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CITY OF MILWAUKEE

UTILITIES & LICENSES COMMITTEE

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In the Matter of:

MARTINEZ, Janice, Class B Tavern and Tavern Dance application for "California Restaurant & Bar" at 1100 South 11th Street.

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COMMITTEE MEMBERS

- ALD. JAMES BOHL, JR. - Chairman
- Ald. Fredrick G. Gordon
- Ald. Joseph A. Dudzik
- Ald. Terry L. Witkowski

- DEPARTMENT OF NEIGHBORHOOD SERVICES by PANDORA BENDER
- HEALTH DEPARTMENT by OSCAR L. BOND
- LICENSING DIVISION by JAMES COPELAND
- POLICE DEPARTMENT by SERGEANT JOHN HOGAN
- OFFICE OF THE CITY ATTORNEY by BRUCE SCHRIMPF

Proceedings had and testimony given in the above-entitled matter, before the UTILITIES & LICENSING COMMITTEE OF THE CITY OF MILWAUKEE, on the 9th day of March, 2004, reported by Donna Gulczynski of Milwaukee Reporters Associated, Inc.

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P R O C E E D I N G S

(NOTE: All City Personnel Were Sworn Under Oath Prior to These Proceedings.)

CHAIRMAN BOHL: And finally we'll get back to Janice Martinez, Class "B" Tavern and Tavern Dance applications for California Restaurant & Bar at 1100 South 11th Street. Good morning to you.

MS. MARTINEZ: Good morning.

CHAIRMAN BOHL: And if we could have you raise your right hand, we'll swear you in.

(Whereupon Ms. Martinez was sworn under oath.)

CHAIRMAN BOHL: Miss Martinez, I'll ask you if you acknowledge receiving notice of today's meeting with the possibility that the application could be denied? I'll have to read this in; that there are neighborhood objections to littering, loitering, disorderly patrons leaving the premises and after closing, damage to private property, and conduct which is detrimental to the health, safety and welfare of the neighborhood. Health Department?

MR. BOND: Health Department needs entry for inspection.

CHAIRMAN BOHL: Neighborhood Services?

MS. BENDER: No objection.

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1 CHAIRMAN BOHL: Alderman Sanchez?

2 ALDERMAN SANCHEZ: Mr. Chair, if you would,
3 I'd like to ask Sergeant Hogan if he could read in the
4 police report or parts of it, anyway.

5 SERGEANT HOGAN: What Alderman Sanchez is
6 referring to is the indication on the police report,
7 that's the face sheet that you have there, where it
8 says previous premise record, and it's indicated yes,
9 and he's asking for the incident reports from the
10 previous licensee.

11 CHAIRMAN BOHL: Well, Mr. Schrimpf, what's
12 your feeling on that? She was not --

13 MR. SCHRIMPF: She was not notified of that,
14 Mr. Chairman, so there's -- unless she waives it,
15 which she certainly can do, but there's technically
16 that issue. The record of the premises as it operated
17 beforehand is not --

18 CHAIRMAN BOHL: Alderman Sanchez, we can do
19 one of two things. If Miss Martinez is willing to
20 waive that, we can pull that into the record here now.
21 We can either do another thing. We could, at your
22 request, hold this matter. We do have a hearing two
23 weeks from today. We could then reissue the notice,
24 provide that past police report, and take it up then
25 at that point.

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1 Miss Martinez, what Alderman Sanchez, I
2 think, is trying to do is, since this location has a
3 past history, I think he wants that read into the
4 record here. You can agree to waive that, and we can
5 read that into the record here and provide you a copy,
6 or there is the ability where this committee could
7 choose to provide you that notice in the mail, and we
8 could bring you back in two weeks if that is something
9 that is requested. That is one option here before us.
10 It's up to you.

11 MS. MARTINEZ: I really, you know, -- I'm
12 just -- This is the second time I've come in here,
13 and we already did a meeting with him yesterday.
14 Everything -- I mean the neighborhood people who went
15 there yesterday, they had no complaints. He was
16 there. I don't know why now they're calling him and
17 giving him complaints now.

18 I mean the police reports, that's the past.
19 That's from the other licensee. I'm going to be a
20 different licensee. This is going to be different.
21 They can't charge me with the police report another
22 person had. I had nothing to do with that. They have
23 to charge me with what I have, not what the other
24 person had.

25 CHAIRMAN BOHL: Okay. Let me just say,

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1 from a standpoint this is cited for neighborhood
2 objections, are there any neighbors who are present
3 here who wish to testify in opposition to this
4 license? I just want those who oppose it. There is
5 one person who is present here. Okay. Miss Martinez,
6 let me just hear you correct here.

7 AUDIENCE MEMBER: Excuse me. We're in
8 favor.

9 CHAIRMAN BOHL: I understand that. Are you
10 willing to waive that here, or do you wish to proceed
11 forward? Because you have not received notice of that
12 police report.

13 MS. MARTINEZ: Yeah, I have not received
14 notice of that police report, that's correct. I would
15 like to see it. But that's still not going to change
16 my mind. I know I can do it, and I'm going to keep on
17 trying.

18 CHAIRMAN BOHL: Okay. What I wanted to get
19 straight here is, if you want time with it, we have to
20 provide you the legal written notification and provide
21 you the adequate time of notification which you have
22 not heretofore received. That is a potential option
23 here.

24 What I will say during this time, unless the
25 committee wants to hear me otherwise, is if that's the

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1 case, there is the option here by committee to hold
2 this matter to provide you the legal due time that you
3 need on that notification, if Alderman Sanchez wants
4 to proceed forward with that. Alderman Sanchez, if
5 you don't want to proceed forward, -- We can go
6 forward here now, but it will be so without the police
7 report.

8 ALDERMAN SANCHEZ: I'd ask that you hold,
9 Mr. Chair.

10 CHAIRMAN BOHL: Okay. The one thing that
11 I'm inclined to do is, if there is a resident who's
12 here to testify in opposition, is to bring that person
13 forward, and we can take some testimony from her at
14 this point. And that way she wouldn't be required to
15 come down here again, certainly at the time when we do
16 hear this matter here, and hopefully in two weeks you
17 can provide any individuals who may want to testify on
18 your behalf at that time.

19 ALDERMAN GORDON: Mr. Chairman?

20 CHAIRMAN BOHL: Alderman Gordon.

21 ALDERMAN GORDON: The concern I have is that
22 if there is an objector to Miss Martinez, who now has
23 waived -- I mean has not waived her right to be
24 noticed, may want to seek legal counsel on this issue,
25 and then that individual would have the opportunity to

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1 cross-examine this person who's come forward to
2 object.

3 So it seems to me we should hold this matter
4 to give her an opportunity to prepare for legal
5 representation given the notice that she's going to
6 receive regarding the reading into the record of the
7 past licensee.

8 CHAIRMAN BOHL: Okay. Well, Alderman, what
9 I'll do is I'm going to rule that we can take it, and
10 I also know that the precedence is set in the council
11 rules that allows for the committee to overrule the
12 chair, so if the committee wants to overrule the chair
13 on this one, I'm certainly open to that. Otherwise
14 I'm open to hearing from the resident who's here to
15 testify in opposition. We've done it before. We can
16 have the transcripts provided, or we can request the
17 transcripts as well, too. Mr. Schrimpf, do you want
18 to provide me some input on that here if you have any
19 otherwise?

20 MR. SCHRIMPF: It's well within the
21 discretion of the chair. If a witness does come
22 forward and testifies right now, the committee will
23 normally get that witness's address, and if future
24 counsel for the licensed applicant wants to be able to
25 cross-examine that witness, a committee subpoena can

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1 issue, and the person can be brought back for purposes
2 of cross-examination.

3 CHAIRMAN BOHL: And could not a request be
4 made by any legal counsel to the applicant to try to
5 subpoena --

6 MR. SCHRIMPF: Yes.

7 CHAIRMAN BOHL: And if that person were not
8 to show up, potentially, a request could be made and a
9 ruling could be made by the chair that any prior
10 testimony be disregarded?

11 MR. SCHRIMPF: That is also a possibility.

12 CHAIRMAN BOHL: As I said, I'm inclined to
13 hear from the neighbor who's here in opposition. I
14 realize that there's always a weighing of time on
15 individuals who come forward. I know Alderman
16 Gordon's feelings on this one. Alderman Witkowski,
17 Alderman Dudzik?

18 ALDERMAN DUDZIK: I'd like to hear it.

19 CHAIRMAN BOHL: You'd like to hear it?
20 Okay. Seeing as we're not going to overrule the
21 chair, we'll bring her forward here at this time,
22 but what I will tell you, Miss Martinez, is any
23 testimony that comes from her, you will have the
24 ability, if you wish, to ask questions in the form
25 of cross-examination of any statements, and be able to

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1 provide that here.

2 MS. MARTINEZ: Okay.

3 CHAIRMAN BOHL: Ma'am, if you want to come
4 forward here, we'll be willing to hear you.

5 Alderman, what I think we're going to do
6 is we're going to hear from the neighbor who's here in
7 opposition, and then we'll hold the matter, but you
8 relicense it.

9 What we need from is, -- you can just pull
10 up a chair here. We'll need your name and your
11 address for the record and any testimony you have in
12 terms of the license here before us. And we'll need
13 to swear you in.

14 (Whereupon Ms. Roessger was sworn under
15 oath.)

16 CHAIRMAN BOHL: Please proceed.

17 MS. ROESSGER: My name is Consuelo Roessger.

18 CHAIRMAN BOHL: And you're going to have to
19 spell that.

20 MS. ROESSGER: R-o-e-s-s-g-e-r.

21 CHAIRMAN BOHL: And that is your first name?
22 What is your last name?

23 MS. ROESSGER: My first name is

24 C-o-n-s-u-e-l-o. My name last name is

25 R-o-e-s-s-g-e-r.

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1 CHAIRMAN BOHL: I don't roll my Rs well, so
2 I'll just ask you to proceed, please, with any
3 testimony you have. And your address for the record,
4 please?

5 MS. ROESSGER: My address is 1111 South 10th
6 Street.

7 MR. SCHRIMPF: What was that?

8 CHAIRMAN BOHL: 1111 South 10th Street.

9 MR. SCHRIMPF: Okay. That's what I thought.

10 CHAIRMAN BOHL: Thank you. Please proceed.

11 MS. ROESSGER: I have been living there for
12 more than five years, and it's not our block, but I
13 see many -- see many noise in the upstairs when they
14 close the cantina, or whatever. And then sometimes
15 some people, they park in the street, and they make
16 too much noise in the night, and sometimes the
17 music -- Because my husband -- They have houses around
18 there, and then the old people, they live in one house
19 in the back. Sometimes he complain about they cannot
20 sleep because sometime they make too much noise when
21 they have the music too loud. And it's -- Because
22 he's old, and they see it, and sometime he complain
23 about it to my husband. And now the houses he found
24 for daughters, he bought the houses, and I don't know
25 now, but -- I did not notice even nothing they

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1 complain about now, the neighbors, but --

2 CHAIRMAN BOHL: How long has the bar been
3 closed?

4 MS. ROESSGER: I don't know exactly when
5 they closed. The date, I don't know.

6 CHAIRMAN BOHL: Is there currently a bar
7 that's operating at this location?

8 MS. ROESSGER: Yeah. I don't know, maybe in
9 the week because I don't see too many now on -- The
10 people, they go in the night maybe, so -- Saturdays
11 and Sundays.

12 CHAIRMAN BOHL: Okay. Are there questions
13 by committee?

14 MS. MARTINEZ: She says that probably
15 there's are people coming in during the day. It's
16 been closed since February 4th, so where is she
17 hearing this noise from? I don't know, because it's
18 been closed since February 4th.

19 CHAIRMAN BOHL: Ma'am, have you experienced
20 noise problems since?

21 MS. ROESSGER: No. It happened maybe two
22 years ago, one year ago. It was last year.

23 CHAIRMAN BOHL: So what you're saying is you
24 experienced problems with the previous bar that was
25 located and operating there?

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1 MS. ROESSGER: Last year.

2 CHAIRMAN BOHL: Since February have you
3 encountered those same problems?

4 MS. ROESSGER: No, I don't have any more
5 problems.

6 CHAIRMAN BOHL: Okay. But prior to that,
7 when it was operating, you had problems.

8 MS. ROESSGER: Yes, when they operated that
9 bar.

10 CHAIRMAN BOHL: Okay. Any questions by
11 committee? Miss Martinez, any? Mr. Schrimpf?

12 MR. SCHRIMPF: I just want to nail down,
13 when you said February 4th, that's February 4th of
14 2004?

15 MS. MARTINEZ: Right, correct.

16 MR. SCHRIMPF: Okay. That's all I have,
17 Mr. Chairman.

18 CHAIRMAN BOHL: Miss Martinez, any other
19 questions?

20 MS. MARTINEZ: No, I just wanted clarify
21 that. And the first time I came in, too, they said
22 that they had called the day before to give a
23 complaint of the noise, too. The day before it was
24 closed, too. So where are they hearing this noise
25 from? That's what I would like to know. They're

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1 saying that's for this place, but this place has been
2 closed.

3 CHAIRMAN BOHL: Okay. Alderman Sanchez,
4 anything more here?

5 ALDERMAN SANCHEZ: Only that I think that
6 the committee will be -- at least I'm under the
7 impression that we are going to hold and hear this in
8 a couple weeks.

9 And then finally I think there's two sides
10 of every story. One of the things that is consistent
11 is that there are people who do object, people who
12 have talked with me personally and talked with my
13 staff, people who have seen -- that live right in the
14 vicinity, next to the building, across the street from
15 it, that have told us about the past things that have
16 happened there, and frequent police visits. We've
17 even gone as far as having the vice squad investigate
18 the upper part of the building there.

19 But I'll also tell you that there was a
20 meeting there last night in which the applicant
21 said that they canvassed most of the immediate
22 neighborhood, and they put flyers out inviting people.
23 Everyone that was there was in support. There's at
24 least 15 to 20 people on this sign-up sheet, which
25 I'll be happy to submit. I think some of those people

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1 are here.

2 But I think that, again, this committee's
3 obligation and responsibility is to protect the safety
4 of the public, and there is an extensive -- a very
5 long list of different incidents that have happened at
6 that location, and there are people trying to raise
7 families in the immediate neighborhood, and I think
8 that those things have to be weighed in as well.

9 CHAIRMAN BOHL: All right. I'm waiting for
10 a motion at this point, if there is one.

11 ALDERMAN GORDON: Move to hold.

12 CHAIRMAN BOHL: Okay. The motion by
13 Alderman Gordon is to hold this to the call of the
14 chair. Is there any objection to that? Hearing none,
15 so ordered. Ma'am, thank you for coming down here
16 today.

17 Miss Martinez, we'll get you a copy of that
18 police report and provide you adequate time, and we'll
19 notice you in two weeks, okay?

20 MS. MARTINEZ: Okay.

21 CHAIRMAN BOHL: I apologize for the
22 difficulty and appreciate your patience.

23 MS. MARTINEZ: That's okay.

24 CHAIRMAN BOHL: I know that you've been very
25 patient with this, but unfortunately, that's kind of

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1 the nature of the beast in this situation, okay?
2 Again, our apologies, on that, but hopefully we'll get
3 it right in two weeks from now.

4 MS. MARTINEZ: Okay. Thank you.

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