

September 19, 2023

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[via Email & US Certified Mail]

The City of Milwaukee Licenses Committee
Attn: Milele A. Coggs, Chair of Licenses Committee
200 E Wells St., Rm. 205
Milwaukee, WI 53202
mcoggs@milwaukee.gov

**RE: OBJECTION TO AND REQUEST FOR ADJOURNMENT
OF SEPTEMBER 21, 2023 REVOCATION HEARING**
Licensee: 4295 Teutonia, Inc. dba Teutonia Food & Gas
Agent: Gurinder S. Nagra

Dear Alderwoman Coggs,

This firm represents Gurinder S. Nagra, agent of 4295 Teutonia, Inc. On September 13, 2023, my client was served with a Summons to appear before the Licenses Committee of the Common Council of the City of Milwaukee at 11:00 am on Thursday, September 21, 2023, to respond to and challenge the revocation or suspension of the licenses held by the Licensee for 4295 N. Teutonia Ave, Milwaukee, WI. Please note that my client OBJECTS to the Summons and notice of hearing, and further OBJECTS to the attempted revocation of its licenses.

Licensee currently holds the following licenses for 4295 N Teutonia Avenue: (a) Cigarette and Tobacco; (b) Extended Hours Establishments; (c) Filling Station; and (d) weights and measures. Licensee operates the premises as a gas station and convenience store. The licenses are not set to expire until May 26, 2024. Chapters 68, 81, 84, and 85 of the Milwaukee Code of Ordinances (MCO) govern the licenses issued to the Licensee.

Specifically, MCO § 85.3 sets forth the City's procedures for issuing new and renewal licenses, including the procedure for reviewing and issuing licenses in jeopardy of non-renewal, suspension, or revocation. The procedures set forth therein only permit the committee to hold a non-renewal, suspension, or revocation hearing upon the licensee applying for an initial issuance or renewal of its license. It does not permit the licenses committee to voluntarily call a licensee to a revocation, upon the complaint of one or more constituents. To do so would be unprecedented and in violation of the City's own ordinances.

It should also be noted that MCO § 84-45 specifically dictates that the revocation or suspension of a filling station may only be accomplished through the processes set forth in section 85.3. The lack of language specifying a process for the committee to bring a licensee before a revocation hearing on its own initiative is indicative of the City's intent to ensure that non-renewals, suspensions, and revocations only occur as specifically promulgated in the ordinance.

Compare this to MCO § 84-43 which specifically adopts Wis. Stat. § 134.65(6)-(7), setting forth a process for a city to revoke, suspend, or refuse to renew cigarette and tobacco licenses issued under state law. Further compare this to MCO § 90-12, which sets forth specific instances permitting revocation of liquor licenses for cause, and the procedures for setting a revocation hearing in motion. MCO § 90-12.5.a-1. Significantly, there is no comparable procedure that gives the City the right, or authority, to issue the Summons that it has served upon my client. As a result, the hearing is improper and should be cancelled, and the City should withdraw the Summons.

Even if the City could independently initiate a hearing to propose the revocation only of my client's Cigarette and Tobacco license under MCO § 84-43, the Summons and constituent's complaint against my client does not pass muster. Wis. Stat. § 134.65(7)(a) requires complaint to allege that the person holding the license committed one or more of the acts set forth in subsections (7)(a)1-5 on two separate instances. The complaint/affidavit of Ms. Natalie Easter Allen fails to comport with that requirement. Simply put, the City has no basis on which to bring this revocation hearing against the Licensee or its Agent.

Furthermore, the timeliness of the Summons is objectionable. To have a truly fair and just hearing, my client must be afforded an opportunity to present witnesses to testify regarding the allegations set forth in the Summons and supporting affidavit. Specifically, this will include several police officers from Milwaukee Police Department District Five, Captain Sheronda D. Grant, and William Pinkin - all of whom must be subpoenaed with reasonable notice. In addition to coordinating witness testimony, my client will require more than 7 calendar days to obtain additional information in defense of its licenses.

At this time, I do not believe a hearing is warranted given the notice provided. If the City decides to move forward with the revocation hearing over our objections, then we humbly request an adjournment to allow my client sufficient time to prepare its defense. We would need a 30-45 day adjournment, at least.

Please do not hesitate to reach out to me directly if you have any questions or concerns about this adjournment request. We appreciate your consideration.

Very Truly Yours,

OVB Law & Consulting, S.C.

/s/

Emil Ovbiagele, JD, MBA
Attorney

OEO/*ab*

- cc. Alderwoman Andrea Pratt (via email, andrea.pratt@milwaukee.gov)
License Division Manager Jim Cooney (via email, jim.cooney@milwaukee.gov)
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