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July 3, 2003

Honorable Common Council
City Hall, Room 205

Re: File No. 030398
Ordinance relating to patrons on Class "B" licensed
premises during prohibited hours

Dear Council Members:

You have forwarded to us a proposed addition to § 90-15-3-a-3 of the Milwaukee Code of Ordinances, which would prohibit a patron from entering or remaining on a Class "B" licensed premises during the hours of 2:00 a.m. and 6:00 a.m. on weekdays and 2:30 a.m. to 6:00 a.m. on Saturdays and Sundays. The proposal would also subject a patron convicted of violating that section to a forfeiture of not more than \$250 and in default thereof imprisonment not to exceed ten days.

We find that as written, the proposed amendment is legal and enforceable.

However, in reviewing this matter we have observed that § 90-13-3-a-2 exempts from the prohibitions on closing hotels, restaurants, bowling alleys, racket ball or athletic clubs, country clubs, lodges, and social or fraternal organizations so long as they do not sell intoxicating liquor or fermented malt beverages during the prohibited hours.

Our concern is the fact that § 125.68(4)(c)4., Wis. Stats., exempts hotels and restaurants (when the principle business is the furnishing of food, drinks or lodging to patrons), bowling centers, indoor horseshoe-pitching facilities, hurling clubs, golf courses, and golf club houses so long as they do not sell intoxicating fermented malt beverages or liquors during the prohibited hours.

Honorable Common Council

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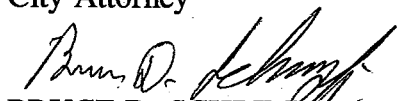
July 3, 2003

We believe that that § 90-15-3-a-2 should be made to comport with § 125.68(4)(c)4., Wis. Stats.

Very truly yours,

GRANT F. LANGLEY

City Attorney



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BDS:wt: