

**CHAIR**

- Licenses Committee
- City Information Management Committee

**VICE CHAIR**

- Milwaukee Arts Board

**MEMBER**

- Steering and Rules Committee
- Public Works Committee
- Milwaukee Public Library Board
- Employee's Retirement System Annuity & Pension Board



**NIK KOVAC**

ALDERMAN, 3RD DISTRICT

April 11, 2019

To the Honorable, the Common Council

Dear Members:

Re: Common Council File Number 181618

Attached are the written objections to file number 181618, Motion relating to the recommendations of the Licenses Committee relative to licenses, relating to the recommendations of:

Renewal, with a ten (10) day suspension, based upon the police report, of the Food Dealer license of Michael Witynski for the premises located at 930 N. 27<sup>th</sup> St. ("Family Dollar #26182") in the 4<sup>th</sup> aldermanic district. (Committee vote: 2 ayes, one no, one abstain and one excused)

Nonrenewal, based on the police report and neighborhood and aldermanic testimony, of the Class A Malt and Class A Liquor licenses of Parul Patel for the premises located at 3447 W. Wells St. ("Sundeep Liquor & Food") in the 4<sup>th</sup> aldermanic district. (Committee vote: 4 ayes and one no)

This matter will be heard by the full Council at its Tuesday, April 16, 2019 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached statements and materials.

Respectfully,

Nik Kovac, Chair  
Licenses Committee

cc: All Council Members  
City Attorney's Office  
Common Council/City Clerk – License Division  
CCF 181618

# Gimbel · Reilly · Guerin · Brown

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LLP

Writer's Direct E-mail  
jlgimbel@grgblaw.com

April 10, 2019

**VIA MESSENGER**

Jim Owczarski, City Clerk  
200 East Wells Street, Room 205  
Milwaukee, Wisconsin 53202

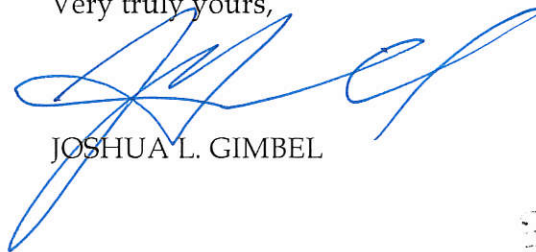
Re: *Food Dealer License of Family Dollar Stores of Wisconsin LLC*  
*930 North 27<sup>th</sup> Street (Family Dollar # 26182)*

Dear Mr. Owczarski:

Enclosed please find an original and one copy of Family Dollar's objections to the Licenses Committee's report in the referenced matter. This document is filed in accordance with City of Milwaukee Ordinance 85-5-2. Please file stamp the copy of this letter and return it to us with our messenger.

I also request the opportunity to be heard at the Common Council hearing on this matter pursuant to City of Milwaukee Ordinance 85-5-4(c).

Very truly yours,



JOSHUA L. GIMBEL

Enclosure

[civ/dollartree/foodpermitsfd/c/cityclerk2019-04-09](http://civ/dollartree/foodpermitsfd/c/cityclerk2019-04-09)

CITY OF MILWAUKEE  
2019 APR 10 PM 12:45  
CITY CLERK'S OFFICE

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In the matter of the Food Dealer License of  
Family Dollar Stores of Wisconsin LLC for the  
Premises located at 930 North 27<sup>th</sup> Street in the City and County of Milwaukee

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### OBJECTIONS TO LICENSES COMMITTEE REPORT

On April 3, 2019, Family Dollar Stores of Wisconsin LLC, by its regional manager Kelly O'Dea and its attorney Joshua L. Gimbel of Gimbel, Reilly, Guerin & Brown LLP, appeared before the Licenses Committee to seek renewal of its Food Dealer License. At the conclusion of the hearing, by a vote of two ayes, one no, one abstention and one excused, the committee voted to renew the license subject to a ten-day suspension. The Committee issued its Findings of Fact and Conclusions of Law on April 5, 2019. Family Dollar objects to the Findings of Fact and Conclusions of Law, including the suspension, for the following reasons.

1. The store seeking renewal of its license is located at 930 North 27<sup>th</sup> Street.
2. Of the nine incidents cited in the Findings of Fact, only three of those incidents occurred at that location.
3. The various incidents were addressed by counsel and Ms. O'Dea. As for the sale of cigarettes to minor/underage, Family Dollar indicated at this hearing (and at the other hearings that day) that it would be enrolling in the MARTS program before the next municipal court date of April 29, 2018.
4. Item C occurred in March 2018 and involved an argument between family members in the store that escalated after they were outside the store in the parking lot.

CITY CLERK'S OFFICE  
2019 APR 10 PM 12:45  
CITY OF MILWAUKEE

5. Ms. O'Dea explained that since the March 2018 incident, Family Dollar has taken steps to improve its security, including placing an armed security guard on site. She indicated that security has improved with the armed guard.

6. There were only two members of the community to speak to the license renewal. Both supported the renewal.

7. Keith Stanley, Executive Director of Near West Side Partners, Inc. stated there is a need in the community for this store and that although he initially was going to oppose the renewal, after discussions with Ms. O'Dea and counsel his organization had no objections to renewal.

8. It was placed on the record at the Committee that Family Dollar would address the following concerns raised by Mr. Stanley: improved site security, increased combatting of loitering (Ms. O'Dea testified to physical improvements made to assist with this item), better litter and trash containment, and an open dialog to address other building and maintenance issues.

9. Family Dollar also agreed to review and sign the Near West Side Partner's Good Business Agreement which has been signed by other stores in the area. Finally, Family Dollar agreed to participate at the Near West Side Partner's next job fair.

10. Timothy Felix stated that the store carried good product, was very convenient and that there were no other places to buy food within several blocks.

11. The alderperson for the licensed premises, Alderman Bauman, noted the store's issues with shoplifting; however, he noted that the store provides a valuable

service to the community because it is located in a food desert and explained that the residents would have to go several blocks away to get food if the store was closed.

12. In light of the understanding reached between Family Dollar and the Near West Side Partners, Alderman Bauman said he did not object to the license renewal and in no way indicated any suspension was warranted.

13. At the close of testimony, and contrary to Alderman Bauman's wishes, Alderman Witkowski moved to approve the license with a 10-day suspension. His motion was based on the fact that Family Dollar was before the committee on five items that day and, in his opinion, Family Dollar is not interested in the community and only makes changes or improvements after a suspension.

14. Committee Chair Alderman Kovac objected to the motion based on the testimony, the agreement with the Near West Side Partners and the comments by Alderman Bauman.

15. Paragraph 2 of the Conclusions of Law state that Family Dollar did not meet the criteria to renew without a ten-day suspension, citing the police report and aldermanic testimony.

16. Based on the uncontested speakers in support of the renewal and the Alderman's position, a renewal without any suspension should have been recommended to the Common Council.

Family Dollar requests an opportunity to be heard at the Common Council meeting on April 16, 2019.

Dated this 9<sup>th</sup> day of April, 2019.

GIMBEL, REILLY, GUERIN & BROWN LLP

By: \_\_\_\_\_

JOSHUA L. GIMBEL

State Bar No. 1007402

jlgimbel@grgblaw.com

Attorneys for Family Dollar Stores of Wisconsin LLC

**POST OFFICE ADDRESS:**

330 East Kilbourn Avenue, Suite 1170

Milwaukee, Wisconsin 53202

Telephone: 414/271-1440

*civ/dollartree/foodpermitsfdojections2019-04-09*



AHMAD & GUERARD, LLP

Attorneys at Law

Date: April 10, 2019  
TO: Members of the Milwaukee Common Council via City Clerk  
(jowcza@milwaukee.gov; lelmer@milwaukee.gov)  
From: Parul Patel Agent for Kinkun, Inc. ("Sundeeep Liquor & Food") by and through her Attorney Jeffrey J. Guerard  
Re: Nonrenewal of Class A Malt and Class A Liquor for Sundeeep Liquor & Food the premise located at 3447 W. Wells Street Milwaukee, Wisconsin.

CITY OF MILWAUKEE  
2019 APR 10 P 2:47  
CITY CLERK'S OFFICE

RESPONSE TO THE LICENSES COMMITTEE APRIL 6, 2019 REPORT

The Licenses Committee recommended for nonrenewal of the Sundeeep Liquor & Food. The Committee has routinely given, at most, suspensions for discipline in cases where the conduct of the applicant and the business is much more severe. *See File No. 160154, 90 day Suspension of Le Cabaret, Inc. d/b/a "Texas Jays" for a fight that resulted in felony charges; File No. 160637 10 day suspension of Premier Milwaukee, LLC; File No. 16048 10 day suspension of Hampton Ave. Group, LLC for selling synthetic marijuana out of the store multiple times.* These are but a handful of examples where the Committee has recommended suspensions in light of much more detrimental conduct. The Committee's recommendation in this case is arbitrary and overly harsh.

The owners have operated this store for approximately 7 years. In those 7 years, the store has not had a suspension or even a warning letter. In the interest of progressive discipline, the we are asking the Common Council not following the recommendation of the Licenses Committee and instead issue a warning letter or short suspension.

Sincerely,

AHMAD & GUERARD, LLP

Jeffrey J. Guerard  
Attorney for Kinkun, Inc.