



JAMES N. WITKOWIAK

ALDERMAN, 12TH DISTRICT

July 19, 2004

To the Honorable, the Common Council

Dear Members:

Re: Common Council File 031480

Recommendation of renewal of the Class "B" Tavern license with a 10-day suspension, based on neighborhood objection, of Socorro Gomez for the premises located at 2101 S. 6th St. ("Club 6th Street") in the 12th aldermanic district (Committee vote: Ayes: 4, Noes: 1)

Recommendation of renewal of the Class "B" Tavern license with a 10-day suspension, based on the police report, of Patty Roby for the premises located at 5334 W. Hampton Ave. ("Life Bar") in the 7th aldermanic district.

Recommendation of renewal of the Class "A" Liquor and Malt license with a 15-day suspension based on the police report of Nihar Shah for the premises located at 6329 S. 20th St. ("VIP Food and Liquor Mart") in the 13th aldermanic district.

With regard to the items listed above, the Utilities and Licenses Committee held an evidentiary hearing on July 13, 2004.

Pursuant to section 90-11, Milwaukee Code of Ordinances, and section 125.12(12), Wis. Stats., the Committee is transmitting a copy of its Report and Recommendations, regarding the above matters to your Honorable Body.

Pursuant to City Ordinances, prior to the time the Common Council acts on the Committee's Report, **a roll call vote will be taken** to confirm that all members present and voting have read the Committee's Report and any objections that have been filed by the Licensee.

These matters have been scheduled for a hearing before the full Common Council at its meeting on Tuesday, July 27, 2004 at 9:00 A.M. in the Common Council Chambers.

Respectfully,


James N. Witkowiak, Chair
Utilities & Licenses Committee

cc: License Division
All Council Members
File No. 031480

Date: July 16, 2004

To: All Members of the Milwaukee Common Council

From: Utilities and Licenses Committee

Re: Report on the Renewal Application of Socorro Gomez, holder of the Class " B" Tavern license for " Club 6th Street" for the premises located at 2101 S. 6th St. in the City and County of Milwaukee, Wisconsin ("Club 6th Street").

FINDINGS OF FACT

1. Socorro Gomez (hereinafter "the Licensee") is the holder of a Class " B" Tavern License for the premises located at 2101 S. 6th St. in the City and County of Milwaukee, Wisconsin. Said license expires at midnight on August 1, 2004.
2. A timely application to renew said license was filed with the Office of the City Clerk on May 26, 2004.
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. On May 27, 2004, the Milwaukee Police Department responded with a report, that provided no basis for non-renewal or suspension of said license. However there were neighborhood objections to loitering, littering, loud music and noise during and after hours, citing public urination, damage to private property, gunshots, parking and traffic problems and conduct detrimental to the health, safety and welfare of the neighborhood.
4. On July 6, 2004 the City Clerk's Office provided timely notice of the neighborhood objections to the Licensee pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes and included therewith a copy of the Milwaukee Police Department report. The matter was scheduled for a hearing on the neighborhood objections on July 13, 2004, commencing at 1:30 p.m. in Room 301B of the third floor of City Hall. At said time and place, the licensee appeared and admitted receipt of the notice of hearing, police report and neighborhood objections.
5. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. Neighbors living across the street and in the immediate vicinity report numerous instances of patrons exiting this bar and urinating on the street in front of the neighbors.

- B. Neighbors immediately adjacent to this licensed premises have observed extremely intoxicated patrons exiting the premises, getting into motor vehicles and driving away.
- C. Neighbors in the immediate vicinity of this premises have observed patrons exiting the premises and engaging in loud and boisterous fights in the late night and early morning hours. These fights have involved as many as 20 to 30 patrons.
- D. One neighbor adjacent to this premises is a single mother who must work, and has four children. Two of those children are females, and a drunken patron exited this premises and attempted to sexually assault one of her minor female daughters. That man kept saying "I'm from Mexico."
- E. One neighbor, as late as the Saturday night before this hearing, sat on her front porch and watched at least one car come "screaming" down a hill, do a U-turn in front of the bar, and a patron exit from the motor vehicle and enter the bar.
- F. Neighbors immediately adjacent to this premises have observed patrons of the bar exchange money for small packets of materials.
- G. Neighbors in the immediate vicinity of this tavern have observed female patrons exit the bar, get into cars which leave and drive around for approximately 20 minutes and then return to discharge the female patron who then re-entered the tavern.
- H. There were supporters of this tavern, some of whom included employees and family members who claim that none of the events claimed by the objecting neighbors have occurred while they are present. However, some of those individuals are not present at the bar in the late night hours.

CONCLUSIONS OF LAW

1. The Committee has jurisdiction to hold hearings and provide Findings of Fact, 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 Utilities and Licenses Committee concludes that the licensee, Socorro Gomez, for the premises located at 2101 S. 6th St. in the City and County of Milwaukee, Wisconsin ("Club 6th Street") has not met the criteria of Chapter 90 of the Milwaukee Code of Ordinances or

Chapter 125 of the Wisconsin Statutes to allow renewal of these licenses without undergoing a ten (10) day suspension. The Committee finds the neighborhood complaints as stated above to be true.

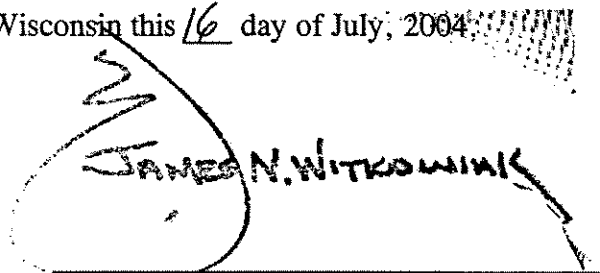
3. In order to protect the health, safety and welfare of the citizens of the City of Milwaukee it is the recommendation of the Utilities and Licenses Committee that the full Common Council of the City of Milwaukee exercise its judgment to renew the Class "B" Tavern license of Socorro Gomez for the premises at 2101 S. 6th St. in the City and County of Milwaukee, Wisconsin with a ten (10) day suspension.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of five (5) ayes, zero (0) noes, recommends that the Class "B" Tavern License held by Socorro Gomez for the premises located at 2101 S. 6th St. ("Club 6th Street") in the City and County of Milwaukee, Wisconsin be renewed with a ten (10) day suspension.

Said suspension is to be in effect between midnight, August 1, 2004 through midnight, August 11, 2004.

Dated and signed at Milwaukee, Wisconsin this 16 day of July, 2004.

A handwritten signature in black ink that reads "JAMES N. WITKOWIAK". The signature is written in a cursive style with a large, looped initial "J".

JAMES N. WITKOWIAK, Chair
Utilities and Licenses Committee

82956

Date: July 16, 2004

To: All Members of the Milwaukee Common Council

From: Utilities and Licenses Committee

Re: Report on the Renewal Application of Patty L. Roby, holder of the Class " B" Tavern license for the premises located at 5334 W. Hampton Ave. in the City and County of Milwaukee, Wisconsin ("Life Bar").

FINDINGS OF FACT

1. Patty L. Roby (hereinafter "the Licensee") is the holder of a Class " B" Tavern License for the premises located at 5334 W. Hampton Ave. in the City and County of Milwaukee, Wisconsin (" Life Bar"). Said license expires at midnight on July 30, 2004.
2. A timely application to renew said license was filed with the Office of the City Clerk on May 14, 2004.
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. On May 17, 2004, the Milwaukee Police Department responded with a report, which could form the basis for non-renewal or suspension of said license. There were also neighborhood objections to loitering, littering, loud music, traffic, parking problems, disorderly patrons and conduct detrimental to the health, safety and welfare of the neighborhood.
4. On July 6, 2004 the City Clerk's Office provided timely notice to the Licensee pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes and included therewith a copy of the Milwaukee Police Department report together with notification of the neighborhood objections. The matter was scheduled for a hearing on the police report on July 13, 2004, commencing at 10:30 a.m. in Room 301B of the third floor of City Hall. At said time and place, the licensee appeared and admitted receipt of the notice of hearing, police report and neighborhood objections.
5. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. On November 2, 2003 at 2:46 a.m. officers of the Milwaukee Police Department were dispatched to a shooting at 5303 W. Hampton Avenue, in the City and County of Milwaukee, Wisconsin. Their investigation revealed that an argument occurred at the licensed premises at 5334 W.

Hampton Avenue in the City and County of Milwaukee, Wisconsin ("Life Bar"), which turned into a fight. The fight was broken up by bar employees and participants were expelled from the premises. The shots entered the tavern and caused grazing injuries to three patrons. Immediately after the incident, the bartender closed the tavern and did not call police.

- B. On February 1, 2004 at 2:17 a.m. officer of the Milwaukee Police Department were dispatched to 54th St. and W. Hampton Ave. in the City and County of Milwaukee, Wisconsin to investigate a complaint of shots fired. A witness told the officers that he heard four to five gunshots coming from the parking lot of the premises at 5334 W. Hampton Avenue, in the City and County of Milwaukee, Wisconsin ("Life Bar"). He looked to the lot and observed several males on the parking lot and then heard two more shots. The subjects then fled the scene. The officers found five 9MM shell casings on the ground in the area. They also found a person identifying himself as a patron of the bar. He said he left the premises and became involved in an argument with an unknown person. During the course of the argument the suspect produced a gun and began to fire shots at the patron, striking his car. The officers spoke to the tavern security personnel and bartender. Both said they were unaware of the incident and claimed the heard nothing.

CONCLUSIONS OF LAW

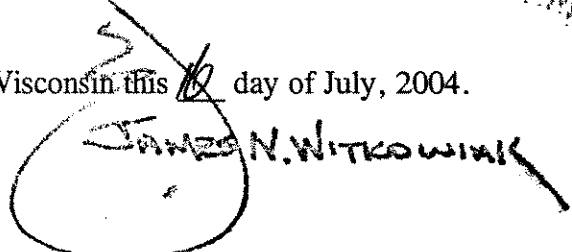
1. The Committee has jurisdiction to hold hearings and provide Findings of Fact, Conclusions of Law and a Recommendation to the full Common Council pursuant to Chapter 125 of the Wisconsin Statutes and Chapter 90 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found, the Utilities and Licenses Committee concludes that the licensee, Patty L. Roby, for the premises located at 5334 W. Hampton Ave. in the City and County of Milwaukee, Wisconsin ("Life Bar") has not met the criteria of Chapter 90 of the Milwaukee Code of Ordinances or Chapter 125 of the Wisconsin Statutes to allow renewal of these licenses without undergoing a ten (10) day suspension. The Committee finds the police report 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 Utilities and Licenses Committee that the full Common Council of the City of Milwaukee exercise its judgment to renew the Class "B" Tavern license of Patty L. Roby for the premises at 5334 W. Hampton Ave. in the City and County of Milwaukee, Wisconsin with a ten (10) day suspension.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of five (5) ayes, zero (0) noes, recommends that the Class "B" Tavern License held by Patty L. Roby for the premises located at 5334 W. Hampton Ave. ("Life Bar") in the City and County of Milwaukee, Wisconsin be renewed with a ten (10) day suspension.

Said suspension is to be in effect between midnight, July 30, 2004 through midnight, August 9, 2004.

Dated and signed at Milwaukee, Wisconsin this 12 day of July, 2004.

A handwritten signature in black ink that reads "JAMES N. WITKOWIAK". The signature is written in a cursive style and is enclosed within a hand-drawn oval. There are some scribbles and a checkmark-like mark above the signature.

JAMES N. WITKOWIAK, Chair
Utilities and Licenses Committee

82950

Date: July 16, 2004

To: All Members of the Milwaukee Common Council

From: Utilities and Licenses Committee

Re: Report on the Renewal Application of Nihar J. Shah, holder of the Class "A" Liquor and Malt license for "VIP Food & Liquor Mart" for the premises located at 6329 South 20th Street in the City and County of Milwaukee, Wisconsin ("VIP Food & Liquor Mart").

FINDINGS OF FACT

1. Nihar J. Shah (hereinafter "the Licensee") is the holder of a Class "A" Liquor and Malt License for the premises located at 6329 South 20th Street in the City and County of Milwaukee, Wisconsin. Said license expires at midnight on July 15, 2004.
2. An untimely application to renew said license was filed with the Office of the City Clerk on June 15, 2004.
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. On June 17, 2004, the Milwaukee Police Department responded with a report, which could form the basis for non-renewal or suspension of said license. There were also neighborhood objections to noise, litter, and underage sales taking place at this premises, leading to an adverse impact upon the health, safety, and welfare of the citizens of the community.
4. On July 6, 2004 the City Clerk's Office provided timely notice to the Licensee of the neighborhood objections and police report pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes and included therewith a copy of the Milwaukee Police Department report. The matter was scheduled for a hearing on the police report and neighborhood objections on July 13, 2004, commencing at 9:45 a.m. in Room 301B of the third floor of City Hall. At said time and place, the licensee appeared and was represented by Attorney David Bangert, Broadway Theater Center, 158 North Broadway, Suite 600, Milwaukee, Wisconsin 53202-6015.
5. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. On May 4, 2001 an underage Milwaukee police aide entered the licensed premises at 6329 South 20th Street in the City and County of Milwaukee,

cocktail on the counter. She was never asked to provide any identification. The officers were able to hear the first girl tell the second, to take her drinks. Nihar J. Shah was cited for sale to underage person (2 counts). That citation was not issued by the City Attorney's Office on October 24, 2002.

- F. On September 12, 2002, officers were dispatched to District 6, regarding a complaint of an underage alcohol event that may have occurred at South 13th Street and West Edgerton Avenue in the City and County of Milwaukee, Wisconsin. The officers interviewed a citizen who informed them that he had returned home from work and found his 17-year old son would not answer the door to his home. He entered his son's room, and found his son on the bed intoxicated. He was conveyed to St. Francis Hospital, treated and released. The son's blood alcohol content was approximately .177. The boy was later interviewed by officers. He said he did not go to school on September 11, 2002, but instead took the bus to the licensed premises at 6329 South 20th Street in the City and County of Milwaukee, Wisconsin ("VIP Food & Liquor Mart") and bought a bottle of Sky Vodka and a 12-pack of Heineken beer. He went home and drank the items alone.

The boy gave officers a description of the person he claims sold him the liquor and beer. The officers went to the licensed premises at 6329 South 20th Street in the City and County of Milwaukee, Wisconsin ("VIP Food & Liquor Mart") and interviewed the owner, Nihar Shah, who stated that on September 11, 2002 he was the only one working the register before 1:00 PM, and did not recall selling anything to the underage person. Mr. Shah did not match the description that the boy gave to the officer. Neither did the other employee working on September 11, 2002 as of 12:00 noon. An incident report was filed.

- G. On September 14, 2002 at about 9:45 AM, an officer did a premises check at the licensed premises at 6329 South 20th Street in the City and County of Milwaukee, Wisconsin ("VIP Food & Liquor Mart"). The only employee on the premises told the officer that he did not have a bartender's license. He stated that the licensee, Nihar Shah, left him to run the store while Shah went to Sam's Club. He told officers that Shah knew he did not have a bartender's license. Shah was called to the store and he told officers he knew the clerk did not have a Class "D" bartender's license. He stated that he needed to run to the bank to get change. The licensee was cited for no responsible person upon a licensed premises (licensee responsibility). He was found guilty on February 14, 2002 and fined \$150.00. At the hearing Mr. Shah claimed that the only individuals he now employees are individuals with Class "D" Bartender's license.

- H. On April 4, 2003 at 1:35 PM, officers of the Milwaukee Police Department, along with two underage police aides, conducted a licensed premises check at the licensed premises at 6329 South 20th Street in the City and County of Milwaukee, Wisconsin ("VIP Food & Liquor Mart"). The first police aide was sent into the store. That aide was able to pick up a 6-pack of Smirnoff Ice, valued at \$8.54. The police aide walked to the checkout counter and paid for the alcoholic beverages and walked out of the store. A second police aide was sent into the store where he picked up a 12-pack of 12-ounces bottles of Corona beer and walked up to the checkout counter and paid for the alcoholic beverage with his Wisconsin Driver's license which listed him as being under 21 years of age. He then left the store. The store clerk was identified as Mohinder P. Singh, d/o/b January 1, 1946. Singh told the officers that he thought both of the police aides were of age to buy the items when he sold them. The owner, Mr. Shah, was contacted and told to come to the store. While waiting for the owner the officers checked the milk cooler found a half gallon of milk with an expiration of April 2, 2003, and a pint of milk that expired on April 3, 2003. There was also a container of butter that expired on January 20, 2003, and a can of Reddi Whip, which expired on August 23, 2002. The officers walked around the store and observed several items, including chips, medicine, soda, and various other items that had expiration dates well over one to two years old. The Health Department was contacted and sent an agent to the store. The agent informed the officers that it was not illegal to sell medicine and food past expiration dates, but that it was illegal to sell expired milk and dairy products past the expiration dates. Nihar Shah was cited for sale to underage persons prohibited (licensee responsibility - 2 counts) and outdated dairy products. The clerk, Mohinder Singh was cited for sale to an underage person (2 counts), all cases were heard by the Milwaukee Municipal Court on August 25, 2003. The underage sale citations issued to the licensee were dismissed and the licensee pled guilty to the one citation for outdated dairy products and was fined \$100. The clerk, Mohinder Singh was found guilty on the two counts for underage sale and fined \$100 on each citation.
- I. On February 27, 2004 at 5:05 p.m. officers of the Milwaukee Police Department, along with an underage police aide, conducted a check of the licensed premises, 6329 S. 20th St. of the City and County of Milwaukee, Wisconsin ("VIP Food & Liquor"). The police aide entered the premises and was able to purchase a six-pack of Leinenkugel Honey Weiss from the cashier, Theresa Sedarski. Nihar J. Shah was issued a citation for sale of alcohol to an underage person. On May 10, 2004 that citation was dismissed as Ms. Theresa Sedarski pled guilty to a citation for sale to an underage person and was fined \$152.00.
- J. On March 18, 2004 at 4:50 p.m. officers of the Milwaukee Police Department, along with an underage police aide, conducted a check of

the licensed premises, 6329 S. 20th St. of the City and County of Milwaukee, Wisconsin ("VIP Food & Liquor"). The police aide was able to purchase a six-pack of Miller Highlife Beer. The cashier asked for and checked the police aide's driver's license which clearly stated that the police aide was under 21 years of age. The clerk then took the money for the six-pack of beer. The licensee was issued a citation for responsible person on a licensed premises, whoever that citation was dismissed on May 12, 2004. The cashier, Karen M. Hafenbrack was issued a citation for sale of alcohol to an underage person and is waiting a pre-trial date of July 26, 2004.

- K. A neighbor who lives across the street in a condominium complex reported that there is constant litter in the area of this premises. This litter consists of broken glass and old signs that have been discarded. She also objects because of the profusion of signage located in the windows of the store.

CONCLUSIONS OF LAW

1. The Committee has jurisdiction to hold hearings and provide Findings of Fact, 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. This location poses a danger to the health, safety and welfare of the citizens of the community. That is shown by the selling of out-of-date food products, the incident of illness of a juvenile by the operation of this store, operating this store without a licensed bartender, allowing adult videos to be visible to minors, and for two years running, consistently not timely renewing his Class "A" Liquor and Malt license in a timely, manner, and allowing litter to accumulate around his store premises. In the previous licensee year this premises was renewed with a forty-five (45) day suspension. The licensee has not greatly improved his operation and needs more time to make the necessary improvements to the cleanliness of his premises.

The Committee further understands despite the appalling record regarding underage sales of alcohol, that it cannot, and the council cannot consider those matters because of the operation of § 125.12(1)(a)2, § 125.07(1)(b), and § 125.07(1)(b)6. [only one penalty to be imposed for any given violation of § 125.07 Wis. Stats.].

3. In order to protect the health, safety and welfare of the citizens of the City of Milwaukee, it is the recommendation of the Utilities and Licenses Committee that the full Common Council of the City of Milwaukee exercise its judgment to renew the Class "A" Liquor and Malt license of Nihar J. Shah for the premises

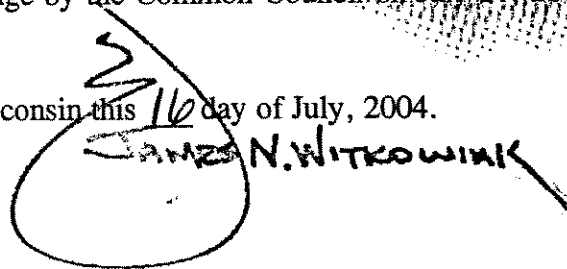
at 6329 South 20th Street in the City and County of Milwaukee, Wisconsin with a fifteen (15) day suspension.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of five (5) ayes, zero (0) noes, recommends that the Class "A" Liquor and Malt License held by Nihar J. Shah for the premises located at 6329 South 20th Street ("VIP Food & Liquor Mart") in the City and County of Milwaukee, Wisconsin be renewed with a fifteen (15) day suspension.

Said suspension is to be in effect upon passage by the Common Council on July 27, 2004 through midnight, August 11, 2004.

Dated and signed at Milwaukee, Wisconsin this 16 day of July, 2004.

A handwritten signature in black ink that reads "JAMES N. WITKOWIAK". The signature is written over a circular stamp or mark. To the right of the signature, there is a faint, circular stamp with some illegible text inside.

JAMES N. WITKOWIAK, Chair
Utilities and Licenses Committee

82949