

CHAIR

- Licenses Committee

MEMBER

- Community and Economic Development Committee
- Steering and Rules Committee



TONY ZIELINSKI
ALDERMAN, 14TH DISTRICT

April 16, 2015

To the Honorable, the Common Council

Dear Members:

Re: Common Council File Number 141628

Attached are written objections to file number 141628, Motion relating to the recommendations of the Licenses Committee relative to licenses, relating to a recommendation of non-renewal of the Class "B" Tavern and Public Entertainment Premises licenses of Jenny Contreras, agent for Terra Restaurant Bar Inc for the premises at 600 S 6th St ("Terra Restaurant & Bar") in the 12th aldermanic district.

This matter will be heard by the full Council at its Tuesday, April 21, 2015 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached statement and materials.

Respectfully,

A handwritten signature in black ink that reads "Tony Zielinski".

Tony Zielinski, Chair
Licenses Committee

cc: All Council Members
City Attorney's Office
Common Council/City Clerk – License Division
CCF 141628



Ceella, Jessica

From: Rachel Koester <rkoester@aplawoffice.com>
Sent: Wednesday, April 15, 2015 4:02 PM
To: Owczarski, Jim; Ceella, Jessica
Cc: 'Victor Arellano'; 'Andrea Serna'
Subject: Written Objections of the License Committees Findings re: Terra Restaurant and Bar, Inc.
Attachments: 2015 4 15 Written Objections.pdf

Folks:

Attached please find the Written Objections of Ms. Contreras. If you have any questions regarding this matter, do not hesitate to contact our office.

Sincerely,

Rachel Koester
Legal Assistant to Victor M. Arellano
Arellano & Phebus, S.C.
1468 North High Point Road, Suite 102
Middleton, WI 53562
Telephone: 608.827.7680
Facsimile: 608.827.7681

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Arellano & Phebus, S.C.

Attorneys
Victor M. Arellano †
Douglas J. Phebus *
Kurt C. Kobelt

* Nationally certified
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† Former Court Commissioner

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Paralegals
Andrea Serna

Legal Assistants
Yovanini Rubio
Rachel Koester

April 15, 2015

To: All Members of the Milwaukee Common Council

From: Attorney Victor M. Arellano on behalf of Respondent Jenny Contreras

Re: *Written Objections to the Recommendations and Report of the City of Milwaukee, Licenses Committee*

The respondent, Jenny Contreras, owner of Terra Restaurant Bar, Inc., located at 600 South 6th Street Milwaukee, Wisconsin 53204, by her attorneys Arellano & Phebus, S.C., by Attorney Victor M. Arellano provides the following response/objection to the Proposed Findings of Fact, Conclusions of Law and Recommendation issued by Mr. Tori Zielinski, Chair Licenses Committee.

I. INTRODUCTION

Ms. Jenny Contreras is a young 36 year old Entrepreneur who owns Terra Restaurant and Bar and an income tax preparation business located at 1010 S. Cesar E. Chavez Drive, Milwaukee, Wisconsin 53204.

The Terra Restaurant and Bar holds a class "B" Tavern & Public Entertainment Premises Licenses. Her licenses expire at midnight on April 21, 2015. Ms. Contreras submitted a timely application to renew on February 4, 2015. The Licenses Committee scheduled a hearing on April 6, 2015, based on certain concerns raised by the Milwaukee Police Department involving two incidents that occurred at the Terra Restaurant and Bar (July 18, 2014 and February 3, 2015) and the concerns raised by Alderman Jose Perez. There were no other complaints raised at the hearing regarding the management and operations of Terra Restaurant and Bar nor did any neighbor appear to oppose the renewal of the business license.

There were two significant issues raised by Committee Members after Respondent's presentation.

The first issue related to Respondent's concerns regarding Alderman Jose Perez' motives for opposing her application for a renewal or her business license. Specifically,

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Respondent through her counsel alleged that Alderman Perez had approached the owner of the building where the Terra Restaurant and Bar is located and had informed said owner that he had a buyer for the premises. When this issue was raised during Respondent's presentation, it immediately elicited a significant reaction on the part of the Chair of the Licenses Committee who immediately came to the defense of Alderman Perez.

The second issue which triggered a significant reaction on the part of an influential Committee Member related to the police investigation of the July 18, 2014, incident. After members of the Milwaukee Police Department had fully reviewed Terra's video recording of the incident, the Respondent refused to allow the officer's to confiscate the video without a properly executed search warrant. Subsequently, the police did obtain a search warrant and the video record was released to the department by the Respondent.

Respondent's decision to exercise her Constitutional 4th Amendment Right by demanding a properly executed search warrant of the video recording was viewed by the committee as a significant element for denying the renewal of the License.

II.

OBJECTIONS TO THE FINDINGS OF FACT TO THE INCIDENT OF JULY 18, 2015 (PARAGRAPH 5)

Respondent objects to the mischaracterization of the Committee's Report as follows:

1. On July 17, 2014, a relative of Respondent's husband was on his way to Madison, Wisconsin riding on public transportation ("Tornado Bus Line"). The final stop for the public transportation was on the Southside of the City of Milwaukee and his estimated arrival time was between 5 a.m. and 6 a.m. Mr. Contreras was asked to pick him from the bus stop and allow him to wait at the bar until someone was able to pick him and provide transportation to Madison. Mr. Contreras guest was picked up from the bus stop between 6:30-6:45 a.m., by Jesus Medina who was an employee of Terra Restaurant and Bar. Mr. Contreras' relative arrived with a female friend.

On the evening of July 17, 2014, the bar closed at 2:30 a.m. (July 18, 2014) and the only people at the bar were 5 employees who are responsible for the closing and cleaning of the premises. The employees are usually finished between 3:30-4:00 a.m. Ms. Contreras was not at the premises when the relative and his female companion arrived. However, Mr. Contreras stayed at the bar to wait for the visiting relative. Once Mr. Contreras received the visiting relative and his female companion, Mr. Contreras went to sleep. The enclosed narrative provides a detailed account of what occurred the early morning of July 18, 2014.

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The allegations contained in the report with respect to what actually occurred at Terra the morning of July 18, 2014, are highly misconstrued and not consistent with the facts.

2. Respondent admits that on February 3, 2015, after closing the Terra she allowed patrons to remain until their last drinks were finished.

3. Respondent asserts that the Licenses Committee's decision to punish her at least in part for raising issues of public concern about a public servant (Alderman Jose Perez) and her decision to exercise her 4th Amendment right to preclude the confiscation of the video recording on July 18, 2014, is improper and in violation of her Constitutional Right to FREE SPEECH.


At the hearing it was evident that the decision to turn down Respondent's request for renewal was influenced in part by her criticism of Alderman Jose Perez and her decision not to release the video without the required safe guards the constitution provides against police action.

CONCLUSION

The Respondent seeks the renewal of her license and believes that but for these two unfortunate incidents, Terra Restaurant and Bar has enjoyed a positive reputation in the community and contributed revenue to the community. The City of Milwaukee has a history of using less punitive measures towards businesses with histories of violence including but not limited to fighting, gun shots, and drug dealing without revoking their business licenses and their right to improve their business operations. Respondent believes that the refusal to allow her to operate the business is too severe of a punishment and contravention of her right to equal treatment. Respondent plans to improve the management of the business and will follow any guidelines imposed on her by the council. There have been no convictions against the Respondent or her family nor have any members of the community come forward to complain about the Terra Bar and Restaurant.

Respectfully Submitted,

ARELLANO & PHEBUS, S.C.



Victor M. Arellano

VMA:rvk
Enclosure

Rachel Koester

From: Juan G Contreras <meminn@hotmail.com>
Sent: Monday, April 13, 2015 12:50 PM
To: Victor M Arellano; Rachel Koester
Subject: Narrative

On July 17,2014 I received an unexpected call from my Sister Nora Najera informing me that my nephew Juan Jose Najera was on his way to Madison in the Tornado Bus Line which makes it's final stop in Milwaukee south side, the arrival time for the bus was between 5am - 6am, i had accompanied my wife to her bar that day and that's were I received the call that he was on his way to Milwaukee and needed me to pick him up because my other nephew in law Pedro could not go that early for him, the bar closed at 2:30 am that night of July 18,2014 , after it was closed the employees 5 of them stay behind to clean the bar and restaurant area and close the register etcetera, they usually are done between 3:30-4:00 am, my Wife has another business that she works at in the morning so after she closed the register we decided she could go home and get some rest and i would stay behind and wait for the bus with my nephew to arrive. I stayed with one other employee that had a car waiting for him at the bar since it is close to the bus arrival location. We sat at the bar area waiting until the bus arrived between 6:30-6:45 am that day and then my nephew called me to let me know he was at the bus stop and my employee Jesus Medina went and got him and brought him back to the bar were they were supposed to be Pick up by Pedro around 7am, my employee left shortly after he drooped them off, we were waiting on Pedro To arrived but called to say he was running late, we spoked for a while. at that point i was tired and decided to rest for a while,we have a VIP area next to the bar entrance facing 6th street that was a sofa , i laid in the sofa to rest and fell asleep, my nephew was accompanied my a woman which i did not know, he said it was her girlfriend, they were in the restaurant area , after that i slept for a while and hear some noise in the restaurant area that woke me up and went to the restaurant area, i saw a decorative jar that had plastic marvels in the floor all scattered, i asked what was going on and my nephew responded that his girlfriend was upset, i told him to pick and to behave and went back to the sofa and went to sleep , i did not make of what time that happened, the second time i was wakened was a nock at the window of the bar next to were i was sleeping and saw the gas person and signaled him to go to the other door on the restaurant side so i could open, when I stepped in the other room i saw the girl in the floor and asked my nephew what's wrong is she okay and he replied she is acting up, she was laying next to him and he was on the phone doing something, i opened the door to the man and he said he was there to deliver some gas and i told him i don't work there and i have no authority to receive any gas, he asked me about the girl if she was ok and i said i don't know I am still asleep and just opened the door for you and i need to see whats going on , at that point i think he called 911 and i went to the girl and garbed her arm and asked her are you ok and she said nothing then she said yes I am ok , at that point the man was gone and she got up and started to argue with my nephew, they went to the restroom and we're arguing, at that point it was around 10 am i don't remember well and called my wife and told her that the couple was arguing and Pedro Was not there to pick them up, i also told her about the gas person and said she did not requested any gas and said i am going over there as soon as i am ready, i started to sweep the plastic marvels off the flor when an officer came inside and asked me if there was a woman in need of help and i said they we're in the restroom arguing and he went inside and started to talked to them after that 3 other officers arrived and asked me what had happened and told the what i have just wrote , My Wife Jenny arrived soon after and Pedro did to from madison, Officers asked for our id's i believe and question us , one Officer asked if we had security cameras and Jenny said yes and went with the Officer to the system, then i was approached Officer Anderson and taken out side of the building and was asked once more what had happened and told him the same story and was told to come inside and sit down and went to join the other officers at looking at the video, the officers were have trouble with the girl she was upset for some reason and was yelling at them, as i was talking with an officer Mr Anderson came out of the room were the were looking at the video and arrested my nephew and Me and informed me that my nephew had hit the girl and they where drinking in the video, i was also informed by one other officer that she was hitting him and he hit her back then jenny also confined what they just said to me, two officer question me me of why i was being arrested and i responded for not

aiding a victim one of the officers nodded his head then Mr Anderson took us to the police car and put us in the back seat then he started the car and turn on the heater with the window up and left us there for about 20-30 minutes, then where taken to the precinct where we sat for some time , thats when the other two officers that were at the seen came into the garage area of the precinct and saw me there and said are you still here and one said this is ridiculous and laugh after some time i was taken inside to be booked and once more officers at the booking area called on Mr Anderson and asked why i was being booked and i don't know what he told them and the one in the computer said it was a waste of time , then i was sent down town .

* I was never behind the bar serving my self or others like Mr Anderson mentioned

* It Was Not 3 am when my family members like Mr Anderson mentioned where at the bar in the video it was the employees that where cleaning up

* The Girl was never in the sidewalk outside at any time she was inside in the restaurant floor and i was never sweeping around her at any time like the Lady Person in the committee said

* I was not intoxicated i was asleep and recently woken up and somewhat confused of what had happened

* I never saw what happened

* I cooperated fully with 3 Officers including Mr Anderson not like Mr Anderson mentioned in his testimony and there are 3 other officers that where involved than can attest to that , two Whom were not in agreement to me being arrested

* Jenny cooperated fully with all the officers not like Mr Anderson mentioned

* The video was not erased by anybody , the system had a 7 day recording due to its capacity it records one new day and deletes the oldest day and they knew that , if they left the system on after it was taken from us the system will continue to record and delete automatically, and Mr Anderson made a comment on that in the committee , so they knew the had made an error an their behalf by letting the system on

* Officer Anderson was called upon by Alderman Perez to testify against us, otherwise they don't show up at those hearings

* Alderman Perez told Jenny's Land Lord to not sell , to wait that he has buyers for the property, there is an interest in that entire block to build a luxury loft apartment building and the only property standing in the way is the property that Jenny rents and her contract has an option to buy, if they take her license away the property was no value to her because she can not use it as a business so she will have no reason to buy the property without a license and we think thats why Mr Perez does not what to renew her license

* There are many establishments around that area that have worst incidents that ours and still keep there licenses , for example Reyna's Cafe which was before Jenny's at the hearing committee 3 violations of operating as an entertainment tavern and did not have a license for that and was granted the license with no issue at all by Alderman Perez

If you Need any more information let me know , Thank You Juan

Sent from my iPad

Ceella, Jessica

From: Owczarski, Jim
Sent: Tuesday, April 14, 2015 12:56 PM
To: Ceella, Jessica; Schunk, Jason; Pfaff, Richard; Moschella, Vincent; Zielinski, Tony; Perez, Jose
Subject: FW: Jenny Contreras Terra Restaurant Bar Inc. Class B Tavern and Public Entertainment Premises License

Please see below.

Thanks,

Jim

Jim Owczarski, CMC
City Clerk
(414)-286-2998
<http://milwaukee.legistar.com>



MILWAUKEE

From: Victor Arellano [<mailto:varellano@aplawoffice.com>]
Sent: Tuesday, April 14, 2015 12:38 PM
To: Owczarski, Jim
Subject: RE: Jenny Contreras Terra Restaurant Bar Inc. Class B Tavern and Public Entertainment Premises License

Notify them immediately we will appear as scheduled!!!ASAP!

On Apr 14, 2015 12:26 PM, "Owczarski, Jim" <jowcza@milwaukee.gov> wrote:

Attorney Arellano –

This office is in receipt of your e-mail which we take to be both an objection to the recommendation of the Licenses Committee and a request that the scheduled hearing on this recommendation be postponed. Please be advised of the following:

1. Only the Common Council has the authority to grant or deny this request for a postponement. It would be placed before the body at its meeting April 21, 2015. If it is granted, your hearing would be rescheduled to the next regular meeting, May 12, 2015. If, however, it is denied, the matter could be heard and decided without you or your client present.

2. Your client's license expires at 11:59 p.m. on April 21, 2015. As a result, even if the postponement is granted, her establishment would have to remain closed until a determination is made by the Common Council whether to renew, non-renew, or suspend the license.

If all this is understood, please reply to this e-mail confirming your request for a postponement.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Jim

Jim Owczarski, CMC

City Clerk

[\(414\)-286-2998](tel:(414)286-2998)

<http://milwaukee.legistar.com>



From: Rachel Koester [mailto:rkoester@aplawoffice.com]

Sent: Monday, April 13, 2015 2:36 PM

To: Owczarski, Jim; Pfaff, Richard; Celella, Jessica

Cc: 'Victor Arellano'; 'Andrea Serna'

Subject: Jenny Contreras Terra Restaurant Bar Inc. Class B Tavern and Public Entertainment Premises License

Mr. Owczarski:

Attorney Arellano is in receipt of your letter dated April 9, 2015, notifying Ms. Contreras that there is a Milwaukee Common Council hearing scheduled for Tuesday April 21, 2015, at 9:00 a.m. pursuant to the instant matter. Attorney Arellano is required to be in court in Dane County for a Criminal Trial on that date and time (Case No: 09CM2859 & 14CF1070). At this time we respectfully request that this matter be set-over so, that Attorney Arellano is able attend and present his Oral Arguments on behalf of Ms. Contreras.

Thank you in advance for your prompt attention to this request.

Sincerely,

Rachel Koester

Legal Assistant to Victor M. Arellano

Arellano & Phebus, S.C.

1468 North High Point Road, Suite 102

Middleton, WI 53562

Telephone: [608.827.7680](tel:608.827.7680)

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