

COMMITTEE ASSIGNMENTS

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- Licenses Committee

VICE CHAIR

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- Neighborhood Improvement Development Corporation Board
- Special Joint Committee on the Redevelopment of Abandoned and Foreclosed Homes
- Steering and Rules Committee
- Wisconsin Center District Board

MILELE A. COGGS
ALDERWOMAN, 6TH DISTRICT

March 11, 2022

To the Honorable, the Common Council

Honorable Members:

Common Council File Number 210787 contains the following recommendations:

Renewal with a 30 (thirty) day suspension based on the police report, neighborhood, and aldermanic testimony of the Class B Tavern, Food Dealer and Public Entertainment Premises licenses for Patsy James-Smith for the premises located at 628 N Water St. ("District IV") in the 4th aldermanic district.

Renewal with a 30 (thirty) day suspension based on the police report, neighborhood, applicant and aldermanic testimony of the Class B Tavern, Food Dealer and Public Entertainment Premises licenses for Jesse Fonseca for the premises located at 5108 W Blue Mound Rd. ("Caliente Latin Kitchen & Rum Bar") in the 10th aldermanic district.

Respectfully,

Milele Coggs, Chair
Licenses Committee

cc: All Council Members
File 210787



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Date: March 10, 2022

To: All Members of the Milwaukee Common Council

From: Licenses Committee

Re: Report of the Renewal Application of the Class "B" Tavern, Public Entertainment Premises (PEP) and Food Dealer Licenses of Patsy Smith-James, Agent for Higbee's MKE LLC, for the premises located at 628 North Water Street in the City and County of Milwaukee, Wisconsin ("District IV").

FINDINGS OF FACT

1. Patsy Smith-James (hereinafter "the Licensee") is the holder of Class "B" Tavern, PEP and Food Dealer Licenses for the premises located at 628 North Water Street in the City and County of Milwaukee, Wisconsin ("District IV"). Said licenses expire at midnight on April 14, 2022.
2. An application to renew said licenses was filed with the Office of the City Clerk on January 31, 2022.
3. Pursuant to Chapters 85, 90, and 108 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes, the matter was referred to the Milwaukee Police Department for investigation. On February 1, 2022, the Milwaukee Police Department responded with a report that could form the basis for nonrenewal of said licenses.
4. On February 22, 2022, the City Clerk's Office provided timely notice to the Licensee pursuant to Chapters 85, 90, and 108 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes of the police report. The matter was scheduled for a hearing on the police report on March 8, 2022, commencing at approximately 10:30 a.m. in Room 301-B of the third floor of City Hall. At said date, time and place, the Licensee appeared with counsel, Attorney Jason Luczak at the hearing, and admitted receipt of the notice of hearing, together with a copy of the Milwaukee Police report.
5. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. On June 13, 2021 at 2:11 a.m., Milwaukee Police were dispatched to North Water Street and East Michigan Avenue for a shooting complaint. Investigation revealed that two groups exited the tavern located at 628 North Water Street and began to re-initiate an argument, about a necklace, which occurred inside the establishment.



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Police and security separated the subjects and kept them moving down the street. Ten minutes later, one of the subjects received a gunshot wound to the shoulder at North Water Street and East Michigan Avenue.

- B. On March 28, 2021 at 12:50 a.m., Milwaukee Police responded to 628 North Water Street for a fight complaint. Investigation revealed that three underage subjects, who were intoxicated, were pushed out of the establishment for fighting. While officers were on scene, they observed ten to fifteen underage subjects exit the tavern with a security guard that was seen running inside the club after police arrival. The Licensee was cited for Presence of Minor at License Premise (3 counts).

Charge: Presence of Minor at License Premise (3 counts)
Finding: Guilty
Sentence: \$384.00 fine x 3
Date: 10/04/21
Case: 21020181/21020182/21020183

- C. Atty. Jason Luczak, counsel for the Licensee, stated that the June 13 shooting incident did not involve a fight inside of the establishment, security assisted police in separating the groups outside, and the shooting occurred several minutes after the parties had left the establishment. Counsel stated that the gun was likely retrieved from a vehicle as the establishment pats customers down upon entry. Counsel also highlighted that the establishment checks the ID of every customer and the minors likely used fake IDs to gain entry and then disposed of the fake IDs.

Individuals also present:

- D. Ald. Coggs asked the Licensee if the establishment uses ID scanners and if they were in use on the night of March 28, 2021. Ald. Coggs also asked about cameras near the door and focused on the area where IDs are checked.
- E. The Licensee confirmed that ID scanners were used but the minors likely had fake IDs. The Licensee further stated that IDs are checked upon entry and then again when the customers pay their cover charge. The Licensee also stated that cameras are present in the area where IDs are checked and noted that police had not requested the footage or scanner information. The Licensee noted that the establishment frequently finds fake IDs disposed of in the restroom and trash cans, but that they did not find IDs related to the March 28 incident.
- F. Mary Youngers - 608 North Broadway – voiced her opposition to renewal based on the police reports and because she is aware of a person who died as a result of a fight outside of the establishment. Ms. Youngers also noted that she had been subpoenaed to testify in relation to an incident involving the establishment. She further noted issues with the establishment going back several years.
- G. Atty. Luczak noted that the death of the person was from several years ago. He further noted that Ms. Youngers has not directly seen any issues tied to the bar in



recent years. He further asked Ms. Youngers if she could say, from her own observation, whether commotion was coming from this establishment or a neighboring establishment and Ms. Youngers acknowledged she could not.

- H. Donald Aranson - 608 North Broadway – voiced his opposition to renewal based on the incidents in the police report.
- I. Alderman Bauman asked Mr. Cooney for a history of the disciplinary measures taken in relation to this establishment.
- J. Mr. Cooney stated that the establishment had received a 10-day suspension in 2018, a 20-day suspension in 2019, a 15-day suspension in 2020, and was renewed with a warning letter in 2021.
- K. Ald. Bauman asked about management and the Licensee stated she personally is present every night. Ald. Bauman voiced concerns regarding the issues with this establishment and a neighboring establishment. Ald. Bauman recommended a 30-day suspension based on police report and neighborhood testimonies.
- L. Atty. Luczak asked for renewal with a warning letter. He was unsure whether a warning letter had in fact been issued in 2021. He further noted the Licensee's involvement with Operation Code Red and her cooperation with police. He also noted the neighboring business is much larger and has a longer history of issues.
- M. Alderman Borkowski moved renewal with a 30-day suspension based upon police reports, aldermanic testimony, and neighborhood testimony. (Prevailed 4-0)

CONCLUSIONS OF LAW

1. The Committee has jurisdiction to hold hearings and provide Findings of Fact and Conclusions of Law and a Recommendation to the full Common Council pursuant to Chapters 85, 90, and 108 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found, the Committee concludes that the Licensee, Patsy Smith-James who holds Class B Tavern, Public Entertainment Premise (PEP) and Food Dealer licenses for the premise located at 628 North Water Street in the City and County of Milwaukee, Wisconsin ("District IV") has not met the criteria of Chapters 85, 90, and 108 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes to not renew the Class B Tavern, Public Entertainment Premises, and Food licenses without undergoing a thirty (30) day suspension. The Committee finds the police report and aldermanic objections as stated above to be true. The Committee based its recommendation on the police report, aldermanic testimony and neighborhood testimony.
3. In order to protect the health, safety and welfare of the citizens of the City of Milwaukee, it is the recommendation of the Licenses Committee that the full Common Council of the City of Milwaukee should exercise its judgment to not renew the Class B Tavern, Public Entertainment Premise (PEP), and Food Dealer licenses for the premises



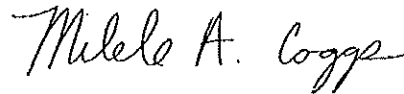
located at 628 North Water Street in the City and County of Milwaukee, Wisconsin ("District IV") without undergoing a thirty (30) day suspension. The Committee based its recommendation on the police report, aldermanic testimony and neighborhood testimony.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of **four (4) ayes and zero (0) noes**, recommends that the Class "B" Tavern, Public Entertainment Premises (PEP), and Food Dealer Licenses of Patsy Smith-James for the premises located at 628 North Water Street ("District IV") in the City and County of Milwaukee, Wisconsin not be renewed without undergoing a thirty (30) day suspension.

The suspension is in effect between 12:01 a.m. on April 15, 2022 until 11:59 pm on May 14, 2022.

Dated and signed at Milwaukee, Wisconsin this 11 day of March, 2022.



MILELE A. COGGS
Chairman, Licenses Committee

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VICE CHAIR

- Zoning, Neighborhoods and Development



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- Steering and Rules Committee
- Wisconsin Center District Board

MILELE A. COGGS
ALDERWOMAN, 6TH DISTRICT

Date: March 10, 2022

To: All Members of the Milwaukee Common Council

From: Licenses Committee

Re: Report of the Renewal Application of the Class "B" Tavern, Public Entertainment Premises (PEP), Food Dealer Licenses, adding Disc Jockey, Poetry Readings, Dancing by Performers, Patrons Dancing, Comedy Acts and One Amusement Machine, of Jesse Fonseca, Agent for CALIENTE LATIN KITCHEN & RUM BAR, LLC, for the premises located at 5108 West Blue Mound Road in the City and County of Milwaukee, Wisconsin ("Caliente Latin Kitchen & Rum Bar").

FINDINGS OF FACT

1. Jesse Fonseca (hereinafter "the Licensee") is the holder of Class "B" Tavern, Public Entertainment Premises (PEP), and Food Dealer Licenses for the premises located at 5108 West Blue Mound Road in the City and County of Milwaukee, Wisconsin ("Caliente Latin Kitchen & Rum Bar"). Said licenses expired at midnight on March 18, 2022.
2. An application to renew said licenses was filed with the Office of the City Clerk on January 31, 2022.
3. Pursuant to Chapters 85, 90, and 108 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes, the matter was referred to the Milwaukee Police Department for investigation. On January 31, 2022, the Milwaukee Police Department responded with a report that could form the basis for nonrenewal of said licenses.
4. On February 23, 2022, the City Clerk's Office provided timely notice to the Licensee pursuant to Chapters 85, 90, and 108 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes of the police report. The matter was scheduled for a hearing on the police report on March 8, 2022, commencing at approximately 1:25 p.m. in Room 301-B of the third floor of City Hall. At said date, time and place, the Licensee appeared with counsel, Attorney Michael Maistelman at the hearing, and admitted receipt of the notice of hearing, together with a copy of the Milwaukee Police report.
5. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:



- A. On January 8, 2022 at 12:59 a.m., Milwaukee police were dispatched to 5108 West Bluemound Road for an underage tavern complaint. Investigation revealed that the complaint was baseless and the Licensee was cooperative with the investigation.
- B. Attorney Michael Maistelman, counsel for the Licensee, weeknights they will close at 10 p.m., no live bands and will hire a sound technician to address the noise, including the bass, as well as set up monthly meetings with the neighbors and the applicant will provide his personal contact info. They will also hire a new garbage contractor prior to the Council meeting. He noted that the police report contains a noise complaint and an underage tavern complaint, both of which were baseless.

Individuals in attendance:

- C. Bob Bach - 5128 West Bluemound Road, Unit 401 – said it is a nuisance property and the Licensee did not fulfill his promises as regards to noise, lawless behavior and waste management. He has tried to express his complaints to MPD, but gave up after long hold periods. He stated there is excessively loud music with heavy bass and he can hear the bass beat after midnight on weeknights. He also stated that there is also excessive motorcycle noise and the dumpster is often left open, which is a rat attractant. He would like a penalty or non-renewal because he wants assurance that there will be compliance with the promises made last year.
- D. Leslie Quade - 5128 West Bluemound Road – stated that noise complaints occur after 10 p.m. and she called MPD this past weekend at 1 a.m. She has contacted both MPD and Caliente about the noise. She stated that an employee, when asked to turn the noise down responded, "Why would I want to do that?" She stated that the noise is audible in every room of her home, even with closed windows and the noise has not abated.
- E. Gail Shah - 5128 West Bluemound Road – stated that she agrees with her neighbors and on February 26th there was a large RV parked on the street blaring loud music, and people drinking, smoking, swearing and yelling in Spanish. She stated they only left once they heard a siren coming and then sped through a red light. She is afraid this is becoming an afterhours neighborhood hangout. She stated that the same RV was also involved in an incident with two noisy, young women in front of the establishment.
- F. Gretchen Schuldt - 5128 West Bluemound Road – stated the establishment has been a horrid neighbor as she has spoken with the Licensee twice, who suggested it was personal and she should speak with a neighbor. She stated the noise is consistent on Friday and Saturday and animals are digging in the dumpster because it is never closed. She stated that she sees people at the restaurant at 4 and 5 a.m., who appear to be customers. She further stated that last summer they installed a fire pit, which resulted in drinking and increasing noise throughout the night.



- G. Dave Umhoefer - 5128 West Bluemound Road – stated he is the spouse of Ms. Schuldt and agrees with her comments. He stated there are events at the bar that are even louder than the music and the noise penetrates the establishment's windows, his windows and all rooms of his condo. He stated that the establishment has not been cooperative and are using the outdoor patio as an afterhours party.
- H. Alderman Michael Murphy stated that he supports a 30-day suspension based on neighbors' testimony and he would not support the additional requests made by the applicant.
- I. Attorney Maistelman reiterated that the establishment will be closing at 10 p.m. Sunday through Thursday, no patrons under the age of 25 will be admitted at night, no live bands, the establishment will hire a sound tech to reduce the noise, the Licensee will host monthly neighborhood meetings, and a new garbage service will be contracted with to fix the issues associated with garbage.
- J. The Licensee said his establishment is primarily a restaurant and it is hard running a business now, particularly if he has a 30-day suspension. He stated the objections were a surprise to him. He noted that no one is allowed on the patio after 11 p.m. and that while there was a problem with employees on the patio, he dealt with it and suspended an employee. The establishment currently has no performers and he would like to add salsa dancing as his wife dances, as well as dancing by customers. He is getting speakers with no bass and is no longer allowing anyone under the age of 25.
- K. Alderman Kovac moved to amend the application to reflect Atty. Maistelman's statements and for a 30-day suspension, based on police report, neighborhood testimony, the Licensee's testimony and aldermanic testimony and hold the additional licenses requested by the Licensee. Ald. Kovac also moved to hold the request to add disc jockey, poetry readings, dancing by performers, patrons dancing, comedy acts, and 1 amusement machine. (Prevailed 3-1)

CONCLUSIONS OF LAW

1. The Committee has jurisdiction to hold hearings and provide Findings of Fact and Conclusions of Law and a Recommendation to the full Common Council pursuant to Chapters 85, 90, and 108 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found, the Committee concludes that the Licensee, Jesse Fonseca who holds Class "B" Tavern, Public Entertainment Premises (PEP), Food Dealer Licenses, located at 5108 West Blue Mound Road in the City and County of Milwaukee, Wisconsin ("Caliente Latin Kitchen & Rum Bar") has not met the criteria of Chapters 85, 90, and 108 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes to renew the Class "B" Tavern, Public Entertainment Premises (PEP), and Food Dealer Licenses, without undergoing a thirty (30) day suspension. Further, the Committee has held the applications adding Disc Jockey, Poetry Readings, Dancing by Performers, Patrons Dancing, Comedy Acts and One Amusement Machine.



The Committee finds the police report and aldermanic objections as stated above to be true. The Committee based its recommendation on the police report.

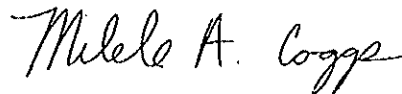
3. In order to protect the health, safety and welfare of the citizens of the City of Milwaukee, it is the recommendation of the Licenses Committee that the full Common Council of the City of Milwaukee should exercise its judgment to not renew the Class "B" Tavern, Public Entertainment Premises (PEP), and Food Dealer Licenses, for the premises located at 5108 West Blue Mound Road in the City and County of Milwaukee, Wisconsin ("Caliente Latin Kitchen & Rum Bar") without undergoing a thirty (30) day suspension. The Committee based its recommendation on the police report, as well as neighborhood, applicant and aldermanic testimony.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of **three (3) ayes and one (1) no**, recommends that the Class "B" Tavern, Public Entertainment Premises (PEP), Food Dealer Licenses, adding Disc Jockey, Poetry Readings, Dancing by Performers, Patrons Dancing, Comedy Acts and One Amusement Machine Licenses of Jesse Fonseca for the premises located at 5108 West Blue Mound Road ("Caliente Latin Kitchen & Rum Bar") in the City and County of Milwaukee, Wisconsin not be renewed without undergoing a thirty (30) day suspension.

The suspension is in effect between 12:01 a.m. on March 19, 2022 until 11:59 pm on April 17, 2022.

Dated and signed at Milwaukee, Wisconsin this 11 day of March, 2022.



MILELE A. COGGS
Chairman, Licenses Committee

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