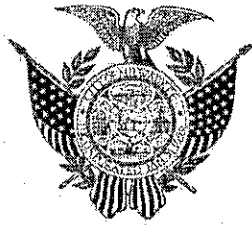


**CHAIR**

• Licenses Committee

**MEMBER**

• Community and Economic  
Development Committee  
• Steering and Rules Committee



**TONY ZIELINSKI**  
ALDERMAN, 14TH DISTRICT

February 5, 2016

To the Honorable, the Common Council

Dear Members:

Re: Common Council File Number 151303

Attached is the written objection to file number 151303, Motion relating to the recommendations of the Licenses Committee relative to licenses, relating to the recommendation of:

Nonrenewal of the Class B Tavern, Food Dealer's and Public Entertainment Premises licenses based upon items #5-8, 10 and 12 in the police report, and neighborhood, police, applicant, and aldermanic testimony for Debra Torres for the premises located at 1500 W Scott St ("The Tool Box") in the 12th aldermanic district.

Nonrenewal of the Class B Tavern and Public Entertainment Premises licenses based upon the police report, and neighborhood and aldermanic testimony for Israel Ocampo for the premises located at 2724 S 13<sup>th</sup> St ("Exoticas the Club") in the 14th aldermanic district.

This matter will be heard by the full Council at its Tuesday, February 9, 2016 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 151303



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ANDREW P. ARENA

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February 3, 2016

James R. Owczarski  
City Clerk  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, WI 53202-3570

CITY OF MILWAUKEE  
2016 FEB - 3 PM 4: 28  
CITY CLERK'S OFFICE

Re: Objection to the Findings of Fact and Conclusions of Law  
For: Debbie Coops LLC as agent for "The Tool Box"  
Premises Address: 1500 West Scott Street.  
Registered Agent: Debra J. Torres

Dear Clerk:

Pursuant to Chapter 90 of the City of Milwaukee Ordinances the renewal applicant Debbie Coops, LLC d/b/a The Tool Box and its Registered Agent, Debra J. Torres, by their Attorney, Arena Law Offices, LLC, hereinafter referred to as "the Licensee", by Attorney Andrew P. Arena files these written objections to the findings of fact and conclusions of law entered by Alderman Tony Zielinski on January 29, 2016.

The Licensee purchased the building and business at 1500 West Scott Street two years ago. The end of the first license year the license was renewed with a warning letter. The Licensee and her husband David Torres have lived in the neighborhood for 17 years. It was the Licensees belief that the business was an important part of the neighborhood, as a place that residents could gather and socialize, and have a sense of community. They decided to purchase the business and fix it up, as the previous owner allowed it to become run down. The Licensee's Husband David Torres, is a carpenter/contractor, therefore he was able to fix and remodel things over time, as money was available. They have put in \$30,000.00 to \$40,000.00 of repairs. They also installed a new concrete patio, a roofed overhang, and a fence around the patio area.

The purpose of this objection is to request that an alternative punishment to non-renewal be considered by the Common Council. As was stated in the hearing by Alderman Kovac, discipline is suppose to be progressive in these matters. There is no doubt the business could be run better, and changes could be made to prevent problems from occurring, and allow for a harmonious relationship with the neighbors. This particular business could be an asset to the neighborhood, as far as preventing crime by placing more cameras. At this time the Licensee is not proud of the record or some of the incidents that are being associated with this business. The Licensee believes that the loss of the license and the investment, are a very heavy burden. The only neighbor, that is an actual resident that testified was Mary T. Schneider,

who lives right across the street at 1505 W. Scott Street. Ms. Schneider provided a written statement to the Office of Alderman Perez and it is attached hereto as exhibit 1, and incorporated herein by reference, as though fully stated herein.

The letter that is exhibit 1 states that Ms. Schneider has had the input of other neighbors on creating a plan that the neighborhood is willing to allow the Licensee to try for a period of one year. This letter also acknowledges that there were positive improvements. She stated, “. . . have seen the changes that he has made to his establishment, which ARE (emphasis not added) a positive aspect to the business . . .”

Ms. Schneider as the spoke person for neighbors stated in exhibit 1 that if proposed changes were made she believed the business could be an asset. The changes requested are as follows:

1. Smoking in the back only. No loitering in the front. This would include weekends.
2. Door must be kept closed at all times.
3. Closing by 10 p.m. promptly.
4. Neighbors must be kept informed and updated of any changes.
5. 25 and up only
6. Security on premises
7. Owner /manager to be on premises during business hours.

The Licensee finds the above discussed changes as reasonable. The Licensee will amend the application to reflect those items. As stated, the Licensee by her husband testified that they bought a home closer to the business to respond to things within five minutes. The Licensee currently owns four other homes in the neighborhood, which demonstrates that they do have a vested interest in the community. As for the neighbors requests, the Licensee will accept them, and follow through with each and every one of them.

The Licensee does not intend to down play any seriousness of the incidents. Clearly, more responsibility needs to be taken for the actions of others once they leave through the exit. It was proposed by the Licensee to close earlier at 10:00 p.m., and it is believed that this will bring an end to people coming to the business that are prone to engage in violence.

Other than Mary Schneider there were witnesses that were associated with the Notre Dame School. These witnesses testified they were concerned that certain things could take place during times when the students were present. No incidents did take place at or before 6:00 p.m. The Principal of the School stated that there were students present until 6:00 p.m. As for patrons being seen by students, this could be corrected by allowing smoking only on the back patio.

The Licensee believes that a chance at progressive discipline, and reasonable changes would be fair. In support of this the Licensee would like to point out some mitigating things about the findings of fact and conclusions of law. There were 11 items in the hearing notice and testified to. Six (6) of the eleven (11) were tavern checks with no violations, or incidents that were not verified, as having actually occurred. Each incident is addressed as follows:

As to 5. A. A November 23, 2014 response to a battery complaint. The bartender was unaware of any battery and the Police could not contact the caller. Therefore, there is no proof that any battery took

place and it should not be considered by this honorable body.

As to 5.B. This was a tavern check with no violations.

As to 5.C. This was a tavern check with no violations. (5B and 5C demonstrate that the Licensee is able to conduct the business properly.)

As to 5.D. This incident was on April 2, 2015 and was the result of a call from the bartender. A patron threw a bottle because he was refused service. There were no verified injuries or evidence of any fight or battery. To term it as a "fight/battery" complaint is an over exaggeration that has no basis in fact, and should not be considered, or supports a suspension.

As to 5.E. On April 9, 2015 a man and wife were arguing. When they left it was observed that the man struck the woman in the video surveillance and the police were called. This was appropriate action taken, and demonstrates that the cameras were helpful, and the staff was responsible by calling the Police.

As to 5.F. A disgruntled customer was upset for being removed for starting arguments and yelling at others. After being removed he kicked the door. The business called the Police. There were no injuries, and no verified battery or fight. This incident is minor and demonstrated that the business is willing to protect its customers and call the police.

As to 5.G. There was a fight complaint, but it was not verified that there was a fight. When the Police arrived there were no injuries, victims, or fighting observed.

As to 5.H. The Police responded to a battery complaint when it was denied that the call came from the location. No victim of a battery or caller was located by the Police. This could be a call from a jealous person, someone with an ax to grind, but it does not establish that the business did anything wrong, or was creating a problem.

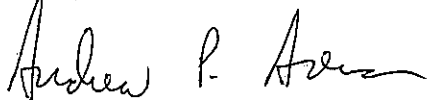
As to 5.I. On August 22, 2015 a person was shot outside by a person that never entered the tavern. This is the un-controverted testimony of David Torres who was present, and supplied the video to the Police that resulted in the shooter being identified and prosecuted. The incident establishes that there were not guns inside, and possibly there was a vendetta or score being addressed from happenings on the street. The Licensee submits that the shooter was not a customer. The Licensee asserts that the Common Council has renewed with suspensions several establishments that had shootings. One such establishment had two people murdered inside, at the New Entertainers Bar on Green Tree Road, which is an example of a location that received a suspension when the two homicides actually occurred inside.

As to 5J. And 5K. This was a tavern check that resulted in no violations, and a second check that had an minor on premise found and is now the subject of the Respect 21 program.

In conclusion the Licensee is requesting a chance to correct the mistakes and save the business. The Licensee believes the incidents are troubling, but with proper changes can become things of the past. It is the Licensees request to follow the recommendations of Mary Schneider. The non-renewal appears overly harsh, and is certainly not progressive discipline. It is believed that the Common Council should suspend the Class B License for an amount of time to be determined by the

Common Council. The Licensee is willing to amend the plan of operation, and requests that a member of the honorable body make a motion consistent with progressive discipline, and considering other similarly situated Class B licenses.

Respectfully Submitted this 3rd day of February, 2016.

By:   
\_\_\_\_\_  
Attorney Andrew P. Arena on behalf of Debra J. Torres

To Whom It May Concern:

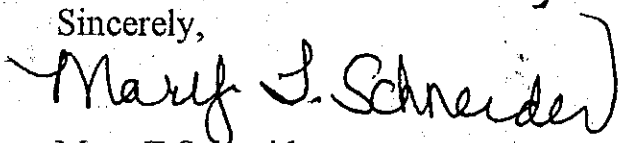
January 2016

My name is Mary Schneider, I live at 1505 W Scott St. across the street from the tavern in question. I last spoke out on this issue when the owners came up for license review before the Licensing Committee. I spoke about the noise that was coming from the tavern late in the evening/early morning, the door being left open after repeated request to keep it closed and the general quality of life issues that were being affected by the business. Several others from the neighboring school also attended and spoke to the issue.

I spoke to Dave later that same afternoon. I have known Dave and Debbie for 20+ years and have seen the changes that he has made to his establishment, which ARE a positive aspect to the business and I wanted to touch base with him on what transpired earlier in the day. I also wanted to affirm with him that our friendship and his business were two different issues. I told him that he needed to start taking some responsible action if he wanted any chance before the full council. He told me that the proposed actions taken at the meeting today were very sobering to him. I also told him that I would talk to a few of our neighbors and with some *very strict changes* I would be willing to support his presence for at least the next year. I realize that some of the issues are more serious and those need to be addressed. Other changes that were within his ability to make immediately would go a long way to not only bettering the business but to also bettering his relation with the neighborhood and the community at large. If ALL of these changes are made and adhered to then not only would they be welcomed but his business could be an asset to our neighborhood. But mark our words, these changes NEED TO BE MADE and STRICTLY ENFORCED.

A second chance it just that, a *chance*, and I and the neighbors that I spoke to were amenable to retention of his license if the following measures were adhered to. I will be at the next licensing session if he is granted a reprieve and I will be more than happy to inform the board of what has taken place (or not) in the year to come. I also told Dave that while it is his chance to make amends it IS his *last* chance and I do believe that he realizes this.

Sincerely,



Mary T Schneider

Requested changes to take place:

Quality of life issues:

1. Smoking in the back only. No loitering in the front. Front door is for entering/exiting only. No sitting or standing in front of building at **anytime**. (For the school reasons - For the record, this includes weekends as there are school functions on some weekends.)
2. Door must be kept closed at all times.
3. Closing by 10 pm promptly.
4. Neighbors must be kept informed and updated with any changes.

Safety issues:

1. 25 and up only
2. Security on premises.
3. Closing by 10 pm promptly (also listed in quality of life.)
4. Owner/manager must be on premises during business hours.

# WHITCOMB LAW

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mjwhitcomb@lawmke.com

February 3, 2016

The Honorable Common Council  
of the City of Milwaukee  
Room 205, City Hall  
200 E. Wells Street  
Milwaukee, WI 53202

Re: Renewal of Class "B" Tavern, and Public Entertainment Premises Licenses

Licensee: Valdemar & Israel LLC  
Premises: 2724 S. 13<sup>th</sup> Street  
Trade Name: Exoticas the Club

Honorable Members of the Common Council:

Please be informed that this office represents the above-referenced licenses renewal applicant. This communication is submitted as the applicant's written objections to the January 29, 2016, Report of the Licenses Committee (hereinafter "Committee"), recommending not to renew the licenses. The applicant requests that these written objections be considered at the Common Council meeting of Tuesday, February 9, 2016, at which time the Committee's recommendations regarding the license renewals will be considered. The licensee objects to the accuracy of the Findings of Fact contained in the Report. Below is a summary of the incidents in the police report:

- On January 16, 2016, there was an incident involving a patron stepping on another individual's shoe, which created a conflict. After the patrons left the establishment, the patron who stepped on another's shoe was shot while in a vehicle. On January 18, 2016, the police were notified by tavern management that the suspect who committed the shooting was in the tavern. The suspect left the tavern before the police arrived, but the tavern did provide video evidence to the police.



While this event is concerning, this incident did not happen at the tavern. Security staff handled the incident properly and made sure the patrons complied with their instructions to leave the area. Staff could not foresee that the victim, while in a vehicle, would be followed and shot by the other patron away from the tavern. The licensee and its staff cooperated with police and provided video of the incident. In fact, two days later the tavern's security officer called the police to inform them that the suspect was in the tavern—this is an action of a responsible tavern owner, not a nuisance tavern owner.

Since this incident, management of the tavern is now under control of the owner and the security chief. It has reduced its hours and has decided to close at 1:00 a.m. to ease the late-night commotion in the area. As well, the tavern has imposed a reduced capacity to help prevent similar incidents in the future.

- On February 13, 2015, a disgruntled patron told police officers that he was at the venue earlier in the evening and was battered by tavern staff. This is untrue. The patron inappropriately touched a female dancer so security staff removed him from the venue. The police did not issue any citations or complaints against tavern staff. The licensee handled this situation appropriately.
- On April 19, 2015, security staff appropriately removed unruly patrons from the venue. Police arrived on the scene to assist tavern staff deal with the unruly patrons who refused to leave the area and continued to be a nuisance. These patrons are not allowed back into the venue. As with any licensed entertainment venue in the city, it is difficult to avoid all situations such as this.

The remaining incidents on the police report are minor and relate to change in ownership and management of the establishment or they indicate a positive interaction with the police. The police did cite tavern for not having a licensed person present to serve alcohol. This management issue has been resolved and the litigation of the citations will conclude this month, which should only be considered thereafter.

The Committee also refused to allow testimony from any supporters of the licensee while allowing testimony from two individuals who were critical of the establishment. At least one supporter indicated that she wanted to testify when the Committee asked for citizens to raise their hand to be sworn in. Later during the hearing, other supporters indicated that they wished to be heard as well, but were denied the opportunity. This denial is a violation of the licensee's right to due process and for this reason alone the Common Council should not adopt the recommendation of the Committee.

Non-renewal of the licenses is a severe, excessive and unprecedented punishment based upon the evidence presented to the Committee—especially as it would conflict with the Committee's

policy of progressive punishment as the licenses were renewed without a hearing last year. The licensee has not been convicted of any offenses relating to its licensees.

The licensee has run a successful tavern for the past two years. The police report and testimony do not support a non-renewal. Adhering to the Committee's policy of progressive discipline, it is respectfully requested that this Honorable Body renew the licenses with a warning letter notwithstanding the recommendation of the Committee.

Thank you for your consideration.

Sincerely,

/s/

Michael J. Whitcomb

cc: Valdemar & Israel LLC