



FRIEBERT, FINERTY & ST. JOHN, S.C.
 ATTORNEYS AT LAW
 Two Plaza East - Suite 1250
 330 East Kilbourn Ave. • Milwaukee, Wisconsin 53202
 Phone 414-271-0130 • Fax 414-272-8191 • www.fffj.com

OFFICE OF MILWAUKEE
 2007 JUN 15 PM 4:22
 RONALD W. LEONHARDT
 CITY CLERK

ROBERT H. FRIEBERT
 JOHN D. FINERTY
 THOMAS W. ST. JOHN
 WILLIAM B. GUIJIS
 BRADDEEN C. BACKER
 S. TODD FARRIS
 TED A. WARPINSKI
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 SHEILA M. CONROY
 BRIAN C. RANDALL
 CHRISTOPHER M. MEULER
 M. ANDREW SKWIERAWSKI
 JOSEPH M. PELTZ

June 15, 2007

VIA MESSENGER

Mr. Ronald Leonhardt
 City Clerk
 Attn. Ms. Linda Elmer
 Room 205 - City Hall
 200 East Wells Street
 Milwaukee, WI 53202

Re: Common Council File No. 060537...A substitute ordinance relating to zoning regulations for payday loan agencies and other short-term loan establishments

Dear Ms. Elmer:

The Zoning, Neighborhoods and Development Committee (the "Committee") heard the above-referenced file on June 12, 2007. A total of seven (7) exhibits were introduced and entered into the record at the hearing. In addition, the Committee Chairman invited those who made statements during the hearing to submit supporting documentation after the hearing.

The purpose of this correspondence is to provide several such documents to your office for the official record, which is important in this instance because the matter is not scheduled to return to the City Plan Commission despite its action on June 4, 2007, to refer the matter to the Committee without a recommendation and for the file to return to the Plan Commission for a hearing after an Opinion of the City Attorney has been drafted. Rather, the file will be the first item on the Committee's report at the June 19, 2007 Common Council meeting. As such, we are providing a courtesy copy of this correspondence and its enclosures to Assistant City Attorney Stuart Mukamal who is assigned to review the proposed legislation prior to that meeting.

First, in connection with Exhibit 7 (the September 28, 2006 Opinion of the City Attorney regarding the Appeal of Short Term Financial, LLC Concerning an Order of Revocation of an Occupancy Certificate Issued on May 1, 2006 for the Premises Located at 9228 West Capitol Drive), please find the enclosed final Board of Zoning Appeals Decision and Order dated November 16, 2006 as well as the following materials filed in that matter on behalf of the Applicant:

1. August 9, 2006 letter to Mr. Clifton Crump enclosing, among other documents, Applicant's Supplement to Notice of Appeal and Application for Review and Statement of Use - Amended Plan of Operation;

Mr. Ronald Leonhardt, Attn. Ms. Linda Elmer
June 15, 2007
Page 2

2. September 12, 2006 letter to Mr. Clifton Crump enclosing on Behalf of the Applicant the Evidentiary Affidavit of Bonnie J. Schoenberg and the Evidentiary Affidavit of John D. Finerty, Wisconsin Counsel for the Applicant; and
3. November 13, 2006 letter from Chris Rute to the Applicant explaining that the installment loan business meets the ordinance definition of "bank or other financial institution" and not "payday loan agency."

Second, please find the June 14, 2007 letter to all Common Council members from Thomas G. Nardelli, a registered lobbyist for an installment loan company. Mr. Nardelli's letter outlines the information placed into the record of the Committee by Short Term Financial, LLC d/b/a First Rate Financial, an installment loan provider. We trust that the statements made to the Committee are part of the legislative record but request that they, in fact, be reviewed by the City Attorney's Office and further request that the enclosed letter from Mr. Nardelli be added as well.

Kindly acknowledge receipt of this communication and these materials for the record on the enclosed copy of this letter and return it to the waiting messenger.

Please do not hesitate to contact me should you have any immediate questions or comments. Thank you for your consideration of this request.

Very truly yours,

FRIEBERT, FINERTY & ST. JOHN, S.C.



John D. Finerty
jdf@ffsj.com

JDF/bcr
Enclosures

cc: Mr. Stuart S. Mukamal, Assistant City Attorney (w/Encs.)

BOARD OF ZONING APPEALS

CITY OF MILWAUKEE

In the Matter of the Appeal of:
SHORT TERM FINANCIAL, LLC.
JASON M. CASE - MGR, PETITIONER

Case No. 27686

Premises:
9228 W. CAPITOL DR.
A/K/A 9230 W. CAPITOL DR.

The above matter was heard before the Board of Zoning Appeals of the City of Milwaukee on September 14, 2006, November 16, 2006, based on an appeal from a determination of the Commissioner of City Development of the City of Milwaukee dated July 21, 2006, of a request for permit to appeal an order issued by the Department of Neighborhood Services determining that there is an illegal occupancy and use of the premises. A decision of the Board was rendered on November 16, 2006. The decision and the minutes were filed immediately thereafter in the office of the Board of Zoning Appeals pursuant to Wisconsin Statutes, 62.23(7)(e)3.

IT IS FOUND:

Upon further review, staff has determined that Board action is no longer required. The Board staff therefore recommends dismissal without prejudice.


IT IS ORDERED AND DETERMINED:

That the request to appeal an order issued by the Department of Neighborhood Services determining that there is an illegal occupancy and use of the premises is dismissed without prejudice based on the statements set forth in the official transcript of case No. 27686, dated November 16, 2006.

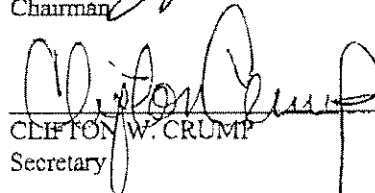
Any one aggrieved by the decision of the Board may appeal to the Circuit Court within thirty (30) days of the date hereof.

Dated, November 24th, 2006.

BOARD OF ZONING APPEALS



GRAIG H. ZETLEY
Chairman



CLIFTON W. CRUMP
Secretary



FRIEBERT, FINERTY & ST. JOHN, S.C.

Two Plaza East - Suite 1250
330 East Kilbourn Ave. • Milwaukee, Wisconsin 53202
Phone 414-271-0130 • Fax 414-272-8191 • www.ffsj.com

August 9, 2006

VIA MESSENGER

Mr. Clifton W. Crump, Secretary
Board of Zoning Appeals
809 North Broadway, 1st Floor
Milwaukee, WI 53202

Re: Premises Address: 9228 West Capitol Drive
Aldermanic District: 5th (Alderman James Bohl, Jr.)
Zoning: Local Business (LB 2)
Applicant: Short Term Financial, LLC, a Wisconsin LLC
Issue: Application for Special Use or Determination that the use is permitted
as a category of financial institution

ROBERT H. FRIEBERT
JOHN D. FINERTY
THOMAS W. ST. JOHN
WILLIAM B. GUIB
BRADDEN C. BACKER
S. TODD FARRIS
TED A. WARDINSKI
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LAWRENCE J. GLUSMAN
SHEILA M. CONROY
BRIAN C. RANDALL
JENNIFER L. BOLGER
CHRISTOPHER M. MEULER

Dear Mr. Secretary:

Enclosed please find the following indicated documents in connection with the above matter:

1. Supplement to Notice of Appeal and Application for Review - (original and four (4) copies);
2. Statement of Use - Amended Plan of Operation (original and four (4) copies);
3. Lease between Short Term Financial, LLC and Little Caesar Enterprises, Inc. - (transmittal letter, cover sheet and signature pages only - four (4) copies);
4. Photographs - (four (4) sets of color copies):
 - a. Front elevation prior to occupancy,
 - b. Front elevation after remodeling (rear view to west),
 - c. Office view south to West Capitol Drive and Golden Valley Center, and
 - d. Office Interior
5. Floor plan - (four (4) copies); and
6. Site plan - Assessor's plat - (four (4) copies).

Please file these on our behalf and indicate date and time of filing on the enclosed copy of this letter which you can return to our messenger.

Mr. Clifton W. Crump, Secretary

August 9, 2006

Page 2

If a BOZA File number has been assigned to this case, please provide us with that information on the return copy.

If you have any immediate questions or comments, please give me a call at the earliest possible moment.

Thank you for your assistance in this matter.

Very truly yours,

FRIEBERT, FINERTY & ST. JOHN, S.C.



John D. Finerty
jdf@ffsj.com

JDF/sjf

Enclosures

cc: Alderman James Bohl, Jr. (w/Encs.) - Via Messenger
Mr. Chris Rute (w/Encs.) - Via Messenger
Commissioner Martin Collins ATTN: Ronald Roberts (w/Encs.) - Via Messenger



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CHRISTOPHER M. MEULER

SUPPLEMENT TO

NOTICE OF APPEAL AND APPLICATION FOR REVIEW

[Filed July 21, 2006]

Before the Board of Zoning Appeals, City of Milwaukee

**In connection with Short Term Financial, LLC
9228 West Capitol Drive
in the 5th Aldermanic District**

**Relative to the issuance of a special use
or a reinstatement of
Certificate of Occupancy No. 709164 issued May 1, 2006**

**TO: THE HONORABLE, THE BOARD OF ZONING APPEALS
809 North Broadway - 1st Floor
Milwaukee, WI 53202
ATTN: Clifton Crump, Secretary**

PLEASE TAKE NOTICE that this document supplements the Notice of Appeal and Application for Review (the "Supplement") to the Board of Zoning Appeals for the City of Milwaukee (the "Board"), filed and dated July 21, 2006 at 4:33 p.m. relative to the above location (the "Site" or the "Property" as context requires).

Introduction

Short Term Financial, LLC (the "Applicant") is a Delaware limited liability company headquartered in northern Illinois and registered to do business in the State of Wisconsin.

The Applicant was granted a letter of approval, dated March 6, 2006, and a Certificate of Authority from the Wisconsin Administrator of Banking to operate a consumer loan company pursuant to § 138.09, *Wis. Stats.* The letter of approval and the Certificate of Authority are attached hereto as Exhibits A and B, respectively. They are also attached as exhibits to the Amended Statement of Use and Plan of Operation contemporaneously filed with the Secretary of the Board.

Section 138.09 authorizes so-called pre-computed loans in which the principal and interest calculated in advance are bundled and then paid off either by means of a payment coupon or a direct deposit or electronic fund transfer ("EFT") payment to the Applicant from a bank account of the borrower.

The term "consumer loan company" is generic because the Applicant makes personal and business loans provided that the loans fit within the pre-computed interest and installment payment requirements of § 138.09, *Wis. Stats.*, and of course, the Applicant's letter of approval and Certificate of Authority.

Application for Occupancy

On April 13, 2006, Applicant applied to the City of Milwaukee Development Center for a Certificate of Occupancy for the Property and listed the proposed use as "consumer finance - consumer installment loans" which is an accurate description but also includes non-consumer loans of exactly the same type, so long as the loans comply with § 138.09, *Wis. Stats.*, and are made from the same location. A copy of the Application for the Certificate is attached hereto and marked as Exhibit C.

Use is Permitted in the Zoning District

The Property is located in a district zoned Local Business (LB/2) in which a financial institution such as Applicant's business is a permitted use. See § 295-603-1, *Milwaukee Code of Ordinances* ("MCO").

In turn, § 295-201-55, *MCO*, indicates that a "financial institution" means any establishment providing retail banking, credit and mortgage services. **This term does not include a currency exchange, a payday loan agency or a title loan agency which are special uses.**

After a review of Applicant's business and presumably the definition of a "financial institution," on May 1, 2006, the City issued a Certificate of Occupancy, No. 709164, for the

Property for a use described as “consumer finance - consumer installment loans.” A copy of Certificate No. 709164 is attached as Exhibit D.

Since that time, the Applicant has provided only consumer finance and consumer loan services, as well as personal and business loans for which it is licensed by the State of Wisconsin Banking Administrator.

As will become relevant hereinafter, Applicant is not a money exchange, a payday loan company or auto title loan company which are clearly defined in §§ 295 - 201-135, 295-201-245 and 295-201-661, *MCO*.

First Attempt at Occupancy Permit Rescission

On July 6, 2006, a communication was mailed to Applicant from Chris Rute, the City’s Permit and Development Center Manager. The letter, a copy of which is attached as Exhibit E, stated:

“According to information received, your operation is most closely aligned (sic) with Currency Exchange, Payday Loan, and Title Loan Agency as defined by City of Milwaukee Code of Ordinances. The application [for the Certificate of Occupancy] did not completely or accurately describe the proposed use. These uses require Board of Zoning Appeals approval as a special use prior to a Certificate of Occupancy being issued.”

[emphasis supplied]

The communication did not indicate who furnished the information relied on for the finding that the Applicant’s operation (1) was more closely aligned with uses disfavored by the City, or (2) what the inaccurate description was in the Application for the Certificate of Occupancy.¹

Response by Applicant

On July 10, 2006, Bonnie J. Schoenberg, General Counsel of Applicant, responded to Mr. Rute pointing out that the Applicant makes only installment loans with a term of not less than six months and did not engage in any activity which involved taking paychecks, automobile titles, deferred deposit loans or postdated checks for security. A copy of Ms. Schoenberg’s letter is attached hereto as Exhibit G.

¹ Because supporting information has not been released to date, Attorneys for Applicant on August 4, 2006 served and filed an Open Records Request (“ORR”) pursuant §§ 19.31, *et seq.*, *Wis. Stats.* with the Commissioner of Neighborhood Services, as custodian of records in this matter. The ORR is attached as Exhibit F. To date, no records have been produced or made available for inspection.

Ms. Schoenberg also offered to speak with Mr. Rute or exchange emails with him to provide additional information or if there were further questions. *See id.*

Further Action by City

At 10:12 a.m. on July 21, 2006, Ms. Schoenberg received a communication from Chris Rute (Exhibit H) that stated:

“After review of the Plan of Operation submitted, a visit to the subject facility by Inspection staff, an investigation of the operation of similar facilities that have been subject to the Board of Zoning Appeals (“BOZA”) approval process, it has been determined that the position, as stated in my initial letter dated July 6, 2006 (see attached), is affirmed.”

In addition, Mr. Rute advised that a new Occupancy Certificate would have to be applied for and Board approval obtained. Indeed, as a courtesy to Applicant, he forwarded the necessary paperwork to enable Applicant to file a new Application for Certificate of Occupancy. Applicant promptly filed a new Application for a Certificate of Occupancy on July 21, 2006, a copy of which is attached as Exhibit I. Mr. Rute then issued a permit denial/BOZA appeal letter, also dated July 21, 2006 (Exhibit J), indicating that a permit could not be granted because the licensed loan company use was now a special use.

Appeal of all Issues to the Board

At approximately 4:33 p.m. on July 21, 2006, Applicant filed the instant Notice of Appeal appealing the entire issue to the Board including an Inspection Report and Order to Correct Condition (the “Order”) served on July 21, 2006 by Angela Ferrill, an Inspector with the Department of Neighborhood Services (“DNS”). Applicant is seeking from BOZA a determination of use that it does not need a special use permit or, in the alternative, the approval of its Application for Special Use Permit.

A copy of the Order, together with definitional attachments are attached as Exhibit K. The Order’s relief sought, assuming that the City will ask for a finding that a § 138.09, *Wis. Stats.* loan company is really either a currency exchange, a title loan company, or a payday loan company, to close the business for lack of Occupancy Certificate. In that event, the remedy Applicant seeks from the Board is a determination that Applicant’s use is a permitted use or the issuance of a special use to allow it to engage in business as a loan company, even though a loan company is a permitted use.

Jurisdiction of the Board

With respect to the request for a determination, broad jurisdiction is conferred on the Board by § 62.23(7)(e)8., *Wis. Stats.* and § 295-311-1.a.-1. and a.-2., *MCO* to resolve every issue and decide appeals that arise under Chapter 295, *MCO* or state statutes. There is also clear authority to

determine that the initial Occupancy Permit was correct and should be re-instated *nunc pro tunc*. See 295-311-1.a.-2, *MCO*.

The reason for this is that the Applicant is a state licensed loan company and fits within the definition of a creditor financial institution in § 295-201-55, *MCO*. If the Board finds that the Applicant's use was a permitted use in the first instance, then the Occupancy Permit is validated as a matter of law and all of the issues are moot.

Legal Elements

The definitions of those uses which have been made special uses because they are apparently undesirable are set forth in considerable detail so it is easy to determine what Applicant's business is and is not.

Currency Exchange

A *currency exchange* is defined in § 295-201-135, *MCO*, which provides that that term

...means, in accordance with s. 218.05, Wis. Stats., any person except banks incorporated under laws of this state and banks organized pursuant to the laws of the United States and any credit union operating under Chapter 186, Wis. Stats. which obtains a certificate of authority from the Wisconsin Commissioner of Credit Unions, engaged in the business of providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. This term does not include any person engaged in the business of transporting for hire, bullion currency, securities negotiable or non-negotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any business in this state who in the course of such business or profession and, as incident thereto, cashes checks, drafts, money orders or other evidences of money.

[Emphasis supplied]

The Applicant is not engaged in the check cashing business but rather in the installment loan business as a financial institution.

Payday Loan Companies

A *payday loan agency* is defined in § 295-201-245, *MCO*, as "... an establishment providing loans to individuals in exchange for personal checks as collateral."

The Applicant, as part of its installment loan business, does not take personal checks as collateral. However, and perhaps to the misunderstanding of some, if a customer requests a direct payment from a checking account to a loan account through an EFT, a customer must sign a consent for the withdrawal and present either a voided check or an encoded deposit slip which will allow the Applicant to record the routing number for the particular deposit account. If a check is used for that purpose, it is returned, and if a deposit slip is tendered, it is destroyed.

In this instance, Applicant's business clearly does not fit within the definition of a payday loan company.

Title Loan Companies

In § 295-201-661, *MCO*, a *title loan agency* is an establishment providing loans to individuals in exchange for receiving the actual title to the borrower's motor vehicle as collateral.

Applicant does not and cannot accept a motor vehicle title to be held as "collateral." In the event a motor vehicle is among the items of collateral that a customer offers to secure a conventional loan from Applicant, Applicant can only request that the customer execute a Security Agreement (formerly known as a "Chattel Mortgage") notice of which is given by forwarding a Notice of Financing Statement to the Wisconsin Department of Transportation ("WisDOT") which then issues a new title to the owner of the vehicle showing the lien of the Applicant.

When the loan is fully paid off or otherwise retired, Applicant executes and delivers to the customer a "Termination Agreement" which the customer returns to WisDOT for a cancellation of the lien.

Non-Waiver and Reservation of Rights

By submitting to the jurisdiction of the Board, the Applicant does not waive and specifically reserves any rights it may have, both state claims and federal claims, by reason of the facts situation described herein and future action taken by the Board or the City in connection with the Applicant's business.

Conclusion

If it was the purpose of the City to more thoroughly regulate all finance companies, it could have defined companies making installment loans pursuant to a Certificate issued by the Administrator of Banking under § 138.09, *Wis. Stats.* However, the City did not and that type of business remains a permitted use in Local Business Zoning. That is the only business engaged in by the Applicant.

More interestingly is that banks and savings banks that make installment loans similar to those that Applicant makes have continued to operate without interference and certainly have not been required to seek a special use permit from the Board.

Respectfully submitted this 9th day of August, 2006.

SHORT TERM FINANCIAL, LLC, a Delaware
limited liability company

By: 

FRIEBERT, FINERTY & ST. JOHN, S.C.

John D. Finerty

Wisconsin State Bar No. 1009840

jdf@ffsj.com

Brian C. Randall

Wisconsin State Bar No. 1029064

bcr@ffsj.com

Attorneys-in-Fact for Applicant

P.O. ADDRESS:

Two Plaza East - Suite 1250
330 East Kilbourn Avenue
Milwaukee, WI 53202
(414) 271-0130

INFORMATIONAL COPY TO:

Alderman James Bohl, Jr., 5th District



State of Wisconsin
Department of Financial Institutions

Jim Doyle, Governor

Lorrie Keating Heinemann, Secretary

March 6, 2006

Ms. Bonnie Schoenberg
Willow Hill Executive Center
550 Frontage Road, Suite 3785
Northfield, IL 60093

Re: Loan Company License Application

Dear Ms. Schoenberg:

We have reviewed your application for a loan company license for Short Term Financial, LLC. The application has been approved. Please ensure that the enclosed license is conspicuously posted in the licensed office.

Please contact me at 608-266-8891 or at Janell.fibikar@dfi.state.wi.us if you have any questions.

Sincerely,

Janell R. Fibikar
Examiner
Licensed Financial Services

Enclosure

Division of Banking

Mail: PO Box 7876 Madison, WI 53707-7876
Voice: (608) 261-7578

Fax: (608) 267-6889

Courier: 345 W. Washington Ave. 4th Floor Madison, WI 53703
TTY: (608) 266-8818

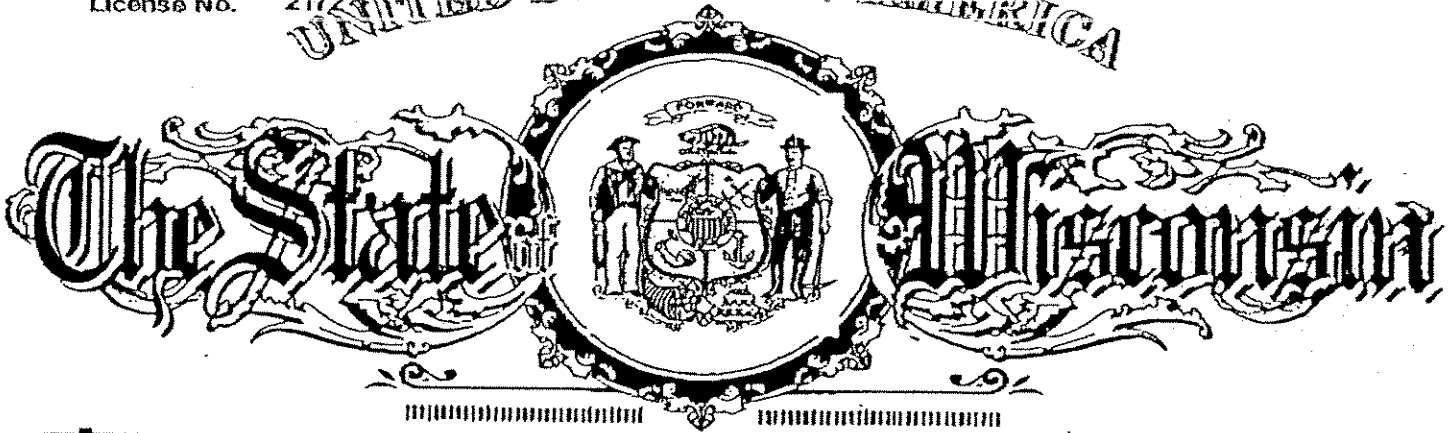
Internet: www.wdfi.org

EXHIBIT

A

License No. 2172

UNITED STATES OF AMERICA



DEPARTMENT OF FINANCIAL INSTITUTIONS

Short Term Financial LLC

having complied with the requirements set forth under Section 138.09 of the Wisconsin Statutes, is hereby licensed to engage in business as a

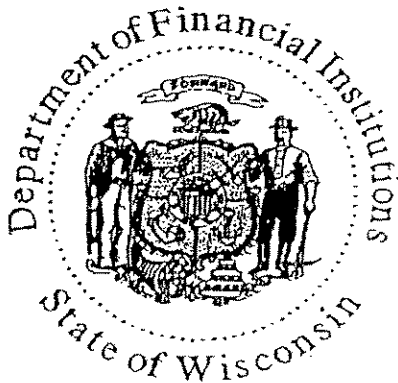
LOAN COMPANY

in accordance with and subject to the provisions of said Section 138.09 and all acts amendatory thereto at:

9228 West Capitol Dr
Milwaukee, WI

This license cannot be assigned or transferred and continues in effect until terminated as provided in Section 138.09.

IN TESTIMONY WHEREOF, I have herunto set my hand and affixed the official seal of the Department of Financial Institutions. Done at my office in the City of Madison, Wisconsin on March 6, 2006.



**MICHAEL J. MACH, ADMINISTRATOR OF BANKING
DEPARTMENT OF FINANCIAL INSTITUTIONS**

This License Must Be Conspicuously Posted in the Public Office

AUTHORIZATION TO ENGAGE IN OTHER BUSINESS

Authorization is granted to licensee to conduct the following other business in the office specified above with its loan business, provided the required licenses or notifications have been issued or filed: a business lending business and agricultural loans and loans exceeding \$25,000; first lien real estate mortgage loans under ss. 138.051 to 138.096; a sales finance business under ss. 218.0101 to 218.0163; an insurance business; a currency exchange under s. 218.05 and a seller of checks business under ch. 217.

**EXHIBIT
B**

Please complete a separate application for each address. Return application with fee to:
 Milwaukee Development Center
 809 N. Broadway
 P.O. Box 324
 Milwaukee, Wisconsin
 53201-0324
 www.mhdcod.org/bulld
 Phone: (414) 286-8211
 Fax: (414) 286-0232

MAKE CHECK
 PAYABLE TO:
 City of Milwaukee
 Development Center
 JASON CASE

709164
 Apr/13/2006/12:20 PM
 1-0008021/ea.chan/3175.00
 9228 CAPITOL DR

4001
 OK TO PAY
 JY

Application for Certificate of Occupancy

Applicant: Please fill out portion above heavy black line.

Location (Exact street address) 9228 W. Capitol Dr.		Business name Short-Term Financial, LLC.	
Proposed use Consumer finance - consumer installment loans		Current use (or previous use if vacant) Citi Financial	
What part of the building will you occupy? East Unit	How much space? 1300 sq. ft.	Is space now vacant? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How long has it been vacant? over 1 year
Please print Applicant Name: Jason M. Case Firm name: Short Term Financial Address: 880 Lee St. Suite 302 City/state/zip: Des Plaines IL 60016 Phone: 847-722-8435 Fax: 866-857-1287		Owner Name: Dustin Mauldin Firm name: Short-Term Financial Address: 880 Lee St. Ste 302 City/state/zip: Des Plaines IL 60016 Phone: 847-680-8738 Fax: 847-827-9747	
Mail certificate to (check one): Who will meet the inspector at the property? (check one)		<input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner <input type="checkbox"/> Additional contact <input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner <input type="checkbox"/> Additional contact	

The undersigned hereby attests to the above information as accurately describing the premises and proposed occupancy to the best of his/her knowledge and that he/she has the permission of the owner(s) or agent to make this application and allow all necessary inspections of the premises. Any falsification or misinformation may result in enforcement of penalties prescribed in the Milwaukee Code of Ordinances. The undersigned understands that completion of this form does not allow occupancy of the premises.

[Signature]
 Signature of applicant

4-13-06
 Date

Application check			Inspection schedule	
Zoning: LB2	295 citation: 603-1	COMM: B	CT: 34	
<input type="checkbox"/> Use requires BOZA approval. <input type="checkbox"/> Capacity placard required. <input type="checkbox"/> Property has a boiler.			<input type="checkbox"/> Inspections have been scheduled as follows: Date: 04-24-06 Day: (M) T W Th F <input checked="" type="checkbox"/> Morning (8:30-11:30 a.m.) <input type="checkbox"/> Afternoon (1-3 p.m.)	
<input type="checkbox"/> Special use <input type="checkbox"/> Variance Expires: Case #			<input type="checkbox"/> Call between 7:30 and 9 a.m. to schedule inspections: Construction inspection (414-286-2513) Electrical inspection (414-286-2532) Plumbing/sprinkler inspection (414-286-3381)	
<input type="checkbox"/> Capacity calculation required. <input type="checkbox"/> Property has an elevator.				
Certificate type (select one)				
<input type="checkbox"/> 805 Condo unit, 10,000 SF or less - \$90	<input type="checkbox"/> 805 Condo unit, > 10,000 SF - \$100			
<input type="checkbox"/> 805 New construction, 10,000 SF or less - \$75	<input type="checkbox"/> 805 New construction, > 10,000 SF - \$125			
<input checked="" type="checkbox"/> B10 All inspections, 10,000 SF or less - \$175	<input type="checkbox"/> B10 All inspections, > 10,000 SF - \$375			
<input type="checkbox"/> B15 No inspections - \$75	<input type="checkbox"/> B18 Plumbing inspection only - \$125			
<input type="checkbox"/> B20 No inspections, needs BOZA OK - \$75	<input type="checkbox"/> B15 Livework unit - \$25			
<input type="checkbox"/> 850 Name change/duplicate - \$25				
Checked by: <i>[Signature]</i>				
Certificate #	Date issued	Cancelled		

254-0704-110

0601





Department of City Development
(414) 286-8211

This Certificate of Occupancy shall be posted in a conspicuous place in the building or structure, or on the premises. The certificate is issued subject to any conditions listed below.

If this business is a convenience store, filling station, personal service establishment, or restaurant, operation is prohibited between 12 midnight and 5 a.m., unless the business has obtained a 24-hour establishment license from the City of Milwaukee.

Jason M. Case
Short Term Financial
880 Lee St., #302
Des Plaines, IL 60018

CITY OF MILWAUKEE
 Department of
 City Development

CERTIFICATE OF OCCUPANCY

Location: 880 Lee St., #302
 Issued to: Short Term Financial LLC
 Area: East Side
 Use: Consumer Finance - Consumer Installment Loans

Issued: May 01, 2007 17016E

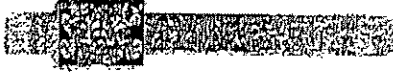
NOT TRANSFERABLE

Occupancy must conform to applicable codes and standards. This certificate is issued subject to the terms and conditions of the City of Milwaukee's Ordinance 23.02, which is available on the City's website at www.cityofmilwaukee.gov.

CCO 201 4/00

EXHIBIT

City of
Milwaukee
Development Center



809 N. Broadway
P.O. Box 324
Milwaukee, WI 53201-0324
(414) 286-8211
(414) 286-0251 - Fax

July 6, 2006

Mr. Jason M. Case
Short Term Financial
880 Lee Street, Suite 302
Des Plaines, IL 60016

Re: 9228 W. Capitol Drive - Certificate of Occupancy

Dear Mr Case:

It has come to my attention that the Certificate of Occupancy, #709164, issued to your company at the referenced address may have been issued in error.

According to information received, your operation is most closely aligned with Currency Exchange, payday loan, and title loan agency as defined by City of Milwaukee Code of Ordinances. The application did not completely or accurately describe the proposed use. These uses require Board of Zoning Appeals approval as a Special Use prior to a Certificate of Occupancy being issued.

In light of the above, the Certificate of Occupancy must be rescinded and the facility must be vacated until such time that an accurate application is submitted, an approval is obtained from the Board of Zoning Appeals, and a new, revised Certificate of Occupancy is issued.

If you have any questions, or require further assistance, please contact me.

Sincerely,

Chris Rute
Permit & Development Center Manager
(414) 286-3018
Crute@mkedod.org

EXHIBIT

Mr. Martin G. Collins

August 4, 2006

Page 2

Credit Unions, the applicable licensing agency.

The period of inquiry with respect to the matters set forth above is from December 1, 2005 up to and including the date of the Department's response to this request (the "Inquiry Period").

In that regard, request is hereby made pursuant to §§ 19.31, *et seq.*, Wis. Stats., for access to and the right to inspect and copy any and all records², however designated, drafted, generated, sent or received or maintained by the Department³ in connection with the activities described above, the Site and the operation of the licensed business at the Site during the Inquiry Period including, but not limited to the following:

1. All records, including copies of records, between, among, received from, or sent to the Department during the Inquiry Period by the Center in connection with the Site for any reason.

2. All records, or copies of records, in the possession of the Department that contain records or copies of records of the Center or the City relating to, concerning, or pertaining to the operation of the business at the Site during the Inquiry Period.

3. All records, or copies of records, of the Department concerning any investigative or other materials obtained by the Department or provided to the Center as evidence of the Loan Company engaging in money exchange services or conducting or operating a title loan agency or payday loan company as defined above at the site during the Inquiry Period.

4. All records, or copies of records, of the Department received from or sent to any other Department or branch of government including the Center, the City and the Common Council regarding the business operations of the Loan Company at the Site during the Inquiry Period.

5. All records, or copies of records, of the Department and any copies of records from any other City, agency, branch or unit in the possession of the Department relative to, concerning or pertaining to any tip, complaint, report anonymous writings or other information including logs of telephone tips or other oral information relating to the nature and kind of business operations conducted by the Loan Company at the Subject Site during the Inquiry Period.

6. A copy of the Department's Rules and Regulations dealing with procedures for complying with the Open Records Requests as required under §§ 19.32, *et seq.*, Wis. Stats., and the public rates and charges for producing copies of records requested (collectively the "Rules and Regulations").

² "Records" as used herein has the meaning set forth in § 19.32(2), Wis. Stats. Without limiting the foregoing, "record" includes e-mail and other items in electronic form.

³ The terms "Department," "City" and "Center" includes all departments, divisions, agencies, commissions or authorities or any officer, employee or other agent, however designated, thereof.

Mr. Martin G. Collins
August 4, 2006
Page 3

This Request is for immediate inspection and covers all records, as defined herein, generated, sent or received up to and including the date of the Department's response to this Request.

In responding to this Request for Records, you are requested, pursuant to § 19.36(3), Wis. Stats., to make available records produced or maintained pursuant to contract, even if those records are physically in the possession of the contractor.

In lieu of actual inspection, request is made that we be provided, at our option, with photocopies of all such records and, in that event, we will pay all reasonable costs of copying the requested records as set forth in the Rules and Regulations of the Department. If advance payment is required by the Rules and Regulations, or if a deposit is necessary to the extent that the actual costs exceed \$5.00, please contact the undersigned and a check will be delivered to your office as soon as conveniently may be.

If you will contact the undersigned when the requested records have been photocopied, we will arrange for a messenger to pick them up. If, after reviewing the requested records, we determine that an on-site inspection of the records is necessary, contact will be made with you or your designate concerning an appointment time that is the least disruptive to your office's operations.

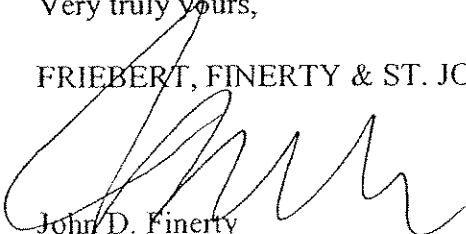
If you decline to provide any records for any reason, please describe each record being withheld and specify the reasons therefore. If the reasons for withholding records are set forth in §§ 19.35(1)(a) and (m), 19.36(1), (2) and (9), and 19.85(1), *Wis. Stats.*, please specify the particular statutory subsection which the Department is relying upon and the factual basis for such reliance.

If you have any questions about these requests, please contact the undersigned at your earliest possible convenience.

Thank you for your attention to this communication.

Very truly yours,

FRIEBERT, FINERTY & ST. JOHN, S.C.


John D. Finerty
jdf@ffsj.com

JDF/swk

cc: Ms. Tracy Williams – VIA MESSENGER
Mr. Ronald Roberts – VIA MESSENGER



FRIEBERT, FINERTY & ST. JOHN, S.C.

Two Plaza East - Suite 1250
330 East Kilbourn Ave. • Milwaukee, Wisconsin 53202
Phone 414-271-0130 • Fax 414-272-8191 • www.ffijs.com

ROBERT H. FRIEBERT
JOHN D. FINERTY
THOMAS W. ST. JOHN
WILLIAM B. GUIB
BRADDER C. BACKER
S. TODD FARRIS
TED A. WARPINSKI
BRIAN R. SMIGELSKI
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LAWRENCE J. GLUSMAN
SHEILA M. CONROY
BRIAN C. RANDALL
JENNIFER L. BOLGER
CHRISTOPHER M. MEULER

August 4, 2006

VIA MESSENGER

Mr. Martin G. Collins
Commissioner¹
Department of Neighborhood Services
City of Milwaukee
841 North Broadway, 1st Floor
Milwaukee, WI 53202

RE: Public Records and Document Request To the Department of Neighborhood Services with respect to 9228 to 9230 West Capital Drive, in the Fifth Aldermanic District in the City of Milwaukee

Dear Commissioner Collins:

This communication is being delivered to you pursuant to Wisconsin's Open Records Law, more specifically described hereinafter, in connection with certain activities involving the City of Milwaukee (the "City"), the Milwaukee Development Center (the "Center") and the Department of Neighborhood Services (the "Department") involving the rescission by the Center at the request of the Department of a validly issued Occupancy Permit (the "Permit") to allow Short Term Financial, LLC or its assigns ("Loan Company") to operate a conventional installment loan business authorized by the Administrator of Banking of the State of Wisconsin pursuant to § 138.09 Wis. Stats., at 9228-9230 West Capital Drive (the "Site" or the "Property" as context requires).

The Permit was originally issued for the Site which, as a licensed banking or financial institution was considered a special use pursuant to Section 295-603-1, Milwaukee Code of Ordinances ("MCO") which was rescinded ex parte at the direction of the Department. The Department determined that the use of the Site was either an auto Title Loan Company or a Payday Loan Company as those terms are defined in Sections 295-201-445 and 295-201-661, MCO even though the Loan Company does not operate in either capacities and has not applied for certificates of authority to function in those two capacities from the Wisconsin Commissioner of

¹ This communication is delivered to you in your capacity as the Commissioner of the Department of Neighborhood Services and as its de facto Custodian of its records, since you and your Department are involved in the revocation by the Milwaukee Development Center of an occupancy permit issued to the subsequent permit and subsequently rescinded and certain orders and other proceedings initiated by your Department against the subject site, as defined above, during the period of inquiry in the event the City or the Department have designated and other person, or other persons in addition to yourself, as authorized by § 19.33, Wis. Stats., to be the Custodian(s) of records then, and in that case only, the enclosed copies of this communication should be forwarded to the person(s) so designated.

EXHIBIT

Short Term Financial LLC

880 Lee Street
Suite 302
Des Plaines, Illinois 60016

847-446-9985
Fax 847-4468628

July 10, 2006

Chris Rute
Permit & Development Center Manager
City of Milwaukee Development
Crute@mkedcd.org

Dear Mr. Rute:

Following is the plan of operation of Short Term Financial, LLC at 9228 W. Capitol Drive in Milwaukee:

Short Term Financial LLC provides installment loans with a term of not less than six (6) months. These loans are paid by borrowers in installments either in cash (in person or by mail) or by a revocable pre-authorized ACH from the borrower's bank account. The Company also has plans to provide a similar loan product with a term of 12 months.

Short Term Financial DOES NOT make deferred deposit loans, payday loans, or auto title loans. The Company DOES NOT take a post-dated check or auto title as security for its loans, nor does it provide any other services typically provided by a payday lender or currency exchange.

Short Term Financial locations are professional office spaces with a bank-like atmosphere. The installment loans are made at desks, not behind a window, and are meant to serve the longer term financial needs of its borrowers.

Short Term Financial is not a payday loan company or a currency exchange. It is a financial institution making traditional installment loans.

Should you need further information, please contact me at 847-612-1780 or email me at BSchoen105@aol.com.

Very truly yours,

Bonnie J. Schoenberg

EXHIBIT

6

Subj: RE: Short Term Financial LLC
Date: 7/21/2006 10:12:14 A.M. Central Daylight Time
From: Chris.Rute@mkedcd.org
To: bschoen105@aol.com
CC: RROBER@mkedcd.org, CKRACO@mkedcd.org, TPETER@mkedcd.org, JBOHL@mkedcd.org

Dear Ms. Schoenberg:

After review of the plan of operation submitted, a visit to the subject facility by inspection staff, and investigation of the operation of similar facilities that have been subject to the Board of Zoning Appeals (BOZA) approval process, it has been determined that the position, as stated in my initial letter dated July 6, 2006 (see attached), is affirmed.

A new application for Certificate of Occupancy must be made and a Special Use from the Board of Zoning Appeals must be obtained. Since the Certificate of Occupancy has been rescinded, the operation must cease at this location until such time that a new Certificate of Occupancy and BOZA approval has been obtained.

Understanding that time may be of importance, please review the submittal requirements for BOZA on the internet at www.mkedcd.org/boza. There you will find an application and the submittal requirements for a Special Use. Complete that application, assemble the required documentation, and submit it to the BOZA office directly along with applicable fees.

Also, for your convenience, attached is a Certificate of Occupancy application. No fee is charged as this application replaces the previous application for CO # 709164 which was rescinded. Please sign it, or have Mr. Case sign it, and return to me via fax or email. I will then have that application processed.

If I can be of further assistance, let me know.

Chris Rute, AIA

Permit and Development Center Manager
 (414) 286-3018
crute@mkedcd.org

From: bschoen105@aol.com [mailto:bschoen105@aol.com]
Sent: Monday, July 10, 2006 2:06 PM
To: Rute, Chris
Subject: Short Term Financial LLC

Dear Mr. Rute:

Attached please find a letter explaining the plan of operation of Short Term Financial LLC. After you have had a chance to review the letter, please call me at 847-612-1780 to discuss the next steps in this matter. Thank you for your cooperation and understanding.

Bonnie Schoenberg

Bonnie Schoenberg
 550 Frontage Road, Suite 3785
 Northfield, IL 60093
 (847) 446-9985 (Office)
 (847) 446-8628 (Fax)

Check out AOL.com today. Breaking news, video search, pictures, email and IM. All on demand. Always Free.

EXHIBIT

Friday, July 21, 2006 America Online: BSchoen105

Please complete a separate application for each address. Return application with fee to:
 Milwaukee Development Center
 809 N. Broadway
 P.O. Box 324
 Milwaukee, Wisconsin
 53201-0324
www.mkedcd.org/build
 Phone: (414) 286-8211
 Fax: (414) 286-0232
 0102

City of
Milwaukee
 Development Center



Application for Certificate of Occupancy

PTS ID # 35832

Location (Exact street address)		Taxkey	Business name	
9228 W. CAPITOL DR.		2540704110	Short Term Financial, LLC	
Proposed use		Use code	Portion of building occupied	S.F.
Currency exchange, payday loan, or title loan agency (Consumer Finance - Consumer Installment Loans)		13	East unit	1,300
Applicant		Property owner		Applicant
Jason Case Short Term Financial 880 Lee St. Des Plaines, IL 60016 Phone: (847) 722-8435		LITTLE CAESAR ENT, INC ATTN JOHN KOTLAR 2211 WOODWARD AV DETROIT, MI 482013400		Bonnie Schoenberg 550 Frontage Road, Suite 3785 Northfield, IL 60093 Phone: (847) 446-9985 Fax: (847) 446-8828

The undersigned hereby attests to the above information as accurately describing the premises and proposed occupancy to the best of his/her knowledge and that he/she has the permission of the owner(s) or agent to make this application and allow all necessary inspections of the premises. Any falsification or misinformation may result in enforcement of penalties prescribed in the Milwaukee Code of Ordinances. The undersigned understands that completion of this form does not allow occupancy of the premises.

Signature of applicant

Date

Application check:				Inspection status	
Zoning	Zoning code citation	Building code citation	CT	No Inspection Required	
LB2	Commercial (295-603-1)	Business Group B	34		
Zoning status	Additional Information			If inspection is required and customer has not set up inspections at the Development Center, please call the inspector(s) listed between 7:30 and 9 a.m. to schedule inspection.	
BOZA special use approval required	No fee is charged as this application replaces the previous application to CO # 709164 which was rescinded.				
Certificate type	820 - No inspections, need BOZA OK (NO FEE)				
Checked by	Chris Rute				
Certificate issued	Application cancelled				

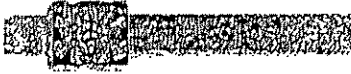
EXHIBIT
 I

District Inspector's Report (Occupancy Inspection)

<input type="checkbox"/> #1 Fire resistive - Type A <input type="checkbox"/> #2 Fire resistive - Type B <input type="checkbox"/> #3 Metal Frame - Protected <input type="checkbox"/> #4 Heavy timber	<input type="checkbox"/> #5 Exterior Masonry <input type="checkbox"/> #6 Metal frame - unprotected <input type="checkbox"/> #7 Wood frame - protected <input type="checkbox"/> #8 Wood frame - unprotected	Date of inspection No. of stories
List all occupancies in building. Include all floors. BSMT		
1 st floor		
2 nd floor		
3 rd floor and above		
BOZA site status <input type="checkbox"/> All BOZA requirements have been completed in accordance with the conditions and approved plans dated _____ <input type="checkbox"/> An order has been written. ALL BOZA requirements have NOT been completed in accordance with the approval of the board.	Does building have a boiler or refrigeration system? <input type="checkbox"/> YES <input type="checkbox"/> NO Does building have an elevator? <input type="checkbox"/> YES <input type="checkbox"/> NO Does building have a sprinkler system? <input type="checkbox"/> YES <input type="checkbox"/> NO Does building have underground tank(s)? <input type="checkbox"/> YES <input type="checkbox"/> NO	Does boiler or furnace require enclosure? <input type="checkbox"/> YES <input type="checkbox"/> NO Are fire doors properly installed? <input type="checkbox"/> YES <input type="checkbox"/> NO Does building have proper exits? <input type="checkbox"/> YES <input type="checkbox"/> NO Fire suppression hood system? <input type="checkbox"/> YES <input type="checkbox"/> NO
Compliance with the following requirements is necessary before a certificate of occupancy will be issued. Notify the owner and applicant accordingly.		

A certificate of occupancy is approved for issuance by the following Inspector(s):

Inspector name	Type of Inspection	Approval date
Inspector name	Type of Inspection	Approval date



Permit denial/BOZA appeal

809 N. Broadway/PO Box 324/Milwaukee, WI 53201-0324/414-286-8211

Premise: 9228 W. CAPITOL DR.

Zoning: LB2

Proposed use: Currency exchange, payday loan, or title loan agency

Historic status:

Applicant

Bonnie Schoenberg

550 Frontage Road, Suite 3785

Northfield, IL 60093

Phone: (847) 446-9985

Fax: (847) 446-8628

Ald. District 5

Lot area: 16,315 SF

Code citation: Commercial (295-603-1)

Owner

LITTLE CAESAR ENT, INC

ATTN: JOHN KOTLAR

2211 WOODWARD AV

DETROIT, MI 482013400

Your request for a permit cannot be granted at this time because, in accordance with the City of Milwaukee's zoning ordinance, the project requires approval by the Board of Zoning Appeals for the following:

Special Use

Comments:

Plan examiner

Chris Rute

Issued: 7/21/2006

Project ID: 35832

If you wish to pursue this request, you must file an application with the Board of Zoning Appeals. An informational booklet is available to assist you in this process; information also is available on the Internet at www.mkedcd.org/BOZA. If you have questions about the zoning appeals process, please feel free to contact the Board office at (414) 286-2501.

You must appeal this denial within 30 days of July 21, 2006. If you do not file an appeal within 30 days, you will need to obtain another statement of denial from the Milwaukee Development Center before pursuing your zoning appeal.

If you have questions regarding occupancy or building permits, please call the Milwaukee Development Center at (414) 286-8211. Permit information is available on the Internet at www.mkedcd.org/build.

0403

EXHIBIT

INSPECTION REPORT AND ORDER TO CORRECT CONDITION

CITY OF MILWAUKEE
DEPARTMENT OF NEIGHBORHOOD SERVICES
Zoning Inspection Section
841 N. Broadway
Milwaukee, WI 53202

COPY TO:
JASON M. CASE - MGR
SHORT TERM FINANCIAL, LLC
9228 W. CAPITOL DRIVE
MILWAUKEE, WI 53216

Serial #: 005737811
Inspection Date: July 21, 2008
District #: 372
CT: 34

Recipients:
MARRIO L MURHELL - OPERATOR, 8230 W CAPITOL DR, MILWAUKEE, WI 53222
LITTLE CAERAN ENTERPRISES INC, C Y CORPORATION SYSTEM, S.A , 6026 EXCELSIOR DR SUITE 200,
MADISON, WI 53717
SHORT-TERM FINANCIAL, LLC, NATIONAL REGISTERED AGENTS INC, S.A 801 S WHITNEY WAY,
MADISON, WI 53711,

Re: 8230 W CAPITOL DR
AKA: 9228 W CAPITOL DR

Taxkey #: 264-0704-110

Inspection of the above premises revealed conditions that violate the Milwaukee Code of Ordinances which cause this premises to be considered a hazard to the safety and welfare of the occupants or the public and is hereby placarded as ~~unfit for human habitation~~ occupancy and use as is regulated by Section 200-11(A) and 218.03 (S.S. 88.0413).

You are hereby ordered to vacate the premises within 7 days of service of this order and to keep the premises vacated until such time as the following conditions have been contacted and approved in writing by this Department.

Note: Pursuant to 200-42-1d, any building, structure or premises placarded and found unfit for human habitation or use under any order issued in accordance with this code shall not be occupied unless and until a certificate of occupancy has been obtained.

1. Conditions requiring building to be placarded;
2. 285-303
ILLEGAL OCCUPANCY AND USE
LACK OF OCCUPANCY CERTIFICATE

For any additional information, please phone Angela Ferrill at (414)-288-3887 between the hours of 7:30-9:00am or 3:30-4:30pm Monday through Thursday or 7:30-8:30am Friday.

Per Commissioner of Neighborhood Services By:

Angela Ferrill
Angela Ferrill

OFFICIAL NOTICE OF VIOLATION
The City of Milwaukee - Department of Neighborhood Services



922B W CAPITOL DR

Serial #: 008737811
Inspection Date: July 27, 2008

REINSPECTION FEES

In accordance with Section 200-23-4B, a fee may be charged for any reinspection, except no fee shall be charged for the first reinspection when compliance is recorded. The fee is \$50 for the first reinspection, \$75 for the second, \$150 for the third, and \$300 for the fourth and all subsequent reinspections. Reinspection fees shall be a lien upon the real estate where the reinspection was made and shall be assessed and collected as a special tax. If you wish to contest the assessment of a reinspection fee, contact the inspector, and, if necessary, the inspector's supervisor. If no agreement is reached, an appeal form will be mailed to you, which you can complete and send to the City's Administrative Review Appeals Board. Any question regarding the actual appeal process, please contact the Administrative Review Appeals Board at (414) 286-2221. Please be aware that there is a fee required when filing an appeal.

RIGHT TO APPEAL

You may file an appeal within 5 days. The Milwaukee Code of Ordinances requires that a written appeal of this order be received by the compliance date. If service of this order is made by mail, the appeal shall be received by the compliance date plus 5 days. There is a fee for filing this appeal. Failure to appeal an order issued by the Department shall create a rebuttable presumption that a violation existed on the date of the issuance of the order (200-17-8).

Violations of Chapter 285 of the Milwaukee Code of Ordinances must be appealed to the Board of Zoning Appeals, 809 N. Broadway, 1st Floor, Milwaukee, Wisconsin 53202, phone 414-286-2501. All appeal applications must include the required information outlined in sec. 285-311-6.

All other violations must be appealed to the Code Appeals Secretary, Municipal Building, 1st Floor, 841 N. Broadway, Milwaukee, Wisconsin 53202, phone 414-286-2502.

FAILURE TO COMPLY

Failure to correct the violations noted herein within the time set, or failure to comply with the order as modified by an appeals board and maintain compliance, may subject you to prosecution and to daily penalties of \$150 to \$10,000 in the manner provided in Section 200-18.

Also, any infraction of this order may result in a citation under Section 200-12-5 of the Milwaukee Code of Ordinances Volume II.

In the event of failure to comply with an order issued by the commissioner of neighborhood services to comply with any provisions of this chapter, the commissioner of neighborhood services may take appropriate actions to restrain, correct or abate the violation of the order or cause the order to be carried out. The cost of restraining, correcting or abating the violation or of causing the order to be carried out shall be charged against the real estate upon which the violation is located, shall be a lien upon such real estate and shall be assessed and collected as a special charge as provided in Section 285-303-4.

TRADUCCION EN ESPAÑOL

El Lih, necesita ayuda para la traducción de esta información, comuníquese con el 'Centro Hispano' Council for the Spanish Speaking, Inc., 814 W. National Avenue, Milwaukee, WI 53204. Teléfono: (414)384-3700, o Community Advocates, 4908 W. Fond du Lac Ave., Milwaukee, WI, 53218, Teléfono: (414)446-4777.

LUS HMOOS

Yog kei kee lau kev pab tshais nov lus no, thov hu mus rau koomhaum Hmong/American Friendship Association, 3824 West Villet Street, Milwaukee, WI 53208, wovtooj yog (414) 844-6878.

Copier:
JASON M. CASE - MGR, SHORT TERM FINANCIAL, LLC, 922B W. CAPITOL DRIVE, MILWAUKEE, WI 53216
DUSTIN MAULDIN, SHORT-TERM FINANCIAL, 880 LEE STREET, STE 302, DES PLAINES, IL 60018



Department
of City
Development

295-203. Use Definitions.

This section defines each use listed in the use tables of the various zoning districts, in the order the uses are listed in those tables.

1. RESIDENTIAL USES.

- a. **"Single-family dwelling"** means a building containing one dwelling unit.
- b. **"Two-family dwelling"** means a building containing 2 dwelling units.
- c. **"Multi-family dwelling"** means a building containing more than 2 dwelling units.
- d. **"Attached single-family dwelling"** means one dwelling unit located on a lot, wherever such dwelling unit has at least 2 exposed exterior walls and is attached by a common vertical wall to an adjacent dwelling unit which is located on another lot and has at least 2 exposed exterior walls.
- e. **"Live-work unit"** means a dwelling unit used for both dwelling purposes and any non-residential use permitted in the zoning district in which the unit is located, provided that not more than 2 persons who do not reside in the unit are employed on the premises.
- f. **"Mobile home"** means a manufactured building built on a chassis and transported to a site, with or without wheels, axles, hitches or other appurtenances of mobility and regardless of the type of foundation.
- g. **"Watchman/service quarters"** means one dwelling unit designed for an employee who is employed on the premises.
- h. **"Family day care home"** means a dwelling unit licensed as a day care center by the Wisconsin department of health and family services under s. 48.65, Wis. Stats., and ch. HFS 45, Wis. Admin. Code, or certified as a day care center by Milwaukee County, where care is provided for not more than 8 children at any given time. A family day care home is typically the primary residence of its operator.
- i. **"Rooming house"** means any building or part of any building or dwelling unit occupied by more than 3 persons who are not a family or by a family and more than 2 other persons for periods of occupancy usually longer than one night and where a bathroom or toilet room is shared. This term includes any building or part of any building in which one or more persons share a toilet room or bathroom with the occupants of one or more 2nd class dwelling units, as defined in s. 200-08-83.

2. GROUP RESIDENTIAL USES.

- a. **"Convent, rectory or monastery"** means a building used to house the staff of a church or members of a religious order.
- b. **"Dormitory"** means a building used as group living quarters for students associated with a college, university, boarding school, orphanage or similar institution.
- c. **"Fraternity"** means a building used as group living quarters for members

worship. This term does not include an elementary or secondary school, a specialty or personal instruction school, or a college.

- e. **"Cemetery or other place of interment"** means a place for the interment of the dead. This term includes a columbarium or mausoleum, but does not include a crematorium or mortuary.
- f. **"Public safety facility"** means a government facility for public safety and emergency services including a facility that provides police or fire protection and related administrative facilities.
- g. **"Correctional facility"** means a correctional institution established under s. 301.13, Wis. Stats., or a state prison established under ch. 302, Wis. Stats.

5. COMMERCIAL AND OFFICE USES.

a. **"General office"** means use of a building for business, professional or administrative offices. A general office is characterized by a low proportion of vehicle trips attributable to visitors or clients in relationship to employees. Examples include, but are not limited to, offices of firms or organizations providing architectural, computer software consulting, data management, engineering, interior design, graphic design, real estate, insurance, investment or legal services. This term does not include a bank or other financial institution or the office of a physician, dentist, optometrist or chiropractor.

b. **"Government office"** means an administrative, clerical or public contact office of a government agency, including a postal facility, together with incidental storage and maintenance of the agency's vehicles.

c. **"Bank or other financial institution"** means an establishment providing retail banking, credit and mortgage services. This term does not include a currency exchange, a payday loan agency or a title loan agency.

d. **"Currency exchange"** means, in accordance with s. 218.05, Wis. Stats., any person except banks incorporated under the laws of this state and national banks organized pursuant to the laws of the United States and any credit union operating under ch. 186, Wis. Stats., which obtains a certificate of authority from the Wisconsin commissioner of credit unions, engaged in the business of and providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. This term does not include any person engaged in the business of transporting for hire, bullion, currency, securities, negotiable or nonnegotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any business in this state, who in the course of such business or profession and, as an incident thereto, cashes checks, drafts, money orders or other evidences of money.

e. **"Title loan agency"** means an establishment providing loans to individuals in exchange for receiving titles to the borrowers' motor vehicles as collateral.

f. **"Payday loan agency"** means an establishment providing loans to individuals in exchange for personal checks as collateral.

g. **"Retail establishment, general"** means an establishment providing retail sale of new products to the public and rendering services incidental

Applicable

Non-applicable



FRIEBERT, FINERTY & ST. JOHN, S.C.

Two Plaza East - Suite 1250
330 East Kilbourn Ave. • Milwaukee, Wisconsin 53202
Phone 414-271-0130 • Fax 414-272-8191 • www.ffijs.com

ROBERT H. FRIEBERT
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SHEILA M. CONROY
BRIAN C. RANDALL
JENNIFER L. BOLGER
CHRISTOPHER M. MEULER

AMENDED STATEMENT OF USE AND PLAN OF OPERATION

for

DETERMINATION OF USE OR ISSUE SPECIAL USE PERMIT

for

**SHORT TERM FINANCIAL, LLC TO OPERATE A STATE LICENSED RETAIL
LOAN BUSINESS AT 9228 WEST CAPITOL DRIVE IN THE 5TH ALDERMANIC
DISTRICT OF THE CITY OF MILWAUKEE**

OWNER AND LESSOR

Little Caesar Enterprises, Inc.
2211 Woodward Avenue
Detroit, MI 48201-3400

USER AND LESSEE

Short Term Financial, LLC
Suite 3785
550 Frontage Road
Northfield, IL 60093

TO THE HONORABLE, THE BOARD OF ZONING APPEALS OF THE CITY OF MILWAUKEE:

As and for its Amended Statement of Use and Plan of Operation, the applicant, Short Term Financial, LLC (“Applicant”), by its attorneys Friebert, Finerty & St. John, S.C., pursuant to §§ 295-59-5-A. and B., *Milwaukee Code of Ordinances* (“MCO”) and § 62.23(7)(e)8., *Wis. Stats.*, respectively requests a Special Use Permit and/or a Declaratory Determination regarding the proposed use and represents as follows:

A. DESCRIPTION OF SITE

The site is a square shaped parcel located on the north side of West Capitol Drive (STH 190) and North 92nd Street in the 5th Aldermanic District of the City of Milwaukee (the “City”). See Site Plan attached hereto as Ex. A. The parcel is 16,315 square feet and is Tax Key No.: 254-0704-110-3.

The legal description of the site is:

Lots 12 and 13 and the west 36 feet of Lot 11 and the south 10 feet of the vacated alley adjacent thereto in Block 33 in Hauser Homes Subdivision No. 3 in the southeast ¼ Section 5, Range 21 East, Town 7 North in the City and County of Milwaukee, Wisconsin.

The parcel contains a 2,606 square foot building. Little Caesar’s Carry Out Pizza (“Little Caesar’s”) occupies the west portion of the building and Applicant’s office is in the east portion of the building occupying approximately 1,465 square feet. See Floor Plan attached hereto as Ex. B. This Special Use Permit and/or Declaratory Determination are sought only for the portion of the building occupied by the Applicant’s office.

The street address for the Applicant’s office is 9228 West Capitol Drive (STH 190).¹

B. NATURE AND TYPE OF BUSINESS

1. Information about the Applicant.

The Applicant is a Delaware limited liability company with its home office and principal place of business at 880 Lee Street, Suite 302, Des Plaines, Illinois 60016. It is licensed to do business in the State of Wisconsin and maintains an office for that purpose at the location described in ¶ A., above.

¹ An Order issued by the Department of Neighborhood Services refers to the property as 9226. The documents issued by the Milwaukee Development Center refer to 9228 and records in the Tax Commissioner’s Office and on the website for the Department of Neighborhood Services refer to the address as 9230 West Capitol Drive. For purposes of this document, the term “9228” means and includes, as context requires, 9226 and 9230 West Capitol Drive.

The Applicant is a pioneer in providing personal and small business cash and capital access without the inconvenience of standard banking institution financing.

The Applicant has one office in Wisconsin, which is located at the above address and anticipates opening 3 to 4 additional offices in Wisconsin in the next 2 years.

The Applicant's business model of focusing on singular brand of conventional installment loan financing was developed as a response to a growing breakdown in the banking system. Rapid consolidation of the banking industry has caused numerous banks to limit or abandon the class of loans that Applicant is licensed to make. See ¶ B.2.b ("This service fills a banking void."), *infra*.

2. Applicant's Operations

a. Conventional Installment Loans

The Applicant provides conventional installment loans with a term of not less than six months which are paid by customers in installments either in person at the Applicant's office or with a coupon that they mail to the Applicant.

In addition, a revocable pre-authorized direct payment or electronic fund transfer ("EFT") from the customer's bank account can be used, but is not required, and only on the specific written authority of the customer and submission of a sample deposit slip showing the magnetic encoded account number of the customer. See ¶ E., *infra* (*Legal Aspects of the Proposed Use*), and specifically, ¶ E.3., (*State Licensing*).

b. This service fills a banking void

The services and product provided by the Applicant are of rather recent vintage. With the consolidation of the banking system nationally, local banks have found pre-computed conventional installment loans far less profitable and more of a bookkeeping burden for their corporate parents.

For many bank holding companies, this type of service is limited to specific branches of the bank in the area and in some cases has been eliminated altogether.

The pre-middle class and middle class market is underserved, if not served at all, by the traditional banking community and thus has turned to conventional loan companies for cash and capital access which is provided on an installment basis, pursuant to § 138.09, *Wis. Stats.*, by licensed loan companies such as the Applicant.

c. More favorable and efficient loan repayment

The conventional installment loans provided by Applicant are far better alternatives to customers than payday or auto title loans because each payment they make pays a portion of the principal as well as the interest payment due at the time of payment. In turn, this reduces the likelihood of the customers entering a cycle of debt that is

prevalent with payday and title loans which typically take a payment for interest only until the customer is able to repay the principal amount.

d. What the Applicant is NOT

By way of further distinction with payday loan agencies and title loan companies, see ¶ E.2.d. and e., *infra*, Applicant does **not** make deferred deposit loans, payday loans or auto title loans. Nor does it take a post-dated check or auto title as security for its loans and it does not provide any services typically provided by a payday lender or a currency exchange.

Rather, Applicant is a financial institution which makes traditional installment loans authorized in Wisconsin by a Certificate of Authority from the Administrator of Banking and conducted pursuant to § 138.09, *Wis. Stats.* See Exs. C and D.

3. Recent Chronology of the Building

The Applicant and Little Caesar's currently occupy the building. Applicant's lease of the east portion of the building commenced on February 24, 2006. Prior to the Applicant taking occupancy, the east portion of the building was vacant for a number of years.

C. CURRENT ZONING

The property is zoned Local Business (LB/2) in which general financial service companies are permitted uses. See § 295-601-1, *MCO*. LB/2 zoning also requires that such uses as Community Money Exchanges, Pay Day Loan Companies and Automobile Title Loan Agencies be treated as Special Uses for which a permit must be obtained from the Board of Zoning Appeals (the "Board"). See § 295-603-1, *MCO*.

D. BUSINESS OPERATIONS

1. Employees and Customers.

The Applicant has a minimum of 1 person working at its office and up to 4 people possible each day. Customers average between 1 and 20 per day. There have never been more than 40 customers per day.

2. Hours of Operation.

Monday through Friday	9:00 A.M. to 7:00 P.M.
Saturdays	9:00 A.M. to 3:00 P.M.
Sundays	Closed.

3. Vehicular Traffic.

Expected vehicle traffic includes trips generated by the employees as they arrive at and leave from work each day. Periodic customer arrivals and departures are anticipated but the combination of these will not in any way impact the level of service (“LOS”) on West Capitol Drive (STH 190) nor have any impact on the design capacity of the roadway.

Customers access the site from the east along Capitol Drive and may use the same driveway to exit westbound. Customers arriving from the west or desiring to exit east may use the driveway on the west side of the site onto North 93rd Street. Deliveries are made through the service driveway at the rear of the site accessible from 93rd Street through the parking lot to Capitol Drive.

4. Truck Traffic.

No major truck traffic is expected except from periodic deliveries by courier vehicles such as Federal Express, United Parcel Service and DHL Airborne, and these are extremely limited.

5. Site Security.

Cash at Applicant’s site is minimal since loan proceeds are issued in the form of a check. Approximately \$100.00 in petty cash is maintained and cash payments delivered by the customer directly to the site total probably less than \$500.00 per day. Thus, the office does not have a payment counter so site is not necessarily an attractive target for crime in the first instance. *See Ex. E.*

Security includes cameras inside the office space, as well as exterior cameras. The service and delivery door at the rear of the building, not open to the public, has a sign identifying that the premises are “Secured by ADT,” Applicant’s security and surveillance system provider. Applicant’s office has mounted panic buttons on the desks and remote panic buttons the office manager wears around his/her neck. There is an alarm for the office that includes door contacts, glass breakage and motion detectors. Every precaution possible for a building of this size has been taken to secure the space during and after office hours.

6. Exterior Façade.

The façade of the entire building was recently renovated to clean up and feature the existing brick exterior, remove damaged canopy awnings, and install a pre-finished veneer panel along the roofline. *Compare Ex. F and Ex. G.* The veneer panel frames the building and its complimentary color serves as the background for the building signage. Over half of the front façade contains floor-to-ceiling glass windows and doors. *See Exs. G and H.* The Applicant’s office has tinted glass which provides privacy to its customers and shields the office from direct sunlight through the southern exposure windows.

7. Signage.

Applicant installed a custom fabricated building-mounted sign on the front façade veneer panel. *See* Ex. F. The uniform signage complies with the City's sign code with internally illuminating letters approximately 12" high in the Applicant's green, white and black color scheme. Window-mounted lettering is also utilized to identify the office hours, that no cash is kept on premises, and that installment loans are available. The Applicant's color scheme is also displayed on the window signs which include the Applicant's marketing phrase: "Fast, Friendly, Confidential."

The site contains one free standing sign embedded in a landscaped planter on the southwest corner. Two internally illuminated sign panels currently are hung on the supports: "Little Caesar's" and "Ready Pizza." The Applicant installed a temporary plastic banner sign below the Little Caesar's signs and is working with the landlord to install a permanent sign panel in compliance with the City's sign code.

Finally, no digital electronic signs will be utilized, and illuminated reader boards in the parkway or on the site will not be permitted.

8. Site Lighting.

The site is at the northeast corner of West Capitol Drive and North 93rd Street. Capitol Drive is a major east-west thoroughfare with City street lights and the street lights on 93rd Street also illuminate the site. In addition, two (2) parking lot security lights are affixed to the Little Caesar's sign at the southwest corner of the site. A third pole mounted security light is along the east property line illuminating the parking area in that half of the site. All of these exterior lights were installed prior to the Applicant's occupancy and the Applicant does not have any right or obligation under its lease to maintain or alter the security lights.

9. Parking.

Approximately twenty (20) parking spaces are provided and marked at the site. One (1) identified handicapped spot is provided. The customers and employees of the Applicant and Little Caesar's share the parking spaces. As noted above, the Applicant's hours of operation are typical daytime office hours. While Little Caesar's hours of operation do overlap with the Applicant's during the mid-day and early evening, its customer base is primarily on site around meal times whereas the Applicant's 1-20 customers will appear throughout the entire day.

E. LEGAL ASPECTS OF THE PROPOSED USE

1. Local Business District Zoning.

According to § 295-601, *MCO*, Local Business District zoning or LB zoning is broken down into two categories designated as LB/1 and LB/2. The distinction is that LB/1 zoning focuses on properties in a more urban setting while LB/2 zoning focuses on land that is currently in more of a suburban configuration. *See* § 295-601.2., *MCO*.

a. Permitted Uses

In LB/2 zoning, the current zoning for the Applicant's site, typical permitted uses include multi-family dwellings, foster family homes, banks or other financial institutions, garden supply or landscape centers, artists studios, medical offices, nursing homes, personal and business services, financial services, catering services, funeral homes, laundromats, dry-cleaning establishments, furniture and appliance rental and leasing, household maintenance and repair services, bed and breakfast facilities, commercial and residential hotels, taverns, sit-down restaurants, and health clubs. *See* § 295-603-1, *MCO*.

b. Special Uses

Other uses that are permitted but which require a special use permit from the Board include currency exchange, payday loan or title loan agency, home improvement centers, second-hand stores, outdoor merchandise sales, health clinics, hospitals, social service facilities, emergency residential shelters, building maintenance services, motor vehicle rental facilities and repair facilities, body shops, filling stations, assembly halls, outdoor recreation facilities, sports facilities, convention and exposition centers, outdoor wholesale and distribution facilities, ambulance service, contractors yards, and indoor substations for distribution equipment.

c. Additional Conditions for Certain Uses

In addition, the City has identified certain special uses for special treatment. Section 295-603-3, *MCO*, requires:

ADDITIONAL SPECIAL USE STANDARDS. No special use permit for a currency exchange, payday loan agency or title loan agency shall be granted by the Board unless the Board finds, in addition to the findings required by § 295-311-2-d, that:

- a. No other currency exchange, payday loan agency or title loan agency is located within 1500 feet of the proposed use.
- b. The proposed use will not be located within 150 feet of a single-family or a two-family residential zoning district.

2. Definitional Terms.

Section 295-201, *MCO*, contains a comprehensive and detailed list of definitions used in the application of Chapter 295, *MCO*. Generally, these definitions are specific and quite clear.

The definitions that follow are critical in considering the issue presented by the Applicant.

a. Banks and Certain Loan Companies

Section 295-201-55, *MCO*, provides:

BANK OR OTHER FINANCIAL INSTITUTIONS means an establishment providing retail banking, credit and mortgage services. **This term does not include a currency exchange, a payday loan agency or a title loan agency.**

(Emphasis supplied).

This exact definition is repeated in § 295-203-5-c., *MCO* [COMMERCIAL AND OFFICE USES], which provides the definitions for the uses listed in the use tables for the various zoning districts described in the *MCO*.

In the instant matter, the table of commercial district uses found at § 295-603-1, *MCO*, governs this definition as applied to a Local Business Zoning district with an LB/2 designation. In turn, that table designates a bank or financial institution, *e.g.*, **one that engages in retail banking, credit or mortgage services as a permitted use.**

b. Definitional Exclusions

The definitions set forth above, and probably for good reason, specifically excludes currency exchanges, payday loan agencies and title loan agencies, and makes them special uses. Since those uses are also specifically defined in both the general statutory definitions and the use definitions for the relevant tables, it is easy to distinguish them from “bank or other financial institutions.”

c. Currency Exchange

Section 295-201-135 provides that the term “currency exchange”:

...means, in accordance with s. 218.05, *Wis. Stats.*, any person except banks incorporated under laws of this state and banks organized pursuant to the laws of the United States and any credit union operating under Chapter 186, *Wis. Stats.* which obtains a certificate of authority from the Wisconsin Commissioner of Credit Unions, engaged in the business of providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. This term does not include any person engaged in the business of transporting for hire, bullion currency, securities negotiable or non-negotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any

business in this state who in the course of such business or profession and, as incident thereto, cashes checks, drafts, money orders or other evidences of money.

Again, the definition itself is repeated as a use in § 295-203-5-d., *MCO*.

d. Payday Loan Companies

A payday loan agency is defined in § 295-201-245, *MCO*, as “. . . an establishment providing loans to individuals in exchange for personal checks as collateral.”² [Emphasis supplied]

e. Title Loan Companies

In § 295-201-661, *MCO*, a title loan agency is said to be an establishment providing loans to individuals in exchange for receiving title to the borrower’s motor vehicle as collateral.³

Again, the definition of “use” that is incorporated in the tables found at § 295-603-1, *MCO*, are set forth in §§ 295-203-5-e and 295-203-b-f, *MCO*, respectively.

It is abundantly clear from the definitional sections of the *MCO* that a bank or financial institution such as a retail loan company each function in a manner far different, at least as far as the City’s definitional concept is concerned, from currency exchanges and title loan or payday loan agencies.

3. State Licensing.

a. Certificate of Authority

The Applicant is licensed as a retail loan company by the Administrator of Banking of the Wisconsin Department of Financial Institutions under § 138.09, *Wis. Stats.* This section permits a wide variety of personal and small business cash and capital access according to the terms of the specific statute. Copies of Applicant’s Approval

² Taking collateral in the form of a personal check or a payroll check is entirely different than the retail banking and lending practice of accepting a voided deposit ticket to copy the magnetic encoding for purposes of setting up a direct loan repayment or EFT arrangement. In the latter instance, the check or the deposit slip, which are of no commercial value at all, are not given as collateral but simply to provide information to set up the bank direct payment arrangement with the lender. Often times, cancelled or voided checks are used for this because most consumers don’t carry deposit tickets with them.

³ Another distinction is important in that title loan agencies actually take the motor vehicle title whereas banks and licensed loan companies, if a motor vehicle is used for security, will perfect a lien under the state’s Uniform Commercial Code (“UCC”) by forwarding the appropriate UCC filing form to the Motor Vehicle Division of the Wisconsin Department of Transportation. The lien is then perfected by a re-issuance of the title by WisDOT showing the security interest of the lender and the title is then returned directly to the borrower.

Letter (Ex. C) and Certificate of Authority to do business as § 138.09 Loan Company (Ex. D) are attached and incorporated herein.

b. Regulated Loans

The issuance of a Certificate of Authority under § 138.09 by the State's Administrator of Banking allows a loan company to make so-called pre-computed loans that are defined as a loan in which the debt is expressed as a sum comprising the principal and the amount of interest computed in advance.

Loans of this nature are statutorily limited to certain dollar amounts, categories and for specific loan terms, as well as the interest rates which can be charged for various categories of loans. *See* § 138.09(7)(b) – (e), *Wis. Stats.*

c. Prepayment Rebate Required

In the event the borrower makes prepayment in full by cash, renewal, refinancing or otherwise, the loan company is required to issue a rebate to the borrower for the amount of the unearned interest according to the formula set forth in § 138.09(7)(g) – (gm), *Wis. Stats.* The reason is that the monthly loan payments consist of principal and interest.

Section 138.09 retail loan companies can require property insurance and can accept, but shall not require, credit life insurance or credit accident and sickness insurance or both if issued in accordance with Wisconsin law. Section 138.09(7)(h), *Wis. Stats.*

d. Authorized Collateral Limited

Section 138.09 lenders can take a motor vehicle as security but do not take the actual title whereas a title loan agency does. Instead, Applicant will file notice of its security interest with the Wisconsin Department of Transportation under Chapter 342, *Wis. Stats.*, or, if a boat is offered for security, by filing the notice with the Department of Natural Resources under Chapter 30, *Wis. Stats.* *See* §§ 138.09(7)(h) and (i), *Wis. Stats.*

e. Fees Regulated

Loan administration fees are regulated by § 138.09(7)(jm) and a retail loan company may also make a consumer loan as defined in § 421.301(12), *Wis. Stats.*, only by complying with the terms of the Wisconsin Consumer Credit Act, *e.g.*, Chapters 421 – 427, *Wis. Stats.*

f. There are other services that a retail loan company can offer but which Applicant has not applied for authority to do.

For example, under § 138.09(3)(e) *i.e.*, *Wis. Stats.*, Applicant could act as a currency exchange as part of its business but would have to register under § 218.05, *Wis. Stats.*, and comply with the applicable regulations of the Wisconsin Administrative Code.

In addition, a Certificate of Authority would have to be issued by the Wisconsin Commissioner of Credit Unions, and not the Administrator of Banking, as is required for a Section 138.09 loan company.

In this instance, Applicant has specifically elected not to engage in currency exchange services. For various business reasons, Applicant only offers one form of retail lending and that is as a pre-computed loan company under the jurisdiction of the Wisconsin Administrator of Banking.

g. Retail Needs

As indicated in ¶ B.2., *supra*, Applicant provides conventional installment loan services to a community that is underserved by the current banking institution system. This results from a consolidation within the banking industry that for all practical purposes has severely limited the availability of conventional installment cash and capital access to average people through the type of loans that Applicant now provides under its Certificate of Authority with the State.

The Applicant's customers range from the pre-middle to middle class individuals and the customer must be employed to obtain a loan from the Applicant. A customer profile shows that the typical customers are females between 25 and 40 years of age, at least 30% of whom own their own homes and all are employed.

Applicant's customers are typically those that are "underbanked" and do not have the extensive credit available to qualify for a traditional bank loan. Customers are usually people who may have immediate cash needs and do not have the time to go through the lengthy underwriting process utilized by an institutional bank.

And finally, loan proceeds are not distributed in cash at the Applicant's office. Funds are delivered to the customer by check so as to avoid maintaining significant amounts of cash on site. See ¶ H.2., *Store and Site Security, infra* and ¶ D.5, *supra*.

Applicant provides a retail loan service that is distinctive from the practices and operations of other lending businesses which engage in more controversial collateral and security arrangements.

F. ADJACENT LAND USES.

The site is bordered on the west by North 93rd Street and The Rick Inn restaurant with West Capitol Drive frontage. Immediately to the west of The Rick Inn is Sunrise Liquor and Gifts.

To the north is a residential neighborhood of the City of Wauwatosa.

Across Capitol Drive to the south is the three-story Golden Valley Center, a commercial office building located at 9235 West Capitol Drive. See Ex. H. The Golden Valley Center houses Tosa Pharmacy, Main Street Development & Management, Dental

Arts Associates, American Advantage Insurance, A Plus Tax, Kingdom of Heaven Christian Ministries, Net Solutions Corporation, Proforma, and Precise Mortgage.

To the southeast across Capitol Drive are the Wong's Kitchen and George Webb's restaurants, as well as offices for Wisconsin Hearing Air Center and H&R Block (open seasonally). Further to the east, across North 92nd Street on the southeast corner is St. Margaret Mary Catholic Church.

Immediately abutting the property to the east at the northwest corner of 92nd and Capitol is a BP gas and service station, with single-bay car wash.

G. BASIS OF OCCUPANCY.

Applicant is leasing its office at the site under a multi-year lease with an option to renew. *See* Ex. I (partial copy). The Applicant has the express right under the lease to use the premises for its short term loan operations as allowed by applicable laws.

H. LACK OF NUISANCES.

1. Site Cleaning.

Applicant requires that staff periodically inspect the office and its exterior and pick up cans, newspapers and trash materials, even though they are not generated by the office's operation. Normal weekly trash pickup is undertaken on a weekly basis pursuant to contract with a DNR-licensed hauler.

2. Office and Site Security.

The Applicant will discuss security measures in more detail directly with the Alderman for the District and if so requested, with the Captain for the Police District in which the Applicant's office is located. Standard security procedures include loss prevention personnel, door alarms, security systems and surveillance cameras. *See also*, ¶ D.5., *supra*.

3. Congregation of People.

As an office with very specific retail loan operations conducted inside, typical problems associated with more active uses such as fast food restaurants or gas stations do not exist at the Applicant's site.

4. Lighting and Signage Generally.

As described in ¶¶ D.7. and 8., *supra*, no digital electronic signs will be utilized, and illuminated reader boards in the parkway or on the site will not be permitted. The uniform signage employed by Applicant has been fabricated to provide custom signage for this building, in compliance with the terms of the MCO. The Applicant has not installed any other exterior lights at the site.

I. INFORMATION PROPOSED TO BOARD TO SUPPORT FININDGS.

1. Protection of Public Health, Safety & Welfare.

Public safety is not an issue and is perhaps enhanced by the fact that the Applicant operates during normal business hours rather than at times when hold-ups are more likely to occur. In addition, the site is located in the open on a busy intersection and readily open to public view. The building itself has been recently remodeled and is not obtrusive in an immediate neighborhood with similar uses. For example, within a few hundred feet there is an H&R Block store, an accounting service, a mortgage broker and others. See ¶ 1.4., *infra*.

The public health is fully protected because the Applicant does not conduct hazardous or noxious activities on the Site and does not store hazardous or dangerous materials at the Property.

The Applicant's business itself contributes to the public welfare in that it provides a niche financial specialty in the form of conventional installment loans approved by the Wisconsin Administrator of Banking to the immediate area and to an under-served market of people who might not readily qualify for bank financing or are unable to wait the necessary time for the bank to complete its underwriting.

2. Protection of Property.

The Applicant has secured an office which has been newly remodeled with a full glass front for observation by the Police Department and the public. The site is fully secured by a variety of security methods which probably far exceed those of the surrounding buildings. See ¶ D.5, *Site Security*, and ¶ H.2, *Office and Site Security*, *supra*. In addition, Applicant's use of the Property is largely administrative and clerical in nature and is not dissimilar to prior uses in the same building or other uses on nearby properties. See Ex. E.

3. Traffic and Pedestrian Safety.

The Applicant's building is located on a substantial setback from West Capitol Drive and is shielded from North 92nd Street by a BP gas and service station with car wash immediately to the east.

Customers arriving by automobile constitute the vast majority of clients visiting the Property. Drivers may access the site from a driveway on West Capitol Drive and a second driveway on North 93rd Street.

Pedestrians are protected by a fully signalized intersection at 92nd and West Capitol Drive and by the setback to the Property.

4. Consistency with Comprehensive Plan

Applicant's proposed use is not inconsistent with the City's Comprehensive Plan and is not contrary to the City's Northwest Side Plan. In fact, in terms of site usage, the Applicant's business is similar to many other uses on both sides of Capitol Drive which presumably are consistent with the Comprehensive Plan and the Northwest Side Plan, to the extent that such plans are separate.

For example, on the south side of Capitol Drive in the Golden Valley Center, the Tosa Pharmacy (a retail drugstore), Main Street Development & Management (a property maintenance and management business), Dental Arts Associates, American Advantage Insurance (an insurance agency and brokerage firm), A Plus Tax (business tax preparation and other financial services), Kingdom of Heaven Christian Ministries, Net Solutions Corporation (software sales, service and maintenance), Proforma (a small business bookkeeping and business services) and Precise Mortgage Company (a retail first and second mortgage financing brokerage) are all located.

Southeast of Applicant's Property south of Capitol Drive are two restaurants: Wong's Kitchen and George Webb's Restaurant. An H&R Block office with seasonal hours but not vacated during the off-season, is located at that site⁴ to the east of North 92nd Street as well as an office for Wisconsin Hearing Aid Centers. Across North 92nd Street is St. Mary's Catholic Church on the southeast corner. A BP gas service station with a single-bay car wash is located immediately east of Applicant's Property on the northwest corner of the intersection.

5. Distance from Protected Uses

- a. The Applicant's site is not within 1500 feet of a money exchange, payday loan company or title loan company. *See* § 295-603-3-a, *MCO*
- b. There is a four-family apartment building is located on the southwest corner of 93rd and Capitol Drive but the distance of separation between that property and the Site exceeds 150 feet and the area is zoned for multi-family use. *See* § 295-603-3-b, *MCO*.

A residential dwelling unit is located about 48 feet to the north of the Site but is located outside of the City of Milwaukee city limits.

⁴ At many H&R Block sites in southeastern Wisconsin about 90 days prior to April 15th of each tax year, H&R Block provides tax refund loans on a fee and discount basis by issuing a check to the taxpayer at the time that the tax return is emailed to the Internal Revenue Service. For smaller tax refunds, some H&R offices, instead of a check, will print out a magnetic computer card which can then be fed into a specialized ATM machine on site which redeems the computer card for cash. On several occasions in the past, the City of Milwaukee has determined that these particular H&R Block services are accessory to the business and since they are not principal uses, do not require a special use permit, at least for those activities.

J. NON-WAIVER AND RESERVATION OF RIGHTS

The Applicant, without waiving any rights as hereinafter set forth, submits this Amended Plan of Operation and Statement of Use for purposes of both exhausting administrative remedies and advising the Board in more detail of the facts of this Appeal. In that regard, Applicant does not waive and specifically reserves any and all rights it may have, including state and federal claims or remedies, by reason of the facts described herein or any future action taken by the Board or the City in connection with the Applicant's business.

K. CONCLUSION

The Applicant provides installment loans with a term of not less than six (6) months. These loans are paid by borrowers in installments usually by check in person, by mail or by a revocable pre-authorized EFT from the borrower's bank. Applicant will soon provide a similar loan product with a minimum term of twelve (12) months.

The Applicant does not make deferred deposit loans, payday loans, tax refund loans or auto title loans. It does not take a post-dated check or automobile title as security for its loans, nor does it provide any other services typically provided by a payday lender or a currency exchange.

Short Term Financial locations are professional office spaces with a bank-like atmosphere. *See* Ex. E. The installment loans are made at desks, not behind a window, and are designed to serve the longer term financial needs of its customers.

The Applicant is not a payday loan company or a currency exchange. It is a financial institution making traditional installment loans regulated by § 138.09, *Wis. Stats.* and under a Certificate of Authority issued by the Wisconsin Administrator of Banking.

The original Certificate of Occupancy No. 709164 was correctly issued by the City on May 1, 2006 for a permitted use properly described in the Application, and the attempted rescission/revocation of the Certificate No. 709164 should be set aside *nunc pro tunc*. In addition, if it is determined that in some fashion a special use permit is required from the Board, there is more than substantial evidence to meet every aspect of the required conditions for the issuance and approval of a special use and the permit accordingly should be issued promptly.

Submitted and filed at Milwaukee, Wisconsin this 9th day of August, 2006.

FRIEBERT, FINERTY & ST. JOHN, S.C.

John D. Finerty

Wisconsin State Bar No. 1009840

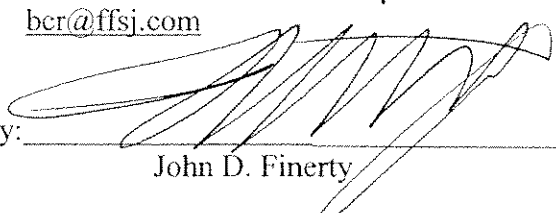
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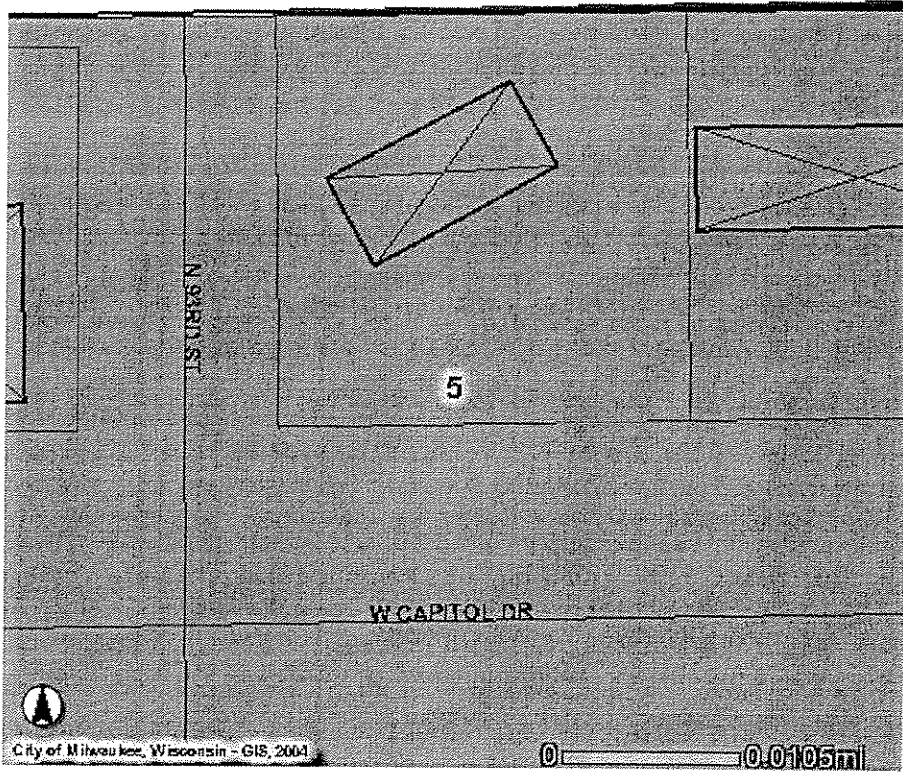
P.O. ADDRESS:

Two Plaza East – Suite 1250

330 East Kilbourn Avenue

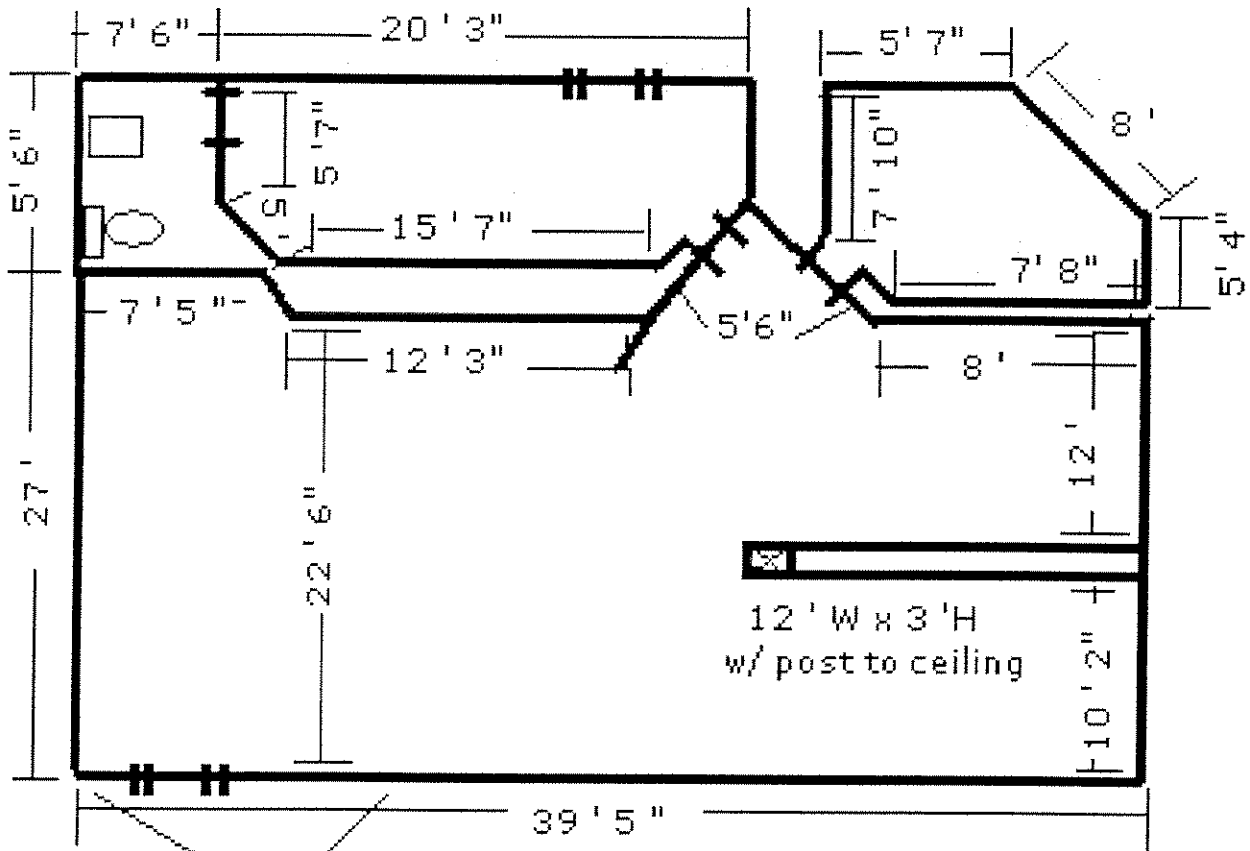
Milwaukee, WI 53202

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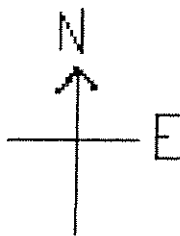
EXHIBIT

A



15' 10"
of window
frontage

floor to ceiling: 8'





State of Wisconsin
Department of Financial Institutions

Jim Doyle, Governor

Lorrie Keating Heinemann, Secretary

March 6, 2006

Ms. Bonnie Schoenberg
Willow Hill Executive Center
550 Frontage Road, Suite 3785
Northfield, IL 60093

Re: Loan Company License Application

Dear Ms. Schoenberg:

We have reviewed your application for a loan company license for Short Term Financial, LLC. The application has been approved. Please ensure that the enclosed license is conspicuously posted in the licensed office.

Please contact me at 608-266-8891 or at Janell.fibikar@dfi.state.wi.us if you have any questions.

Sincerely,

Janell R. Fibikar
Examiner
Licensed Financial Services

Enclosure

Division of Banking

Mail: PO Box 7876 Madison, WI 53707-7876
Voice: (608) 261-7578

Fax: (608) 267-6889

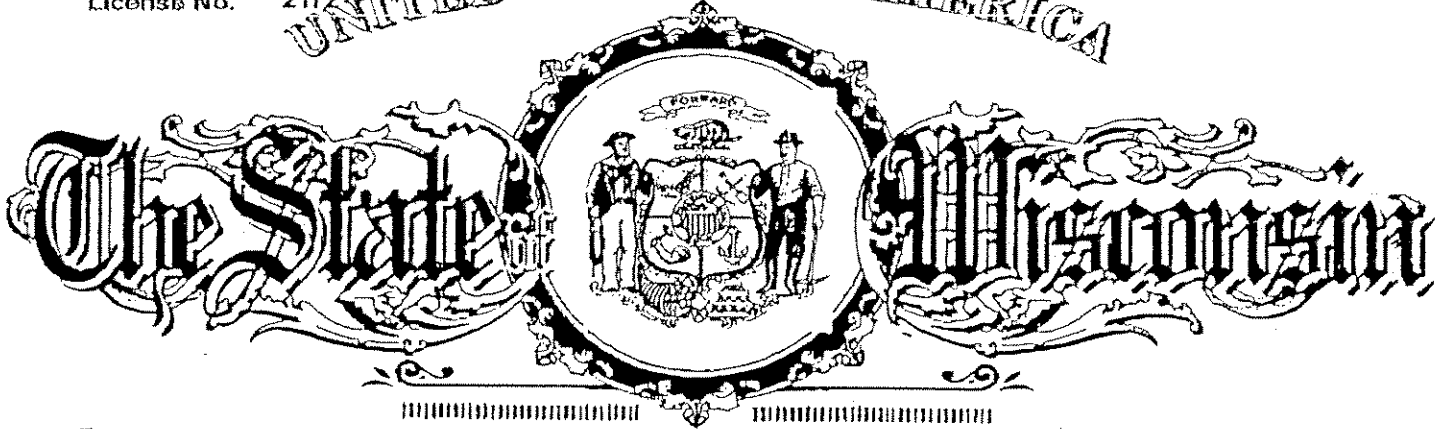
Courier: 345 W. Washington Ave. 4th Floor Madison, WI 53703
TTY: (608) 266-8818

Internet: www.wdfi.org

EXHIBIT

License No. 2172

UNITED STATES OF AMERICA



DEPARTMENT OF FINANCIAL INSTITUTIONS

Short Term Financial LLC

having complied with the requirements set forth under Section 138.09 of the Wisconsin Statutes, is hereby licensed to engage in business as a

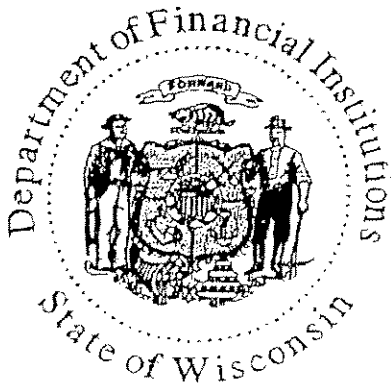
LOAN COMPANY

in accordance with and subject to the provisions of said Section 138.09 and all acts amendatory thereto at:

9228 West Capitol Dr
Milwaukee, WI

This license cannot be assigned or transferred and continues in effect until terminated as provided in Section 138.09.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Financial Institutions. Done at my office in the City of Madison, Wisconsin on March 6, 2006.



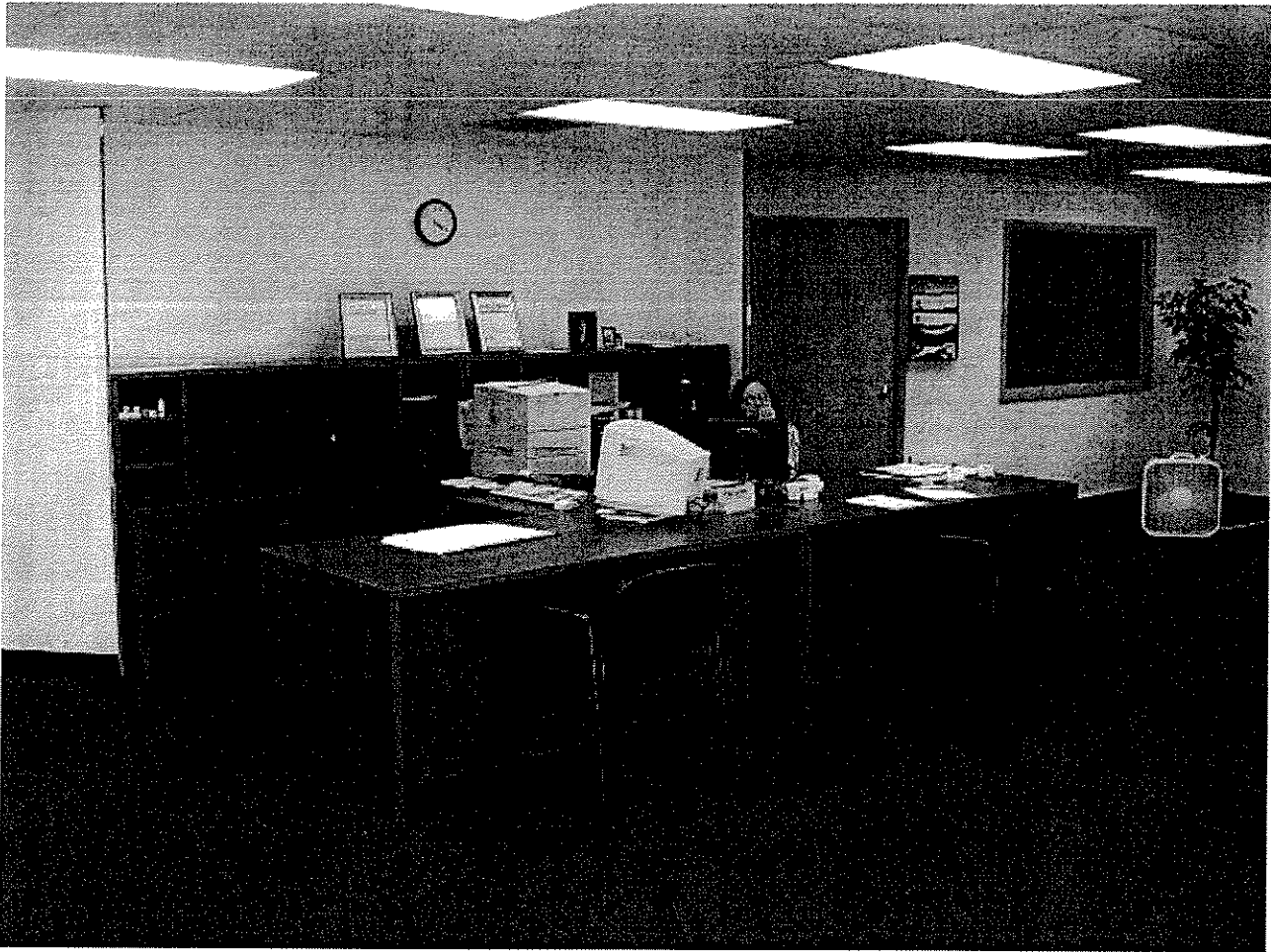
**MICHAEL J. MACH, ADMINISTRATOR OF BANKING
DEPARTMENT OF FINANCIAL INSTITUTIONS**

This License Must Be Conspicuously Posted in the Public Office

AUTHORIZATION TO ENGAGE IN OTHER BUSINESS

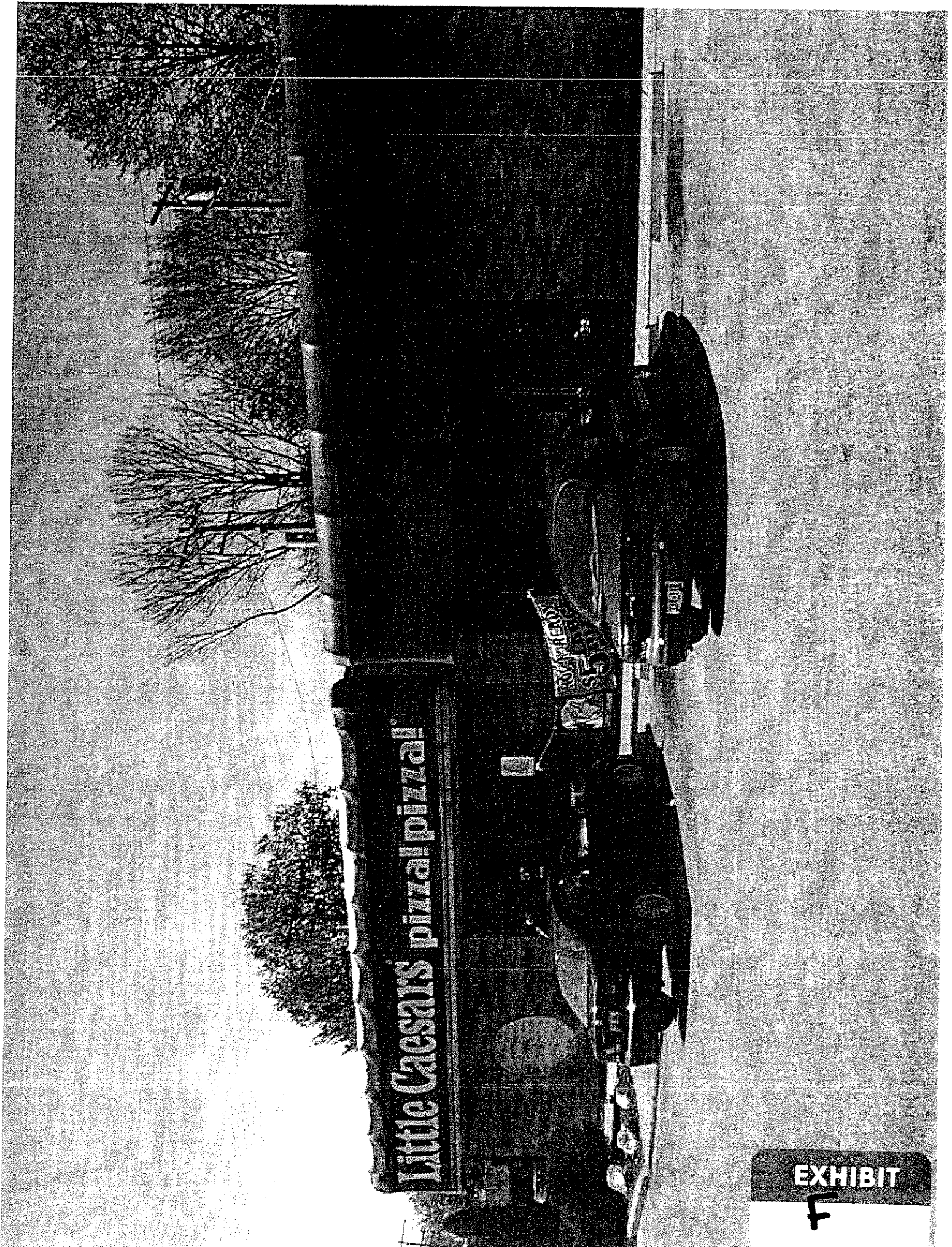
Authorization is granted to licensee to conduct the following other business in the office specified above with its loan business, provided the required licenses or notifications have been issued or filed: a business making business and agricultural loans and loans exceeding \$25,000; first lien real estate mortgage loans under ss. 138.051 to 138.096; a sales finance business under ss. 218.0101 to 218.0163, an insurance business; a currency exchange under s. 218.05 and a seller of checks business under ch. 217.





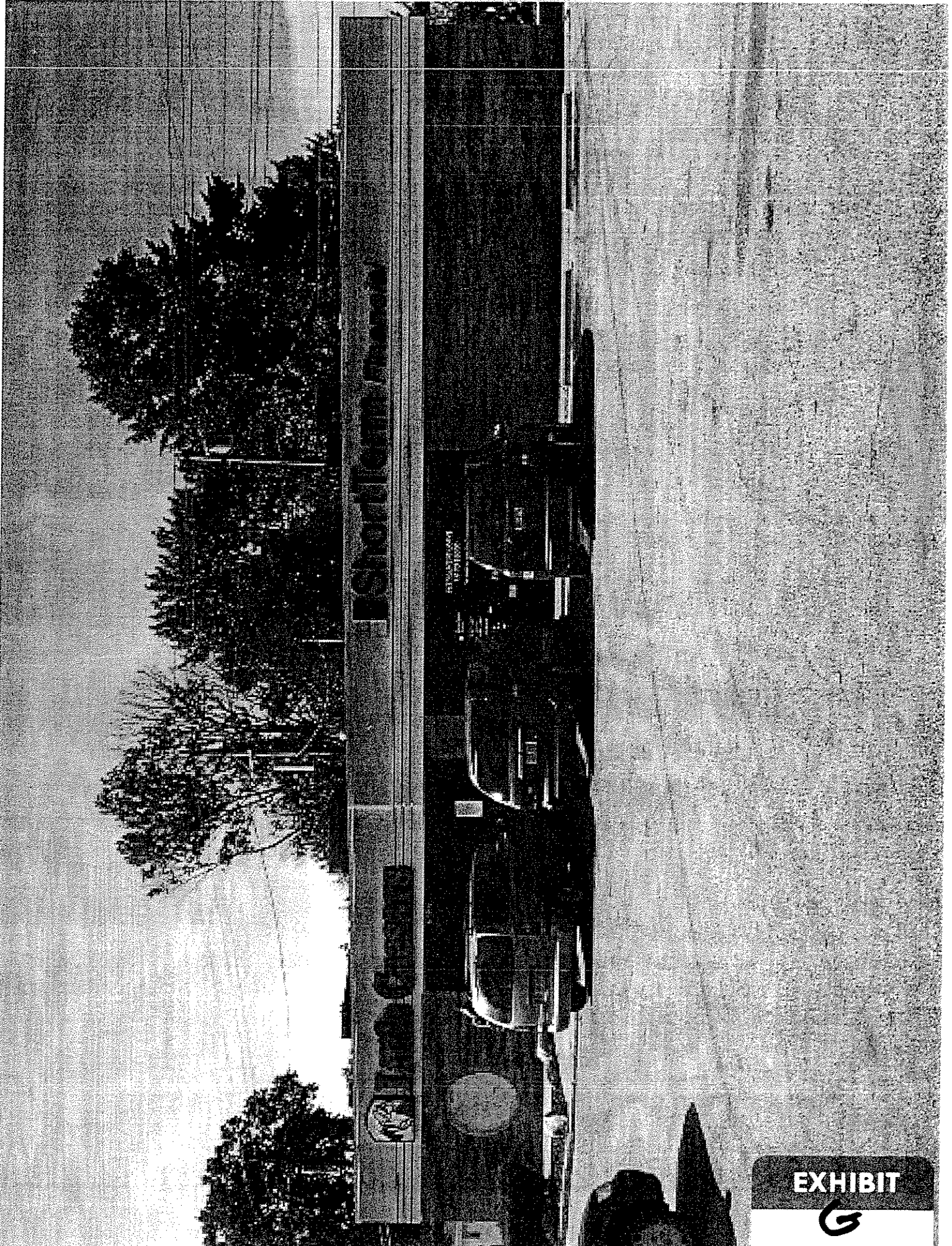
EXHIBIT

E



EXHIBIT

F



EXHIBIT



#01-0314:1/13/06

LEASE

THIS LEASE, made effective as of this 24 day of February, ²⁰⁰⁶ ~~2005~~ by and between **LITTLE CAESAR ENTERPRISES, INC.**, a Michigan corporation (hereinafter "Landlord"), and **SHORT TERM FINANCIAL, LLC**, a Delaware limited liability company (hereinafter "Tenant"), who, for and in consideration of the mutual covenants and promises herein contained mutually covenant and agree as follows:

Article I Premises

1.01 The premises are located in the City of Milwaukee, County of _____, State of Wisconsin, on the property that is commonly known as **9230 West Capitol Drive, Milwaukee, Wisconsin**. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises, which contains approximately 1,465 square feet and is described on the attached **Exhibit A** (hereinafter referred to as the "Premises"), which is a part of the Shopping Center legally described on Exhibit "B" (hereinafter referred to as the "Center"). Tenant shall receive possession of the Premises upon the later of full execution of this lease, or receipt of Tenant's Department of Financial Institutions license. If Landlord does not tender possession of the Premises by March 1, 2006, this lease, at Tenant's option, shall be null and void and the parties shall have no further obligations hereunder except that Landlord shall return to Tenant all sums paid in connection with this lease. Upon Tenant's receipt of a fully executed Lease, Tenant shall file in its own name appropriate applications to obtain standard permits, licenses, and/or other governmental approvals as are required by law and such other permits, licenses, and/or other governmental approvals (e.g., variances) as Tenant shall determine to be appropriate (collectively, "Permits") to enable Tenant to perform its construction work in the Premises, to erect its signs as permitted under this Lease, and to conduct its business in the Premises. Landlord agrees to cooperate fully (at no out-of-pocket cost) with Tenant's efforts to obtain all Permits. If Tenant for any reason is unable to obtain, without any unacceptable costs, design changes or operational requirements or restrictions (as determined in Tenant's sole discretion), the Permits on or before April 30, 2006, then Tenant may terminate this Lease by written notice to Landlord delivered on or before May 5, 2006.

Article 2 Term

2.01 The term (hereafter "Term") of this Lease shall be three (3) years, plus such additional number of days at the beginning of the Term as are required to cause the Term to expire on the last day of a calendar month. The actual commencement date and commencement of the Term (hereafter "Commencement Date") shall be the earlier of: (i) sixty days after Landlord Delivers the Premises to Tenant; or (ii) the date that Tenant opens for business, Landlord and Tenant shall enter into a Commencement Date Memorandum in the form attached here to as **Exhibit C**.

2.02 The phrase "Lease Year" shall mean a period of twelve (12) consecutive months. The first Lease Year shall begin on the date of the commencement of the Term, if such date occurs on the first day of a month; if not, then on the first day of the month following the commencement of the Term. Subsequent Lease Years shall begin on the first day following the end of the previous Lease Year.

EXHIBIT

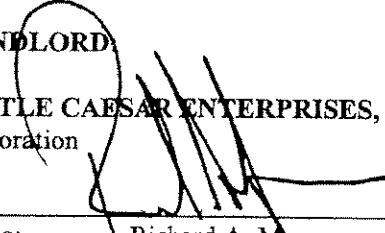
Article 51
Additional Provisions

51.01 Upon not less than 90 days prior written notice to Tenant, Landlord may relocate Tenant to other space of comparable size (and substantially identical quality improvements) within the Building. Landlord will move or pay for Tenant's build-out costs, installation of all utilities (including alarms), moving Tenant's personal property and equipment to the new space, and will reimburse Tenant for reasonable, documented out of pocket costs Tenant incurs in connection with the relocation, including, but not limited to reprinting of stationary and forms and all re-licensing costs, including attorney's fees. Prior to or concurrently with the relocation, Landlord will prepare, and the parties will execute, an amendment to this Lease to evidence the relocation and make any necessary changes to the Basic Terms resulting from the relocation. Tenant shall not be required to close its business for longer than three (3) business days (which days shall be mutually agreed upon) as a result of any such relocation.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written, each acknowledging receipt of an executed copy hereof.


LANDLORD:

LITTLE CAESAR ENTERPRISES, INC., a Michigan corporation

By: 
Name: Richard A. Moreno
Title: V.P. of Administration

TENANT:

SHORT TERM FINANCIAL, LLC

By: 
Name: Dustin Mauldin
Title: Manager

M:\Caruso\Forms\#01-0314 Milwaukee, WI (lease to Short Term Financial LLC).doc

LEASE

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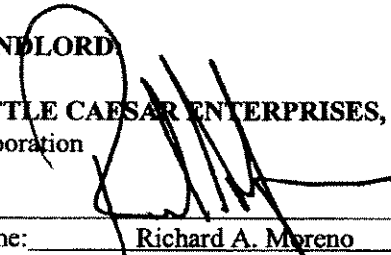
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LANDLORD

LITTLE CAESAR ENTERPRISES, INC., a Michigan corporation

By: 
Name: Richard A. Moreno
Title: V.P. of Administration

TENANT:

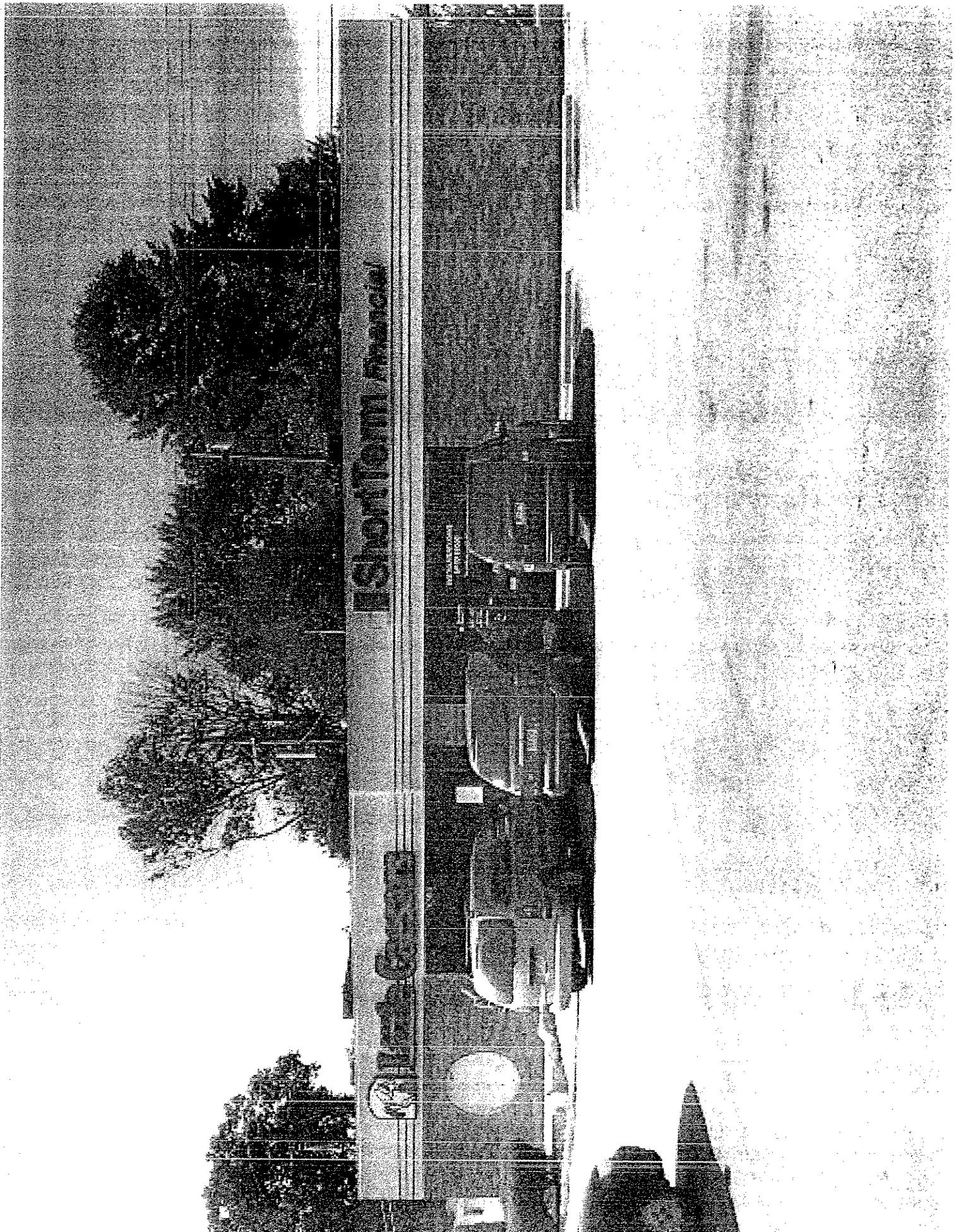
SHORT TERM FINANCIAL, LLC

By: 
Name: Dustin Mauldin
Title: Manager

Little Caesars pizza! pizza!

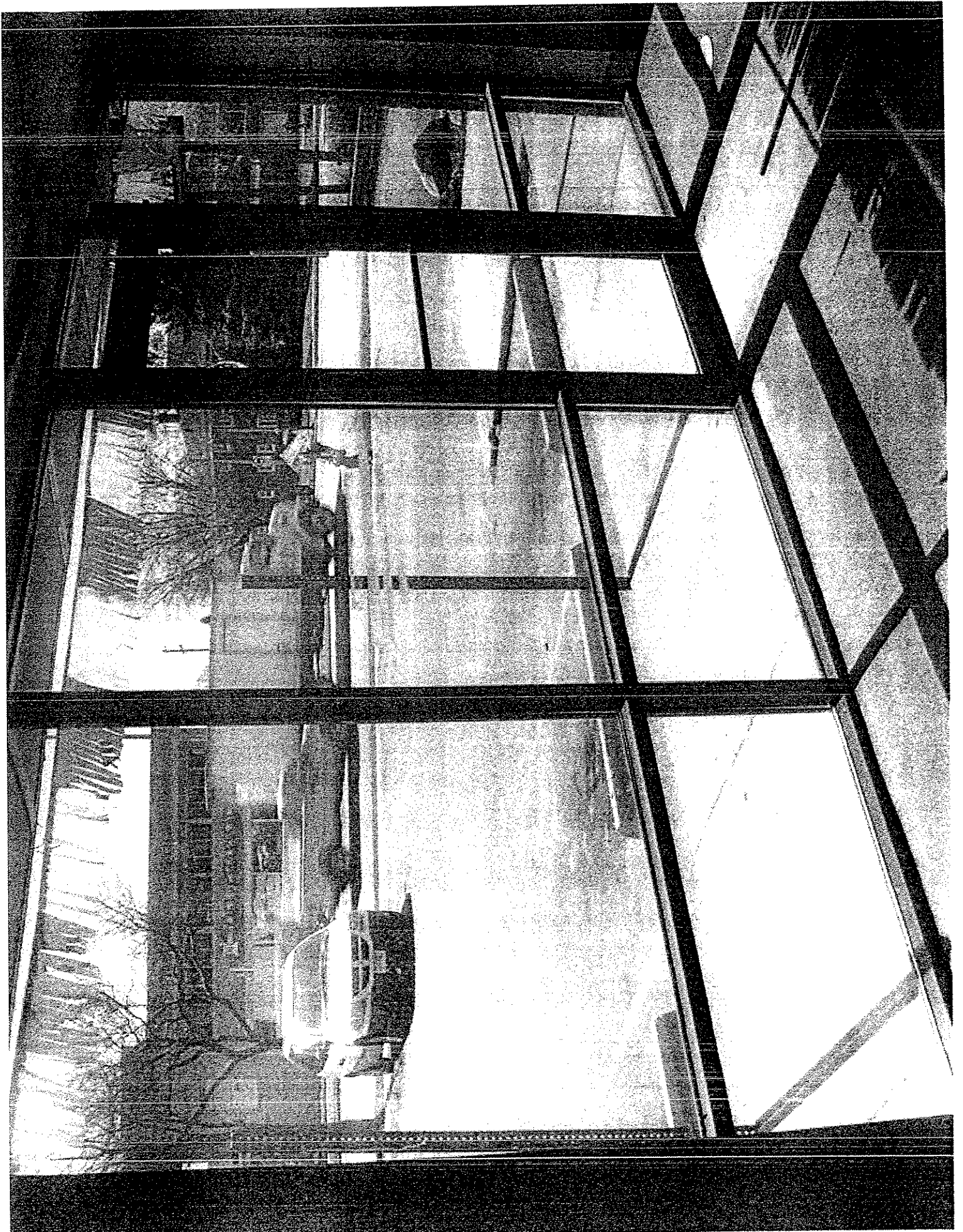
HOOPER'S

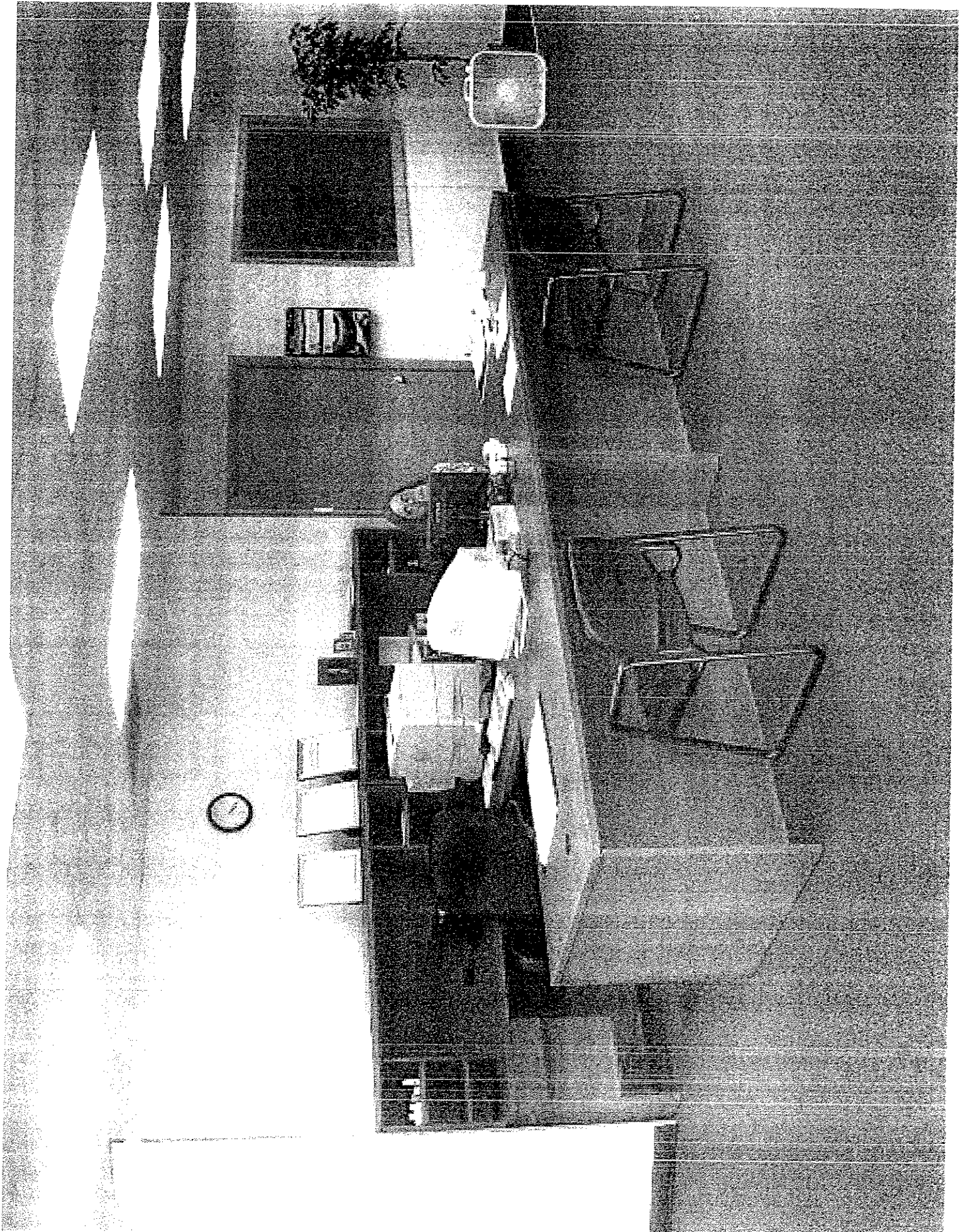


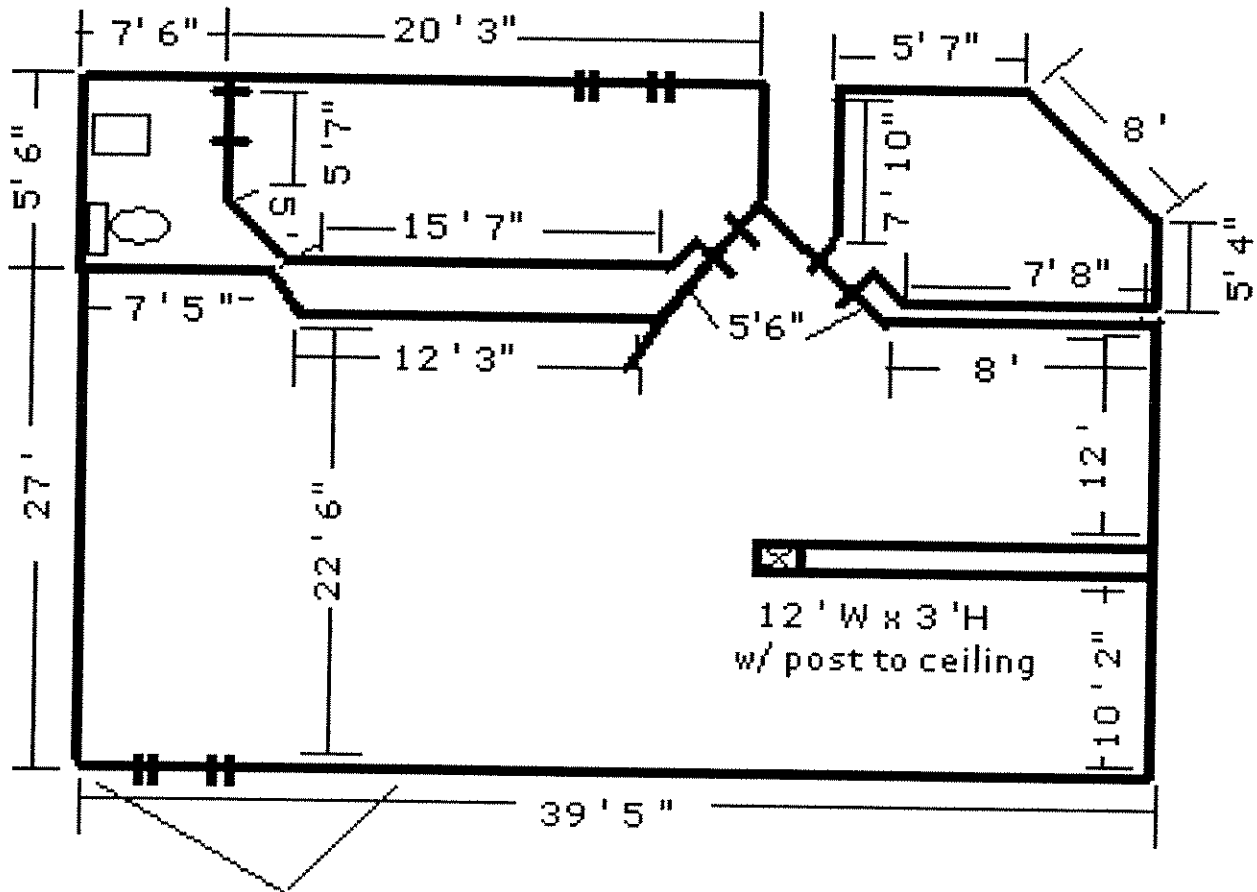


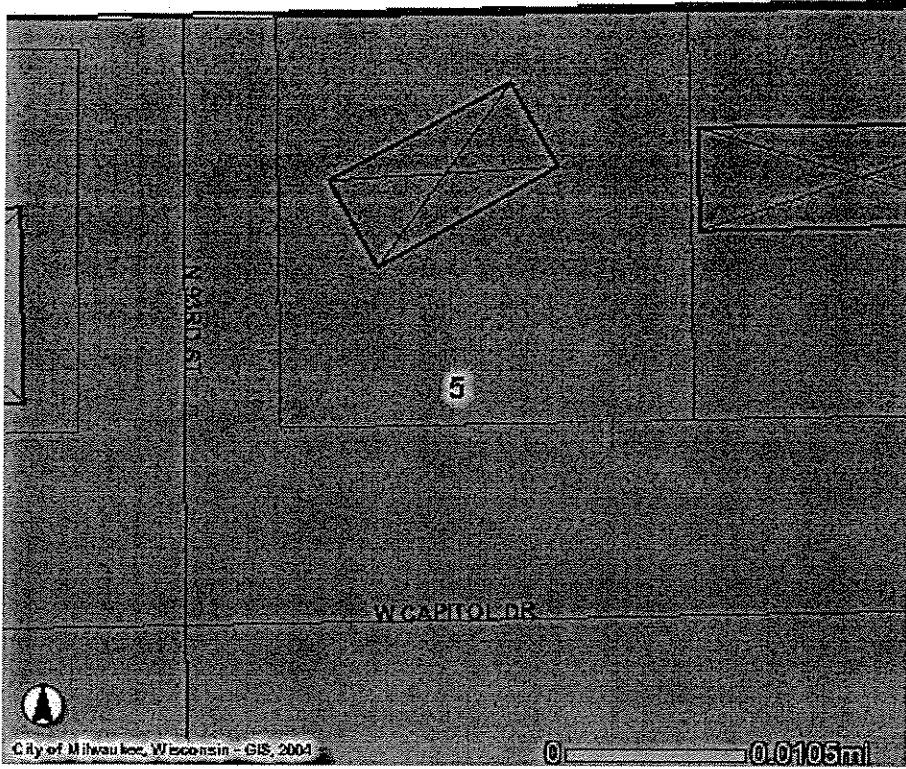
Shortell Plaza













FRIEBERT, FINERTY & ST. JOHN, S.C.

Two Plaza East - Suite 1250
330 East Kilbourn Ave. • Milwaukee, Wisconsin 53202
Phone 414-271-0130 • Fax 414-272-8191 • www.ffsj.com

ROBERT H. FRIEBERT
JOHN D. FINERTY
THOMAS W. ST. JOHN
WILLIAM B. GUIB
BRADDEN C. BACKER
S. TODD FARRIS
TED A. WARPINSKI
BRIAN R. SMIGELSKI
MATTHEW W. O'NEILL
SHANNON A. ALLEN
JEREMY P. LEVINSON
LAWRENCE J. GLUSMAN
SHEILA M. CONROY
BRIAN C. RANDALL
JENNIFER L. BOLGER
CHRISTOPHER M. MEULER

September 12, 2006

VIA MESSENGER

Mr. Clifton W. Crump, Secretary
Board of Zoning Appeals
Department of City Development
809 North Broadway, 1st Floor
Milwaukee, WI 53202

Re: Premises Address: 9228 West Capitol Drive, a/k/a 9230 West Capitol Drive
Zoning: Local Business (LB 2)
Applicant: Short Term Financial, LLC, a Wisconsin LLC
[Jason M. Case, Manager]
BOZA Case No.: 27686
Thursday, September 14, 2006 Agenda - 4:00 p.m. - Agenda Item 56

Dear Secretary Crump:

I am enclosing the following indicated documents in connection with the above matter:

1. Evidentiary Affidavit of Bonnie J. Schoenberg on Behalf of the Applicant Herein - (Four (4) copies of telecopies with the original to be filed by messenger on Wednesday morning, September 13, 2006); and
2. Evidentiary Affidavit of John D. Finerty (SBN: 1009840) Wisconsin Counsel for Applicant Herein - (Original and four (4) copies).

In view of the fact that our presentation to the Board will be limited to between 5 and 10 minutes, I am submitting these affidavits 48 hours in advance in lieu of actual testimony. I will take about 5 to 7 minutes to make a brief statement as to why the Board should grant the requested relief.

It is my hope that the information contained in these evidentiary affidavits will be helpful for members of the Board in fully understanding what happened here.
If you have any immediate questions or comments, please call me at the earliest possible moment.

Mr. Clifton W. Crump, Secretary
September 12, 2006
Page 2

Thank you for your attention to this communication.

Very truly yours,

FRIEBERT, FINERTY & ST. JOHN, S.C.



John D. Finerty
jdf@ffsj.com

JDF/sjf

Enclosures

cc: Brian C. Randall, Esq. (w/Encs.)

STATE OF WISCONSIN: MILWAUKEE COUNTY

BEFORE THE BOARD OF ZONING APPEALS OF THE CITY OF MILWAUKEE

IN THE MATTER OF THE NOTICE OF APPEAL AND
APPLICATION FOR REVIEW IN CONNECTION WITH
AN OCCUPANCY PERMIT REVOCATION AND A
DETERMINATION OF THE BUSINESS OPERATIONS
OF SHORT TERM FINANCIAL, LLC AT 9228 WEST
CAPITOL DRIVE IN THE 5TH ALDERMANIC
DISTRICT

Case No.: 27686

**EVIDENTIARY AFFIDAVIT OF BONNIE J. SCHOENBERG
ON BEHALF OF THE APPLICANT HEREIN**

STATE OF WISCONSIN)
) SS.
COOK COUNTY)

The undersigned, being first duly sworn, on oath, deposes and says as follows:

1. That she is the General Counsel of Short Term Financial, LLC (the "Applicant"), a Delaware limited liability company, with its home office and principal place of business at 880 Lee Street, Suite 302, Des Plaines, Illinois 60016.
2. The Applicant is registered with the Department of Financial Institutions to do business in the State of Wisconsin and to act as a loan company pursuant to § 138.09, *Wis. Stats.*, by the Wisconsin Administrator of Banking and maintains an office for those purposes at 9228 West Capitol Drive, in the City and County of Milwaukee, Wisconsin.
3. That pursuant to my direction and under my control, Wisconsin counsel has filed, in addition to all documents previously filed, an *Amended Statement of Use and Plan of Operation* (the

"Amendment") and a *Supplement to Notice of Appeal and Application for Review* (the "*Supplement*") in the office of the Board.

4. For purposes of convenience of the Board, and parties appearing at the hearing in this matter, the undersigned incorporates the *Amendment*, ¶ B.1. - 3. (pp. 1-3), ¶ D., 2. - 6., (pp. 3-5), ¶ E. (pp. 5-10) and ¶ H. (p. 11) and the *Supplement*, (pp. 2-7), by reference as though more fully set forth.

5. The business of the Applicant is carried on pursuant to a Certificate of Authority (Exhibits A and B attached to the *Supplement*) under § 138.09, *Wis. Stats.* That section authorizes so-called pre-computed loans in which the principal and interest, calculated in advance, are bundled and then paid off either by means of a payment coupon or, at the option of the borrower, through an electronic fund transfer ("EFT") to Applicant for the amount of the installment payment from the borrower's bank account.

6. The loans described herein are made only as pre-computed interest and installment loans for a minimum of at least six months and typically in amounts up to \$2,000.00. These loans may be personal loans or consumer installment loans.

7. Since the issuance of the original Occupancy Permit, dated May 1, 2006, Certificate No. 709164 (Exhibit B attached to the *Supplement*), Applicant has provided only consumer finance and consumer loan services as well as personal and small business loans within its license from the Wisconsin Administrator of Banking. City Occupancy Permit No. 709164 authorized the Applicant to occupy the subject premises pursuant to an application which succinctly stated in the one line allowed for a description of the "proposed use" that its business is "consumer finance - consumer installment loans." See Exhibit C attached to the *Supplement*. For further information about Applicant's business, see ¶ E., §§ 2 and 3, *Amendment*, (pp. 6-10).

8. In revoking Occupancy Permit No. 709164, the City's Permit and Development Center Manager forwarded a letter (Exhibit E attached to the *Supplement*) stating:

"According to information received, your operation is most closely aligned (sic) with Currency Exchange, Payday Loan, and Title Loan Agency as defined by City of Milwaukee Code of Ordinances. The application [for the Certificate of Occupancy] did not completely or accurately describe the proposed use. These uses require Board of Zoning Appeals approval as a special use prior to a Certificate of Occupancy being issued."

[Emphasis supplied]

9. This decision did not indicate who furnished the information relied upon for the finding that the Applicant's operation was closely aligned with uses disfavored by the City or a description of the "inaccurate description" that was in the Application for the Occupancy Certificate in the first instance.

10. That, upon information and belief, Wisconsin counsel for Applicant filed two separate Open Records requests pursuant to §§ 19.31, *et seq.*, *Wis. Stats.*, and Wisconsin counsel has advised the undersigned that all documents finally produced indicated no evidence whatsoever regarding operation by Applicant of a currency exchange, payday loan or title loan agency and further that the Application for the Certificate of Occupancy in fact correctly stated the proposed use. *See Affidavit of John D. Finerty* being filed simultaneously herewith.

11. The Applicant is not now and has not been since receiving a Certificate of Authority and Letter of Approval from the Wisconsin Administrator of Banking acted as a money exchange (§ 295-201-135, *MCO*); a payday loan company, (§ 295-201-245, *MCO*) or an auto title loan company (§ 295-201-661, *MCO*).

12. The Applicant does not cash checks and does not issue money orders or comparable instruments.

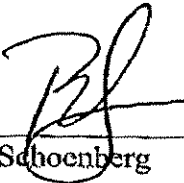
13. The Applicant does not make deferred deposit loans, payday loans or auto title loans whereby a paycheck or an automobile registration (title) is delivered to the lender by the borrower as security. The Applicant does not take post-dated checks as collateral.

14. Applicant is paid via a payment coupon which can be dropped off or mailed accompanied by a check or cash, although the receipt of cash is discouraged because Applicant's policy is to not assemble significant amounts of cash on site. An option offered, and it is only an option, not a requirement for convenience or for purposes of conveying a security interest in any funds in the borrower's checking account to Applicant is an automatic electronic fund transfer ("EFT") from the borrower's checking account to Applicant for the amount of the monthly installment. Even if Applicant did require that the installment loan be linked by electronic means to allow payment of the installment payment each month, Applicant would not be considered a title loan agency, a payday loan company or a money exchange.

15. The Applicant operates much differently than a money exchange or a payday or title loan agency. Instead of tellers' cages and security windows, all business transacted on Applicant's premises occurs in a carpeted, well-lighted and well-furnished office with desks for loan officers and a more casual living room area to provide a comfortable surrounding for the borrower. In addition, the Applicant's hours of operation, *e.g.*, Monday thru Friday from 9:00 a.m. to 7:00 p.m., 9:00 a.m. to 3:00 p.m. on Saturdays and closed on Sundays are significantly different from the hours maintained by a typical money exchange, title loan company or a payday loan agency.

16. The Applicant, in the opinion of the undersigned and in the opinion of Applicant's Wisconsin counsel, is a legal Wisconsin loan company and is not a money exchange, a payday loan agency or an auto title loan company as those terms are defined in the MCO.

17. This affidavit is being filed on behalf of Applicant in connection with the hearing on Applicant's petition to the Board scheduled for proceedings on Thursday, September 14, 2006, commencing at 4:00 p.m. as Agenda Item 56.



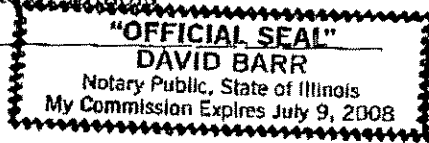
Bonnie J. Schoenberg

Subscribed and sworn to before me
this 12th day of September, 2006.



Notary Public, State of Illinois

My Commission:



STATE OF WISCONSIN: MILWAUKEE COUNTY

BEFORE THE BOARD OF ZONING APPEALS OF THE CITY OF MILWAUKEE

IN THE MATTER OF THE NOTICE OF APPEAL AND APPLICATION FOR REVIEW IN CONNECTION WITH AN OCCUPANCY PERMIT REVOCATION AND A DETERMINATION OF THE BUSINESS OPERATIONS OF SHORT TERM FINANCIAL, LLC AT 9228 WEST CAPITOL DRIVE IN THE 5TH ALDERMANIC DISTRICT

Case No.: 27686

**EVIDENTIARY AFFIDAVIT OF JOHN D. FINERTY (SBN: 1009840)
WISCONSIN COUNSEL FOR APPLICANT HEREIN**

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

The undersigned, being first duly sworn, on oath, deposes and says as follows:

1. That he is duly licensed to practice law in the State of Wisconsin and maintains an office for that purpose at Two Plaza East - Suite 1250, 330 East Kilbourn Avenue, Milwaukee, Wisconsin 53202 and makes this affidavit for and on behalf of the Applicant, being duly authorized so to do.

2. That this affidavit is, in part, on conversations with representatives of the Milwaukee Development Center ("MDC") and the Department of Neighborhood Services ("DNS") and records of the Applicant which have been made available to me. In addition, certain public records were reviewed but which did not appear to be complete. Accordingly, it became necessary to file statutory Open Records Requests, dated August 4, 2006 and August 16, 2006 (the "ORR"), pursuant to

§§ 19.31, *et seq.*, *Wis. Stats.*, with the Commissioner of DNS as custodian of records in this matter.

Copies of the two ORR's are attached hereto as *Affidavit Exhibits A and B*.

3. In response to the first ORR, dated August 4, 2006, the DNS produced several documents which had already been obtained by the undersigned either from the Applicant or as a result of a review of records at the Department of City Development and the DNS. The additional documents that were prepared was a copy of an Order, dated July 21, 2006, issued by Angela Ferrill, a Building Inspector, and served at the Applicant's premises (Exhibit K to the *Supplement*), a copy of a Permit Denial/BOZA Appeal letter from Plan Examiner Chris Rute, dated July 21, 2006 (Exhibit J to the *Supplement*), and a log sheet kept by Building Inspector Angela Ferrill showing entries for separately listed activities (*Affidavit Exhibit C*).

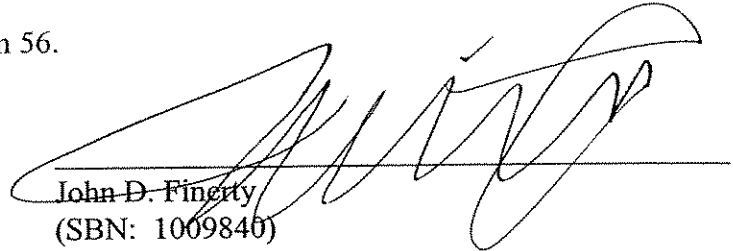
4. The documents obtained contained absolutely no evidence of any investigation or any information regarding complaints by anyone whatsoever regarding the Applicant's business. There were no logs of any telephone complaints to DNS. Indeed, the documents obtained showed absolutely no evidence at all that Applicant was operating in the same fashion as a money exchange, a payday loan agency or a auto title loan company. As can be seen in the August 4, 2006 ORR (Exhibit F to the *Supplement* and *Affidavit Exhibit A* herein) clear and concise requests were made, in specific categories of records as defined in § 19.32(2), *Wis. Stats.*, which includes emails and any items in electronic form. If there was an investigation or complaint to DNS, the records should have been produced.

5. Following this, on August 16, 2006, a second ORR was issued and delivered to the Commissioner of the DNS with a copy to enforcement personnel at the DNS requesting a certain record or records in the possession of DNS which had not been disclosed.

6. In response to the August 16, 2006 ORR, the DNS produced a three-page document containing an email sequence which seems to indicate that the “revocation” was a pretext to shut the Applicant’s business down. The DNS relies upon § 295-113, *MCO*, for DNS’s alleged investigation and effort to have the Occupancy Permit revoked. The language used by DNS is “most resembles” while § 295-113, *MCO*, itself, states that the Commissioner of City Development “. . . shall determine whether the use in question is similar to a use already listed.” The determination made was that banks and financial institutions, which are permitted uses, *see* § 295-603-1, *MCO*, are similar to the Applicant’s operations. As indicated elsewhere, the property is zoned Local Business (LB/2) in which financial service organizations are permitted uses. *See* § 295-601-1, *MCO*. *See also*, § C., *Amendment*. If that determination could not be made, § 295-113, *MCO*, requires that it be referred to the Board of Zoning Appeals for review and not the DNS.


7. The investigation, of which there is no record, apparently was used to change the mind of the Plan Examiner who, in the face of clear evidence presented by Applicant, nonetheless “rescinded” and “revoked” the original Occupancy Permit. The DNS then swiftly moved to close the business in one (1) day by declaring it a hazard. (*See* Exhibit K, *Supplement*.) Even assuming that the DNS is right, although there is no evidence to support that, *Affidavit Exhibit D* provided to Applicant in response to the second ORR demonstrates that this is a fairly debatable issue, at best. While one might conclude that the actions of DNS were intentional and *in terrorem* in nature, the undersigned and Applicant presumes for the purpose of this proceeding that a simple lack of coordination between two agencies resulted in a mistaken attempt to shut down Applicant’s business.

8. This affidavit is being filed on behalf of Applicant in connection with the hearing on Applicant's petition to the Board scheduled for proceedings on Thursday, September 14, 2006, commencing at 4:00 p.m. as Agenda Item 56.



John D. Fincity
(SBN: 1009840)

Subscribed and Sworn to before me
this 12th day of September, 2006.



Notary Public, State of Wisconsin
My Commission: is permanent



FRIEBERT, FINERTY & ST. JOHN, S.C.

Two Plaza East - Suite 1250
330 East Kilbourn Ave. • Milwaukee, Wisconsin 53202
Phone 414-271-0130 • Fax 414-272-8191 • www.fffj.com

ROBERT H. FRIEBERT
JOHN D. FINERTY
THOMAS W. ST. JOHN
WILLIAM B. GUIB
BRADDEN C. BACKER
S. TODD FARRIS
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BRIAN R. SMIGELSKI
MATTHEW W. O'NEILL
SHANNON A. ALLEN
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SHEILA M. CONROY
BRIAN C. RANDALL
JENNIFER L. BOLGER
CHRISTOPHER M. MEULER

August 4, 2006

VIA MESSENGER

Mr. Martin G. Collins
Commissioner¹
Department of Neighborhood Services
City of Milwaukee
841 North Broadway, 1st Floor
Milwaukee, WI 53202

RE: Public Records and Document Request To the Department of Neighborhood Services
with respect to 9228 to 9230 West Capital Drive, in the Fifth Aldermanic District in the
City of Milwaukee

Dear Commissioner Collins:

This communication is being delivered to you pursuant to Wisconsin's Open Records Law, more specifically described hereinafter, in connection with certain activities involving the City of Milwaukee (the "City"), the Milwaukee Development Center (the "Center") and the Department of Neighborhood Services (the "Department") involving the rescission by the Center at the request of the Department of a validly issued Occupancy Permit (the "Permit") to allow Short Term Financial, LLC or its assigns ("Loan Company") to operate a conventional installment loan business authorized by the Administrator of Banking of the State of Wisconsin pursuant to § 138.09 Wis. Stats., at 9228-9230 West Capital Drive (the "Site" or the "Property" as context requires).

The Permit was originally issued for the Site which, as a licensed banking or financial institution was considered a special use pursuant to Section 295-603-1, Milwaukee Code of Ordinances ("MCO") which was rescinded ex parte at the direction of the Department. The Department determined that the use of the Site was either an auto Title Loan Company or a Payday Loan Company as those terms are defined in Sections 295-201-445 and 295-201-661, MCO even though the Loan Company does not operate in either capacities and has not applied for certificates of authority to function in those two capacities from the Wisconsin Commissioner of

¹ This communication is delivered to you in your capacity as the Commissioner of the Department of Neighborhood Services and as its de facto Custodian of its records, since you and your Department are involved in the revocation by the Milwaukee Development Center of an occupancy permit issued to the subsequent permit and subsequently rescinded and certain orders and other proceedings initiated by your Department against the subject site, as defined above, during the period of inquiry in the event the City or the Department have designated and other person, or other persons in addition to yourself, as authorized by § 19.33, Wis. Stats., to be the Custodian(s) of records then, and in that case only, the enclosed copies of this communication should be forwarded to the person(s) so designated.

Credit Unions, the applicable licensing agency.

The period of inquiry with respect to the matters set forth above is from December 1, 2005 up to and including the date of the Department's response to this request (the "Inquiry Period").

In that regard, request is hereby made pursuant to §§ 19.31, *et seq.*, Wis. Stats., for access to and the right to inspect and copy any and all records², however designated, drafted, generated, sent or received or maintained by the Department³ in connection with the activities described above, the Site and the operation of the licensed business at the Site during the Inquiry Period including, but not limited to the following:

1. All records, including copies of records, between, among, received from, or sent to the Department during the Inquiry Period by the Center in connection with the Site for any reason.
2. All records, or copies of records, in the possession of the Department that contain records or copies of records of the Center or the City relating to, concerning, or pertaining to the operation of the business at the Site during the Inquiry Period.
3. All records, or copies of records, of the Department concerning any investigative or other materials obtained by the Department or provided to the Center as evidence of the Loan Company engaging in money exchange services or conducting or operating a title loan agency or payday loan company as defined above at the site during the Inquiry Period.
4. All records, or copies of records, of the Department received from or sent to any other Department or branch of government including the Center, the City and the Common Council regarding the business operations of the Loan Company at the Site during the Inquiry Period.
5. All records, or copies of records, of the Department and any copies of records from any other City, agency, branch or unit in the possession of the Department relative to, concerning or pertaining to any tip, complaint, report anonymous writings or other information including logs of telephone tips or other oral information relating to the nature and kind of business operations conducted by the Loan Company at the Subject Site during the Inquiry Period.
6. A copy of the Department's Rules and Regulations dealing with procedures for complying with the Open Records Requests as required under §§ 19.32, *et seq.*, Wis. Stats., and the public rates and charges for producing copies of records requested (collectively the "Rules and Regulations").

² "Records" as used herein has the meaning set forth in § 19.32(2), Wis. Stats. Without limiting the foregoing, "record" includes e-mail and other items in electronic form.

³ The terms "Department," "City" and "Center" includes all departments, divisions, agencies, commissions or authorities or any officer, employee or other agent, however designated, thereof.

Mr. Martin G. Collins
August 4, 2006
Page 3

This Request is for immediate inspection and covers all records, as defined herein, generated, sent or received up to and including the date of the Department's response to this Request.

In responding to this Request for Records, you are requested, pursuant to § 19.36(3), Wis. Stats., to make available records produced or maintained pursuant to contract, even if those records are physically in the possession of the contractor.

In lieu of actual inspection, request is made that we be provided, at our option, with photocopies of all such records and, in that event, we will pay all reasonable costs of copying the requested records as set forth in the Rules and Regulations of the Department. If advance payment is required by the Rules and Regulations, or if a deposit is necessary to the extent that the actual costs exceed \$5.00, please contact the undersigned and a check will be delivered to your office as soon as conveniently may be.

If you will contact the undersigned when the requested records have been photocopied, we will arrange for a messenger to pick them up. If, after reviewing the requested records, we determine that an on-site inspection of the records is necessary, contact will be made with you or your designate concerning an appointment time that is the least disruptive to your office's operations.

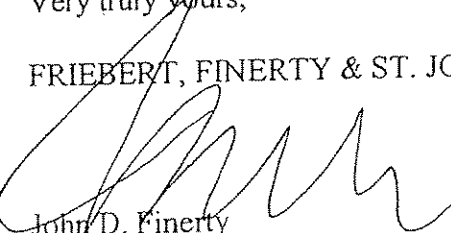
If you decline to provide any records for any reason, please describe each record being withheld and specify the reasons therefore. If the reasons for withholding records are set forth in §§ 19.35(1)(a) and (m), 19.36(1), (2) and (9), and 19.85(1), Wis. Stats., please specify the particular statutory subsection which the Department is relying upon and the factual basis for such reliance.

If you have any questions about these requests, please contact the undersigned at your earliest possible convenience.

Thank you for your attention to this communication.

Very truly yours,

FRIEBERT, FINERTY & ST. JOHN, S.C.


John D. Finerty
jdf@ffsj.com

JDF/swk

cc: Ms. Tracy Williams – VIA MESSENGER
Mr. Ronald Roberts – VIA MESSENGER



FRIEBERT, FINERTY & ST. JOHN, S.C.

Two Plaza East - Suite 1250
330 East Kilbourn Ave. • Milwaukee, Wisconsin 53202
Phone 414-271-0130 • Fax 414-272-8191 • www.ffsj.com

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BRIAN C. RANDALL
JENNIFER L. BOLGER
CHRISTOPHER M. MEULER

August 16, 2006

VIA MESSENGER

Mr. Ronald Roberts
Compliance and Enforcement Supervisor
Department of Neighborhood Services
Zeidler Municipal Building, Room 105
841 North Broadway
Milwaukee, WI 53202

Re: Public Records and Document Request to the Department of Neighborhood Services with respect to 9228 to 9230 West Capital Drive, in the Fifth Aldermanic District in the City of Milwaukee

Dear Ron:

I hate to split hairs but in our several conversations, plus a few conversations I had with Chris Rute, I was given the understanding that there were a number of internal emails exchanged and that you received what you characterized as complaints.

Obviously, emails are a public record even though they are in electronic form and the Open Records Act requires that they simply be printed out and produced for copying.

In the event that the complaints are in writing, we would like copies of those as well. If the complaints were made by telephone, then we would like logs of the telephone conference. We request no redactions be made from these particular documents and that the names of the complainants be listed.

The names of complainants can only be withheld in law enforcement records and those portions of the police records that relate to complainants who are going to be witnesses and informants.

Sections 19.36(2) and (8) authorize withholding those documents and are set forth on the last page of my original Open Records Request to Commissioner Collins. Clearly, the names of complainants who are requesting civil citations be issued against a property owner or any other administrative review are not law enforcement proceedings nor are they criminal case files.

In any event, please consider this a supplement to the original Open Records Request, although I would prefer to handle this round in a far more informal way. If you could produce these requested records, I will send someone over to pick up the copies.

Affidavit Exhibit B

Mr. Ronald Roberts

August 16, 2006

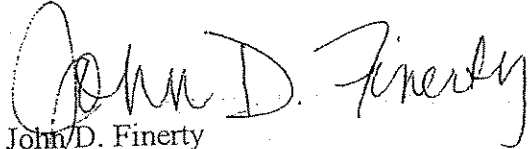
Page 2

If you have any questions, I'm going to be in Chicago through Saturday morning at a conference but Brian Randall is completely familiar with this matter and can answer any questions that you have or send our messenger over when the documents are ready.

Thank you for your attention to this matter and for your courteous and continuing cooperation.

Very truly yours,

FRIEBERT, FINERTY & ST. JOHN, S.C.

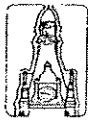


John D. Finerty

jdf@ffsj.com

JDF/sjf

cc: Brian C. Randall, Esq.



CHRONOLOGICAL RECORD OF ENFORCEMENT

ADDRESS 9230 W. Capital

SERIAL NO. 0573781
DATE OF INSPECTION 7-21-06

DATE	ACTIVITY AND REMARKS	TYPE OF CONTACT	INSP. NUMBER	INITIALS
7-21-06	placard issued on Mercie - store manager advised her that occupancy was descended and to discontinue operation at end of work day order sent lot class mail			af
7-22-06	inspection - business still in operation Mercie - cited order was appealed and gave me copy of appeal			af
7-24-06	Phone call received from Attorney De' order - faxed copy of letter / appeal submitted to Baza from Short Term Financial			af
7-26-06	Correspondence received from Attorney Finerty - acknowledging receipt of tax form 724-02, also copy of order submitted to Claim Clerk of Baza office			af

From: Crump, Clifton
To: Ronald Roberts, Steve Fritsche
Date: 8/4/2006 9:32:35 AM
Subject: RE: RE: Short Term Financial LLC

I got that part. If you think this is an order with merit, then I have no problem with it. We can look at what other communities are doing, but no other Zoning Board in this country hears 800 plus cases a year. That is why I am hyper-sensitive about the validity of this order, especially given the fact that this Board (as referenced below) has already determined that a machine that cashes checks (in conjunction with tax prep), and charges money to do so, does not constitute a currency exchange facility. I'd be shocked if that same Board turns around and now says, "Well, this use does not meet the definition of a currency exchange facility, but we'll call it one nonetheless". The definition needs to be changed and I'm going to suggest to Ald. Bohl that he think about sponsoring legislation to do that.

I initially thought the order was issued based upon DNS being forced to do so (procedurally no other options existed - no occupancy, thus order issued). I have no problem allowing the process to move forward as is. I would note though that although the Development Center can and does have the power to revoke an occupancy permit, this scenario does not play out well with the Board. I'll be discussing this issue with Chris Rute because this is getting too common.

As always thank you for your consideration,

Clifton

-----Original Message-----

From: Ronald Roberts
Sent: Thursday, August 03, 2006 5:27 PM
To: Crump, Clifton; Steve Fritsche
Cc: Angela Ferrill; Chris Kraco; Tracy Williams
Subject: RE: RE: Short Term Financial LLC

This scenario is addressed in section 295-113 of the zoning code. Plan exam has determined that the use "most resembles" a payday loan establishment which requires Board approval. If the Board, after hearing testimony, wants to overturn that interpretation they are free to do so. Otherwise, it's a special use.

Let's not try to change the script. Let's look at what other communities are doing with similar concerns.

Ronald W. Roberts, Supervisor
City of Milwaukee Dept. of
Neighborhood Services
Phone: 286-3862
Fax: 286-0437
E-mail: rrober@milwaukee.gov

>>> Crump, Clifton 08/03/06 9:02 AM >>>
Steve,

I guess DNS had no other option. I'd be curious to know what other facilities were cited in a similar manner. I can't recall anything like this coming to the Board. To me this is similar to the case where H & R Block had these Ace Check cashing machines on site and DNS issued them an order as a currency exchange facility. In that case it (check cashing) was deemed ancillary to the primary use of tax filling preparation. Bottom line is, neither the definition of currency exchange nor title/ pay day loan cover this use. If it's not covered by the definition, then it must be something else. In my estimation I don't know how the Board would say this functions more like a currency exchange than a permitted financial institution. Furthermore, it seems unlikely that the Board would categorize this use as a Variance due to

it not being covered by any definition in the code. In that scenario, it would be treated in a more severe manner than some currency exchange facilities that offer more services.

At the end of the day, I foresee this order being reversed (which I've only seen happen twice, and that was two times too many) and the definition of currency exchange being broadened to include a facility that only offers short term loans.

In the future, I think quite possibly DNS and DCD should discuss the ramifications of revoking an occupancy permit, especially if DNS is the entity that ends up carrying the water (to BOZA). It puts DNS in the unfortunate position of carrying out an action initiated by another department and also puts DNS in a public position of being overruled by the Board. I've worked very hard to get the Board in the mind site of giving deference to DNS. If we don't back DNS, were not backing enforcement, so to speak. Orders such as this are harmful to the process (in my opinion).

Cliff

-----Original Message-----

From: Steve Fritsche
Sent: Thursday, August 03, 2006 7:02 AM
To: Crump, Clifton
Subject: Fwd: RE: Short Term Financial LLC

-----Original Message-----

Date: 08/01/2006 04:53 pm -0500 (Tuesday)
From: Ronald Roberts
To: Fritsche, Steve
CC: Williams, Teresa
Subject: Fwd: RE: Short Term Financial LLC

Steve, today I received a copy of the appeal filed by Attorney John Finerty on behalf of Short Term Financial, LLC. 9228 West Capitol Drive. The application contained your note stating that Clifton believes we have a weak case.

I refer you to the enclosed letter from Chris Rute. It is clear to me that the occupancy permit was rescinded. DNS has no choice therefore but to close down the operation until a decision is made by the Board.

What other approach would you suggest?

>>> Rute, Chris 07/21/06 10:10 AM >>>
Dear Ms. Schoenberg:

After review of the plan of operation submitted, a visit to the subject facility by inspection staff, and investigation of the operation of similar facilities that have been subject to the Board of Zoning Appeals (BOZA) approval process, it has been determined that the position, as stated in my initial letter dated July 6, 2006 (see attached), is affirmed.

A new application for Certificate of Occupancy must be made and a Special Use from the Board of Zoning Appeals must be obtained. Since the Certificate of Occupancy has been rescinded, the operation must cease at this location until such time that a new Certificate of Occupancy and BOZA approval has been

obtained.

Understanding that time may be of importance, please review the submittal requirements for BOZA on the internet at www.mkedcd.org/boza. There you will find an application and the submittal requirements for a Special Use. Complete that application, assemble the required documentation, and submit it to the BOZA office directly along with applicable fees.

Also, for your convenience, attached is a Certificate of Occupancy application. No fee is charged as this application replaces the previous application for CO # 709164 which was rescinded. Please sign it, or have Mr. Case sign it, and return to me via fax or email. I will then have that application processed.

If I can be of further assistance, let me know.

Chris Rute , AIA
Permit and Development Center Manager
(414) 286-3018
crute@mkedcd.org

From: bschoen105@aol.com [mailto:bschoen105@aol.com]
Sent: Monday, July 10, 2006 2:06 PM
To: Rute, Chris
Subject: Short Term Financial LLC

Dear Mr. Rute:

Attached please find a letter explaining the plan of operation of Short Term Financial LLC. After you have had a chance to review the letter, please call me at 847-612-1780 to discuss the next steps in this matter. Thank you for your cooperation and understanding.

Bonnie Schoenberg

Bonnie Schoenberg
550 Frontage Road, Suite 3785
Northfield, IL 60093
(847) 446-9985 (Office)
(847) 446-8628 (Fax)

Check out AOL.com today. Breaking news, video search, pictures, email and IM.
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CC: Angela Ferrill, Chris Kraco, Tracy Williams

City of
Milwaukee
Development Center



809 N. Broadway
P.O. Box 324
Milwaukee, WI 53201-0324
(414) 286-8211
(414) 286-0251 - Fax

November 13, 2006

Mr. Jason M. Case
Short Term Financial
880 Lee Street, Suite 302
Des Plaines, IL 60016

Re: 9228 W. Capitol Drive - Certificate of Occupancy

Dear Mr Case:

An opinion from the City Attorney's office has indicated that the use, as it was described by the record reviewed, meets the definition of "bank or other financial institution" as opposed to "payday loan agency".

In light of the above, the Certificate of Occupancy, #709164 is reinstated. This matter has been scheduled for dismissal at the Board of Zoning Appeals.

If you have any questions, or require further assistance, please contact me.

Sincerely,

Chris Rute
Permit & Development Center Manager
(414) 286-3018
Crute@mkedcd.org

Ron Roberts - DNS
John Finnerty - Friebert, Finerty, & St. John, S.C.




NARDELLI CONSULTING, LLC



6811 North Coventry Court - Milwaukee Wisconsin 53224

June 14, 2007

VIA MESSENGER

All Members of the Common Council
Room 205 – City Hall
200 East Wells Street
Milwaukee, WI 53202

RE: File No. 060537 . . . An ordinance relating to zoning regulations for payday loan agencies

File No. 070160 . . . An ordinance relating to board of zoning appeals findings-granting special use permits

Dear Mr. President and Aldermen:

I have been engaged to lobby members of the Common Council on behalf of Short Term Financial, LLC d/b/a First Rate Financial, in opposition to File Nos. 060537 and 070160 both dealing with the operation of payday loan agencies and title loan companies but targeted against my client, a State-chartered installment loan company. These matters will come before the full Common Council on Tuesday.

The thrust of File No. 060537 lumps a short term conventional loan company into the payday loan agency category simply because some of the loans it makes are \$1,000.00 or less and the service of automatic fund transfer through checking account withdrawals is allowed as a convenience to the customer. The conventional installment loan companies operate on a very different level than the payday loan companies, title loan companies and money exchanges or check cashing establishments with which the Common Council has already dealt in earlier legislation.

The second file, File No. 070160, was introduced for the purpose of requiring the Board of Zoning Appeals (“BOZA”) to make certain findings where a conventional installment loan company applies for a special use, which would be necessary if the earlier introduced File No. 060537 was adopted. This amendment received vocal opposition from the Chairman of BOZA who indicated that the board in certain circumstances could already take the concentration argument into consideration in making its finding on the health, welfare and public safety of the community rather than making this an independent step which would be applied universally. The Plan Commission staff recommended that the matter be placed on file.

Phone: 414-651-0880 Fax: 414-760-3478 Email: tnardelli@wi.rr.com

Even in its current form, one can only imagine the inconvenience and confusion if an objector were to appear before BOZA and argue against a use because there was a concentration of taverns and restaurants along North Water Street, or theatre venues, antique stores and art galleries in the Third Ward or shipping companies along South Howell Avenue across the street from General Mitchell International Airport.

Previous Committee Action

While I was not able to attend the Zoning, Neighborhoods and Development Committee's public hearing on Tuesday, June 12, 2007, I did watch the replay of the hearing on both of the above files. What surprised me most was to see the Committee being "drawn" into believing professional State-chartered installment loan companies such as First Rate Financial, were being lumped into the same definition of the unsightly payday loan stores, title loan agencies, money exchanges and check cashing joints which I fought to strongly regulate during my time on the Common Council.

First Rate Financial operates its offices exactly as those operated by such easily recognizable installment loan companies as Household Finance Corporation or HFC. I mention HFC in particular because that company opened many of its offices in Milwaukee and the suburbs after World War II and have actually been here and operating all that time without complaint, allegation of blight or attracting "bad people" to their offices.

Motive Involved

It appears that the reason these files are being pursued by Alderman Bohl may be because late last year, BOZA overruled an immediate shut-down order issued by the Department of Neighborhood Services for First Rate Financial's office in the 5th Aldermanic District. Rather than doing research into the operations of First Rate Financial, Alderman Bohl filed a complaint with DNS demanding that they shut down the business because he believed it looked like a payday loan style lender. This was accompanied by an attempt to revoke a legally-issued occupancy permit.

Around that time, I was contacted by First Rate Financial asking for help and recommendations. Bearing in mind that a restraining order would probably be needed, I referred First Rate to John Finerty's law firm which, in turn, appealed the shut down order and requested BOZA to reinstate the Occupancy Permit which had been revoked on pre-textual grounds. It was after BOZA, supported by a strong City Attorney's opinion that is part of the record of File No. 060537, vacated the actions of DNS that apparently caused Alderman Bohl to embark on a mission of trying to lump First Rate Financial (and similar conventional installment loan companies) with the politically unpopular payday loan companies, title loan agencies, check cashing venues and so on.

Background of Use

As indicated, First Rate operates in a manner very similar to HFC and has done so for the short

period of time it has been operating in the City of Milwaukee even though, by contrast, HFC has conducted its business without a whimper or the need for interference by the City. A couple of important points about First Rate Financial:

- This company operates Monday thru Friday from 9:00 a.m. until 7:00 p.m.; Saturday from 10:00 a.m. until 3:00 p.m.; and is closed on Sunday. Many of the payday loan companies operate on a near-around-the-clock basis.
- First Rate does not keep cash in its office because it does not cash checks. It may have cash on hand if a customer comes into pay his principal and interest and hands them cash, for which a receipt is issued.
- First Rate only issues checks for approved loans or directly deposits the fund into the customer's bank account, which a loan applicant is required to have. The customer does not leave the premises with the loan paid in cash.
- The facilities of First Rate Financial are in an office, air conditioned, fully-carpeted, well-lit and quite distinctive because of the lack of bullet-proof glass "teller" windows that characterize the payday loan stores. First Rate Financial representatives sit at desks and deal with customers in a professional and comfortable manner. As such, First Rate's facilities look like any other business office and could be mistaken for a travel agency or an insurance agent's office whereas the payday loan stores are characterized by gaudy signs, flashing lights and other visual nuisances which I have always opposed.
- First Rate stores are well-secured with considerable on-site security cameras covering both the interior and exterior of the building and parts of the surrounding neighborhood. The building is fully-alarmed and a variety of security measures are taken on site to protect the well-trained staff and its customers. (For your information, the lack of cash is probably the best deterrent to an armed robbery.)
- First Rate's interest rates are higher than you will find at a conventional bank because First Rate loans are not secured with any collateral.
- Yet First Rate's interest rates are much lower than rates charged by the payday loan stores, title loan agencies and other disfavored lenders. On a related note, almost everyone who testified on this issue based their support, in part, on a dislike for higher, some said "outrageous" loan rates charged by payday lenders and presumably, at least in their mind, conventional installment loan companies. The City should not be in a position of using its Zoning Code to regulate interest rates in the City.

During the ZND public hearing, those who testified in support of these amendments generally voiced concerns directed to payday loan stores and title loan agencies, believing they negatively

All Members of the Common Council
June 14, 2007
Page 4

impacted their neighborhoods or business areas. They believed that these unpopular loan companies reduced property values or brought the wrong kind of people into the neighborhood. No empirical evidence was presented by anybody regarding specific impacts by conventional installment loan stores' presence in the City of Milwaukee although one witness was convinced that there were severe consequences because the conventional installment companies looked like payday loan agencies. By the way, that is not true either.

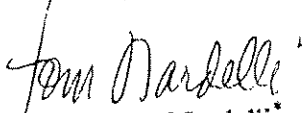
It's true that emotions are real regarding these files and many people have expressed strong opinions, although without foundation such that there is no real evidence to support the contention that conventional installment loan operations should be categorized in the same definitional sections as payday loan stores, title loan agencies, money exchanges and so forth.

It is my hope that the Council will not limit sound business operations such as those of First Rate Financial, Household Finance and other legitimate lending institutions that have traditionally operated in our City. It is my further hope that you will vote to place both proposals on file.

I plan to contact each of you to discuss this issue in greater detail or answer any questions that you may have. In the meantime, please feel free to contact me with any immediate questions or to make an appointment at a time convenient for you.

Thank you for your attention to this communication.

Sincerely,



Thomas G. Nardelli*
Nardelli Consulting, LLC

* Tom Nardelli is appropriately registered pursuant to Ch. 305, *Milwaukee Code of Ordinances* ("MCO") on behalf of Short Term Financial, LLC, as the principal.