

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

July 25, 2019

To the Honorable, the Common Council

Dear Members:

Re: Common Council File Number 190305

Attached is the written objection to file number 190305, Motion relating to the recommendations of the Licenses Committee relative to licenses, relating to the recommendation of:

Renewal, with a twenty (20) day suspension, based upon the police report, and applicant, aldermanic, and neighborhood testimony of the Extended Hours Establishments, Food Dealer, Filling Station, and Weights & Measures licenses for Kulwant Dhillon for the premises located at 3381 N 35th St (“35th Hometown”) in the 7th aldermanic district.

Renewal, with a ten (10) day suspension, based upon items #6-17 in the police report and aldermanic testimony of the Class B Tavern and Public Entertainment Premises licenses for Marcos Ramos-Garcia for the premises located at 1619 S 1st St (“Points View Boite”) in the 12th aldermanic district.

This matter will be heard by the full Council at its Tuesday, July 30, 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,

A handwritten signature in black ink, appearing to read 'Nik Kovac'.

Nik Kovac, Chair
Licenses Committee

cc: All Council Members
City Attorney's Office
Common Council/City Clerk – License Division
CCF 190305

Kuether-Steele, Molly

From: Emil Ovbiagele <emil@ovblaw.com>
Sent: Wednesday, July 24, 2019 4:13 PM
To: Kuether-Steele, Molly; Owczarski, Jim
Cc: Paul Oberer; kool1dhillon@Yahoo.com; Laura Bauer
Subject: Kool Petroleum, Inc. (3381 N 35th Street) - July 30, 2019 Common Council Hearing

Good Afternoon:

This Firm represents Kool Petroleum Inc. (Agent- Kulwant Dhilion) as it relates to the above referenced matter.

We are in receipt of the Report of the Licensing Committee relating to the committee's hearing/findings. This email is being sent to preserve my Client's objections to the committee's findings and to reserve my client's rights to present oral arguments to the general common council relating to my client's objections at the July 30, 2019 meeting as it relates to the licensing committee's recommendation.

Feel free to reach out to me with any questions or concerns as it relates to this matter.

Regards,

Emil Ovbiagele, JD, MBA
Attorney

OVB Law & Consulting S.C.
839 N Jefferson Street
Suite 502
Milwaukee, WI 53202
414.585.0588 (office)
414. 255. 3031 (fax)

The preceding email message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message. Legal advice contained in the preceding message is solely for the benefit of the OVB Law & Consulting, S.C. client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party.



July 24, 2019

City of Milwaukee
Office of the City Clerk
Attn: James R. Owczarski
200 E. Wells St.
Room 205
Milwaukee, WI 53202

Re: Renewal Application of Class “B” Tavern
Marcos A. Ramos-Garcia, Agent
1619 S. 1st St. – Points View Boite

Dear Members of the Milwaukee Common Council:

Werk Investments, LLC, (“Werk”) through its agent, Marcos A. Ramos-Garcia, files the following objections through his attorney, Kendrick B. Yandell.

On July 19, 2019, the Licensing Committee recommended that the Class “B” Tavern and Public Entertainment Premises (PEP) Licenses of Points View Boite (“PVB”) be renewed following a ten (10) day suspension. The Committee also voted to amend the capacity from 99 to 80, and to amend the plan of operation, closing the patio at 1 am, instead of 2 am.

The suspension recommendation, and decisions on capacity and patio closing, were made following a public hearing on July 16, 2019. At the hearing, police reports from July 30, 2018 and May 19, 2019 were presented. Testimony in support of the business was made by one neighbor, while Alderman Jose Perez testified as to his concerns regarding two incidents (see below).

Werk objects to the Committee’s recommendation and decisions regarding capacity for the following reasons:

1. The suspension recommendation is a disproportionate sanction.

- a. PVB has never received a warning letter.
- b. The suspension will work an undue hardship on, and cause irreparable harm to, PVB. The suspension will coincide with Fiesta Dominicana, a family-oriented cultural community event sponsored by PVB and featuring international dance and performing artists, musicians, and local vendors. Suspension will cause PVB to lose nearly \$30,000 invested in promoting and launching the event, likely doom future “Fiestas,” and potentially open Werk to legal action by disgruntled vendors and performers. This is in addition to a substantial loss of revenue for two full weekends.

2266 N Prospect Ave #610, Milwaukee, Wisconsin 53202

Phone: (414) 502-2101 Fax: (414) 502-2102

santoslaw.org

2. The suspension recommendation does not factor in the mitigated circumstances surrounding the operations of the business, and management's proactive responses to each incident.

- a. In response to nearly every incident, PVB has implemented preventative measures to reduce the number of negative incidents, and to promote the safety and well-being of the neighborhood.
 - i. PVB has invested more than \$5000 on additional cameras, ID scanners, and fencing (See Exs. 1-15).
 - ii. PVB has hired new management and professional security force.
 - iii. PVB has implemented standard protocols for dealing with altercations, rowdy patrons, and unforeseen incidents.
 - iv. Agent, Ramos-Garcia, requires scanned IDs for all patrons parking in the adjacent lot.
 - v. Agent Ramos-Garcia has provided his personal contact information to all residential neighbors.

3. The recommendation is contrary to neighbor testimony and support.

- a. Mrs. Tamalo testified that she “doesn’t see[] any problems with th[e] bar at all.” She testified that, since PVB opened, she has only experienced one issue, which was related to the noise during an outdoor event. Agent, Ramos-Garcia, stated that he had already decided to reorient speakers to face away from the residential area to the West of PVB. (Testimony of Gloria Tamalo, Min. 2:15:00 – 2:18:00, Hearing dated 7/16/2019).
- b. The Findings of Fact characterize Mrs. Tamalo’s testimony only as she was “concerned about the very loud music,” and disregards her approval of the business, and the fact that there was only a single incident.

4. The decision to reduce the capacity is not supported by any evidence or testimony given.

- a. No testimony regarding capacity was introduced, beyond Ald. Perez’s recommendation. The City did not produce any witnesses to testify regarding capacity.
- b. No testimony or evidence presented correlated any issues described in the police reports with the capacity of PVB.

5. PVB was denied adequate due process.

- a. The Notice of the Committee’s Meeting (“Notice”) did not state that modifications to the plan of operation and reduction of capacity were likely, or even possible. Werk was not given adequate opportunity to prepare for this modification.
- b. The Notice did not state that Werk had the opportunity to present its own witnesses under oath, and to cross-examine witnesses, pursuant to

Milwaukee Ordinance 85.3.b-4. Werk was unable to confront witnesses, whose statements the Committee relied on.

c. Hearsay statements, witnesses, and officers described in the Police reports were not subject to cross-examination as required by Wis. Stat. § 125.12(7)(b)2.

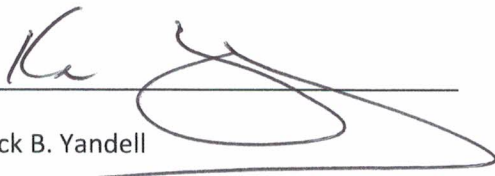
Werk, and its agent, Marcos Ramos-Garcia, respectfully ask the Council to approve renewal of its permits with a warning letter, no suspension, and no reduction in its capacity.

Alternatively, if the Council is not prepared to grant Werk's first request, Werk asks the Council to vote to send this matter back to committee for a re-evaluation, considering alternate remedies proportional to the City's concerns regarding public's health, safety, and welfare. Werk asks the Council to grant a temporary extension of permit to allow PVB to continue operations while this matter is reviewed at Committee.

Werk proposes, as an alternate sanction to suspension and reduction of capacity, that it close its patio entirely.

Werk asks the Council to grant oral arguments at its next regularly scheduled meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Yandell', is written over a horizontal line. The signature is stylized and extends to the right of the line.

Kendrick B. Yandell

Head of Litigation

ken@santoslaw.org