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December 28, 2009

CITY OF MILWAUKEE
09 DEC 28 PM 4:25
RONALD D. LEONHARDT
CITY CLERK

VIA MESSENGER
Common Council
c/o City Clerk's Office
200 E. Wells St.
Milwaukee, WI 53202

RE: APX Alarm Security Solutions, Inc.
License Application

Dear Council Members:

APX Alarm Security Solutions, Inc. appreciates this opportunity to present further information as to its suitability for continued licensing by the City of Milwaukee.¹

1. APX has Been a Member of this Business Community for More Than Three Years.

APX is ranked in SDM as one of the top ten alarm companies and serves over 375,000 customers across the country and in Canada. APX has been a member of the Wisconsin business community since 2006, and provides services to over 3,800 customers in the state of Wisconsin. APX currently provides services to more than 1,400 customers in the Milwaukee metropolitan area alone.

¹ In an abundance of caution, we submit this statement subject to the objections raised in the letter to the Common Council dated December 16, 2009. In submitting this letter, APX does not waive any claims relative to the Public Safety Committee meeting held on December 10, 2009.

APX provides important services to customers in Milwaukee by helping its customers protect their families. APX's business does not violate any Wisconsin statute or section of the Milwaukee Municipal Code. While there have been a handful of customer complaints about APX in Milwaukee since 2006, APX has diligently responded to those complaints and attempted in good faith to resolve each and every situation.

2. APX'S Application was Wrongly Deemed a New Application.

In October 2009, APX submitted an application for a renewal of its Alarm Business License pursuant to Milwaukee Code § 105-75-7. According to the Code, APX was entitled to the procedural benefits that apply to renewal applications. Contrary to the provisions of the Code, however, at the hearing on December 10, 2009, APX was informed for the first time that its renewal application was being considered as a **new application because APX had changed the address of its corporate headquarters**. Section 105-75-4(b) governs instances in which an renewal application is treated as an application for a new license; a change of address on an application is **not** a basis for treating a renewal application as an application for a new license.

3. No Objection was Filed to APX's Renewal Application, and there is No Basis for Denying that Application.

Under the Code, APX Alarm's renewal application should have been granted unless there was either an objection filed or APX no longer satisfied the licensing qualifications. APX fully complies with all of the licensing qualifications. Accordingly, without an objection on file, the Public Safety Committee had no basis for its recommendation to deny the application and the Committee should have instead referred the application to the Common Council for approval. In

short, pursuant to the Code, neither the Public Safety Committee nor the Common Council has any legitimate basis for voting to deny APX's application.

A City of Milwaukee News Release issued prior to the December 10th Public Safety Committee hearing stated, among other things, that the Public Safety Committee is concerned that false alarms are wasting the police department's time and resources.² Those concerns were **not** raised at APX's hearing on December 10, nor was there any evidence presented at the hearing that APX or its customers were responsible for any of the purported false alarms. Moreover, there was no evidence presented at the hearing that APX had any illegal or prohibited alarm systems as defined in Code § 105-75-11, or that it had falsely promised any customer that an APX alarm system would automatically transmit a signal to the police and the police would automatically respond to an activated alarm.

APX's alarm systems are designed to avoid false alarms. APX sells, installs, monitors, and services private alarm systems that send alerts through its newly acquired central monitoring station in Minnesota. When one of APX's alarms sounds, the central monitoring station attempts to contact the customer through the two-way features of its equipment and then sends a private security guard to investigate. If the alarm signal is verified as a legitimate emergency, the central monitoring station personnel notify the proper authorities.

Simply put, there was absolutely no evidence submitted that at the "hearing" on December 10, 2009, that would warrant denial of APX's application for renewal of its license.

² See Exhibit B, City of Milwaukee News Release dated December 9, 2009.

The committee discussed a 2007 police report, but determined that it had already been discussed -- and explained by APX -- at a 2007 meeting where APX's license was renewed. Therefore, the Public Safety Committee should not have considered that report as evidence. Likewise, the committee discussed two letters from the State that should not have been considered as evidence; those letters, relating to two customers' complaints, present hearsay at best and, in any event, pertain to matters for which APX was never sanctioned by the State. Absent any objection or evidence on which to base a denial, the Public Safety Committee plainly erred and exceeded its authority by voting to reject APX's license application and not referring the application to the Common Council for approval pursuant to the Code. Furthermore, because the Common Council can only consider "evidence" that was presented at the hearing, the Common Council is compelled under Milwaukee law to renew APX's license.

4. **The Public Safety Committee Violated APX's Constitutional Rights.**

The United States Constitution, our State's Constitution, and the City of Milwaukee Municipal Code all set forth procedures for adjudicating the rights of citizens and organizations. The Municipal Code specifically states that the Common Council's purpose is to "assure uniformity and clarity" in the procedures under which licenses are considered for renewal.³ Further, the Code states that it is the Common Council's purpose to "guarantee" the rights of the public to the "protections of due process of law respecting a full and fair right to be heard upon


³ Municipal Code § 85-1(1).

adequate notice, to confront and cross-examine witnesses, to have the benefit of rules of evidence, and to present evidence and arguments of law and fact.”⁴

The Public Safety Committee conducted the proceedings on December 10, 2009, in a manner that patently violated APX’s procedural and substantive due process rights. Indeed, the Assistant City Attorney when asked by a member of the Public Safety Committee about a procedural point described the process that APX was afforded at the hearing as a “*free for all*.” Moreover, as fully set forth in APX’s December 16, 2009 submission to the Common Council, incorporated here by reference, the Public Safety Committee’s exhibited bias that suggests lack of equal protection.

In the absolute absence of any evidence that would warrant the denial of APX’s application for renewal, the Common Council must vote to grant APX’s license application to correct the Public Safety Committee’s error.

Sincerely,



Dan Conley
Jane Appleby

cc: Bruce Schrimpf, Esq. (w/encl.)

⁴ Id.