

**COMMITTEE ASSIGNMENTS**

**CHAIR**

- Licenses Committee

**VICE CHAIR**

- Zoning, Neighborhoods and Development



**MEMBER**

- Finance and Personnel Committee
- Library Board
- Neighborhood Improvement Development Corporation Board
- Special Joint Committee on the Redevelopment of Abandoned and Foreclosed Homes
- Steering and Rules Committee
- Wisconsin Center District Board

**MILELE A. COGGS**  
ALDERWOMAN, 6TH DISTRICT

May 21, 2020

To the Honorable, the Common Council

Dear Members:

Re: Common Council File Number 191811

Attached are written objections to file number 191811, Motion relating to the recommendations of the Licenses Committee relative to licenses, relating to a recommendation of:

Nonrenewal, based upon the police report and police, aldermanic, and applicant testimony of the Class B Tavern and Public Entertainment Premises licenses for Beverly Nelson for the premises located at 5048 N 35<sup>th</sup> St (“The Cheetah Club”) in the 1<sup>st</sup> aldermanic district.

Nonrenewal, based upon police, aldermanic, neighborhood, and applicant testimony of the Food Dealer and Weights & Measures licenses for Lonnie McCaffety for the premises located at 930 N 27<sup>th</sup> St (“Family Dollar #26182”) in the 4th aldermanic district.

This matter will be heard by the full Council at its Wednesday, May 27, 2020 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached statement and materials.

Respectfully,

A handwritten signature in black ink that reads "Milele A. Coggs".

Milele Coggs, Chair  
Licenses Committee

cc: All Council Members  
City Attorney’s Office  
Common Council/City Clerk – License Division  
CCF 191811



May 20, 2020

VIA EMAIL ONLY ([jowcza@milwaukee.gov](mailto:jowcza@milwaukee.gov))

Jim Owczarski, City Clerk  
200 East Wells Street, Room 205  
Milwaukee, Wisconsin 53202


Re: *Renewal Application of the Class "B" Tavern and Public Entertainment Premises (PEP) Licenses of Beverly M. Nelson, Agent for The Cheetah Club, for the premises located at 5408 North 35<sup>th</sup> Street in the City and County of Milwaukee, Wisconsin ("The Cheetah Club")*

Dear Mr. Owczarski:

Enclosed please find The Cheetah Club's objections to the Licenses Committee's Report in the above-referenced matter. This document is being filed in accordance with City of Milwaukee Ordinance 85-5-2. Please file stamp and return a scanned copy to us via email ([jluczak@grgblaw.com](mailto:jluczak@grgblaw.com)).

I also request the opportunity to be heard at the Common Council hearing on this matter pursuant to City of Milwaukee Ordinance 85-5-4(c).

Very truly yours,



JASON D. LUCZAK

cc: [molly.kuether-steele@milwaukee.gov](mailto:molly.kuether-steele@milwaukee.gov)

In the Matter of the Class "B" Tavern and PEP Licenses of  
The Cheetah Club for the  
Premises located at 5048 North 35th Street in the City and County of Milwaukee

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## **OBJECTIONS TO LICENSES COMMITTEE REPORT**

On May 12, 2020, The Cheetah Club, by its agent, Beverly Nelson, its manager, Michael Ray, and its attorney Jason D. Luczak, appeared before the Licenses Committee to seek renewal of its Class "B" Tavern and Public Entertainment Premises (PEP) Licenses. At the conclusion of the hearing, by a vote of five (5) ayes and zero (0) noes, the committee voted to not renew the licenses at this location. The committee issued its Findings of Fact and Conclusions of Law on May 15, 2020. The Cheetah Club objects to the Findings of Fact and Conclusions of Law, including the non-renewal, for the following reasons:

1. The applicant is seeking renewal of its licenses for their business located at 5048 North 35th Street.
2. Milwaukee Police Sergeant Raden provided information on five reports.
3. First, on May 3, 2019, the Milwaukee Police Department conducted a licensed premise check and were informed that armed security guards would be present every day, that a male and female would be at the door to conduct pat-downs of customers using a portable metal detector, and that there were sixteen (16) video cameras installed on the premises, including eight (8) cameras inside the building and four (4) cameras outside.

4. Second, on June 23, 2019, a complaint was made regarding the theft of a firearm from a customer's vehicle. The vehicle was not parked at the premises at the time of the reported incident.

5. Third, on January 23, 2019, the applicant self-reported an incident involving theft of money from the applicant by an unknown individual.

6. Fourth, on March 8, 2020, there was a customer-involved shooting at the premises. Sergeant Raden reported that the manager, Michael Ray, was cooperative and allowed police to view security footage from the incident. Sergeant Raden added that the video included footage of an underage individual involved in the incident consuming alcohol and that the applicant was issued citations for allowing an underage individual on the premises and allowing said individual to consume alcohol. The citations are currently pending in Milwaukee Municipal Court, and counsel for the applicant specifically requested that those citations/violations not be considered in this licensing cycle while pending adjudication.

7. Fifth, on March 20, 2020, a meeting was held between police and applicant at District 7 regarding the March 8, 2020 incident. During the meeting, the applicant informed police that the business was in the process of changing ownership and that were delays in completing the necessary paperwork. Mr. Ray provided information regarding security measures at the premises, which included the presence of contracted security, pat-downs, and visual ID checks. Mr. Ray informed police that he was not aware of the underage individual's presence on the premises on the night of the incident and affirmatively stated that security was instructed to check ID's at the door prior to

allowing entry. Mr. Ray also informed police that new security measures would be adopted in light of the incident including purchasing metal detectors and an ID scanner.

8. Attorney Jason Luczak, on behalf of the applicant, provided explanations regarding the reports provided by Sergeant Raden.

9. Specifically, Attorney Luczak explained that Ms. Nelson and Mr. Ray are currently in the process of establishing a limited liability company to remedy any concerns or inconsistencies regarding ownership and licensing for the business.

10. Attorney Luczak further explained that on the night of March 8, 2020, the applicant was hosting an event, which was larger than a regular night of operation for the business. As part of the event, the business had brought in a DJ who provided his own armed security. Attorney Luczak stated that the business acknowledges that outside security typically does not look out for the best interests of the applicant or the business and that Ms. Nelson and Mr. Ray will not allow outside security moving forward.

11. Additionally, Attorney Luczak informed the committee that the applicant is improving its security measures by purchasing more sophisticated equipment such as metal detectors and an ID scanner and strictly enforcing its zero-firearm policy. Additionally, the applicant intends to adopt new policies and procedures as outlined in its Abatement Plan submitted to Alderman Hamilton which includes a process of informing District 7 of future events on the premises.

12. Attorney Luczak explained that the business accepts responsibility for the March 8, 2020 incident, has submitted a proposed Abatement Plan, and advised that the

business has operated without incident for many years and has received automatic license renewals in 2015, 2017, and 2019.

13. Following Attorney Luczak's statements, the committee engaged in a lengthy discussion regarding the video of the security footage of the March 8, 2020 incident that was voluntarily provided by the applicant. Ultimately, the committee decided that the video would not be streamed due to technical issues involving the virtual nature of the hearing. As a result, no member of the Licenses Committee viewed the video. Per Alderman Borkowski's request and upon the advice of legal counsel, the committee deferred to Alderman Hamilton's office for an explanation of the video.

14. Alderman Hamilton's legislative assistant, Andrea Pratt, stated "Alderman Hamilton is against the renewal of this license given the incident that happened March 8th. This is specific after watching the video."

15. Following a brief recess, Alderman Hamilton provided testimony by first going through the video and describing it to the Licenses Committee. Alderman Hamilton opined that there several aspects of the video that he found disturbing including the way a performer was dressed, the presence and involvement of the alleged underage individual, and the number of firearms inside the premises.

16. Alderman Hamilton stated that he does not believe the proposed Abatement Plan, which includes enhanced security measures such as metal detectors, a sophisticated ID scanner, and open lines of communication with District 7, is "detailed enough to deal with the issue presented in the video."

17. Alderman Hamilton acknowledged that the premise is one of the longest running locations in the City of Milwaukee to have continuously operated under this type of license uninterrupted, and that the business has been well-run in the past.

18. Despite the applicant's long history of compliance, Alderman Hamilton ultimately requested non-renewal of the licenses.

19. When specifically asked whether he would recommend non-renewal if he had not watched the video, Alderman Hamilton stated: "I do think the video tells a far more complete story. Had this just been a shooting at the location, I probably would have suggested a more progressive discipline type of approach to this. But yes, the video kind of speaks for itself."

20. In further advocating for non-renewal, Alderman Hamilton closed his testimony with: "Under these circumstances, I'm telling you that it's been my experience, what I'm looking at is not a corrective action to the incident that we witnessed on that video."

21. Other than the testimony provided by Alderman Hamilton and his legislative assistant, there was no neighborhood testimony presented to the Licenses Committee.

22. Milwaukee Police Captain Murphy testified that he agreed with Alderman Hamilton's recommendation and reiterated concerns about ownership of the business. Captain Murphy added that "if you saw the video, it was an egregious circumstance."

23. Mr. Ray provided testimony wherein he took responsibility and apologized for the incident. Mr. Ray reassured the Licenses Committee that the business will adopt new security measures to ensure that similar incidents will not occur on the premise.

24. Alderman Kovac moved for non-renewal based on the police report and the testimony of Alderman Hamilton. In an attempt to deflect the prejudicial effect of the testimony regarding the video and members of the committee not viewing it, Alderman Kovac stated that his motion was “less about the details of the video, and more about the underage person being a central participant and being overserved. [...] We haven’t even seen the video, but the police, the alderman, and the lawyer have. The facts of the video make it clear that it’s likely it will happen again under current management.”

25. Attorney Luczak’s comments and explanations along with Captain Murphy’s testimony were subsequently added as additional support for Alderman Kovac’s motion.

26. The Licenses Committee’s recommendation for non-renewal was not warranted by the testimony, ignored the long history of compliance by the applicant, assumed as fact allegations that are the subject of ongoing municipal proceedings, was impermissibly based on a video that was not viewed by the members of the committee, and creates a dangerous precedent, whereby a licensed premises will be less willing to share vital video surveillance if they believe it will lead to completely shutting down their business.



27. The testimony presented established that the March 8, 2020 incident was the first major incident at the premises in decades and displayed applicant's unwavering commitment to preventing future incidents by implementing new security measures.

28. The citations issued to applicant for allowing an underage individual on premise and allowing an underage individual to consume alcohol have not been adjudicated by the municipal court system. The use of these unresolved citations as a basis for non-renewal is in violation of the applicant's right to due process.

29. Alderman Kovac's motion for non-renewal did not identify why the typical mode of imposing progressive discipline would not be appropriate for this applicant, and further based the motion on pending matters that have yet to be resolved in the municipal court.

30. The Licenses Committee's recommendation for non-renewal was based primarily on the testimony of Alderman Hamilton, which focused almost exclusively on a video that was not viewed by the members of the committee. Alderman Hamilton also admitted that he would recommend progressive discipline had he not seen the video.

31. Shutting the applicant down based on a video that it voluntarily provided to law enforcement encourages licensees to avoid disclosure of valuable evidence that could assist law enforcement in criminal investigations for fear of future revocation or non-renewal.

32. Based on the testimony presented, an appropriate outcome would have been for the Licenses Committee to impose progressive discipline with a reasonable suspension.

The Cheetah Club respectfully requests an opportunity to be heard at the Common Council meeting on May 27, 2020.

Dated this 20 day of May, 2020.

**GRGB LAW**

By:   
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JASON D. LUCZAK  
State Bar No. 1070883  
*jluczak@grgblaw.com*  
Attorneys for The Cheetah Club

**POST OFFICE ADDRESS:**

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Telephone: 414/271-1440

May 20, 2020

**VIA EMAIL ONLY (jowcza@milwaukee.gov)**

Jim Owczarski, City Clerk  
200 East Wells Street, Room 205  
Milwaukee, Wisconsin 53202

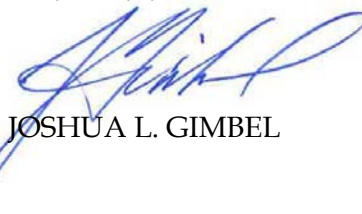
Re: *Food Dealer License of Family Dollar Stores of Wisconsin LLC  
930 North 27<sup>th</sup> Street (Family Dollar # 26182)*

Dear Mr. Owczarski:

Enclosed please find Family Dollar's objections to the Licenses Committee's Report in the above-referenced matter. This document is being filed in accordance with City of Milwaukee Ordinance 85-5-2. Please file stamp and return a scanned copy to us via email ([jlgimbel@grglaw.com](mailto:jlgimbel@grglaw.com)).

I also request the opportunity to be heard at the Common Council hearing on this matter pursuant to City of Milwaukee Ordinance 85-5-4(c).

Very truly yours,



JOSHUA L. GIMBEL

CC: [molly.kuether-steele@milwaukee.gov](mailto:molly.kuether-steele@milwaukee.gov)

In the matter of the Food Dealer License of  
Family Dollar Stores of Wisconsin LLC for the  
Premises located at 930 North 27<sup>th</sup> Street in the City and County of Milwaukee

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## **OBJECTIONS TO LICENSES COMMITTEE REPORT**

On May 12, 2020, Lonnie McCaffety as agent for Family Dollar Stores of Wisconsin LLC (“Family Dollar”), by its attorney Joshua L. Gimbel, and its Regional Manager Denelle Gordon, District Manager, Harry Susman, Mindy Yoho appeared virtually before the Licenses Committee to seek renewal of its Food Dealer License. At the conclusion of the hearing, by a vote of four ayes and one no, the committee voted to recommend the license not be renewed at this location. The Committee issued its Findings of Fact and Conclusions of Law which was received at our offices on May 19, 2020. Family Dollar objects to the Findings of Fact and Conclusions of Law, including the non-renewal recommendation, for the following reasons:

1. The store seeking renewal of its license is located at 930 North 27<sup>th</sup> Street.
2. Ms. Gordon testified that this store was important to the neighborhood because they accept SNAP benefits. She said they just made substantial improvements to this location including the addition of new coolers and freezers. She indicated that, although Family Dollar does not own the building, she would check to make sure the lighting concerns were addressed.
3. Mr. Susman testified that he has reached out and worked with the Near West Side Partners. He said the parking lot has been restriped and new coolers and freezers have been installed. He indicated Family Dollar has spent at least \$30,000 on the

improvements. He said the store tries to abate loitering and the location has an armed security officer. He added that local residents find this store vital. He said Family Dollar tries to hire local employees at this store.

4. Ms. Yoho testified she has managed a different Milwaukee Family Dollar store and hires good quality employees and runs a clean store. She added that Family Dollar intends to hire good people to serve in management roles to help reduce turnover of key employees.

5. Milwaukee Police Sergeant Raden reported that there were no police reports for this applicant.

6. Two witnesses appeared for the Near West Side Partners and complained about the condition of the building, the loitering and trash.

7. Keith Stanley acknowledged this store is very important and has value and is a resource for the neighborhood, especially during this pandemic. He offered a historical perspective on the store and said complaints were from over the years. He did testify that Mr. Susman has been responsive in some respects but would prefer to see a new building. In his statement, Mr. Stanley did not offer a recommendation as to non-renewal of the license. Only after series of leading questions from Alderman Bauman, did Mr. Stanley state that he was objecting to the renewal of the license. Family Dollar's counsel was denied the opportunity by the committee chair to further examine the witness after Alderman Bauman's examination, which denied Family Dollar its due process.

8. Bobby McQuay testified that he has frequented the Family Dollar location 10-15 times over the past year and advocated for a “hefty” suspension, but Mr. McQuay did not provide testimony in favor of non-renewal of the license.

9. Milwaukee Police Captain Norman stated the property received a nuisance letter in 2019. He admitted Family Dollar responded with a Plan of Operation in September 2019, (which was submitted to the Licensing Committee and is a part of this file) and the Plan was accepted by the Milwaukee Police Department. Other than noting loitering and litter, Captain Norman did not testify as to any serious issues with the store since the date the Plan of Operation was accepted. Again, Alderman Bauman was allowed to ask the witness leading questions of the witness without Family Dollar being afforded the opportunity to cross-examine the witness, which denied Family Dollar its due process.

10. In his closing statement, Alderman Bauman expressed an anti-national chain store bias. He claimed, with no evidence, that Family Dollar could not care less about the residents or this location. He encouraged residents to patronize another locally-owned store across the street, Kilbourn Kitchen, at the expense of the Family Dollar store. He demanded a non-renewal despite supporting the renewal one year ago.

11. At the close of testimony, Family Dollar argued that since the 2019 license was renewed with a warning letter, a progressive sanction was the proper penalty, if any.

12. Alderman Kovac ignored the request for a progressive penalty and moved for non-renewal.

13. Committee Chair Alderwoman Coggs objected to the motion but it passed, 4 to 1.

14. Family Dollar's due process rights were denied based on the lack of ability to re-examine those appearing in opposition to the licensee and also based on the virtual format of the hearing. There were many glitches in the system. Finally, at least one committee member and one witness were are allowed to appear in person in the committee room.

15. A non-renewal was not warranted based on the testimony presented. Based on the testimony presented, an appropriate outcome would have been for the Licenses Committee to either approve with a warning letter or show progressive discipline with a 10-day suspension.

Family Dollar requests an opportunity to be heard at the Common Council meeting on May 27, 2020.

Dated this 20<sup>th</sup> day of May, 2020.

GRGB LAW

By: 

\_\_\_\_\_  
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Attorneys for Family Dollar Stores of Wisconsin LLC

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