

ARENA LAW OFFICES, L.L.C
1110 NORTH OLD WORLD THIRD STREET
RIVERFRONT PLAZA, SUITE 515
MILWAUKEE, WISCONSIN 53203

ANDREW P. ARENA

(414) 645-6100
FAX (414) 645-3500

March 18, 2011

CITY OF MILWAUKEE
11 MAR 18 PM 4:42
RONALD D. LEONHARDT
CITY CLERK

Ronald D. Leonhardt
City Clerk
City Hall, Room 205
200 East Wells Street
Milwaukee, WI 53202-3570

Re: Caesars World Enterprises, LLC d/b/a Club Bari
Robert F. Cesarz, agent
Address 628 North Water Street

Dear Clerk:

Pursuant to Chapter 90 of the City of Milwaukee Ordinances the Caesars World Enterprises, LLC and its Registered Agent, Robert Cesarz, by their Attorney, Arena Law Offices, LLC files these written objections to the findings of fact and conclusions of law entered by Alderman James Bohl on March 7, 2011. In support of this objection the Licensee files the attached affidavits of Joe Romas, Carl Wojnowski, Robert Cesarz, and Mario Morgese and incorporates those affidavits and the exhibits to the affidavits into these written objections as though fully stated herein by reference. Furthermore, the Licensee also files a motion for the Gentlemen from the 4th to recuse himself, or be removed from participating in these proceedings further.

The Licensee objects to the findings of fact and specifically objects to item number 3 and 4. First the Licensee denies that the police report forms a basis for non-renewal or suspension.

As to item 4 the Licensee states that this item is not true and based upon the attached affidavits the Licensee can establish as a matter of fact that notice of the hearing, police report, and other objections were not received in time for him to be prepared for the hearing on March 7, 2011. Although Mr. Cesarz appeared at the hearing he testified that his appearance was due to receiving a public notice. This notice is deficient to establish proper notice for reasons of due process. This notice does not include the Police Report, objections, or that the person has the right to be represented by an Attorney, and that his license may be non-renewed, or suspended. The items in the notice to the licensee contain these statements because Courts have ruled that for purposes of due process the person with the property interest must be informed of the allegations and what is at stake. For the reasons stated herein the Licensee believes that this matter should be sent back to Committee for a full hearing to allow for adequate cross examination and evidence to be supplied before a decision is made denying this licensee its property.

The attached affidavits establish that Mr. Cesarz was being honest with the Committee when he was

informing them that he did not receive the notice. Mr. Cesarz requested that the matter be adjourned and the Committee decided that they didn't believe him and it was some how his fault that he did not receive the hearing notice. The important fact is that he did not receive the notice. The reason that the notice was not received is not germane to a Court. All that matters to a Court when Constitutional rights are at stake, is that actual notice be established. This is the reason that the Committee Chairman starts the hearing by saying, "do you admit or deny receiving a copy of the notice for today's hearing and the possibility that your application may be denied."

The renewal application had the address and zip code of the business as 53202, which is correct. The notice was sent to 53204, and as the affidavit of the mailman Joe Romas establishes, the notice was addressed incorrectly because it had the wrong zip code. The result was that Joe Romas delivered the letter the day after the hearing on March 8, 2011. The Plan of operation has a box that can be checked that states the address where things should be sent is the same as the business address. The business address on the renewal application states the zip code is 53202.

In actuality most statutes and issues that require notice for due process, require that the notice be personally served and supported by an affidavit of service. In this case the licensee received the notice on March 8, 2011. Therefore, 5. A is not correct as it contains the incorrect zip code. The zip code on the address was provided by a clerk in the license division (see Cesarz affidavit) and the renewal application had the zip as 53202 and not 53204. In the City file the list of addresses for the public notice all have the zip of 53202, which is a list of addresses that is generated by a computer. It would seem that the proper zip code should be ensured on a hearing notice before it is sent out. As was stated earlier, the 53204 zip was supplied by a City employee at the time the original application was completed. (See Cesarz affidavit at paragraph 2). Also, the renewal application on the first page clearly states that the zip code is 53202. The notice of the hearing is required for due process and the City has the burden to establish that proper notice was provided to the Licensee. As the City has the burden, there should be adequate safe guards to ensure that the proper address is being used, especially in the computer age.

As to Item 5 B. The Licensee objects that this item should be in the notice or report. This involves an alleged fight that never occurred and the citation for improper posting of license was dismissed. Because this item was dismissed, it can't be the basis for any discipline of the license.

As to Item 5C. The Licensee objects to this item as it is based completely on hearsay. This hearsay is from an individual that works at 618 Live, which is a club that has had to engage in litigation to keep its liquor license. The ownership and employees have an incentive to lie about Club Bari and try to establish that Club Bari is the problem for the police department in that block and not 618 Live. The individual that was arrested created a problem in the line for 618 Live and it would seem that 618 Live enticed that individual to behave poorly.

As to Item 5D. The Licensee objects to this item. There was no fight and one person was issued a citation. It doesn't appear that the situation involved weapons or shocking violence. Club Bari was pro-active in preventing a larger problem by calling the Police and engaged in the type of conduct that has been commended by the Common Counsel in the past.

As to Item 5E. The Licensee objects to this item in that the complaint by the Police was the manner in which the licenses were hung. The Officer complained that the items has to be surrounded by a frame.

To not have a frame is not a violation, but the manner in which the items were hung was changed to appease the Officer, although, the Licensee denies that there was an actual violation of the ordinance and this was the reason that a citation was not issued.

As to Item 5G. The Licensee submits that this item, even if true, does not establish a pattern of a poorly run location. This item does not involve dangerous weapons or outrageous violence and therefore it is not established that Club Bari should be closed to protect the welfare, health, and safety of citizens.

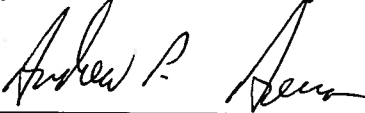
As to Item 5H. The Licensee denies that its operation requires an undue expense of police resources. There have been no incidents or police calls since October, 2010. The neighbor at 618 operates a large club known as 618 Live, which is a notorious location for police activity. This location in fact has had its license disciplined by the Common Counsel and has engaged in litigation in Circuit Court to stay in business. There have been hours of testimony taken by the Licenses Committee that has included video evidence, that establishes that 618 Live is the cause of police resources being expended.

As to the remaining items of Paragraph 5 there was testimony that the location has changed from a sports lounge into a club business. The original plan was not changed or deviated. The only plan that matters is the one in the application, which clearly states that the applicants were seeking a tavern/dance license. This license allows disc jockeys to play music and patrons to dance to that music. The application has categories of music that will be played and the applicant checked 17 boxes, which demonstrates that the licensee was not committing to one style of music or music by one single artist. The application indicates that the licensee's plan of operation was to have a variety of music. There was not one witness that testified as to a song they heard, or a type of music that was being played. The location remains a sports lounge and has three very large screens and two smaller screens that are 55". There is an assertion being made that certain events established that the operators were not running an italian (chicago style) sports lounge and grill with a sophisticated, upbeat atmosphere appealing to 30-40 professional clientele."

The Licensee submits that not a single witness testified concerning what an italian chicago style sports lounge was. There was no evidence submitted that even establishes what such a description is. Not one witness established that they checked the ages of patrons to establish that the individuals were not 30 to 40 and not one witness testified concerning the atmosphere as something that wasn't sophisticated or upbeat.

Based upon the above reasons the licensee requests that this matter be sent back to committee or that a motion be made and accepted to issue the license.

Respectfully Submitted this 18th day of March, 2011.

By: 

Attorney Andrew P. Arena

In Re: the Class B License for Caesars World Enterprises

Address: 628 N. Water Street

AFFIDAVIT OF JOE ROMAS

County of Milwaukee)
)ss.
State of Wisconsin)

Being first duly sworn and upon oath Robert Cesarz states the following:

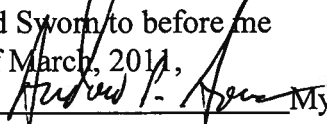
1. I am an adult resident and I am employed as a letter carrier by the United States Postal Service. I deliver mail in Milwaukee in the 600 block of North Water Street. Attached hereto is a copy of an envelope that I delivered to Club Bari on March 8, 2011. This envelope was thick and would not fit in the door. I did contact the building maintenance man to open the door for me and his name is Carl Wojnowski.

2. I personally made the notations on the envelope and state in this affidavit that the letter was delivered on March 8, 2011 due to the letter being addressed with the wrong zip code. This letter was rerouted and I received it for delivery and delivered it by placing it in the door on March 8, 2011.

Dated this 18th Day of March, 2011



Joe Romas

Subscribed and Sworn to before me
this 18 Day of March, 2011,
Notary Public:  My commission is permanent



Office of the City Clerk
License Division
Room 105, City Hall
200 E. Wells Street
Milwaukee, Wisconsin 53202

Re Route

N/D L

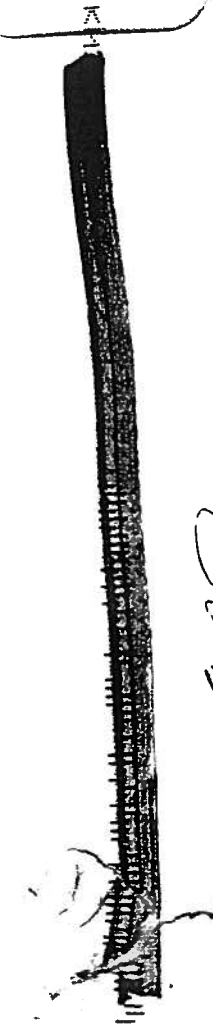
3/8/11

WRONG ZIP
CODE

PREPAID
FIRST CLASS



504 060



Romas I

In Re: the Class B License for Caesars World Enterprises

Address: 628 N. Water Street

AFFIDAVIT OF CARL WOJNOWSKI

County of Milwaukee)
)ss.
State of Wisconsin)

Being first duly sworn and upon oath Carl Wojnowski states the following:

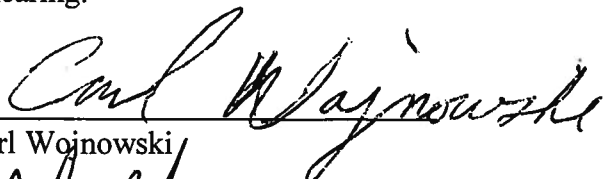
1. Carl Wojnowski is an adult resident of the City of Milwaukee and currently works as the maintenance and building supervisor at 628 N. Water Street. As part of the duties while working at this building I am contacted by individuals that need assistance finding a building tenant or delivering things such as mail to a building tenant.

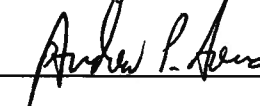
2. On the first floor is a business that is called Club Bari. On March 8, 2011 I was contacted by the mail carrier for the United States Postal Service that was trying to deliver a thick envelope from the City of Milwaukee License Division to Club Bari. Due to the thickness of the envelope, the mailman was required to place it inside the locked door, because it would not fit under the door. The envelope was addressed to Robert F. Cesarz who I personally know

3. I observed hand writing on the envelope that stated the zip code on the envelope was wrong and had to be re-routed by the Postal Service on 3/8/11. During the time that I saw the envelope I looked at it for a period of time and the photo-copy of the envelope that is attached hereto and incorporated herein by reference is a very copy of the actual envelope that I saw on March 8, 2011. I am certain of this because I recognize the hand writing and the specific words, "wrong zip code." I am certain that this envelope was not delivered until Tuesday March 8, 2011.

4. I was informed by Robert Caesarz that this envelope contained the notice for a hearing scheduled concerning the renewal of the Class B License scheduled for March 7, 2011. Subsequently, I observed a re-play of the hearing on the City Cable Channel and I know for a fact that Robert Caesarz did not have the notice for the meeting, the police report, or neighborhood objections at the time of the meeting because I saw these items in the attached envelope when Robert Caesarz showed them to me, and due to my observations of the mailman trying to deliver them on March 8, 2011 I am certain that Mr. Caesarz testimony was correct when he stated that he did not receive notice of the March 7, 2011 hearing.

Dated this 18th Day of March, 2011


Carl Wojnowski

Subscribed and Sworn to before me
this 18 Day of March, 2011, Notary Public:  My commission is permanent



Office of the City Clerk
License Division
Room 105, City Hall
200 E. Wells Street
Milwaukee, Wisconsin 53202

N/D L

3/3/11

Re Route

WRONG ZIP
CODE



Wojnowski Affidavit 1

In Re: the Class B License for Caesars World Enterprises

Address: 628 N. Water Street

AFFIDAVIT OF ROBERT CESARZ

County of Milwaukee)

)ss.

State of Wisconsin)

Being first duly sworn and upon oath Robert Cesarz states the following:

1. Robert Cesarz is an adult resident of the City of Milwaukee and is the registered agent for Cesarz World Enterprises, LLC and I hold 50% of the company. In 2009 when I made the first application for a Class B License for Club Bari at 628 N. Water St. I went to Room 105 City Hall and met with a worker that gave me the application and assisted me in filling out the required forms. At that time I did not know the zip code and the City employee went off the address or file and provided me the zip code of 53204 which was the zip code that I wrote on the plan of operation. I received the general notice that went to all neighbors for a meeting on March 7, 2011, which was addressed properly with the correct zip code which I have now learned is 53202.

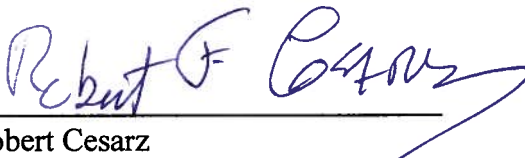
2. On Monday March 7, 2011 I went to City Hall without notice of the police report or of the objections. I thought it was only a meeting to hear from neighbors pursuant to the notice that I did receive. While at the meeting I did ask for the matter to be re-scheduled to allow me the opportunity to have a lawyer. I was not prepared and unaware of the police reports and objections. I was also unaware of the Alderman's complaint that the plan of operation was not being followed as a letter in the file from the Alderman to me is incorrectly addressed to a Tonto Street in Big Bend which is a completely wrong address. The number and street were an old address in Avondale Az. This address is not in Big Bend and this letter was never received by me.

3. On March 8, 2011 the day after the renewal hearing I received the notice for the March 7, 2011 hearing which contained the police report, neighborhood objections and statement that I could be represented by an Attorney. Attached hereto is a copy of the envelope that the notice arrived in and it is noted by the letter carrier that the letter was delivered on March 8, 2011 because the zip code was wrong. I received the notice one day late and as a result I was not prepared or adequately represented by an Attorney.

4. I am offended by the claim that the plan of operation is not followed. Not one witness put forth testimony that established that the types of music checked on the plan were not played. In fact no witness testified concerning the songs or music they personally heard. We have large screen televisions and play sports during all open hours. We have pictures form Italy and don't even have a dance floor. We have music played on a table on the existing floor. We don't have a D.J. booth and we do operate the business pursuant to the business plan.

5. I make this affidavit in support of the request for a new hearing. I did not receive adequate notice or the police report and I believe my due process rights were violated and I did bring this up at the hearing.

Dated this 18th Day of March, 2011



Robert Cesarz

Subscribed and Sworn to before me
this 18 Day of March, 2011

Notary Public:  My commission is permanent



Office of the City Clerk
License Division
Room 105, City Hall
200 E. Wells Street
Milwaukee, Wisconsin 53202

MDK
3/8/11
Re Route

WRONG ZIP CODE

PREPAID
FIRST CLASS



050



Resort Affidavit 1

In Re: the Class B License for Caesars World Enterprises

Address: 628 N. Water Street

AFFIDAVIT OF MARIO MORGESE

County of Milwaukee)
)ss.
State of Wisconsin)

Being first duly sworn and upon oath Mario Morgese states the following:

1. I am an adult resident and I am 50% owner of Caesars World Enterprises, LLC which operates Club Bari. I make this affidavit in opposition to allegations that Club Bari does not follow its plan of operation. The Plan of operation had disclosed that there would be dancing as a tavern dance license was applied for. The types of music selected on the City's form were numerous and broad. These included 17 types which were Dance-pop, Blues, Classic Rock, Classic R&B, and Dance R&B to name a few. The plan of operation also states on page 3 of 4 the form requests the applicant to briefly describe the type of business you plan to operate. The line states "Bar & Grill Style Lounge."

2. I observed advertising in the notice submitted to establish that Club Bari is not operated pursuant to the plan on file. One advertisement involved Fresh Fridays and did not state the type of music that would be played. The second ad also did not state what type of music would be played and even stated that there was a Dress code: upscale, trendy and classic. We always expected to have dancing and various types of music, and sports lounge. We have a theme developed from Bari a City in Italy. Attached hereto is an example of what has been on the internet and the types of events that we have. We also have 5 televisions and three screens that are 10 feet by 6 feet and sports are played during all open hours.

3. On Milwaukee.com in a write up on the web site it stated "Club Bari brings Milwaukee a touch of Italian style and social sensibility. Inspired by the City of Bari's "dusk till dawn" party and Restaurant scene, Club Bari boasts an early bird happy hour that starts before most professionals leave the office for lunch!" This write up was written by a person from On Milwaukee.Com that did a review. This write up was not solicited or written by the management or an employee of Club Bari.

4. It was never portrayed in any plan of operation that only one type of music would be played and I make this affidavit in support of our position that this business is operated as a grill and bar with an Italian theme. There is a wide variety of music played which was disclosed in the plan of operation on file.

5. There was no item in the Police report after October. Item 5 was personally witnessed by me. This incident occurred when 618 live cleared out its patrons early. On that night there were no fights or incidents that occurred in Club Bari that would have caused the neighbor to close early. I witnessed patrons from 618 Live being exited 55 minutes before bar close, which

it is not a normal occurrence for this place to close early, and the result was their patrons tried to come to Club Bari, until they were denied entry. These individuals then started to fight with people waiting in line to get into Club Bari because they didn't want to wait in line. The police report pa-33 indicates that Habib Manjee told Police that he closed early because of Club Bari's customers. It is irrational and does not make sense that the much bigger club would close early pursuant to the claims made by its owner. The truth is the problems this evening were caused by patrons of the neighboring location leaving that location early. Since October I have been present most open nights and observed the efforts made to cater to a distinguished clientele.

Dated this 18th Day of March, 2011


Mario Morgese

Subscribed and Sworn to before me
this 18 Day of March, 2011,
Notary Public: Andrew P. Adams My commission is permanent



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Events

View Registrations Tell a Friend

Purely Social @ Club Bari 9/15/2010

When: September 15, 2010
6:00 to 9:00 PM

Where: Club Bari
628 N. Water Street
Milwaukee, Wisconsin 53202
United States

Contact: Rose Markovic (rmarkovic@mmac.org)

Registration Information

Online registration is closed.

- View the 77 people who have already registered

Details



Purely Social @ Club Bari

Come down to Club Bari for FUEL's first Purely Social event after our summer break!

Club Bari brings Milwaukee a touch of Italian style and social sensibility. Inspired by the city of Bari's "dusk till dawn" party and restaurant scene, Club Bari boasts an early bird happy hour that starts before most professionals leave the office for lunch!

Club Bari also provides free munchies for its patrons every night, while they watch the hottest sporting events on three (we kid you not) **13' X 5'** projection TVs!

There is no fee for this Purely Social event, so feel free to bring your friends! **Please register to RSVP above.** See you there!

Events { more }

3/22/2011
Access: Growing a Community with Will Allen

4/14/2011
Purely Social @ Industri Cafe

4/26/2011
FUEL Orientation @ The Metropolitan Milwaukee Association of Commerce

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Username

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FUEL Adopted Nonprofit Journey House will be featured at this Purely Social event.

Established in 1969, Journey House is grounded in the philosophy that **Education is a Family Journey**. It embodies this belief through its mission of working with the community utilizing a self-help philosophy in order to increase education, reduce unemployment and crime, strengthen families, and revitalize neighborhoods.

Event Photos



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Event Photos: Purely Social @ Club Bari

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- 4/14/2011
Purely Social @ INdustri Cafe
- 4/26/2011
FUEL Orientation @ The Metropolitan Milwaukee Association of Commerce

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Event Photos: Purely Social @ Club Bari

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FUEL Milwaukee | Purely Social @ Club Bari | 9/15/10

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Access: Growing a Community with Will Allen
- 4/14/2011**
Purely Social @ INdustri Cafe
- 4/26/2011**
FUEL Orientation @ The Metropolitan Milwaukee Association of Commerce

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Huge Heated Beer Tent Authentic Irish Breakfast Served All Day!
The Biggest St. Patrick's Day
OPEN Party on Milwaukee's Southside!
6 AM! Live Music 2pm Appearances by the Guinness, Jameson & Tullamore Dew Girls



MilwaukeeFood.com
Dining Guide & Events

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[Milwaukee Food Wars Update: AJ Bombers v. Sobelmans Pub and Grill](#) »

Club Bari replaces JC's Pub and Grill Downtown

By [Andrew Swofford](#) May 7, 2010, at 3:00 pm

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[Carlo Marinello](#) and 16 others like this.



Club Bari opened April 27th in the space that previously housed JC's Pub and Grill, Edgar's Calypso, and Swank at 628 N. Water Street.

Club Bari (which is 100% smoke-free) is a Bar and Grill that serves your traditional bar food menu; Sandwiches, Burgers, Pizzas, Soups and Salads, and Appetizers. The full food menu is served Monday-Friday from 11am-8pm with Pizza and Garlic Bread served nightly until 10pm. Pizza and garlic bread is the only food served on Saturday. The kitchen does plan on serving its full menu on Saturdays when the football season resumes.

Club Bari looks like it could become a popular afterwork stop for Downtown workers and residents. The bar features a happy hour menu with discounted drink deals every day (closed Sunday) from 11am-7pm, plus complimentary food Monday-Saturday at 5pm.



You're also guaranteed the best seat in the house to watch your local sports teams *or National) on any of its three large 13 ft by 5 ft projection TV's.

An official grand opening party is planned for early June. Please watch the pages of [MilwaukeeFood.com](#) for any updates.

Club Bari

628 N. Water Street

Milwaukee, WI 53202

414-220-9250

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Related posts:

1. [JC's Pub and Grill replaces Edgar's Calypso Downtown](#)
2. [Ward's House of Prime Now Serving Lunch Downtown](#)
3. [Off the Clock Bar & Grill launches New Menu](#)
4. [Club Charlies Makes a Splash](#)
5. [Downtown gets Philly Cheesesteaks: The Philly Way Downtown is now open](#)

Category: [New Restaurant Scoops](#), [News & Scoops](#)

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Margese Affidavit 7

CLUB BARI

628 N. Water St. Milwaukee WI

PRESENTS:

SALSA NIGHT

Thursday, June 17th 9:00 - Close

A NIGHT OF SALSA MUSIC AND

DANCE INSTRUCTION BY:

DANNY BALDERAS

*Listen to the hottest salsa tracks and
learn to dance !!!*

June 10, 2010

Chat (24)

3/17/2011 9:24 PM

Morano Affidavit 8

CITY OF MILWAUKEE COMMON COUNCIL

In re the Class B License of Caesars World Enterprises, LLC
d/b/a "Club Bari"

MOTION TO RECUSE AND REMOVE

Now Comes the Licensee's by their Attorney Arena Law Offices, LLC, by Attorney Andrew P. Arena and hereby moves the Honorable President of the Common Council and the Common Council for the City of Milwaukee to remove the Gentleman from the 4th District, Alderman Robert Bauman, from participating in the hearing concerning Club Bari. Pursuant to due process of Law Alderman Bauman should not be allowed to make any statements to the body as a whole, and he should not be allowed to make any motions or vote on any motions in this matter. The reasons for this motion are stated as follows:

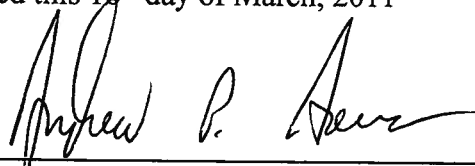
1. At the License Committee Hearing on March 7, 2011 Alderman Bauman clearly and passionately advocated for the license to be non-renewed and this position was expressed as a witness. This alderman also acted as a prosecutor by arranging for Police Officers to be present and offer testimony, and then to question them consistent with his position that the License should be non-renewed. The Alderman took his position against the Licensee prior to all evidence being received by the Committee and previous to a decision being made by the Committee.

2. The State Law under Chapter 125, et. seq. And Chapter 90 of the ordinances clearly establish that the process concerning this license is a quasi-judicial process and that the Licensees are entitled to due process of law.

3. The State Supreme Court in Marris v. City of Cedarburg, 176 Wis.2d. 14, 1993 was a case where a Municipal Corporation had a chairman of its Zoning Board make statements at a hearing that demonstrated that he had pre-judged the case and thereby denied the party the right to have the decision decided by an impartial board. As the Licensees are entitled to a fair and impartial hearing under concepts of due process and fair play it would not be fair to have an Alderman that has clearly established a bias against them be allowed to vote and make motions contrary to their property interests in the License.

4. To allow Alderman Bauman to have the right to make a statement to the Common Council would also not be appropriate, as the City Attorneys Office has the obligation to address objections timely filed by the applicant, and to advocate for the position of the Committee. Alderman Bauman should not be allowed to address the Council unless he has filed a written objection pursuant to the ordinance. Alderman Bauman should not be allowed to advocate his desires and bias at this point of the proceeding. He was heard in the fact finding hearing and the procedure in the ordinances does not allow for more evidence to be taken. As for commentary on the evidence the City is represented by an Attorney. Alderman Bauman should not have another chance to express his bias at the expense of the due process rights of the Licensee. His district was adequately represented by him at the License Committee Hearing.

Respectfully Submitted this 18th day of March, 2011



Andrew P. Arena Attorney for Club Bari