



Office of the City Clerk

Ronald D. Leonhardt
City Clerk

www.milwaukee.gov

Carolyn Hill Robertson
Deputy City Clerk

November 2, 2006

Edgar Birdsong, III
2911 North 27th Street
Milwaukee, WI 53205


Dear Mr. Birdsong:

You are hereby notified that the Milwaukee Common Council will hold a hearing on November 14, 2006 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 53202 to consider your food dealer license application for the premises at 5922 North 76th Street, Milwaukee, Wisconsin ("Birdsong's Distribution").

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 denial of the food dealer license. The recommendation is the result of a public hearing before the Committee held on October 30, 2006 and a police report.

You may file a written objection to the report of the License Committee and shall have the opportunity to present arguments in writing supporting that objection to the Common Council. Any written objections to the Committee's Report must be filed with the City Clerk at least two (2) days prior to the above-mentioned date set for hearing by the Common Council. You or a legal representative may also appear at the Common Council meeting and request an opportunity to address the Common Council for approximately five (5) minutes to present an oral argument on your own behalf.

Respectfully,



RONALD D. LEONHARDT
City Clerk

Enclosure

c: License Division
CCF 060817



JAMES N. WITKOWIAK
ALDERMAN, 12TH DISTRICT

Date: November 2, 2006

To: All Members of the Milwaukee Common Council

From: The Licenses Committee

Re: Report of the application of Edgar Birdsong, III for a food dealer's license for the premises located at 5922 North 76th Street in the City and County of Milwaukee, Wisconsin ("Birdsong's Distribution").

FINDINGS OF FACT

1. Edgar Birdsong, III applied for a food dealer's license for the premises located at 5922 North 76th Street in the City and County of Milwaukee, Wisconsin ("Birdsong's Distribution") with the Office of the Commissioner of Health on August 24, 2006.
2. Pursuant to Chapter 68 of the Milwaukee Code of Ordinances, the matter was referred to the Milwaukee Police Department for investigation. The police department filed a police report dated September 19, 2006 that could form the basis for nonrenewal or suspension of the license. There were also aldermanic objections due to the past criminal history of the applicant.
3. On October 19, 2006, the City Clerk's Office provided timely notice to the applicant, pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes of the objections that could form the basis for denial of the application for a food dealer's license. The matter was scheduled for a hearing on the objections on October 30, 2006 at 8:30 a.m. in Room 301B of the third floor of City Hall. At said date, time and place the applicant did appear and was not represented by counsel.
4. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. The applicant had an outstanding warrant for gambling with the City of Milwaukee; however, that warrant is paid, and is no longer an issue.

- B. Mr. Birdsong desires to sell, in addition to his other wares, candy, potato chips and soda.
- C. At hearing it was admitted by Mr. Birdsong that he is currently selling candy, potato chips, and soda. It was further admitted that an inspector of the Milwaukee Health Department came into his store and advised him that he must obtain a food dealer's license in order to sell those products. Rather than taking them off the shelves until he obtained the food dealer's license, Mr. Birdsong continues to sell the products in his store anticipating that he will get the food dealer's license.
- D. Mr. Birdsong pointed out to the Committee that he is supportive of the activities of the neighborhood children. However, the fact that Mr. Birdsong continues to sell products without a license was of concern to the Committee.

CONCLUSIONS OF LAW

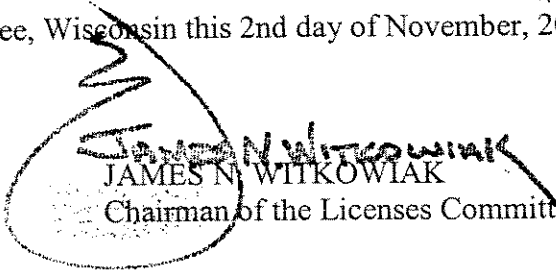
1. The Committee has jurisdiction to hold hearings and provided Findings of Fact and Conclusions of Law and a Recommendation to the full Common Council pursuant to Chapter 68 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found, the Committee concludes that the applicant, Edgar Birdsong, III has not met the criteria of Chapter 68 of the Milwaukee Code of Ordinances to allow him to be granted a food dealer's license. The Committee finds the objections 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 deny food dealer license application of Edgar Birdsong, III for the premises at 5922 North 76th Street in the City and County of Milwaukee, Wisconsin ("Birdsong's Distribution").

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of five (5) ayes and zero (0) noes recommends that the food dealer license application of Edgar Birdsong, III for the premises at 5922 North

76th Street in the City and County of Milwaukee, Wisconsin ("Birdsong's Distribution") be denied.

Dated and signed at Milwaukee, Wisconsin this 2nd day of November, 2006.


JAMES N. WITKOWIAK
Chairman of the Licenses Committee

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