Committee relative to licenses, and file number 160154, Substitute motion relating to a 90 suspension of the Class B Tavern, Food Dealer, and Public Entertainment Premises licenses of John Urban, agent for Le Cabaret, Inc. for the premises at 813 S 1st St, doing business as "Texas J's" in the 12th aldermanic district, relating to the recommendation of:

Renewal, with a 90 day suspension of the Public Entertainment Premises license, based upon the police report and applicant, neighborhood, and aldermanic testimony for James Cadd for the premises located at 920-24 E Juneau Ave ("Astor Street Bar & Grille") in the 4th aldermanic district.

A 90 day suspension of the Class B Tavern, Food Dealer, and Public Entertainment Premises licenses, based upon the police report, and police and applicant testimony for John Urban for the premises located at 813 S 1st St ("Texas J's") in the 12th aldermanic district.

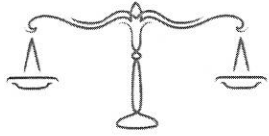
This matter will be heard by the full Council at its Tuesday, June 14, 2016 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached statements and materials.

Respectfully,


Tony Zielinski, Chair
Licenses Committee

cc: All Council Members
City Attorney's Office
Common Council/City Clerk – License Division
CCF 151666, 160154





Law Office of David Halbrooks

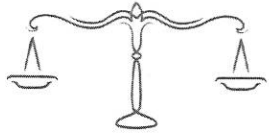
June 8th, 2016

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

Re: Objections to Findings of Fact in the Suspension of
Tavern, Food & PEP licenses
Agent: John Urban
Corporate Entity: Le Cabaret, Inc.
Premises: 813 S. 1st St. / "Texas J's"

Honorable Members of the Common Council:

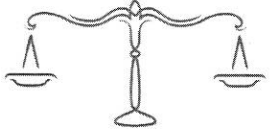
Please be advised that this office represents the above-referenced licensee, Le Cabaret, Inc. (hereinafter "Cabaret"). This communication is submitted as Cabaret's written objections to the report of the Licenses Committee (hereinafter "Committee") received on June 6th, 2016, recommending that Cabaret's three licenses be suspended for 90 days. Cabaret requests that these written objections be considered at the Common Council meeting of Tuesday, June 14th, 2016, at which time the Committee's recommendation regarding the license suspensions will be considered. The recommendation of the Committee was the result of a revocation hearing conducted by the Committee on May 31st, 2016, based upon one incident at the licensed premise on April 2nd, 2016, which resulted in a patron suffering a concussion from being struck by another patron.



As such, the Common Council should consider the following:

- 1) The Common Council should not approve the recommended suspension because the search conducted by the Milwaukee Police Department ("MPD") was illegal. MPD requested and received a search warrant for the premises 813 S. 1st Street, Milwaukee, WI. The search warrant was for "the lower business portion of the premises;...with the front door bearing the address numerals of "813." MPD smashed in a door clearly marked "811" and proceeded up the stairs to the second floor which was the only way accessible. The search warrant did not provide access to the second floor office or residential area. All fruits of the search including all video must be suppressed and cannot be considered by the Common Council. (Warrant attached)
- 2) Additionally, the Common Council cannot consider the video shown at the Committee hearing because the video is not in the record. The Committee decided to take the video off of the video recording of the meeting as a result the full Council and a court will have no record to review of what the Committee viewed.
- 3) Also, the video was not played straight through. The Assistant City Attorney made himself a witness as he played the video by operating the computer presentation. He decided which camera angle to show the Committee. He also sped up and slowed down the video at his discretion. There is no way to recreate the presentation in the record.
- 4) The Common Council and a court will also not be able to consider the video evidence presented to the Committee as the video is not in the record because the Assistant City Attorney never moved the video into evidence. There is no indication in the minutes that the video was received by the Committee.
- 5) On information and belief, there was lobbying of Common Council members occurring in this matter outside of the Committee meeting which is not allowed in a quasi-judicial hearing.
- 6) The MPD witnesses used their police reports to refresh their recollections and those reports were not shared with the licensee.
- 7) Finally, the Common Council should not approve the Committee recommendation because testimony of the MPD District Captain and the District Alderman went well beyond the allegations in the complaint and should not have been allowed, considered or included in the findings.
- 8) All legal arguments raised by the licensee at the Committee hearing are preserved in this objection.

Cabaret respectfully submits that the 90-day suspension is not justified for only one incident at an establishment that has been licensed for over forty years, renewed repeatedly



without any suspension. The incident lasted 27 seconds after which the establishment was cleared in about 9 minutes.

It is submitted respectfully that this Honorable Body decline to accept the recommendation of the Committee to suspend Cabaret's three licenses for 90 days.

Very Truly Yours,

A handwritten signature in cursive script that reads "David Halbrooks". The letters are fluid and connected, with a prominent initial "D".

David Halbrooks

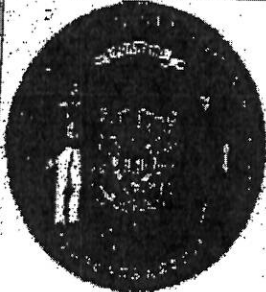
Attorney for Cabaret

State Bar Number: 1007375

Cc: client

Attorney City Attorney Butler

COPY



CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF WISCONSIN
COUNTY OF MILWAUKEE

SEARCH WARRANT

The State of Wisconsin, to any Law Enforcement Officer of the State of Wisconsin:

WHEREAS, Police Officer *Scott Iverson* has this day complained (by attached affidavit) to this Court upon oath showing probable cause that on *Sunday, April 3rd, 2016*, in the County of Milwaukee, there is now located and concealed in and upon certain premises, located within the City of Milwaukee, in said County, occupied by *Texas Jay's Gentlemen's Club, owned by Washington Investments Inc.*, and more particularly described as follows:

DESCRIBE PREMISES: *Texas Jay's Gentlemen's Club is located at the address of 813 S. 1st Street, Milwaukee, WI 53204;* is the lower business portion of the premises; the building is covered with brown colored siding and the front doors are yellow, with the front door bearing the address numerals of "813"; there is a front awning that bears the business name "Texas Jay's Gentleman's Club Milwaukee"; that this premises is located in the City and County of Milwaukee, State of Wisconsin; Search to include all storage areas associated with and accessible *813 S. 1st Street*, certain goods, chattels and property, to-wit:

DESCRIBE OBJECTS OF SEARCH:

- (1) All video surveillance footage from Texas Jay's Gentleman's Club relating to the dates of Friday, April 1st, 2016 and Saturday, April 2nd, 2016, and/or the video surveillance recorder(s) for the premises;

Which may constitute evidence of a crime, to-wit:

DESCRIBE CRIME OR CRIMES:

- (1) Substantial Battery

Committed in violation of Section(s) 940.19(2) of the Wisconsin Statutes.

THEREFORE, in the name of the State of Wisconsin, you are commanded forthwith to search the said premises and/or the said person(s) for said things, and take possession thereof, if found. You are further commanded to return this warrant within forty-eight hours before the Assistant Chief Deputy Clerk of the Circuit Court, Crime, Misdemeanor, Traffic Division, or his designee, to be dealt with according to law.

WITNESS, the Honorable Marshall B. Murray, Judicial Court Commissioner of the First Judicial District of Wisconsin, at Milwaukee, Wisconsin, at 1:28 on 4/3/2016, 2016.
(Hour, AM/PM) (Month, Day, Year)

NO KNOCK: no

Marshall B. Murray
Judicial Court Commissioner of Circuit Court Br. 43