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April 29, 2010

Via Email Only (rleonh@milwaukee.gov)

City Clerk Ronald D. Leonhardt
City Hall
200 East Wells Street, Room 205
Milwaukee, WI 53202

Re: Stojan Coralic d/b/a The Brew House – 2936 S. 13th Street, Milwaukee, WI
Objections

Dear City Clerk Leonhardt,

Our office is Counsel to Stojan Coralic d/b/a The Brew House (“Brew House”). On April 20, 2010, the Licenses Committee (“Committee”) met to consider the renewal of the Class B Tavern and Tavern Dance licenses for Brew House. At the Licenses Committee hearing, Brew House voluntarily withdrew its Tavern Dance renewal application. The Committee voted to recommend that Brew House’s Class B Tavern License be renewed, but with a 90-day suspension based upon incidents recounted in the police synopsis, neighborhood testimony, police department testimony, and aldermanic testimony.

This letter serves as my client’s written objection to the “Findings of Fact and Conclusions of Law” and recommendation of the Committee. The specific objections are as follows:

1. Paragraph 2 of the Findings of Fact erroneously states that the Milwaukee County Circuit Court remanded the matter back to the Milwaukee Common Council for further proceedings. This is incorrect. In fact, the Circuit Court vacated the actions of both the Common Council and Licenses Committee and remanded the matter of Brew House’s license back to the Licenses Committee for further proceedings. Brew House objects to the Findings of Fact (prepared by the City Attorney), which were generated after the April 20, 2010 renewal hearing because they are incomplete and do not provide Brew House with notice of all of the facts and evidence relied upon by the Committee in making its decision to renew Brew House’s license with a 90-day suspension. Failure to provide complete findings is a violation of Brew House’s right to due process. This objection is made pursuant to the legal standard cited by Judge Dugan in his judicial review decision in *Stojan Coralic d/b/a The Brew House v. City of Milwaukee, et al*, Milwaukee County Case No. 10-CV-1922.

2. When Assistant City Attorney Bruce Schrimpf drafted the Findings of Fact, added Chairman Bohl's digital signature, and distributed the document to the Common Council without any review from the Committee, he failed to provide any details about the supporting testimony of the approximately ten witnesses who testified in support of renewal of Brew House's license. This included substantial testimony from various witnesses about the fact that they felt Brew House was a very safe and respectful establishment, that the people who frequent the tavern are well-behaved, that any alleged "loitering" outside the establishment is likely the security staff for the establishment, and that it was physically impossible for one of the objecting witnesses to see the establishment or witness any of the behavior he testified about from the tavern where he provides security (Hillside Gentlemen's Club) which is more than ¼ of a mile away from Brew House.

Additionally, the City Attorney's Findings of Fact demonstrate that the Committee erroneously gave undue weight to the testimony of the police captain (who did not appear at the renewal hearing), Alderman Zielinski, and the objecting witnesses (only one of whom appeared at the renewal hearing) as compared to the positive testimony provided by approximately ten people who appeared in support of the renewal of the license.

3. The Licenses Committee has failed to forward *its own* report, including Findings of Fact, Conclusions of Law, and a recommendation to the Common Council as required by § 90-11-2-c-2, Milwaukee Code of Ordinances.

Paragraph 5 of the "Findings of Fact" (contained on page 2), states that "Based upon the sworn testimony heard and the evidence received at the hearing, the **Committee finds the following**" [emphasis added]. Brew House objects to this statement, as the Committee has never adopted these findings. Because the Findings of Fact and Conclusions of Law were never adopted by the Committee, it would be more properly characterized as the City Attorney's proposed Findings of Fact and Conclusions of Law. Further, based upon testimony provided under oath in *Lady Bug Club v. City of Milwaukee et al*, it is our understanding that Chairman Bohl's signature is digitally applied to the City Attorney's document, and that Chairman Bohl is typically not provided an opportunity by the City Attorney's office to review the Findings of Fact and Conclusions of Law for accuracy prior to his signature being applied and the document being disseminated to all Members of the Common Council and the applicant.

4. Due Process, as guaranteed under both the United States Constitution, Wisconsin Constitution, as well as City of Milwaukee Ordinance 90-11-2-a-2-b, requires that the City of Milwaukee prove the allegations made in the police synopsis prior to those allegations being accepted as fact by the Committee.

The Findings of Fact and Conclusions of Law incorporate the entire police synopsis. The police synopsis, as read to the Committee on the day of the

hearing, is quadruple hearsay and not a single incident recounted in the synopsis was proven at the April 20, 2010 hearing.

In violation of Brew House's right to Due Process, the allegations of the MPD were taken as fact without *any* evidence being put forth by the MPD to prove the content of its synopsis as it relates to Brew House.

5. The City of Milwaukee and MPD's treatment of Pizza Shuttle at its license renewal hearing held on January 27, 2009, demonstrates that Brew House's Equal Protection rights as guaranteed under the United States Constitution were violated.

On January 27, 2009, the Licenses Committee held a hearing to consider the renewal of Pizza Shuttle, 1827 N. Farwell Avenue. Pizza Shuttle had an extensive police report. Attached to this letter is a copy of Pizza Shuttle's police report. Pizza Shuttle's report contained a total of 26 items, including 25 from 2008 (of note, Questions' had *six* items on its 2010 police objection). In addition, Pizza Shuttle's CADS reports, obtained through the MPD, show that there were approximately 100 police calls related to the establishment between November 2007 and January 2009. There are numerous incidents in the Pizza Shuttle report that presented valid cause for concern. For example, the report recounts numerous fight complaints, numerous issues with guns, complaints of loud music from cars, cars being used to block traffic, disorderly patrons, and drugs. In fact, incident No. 24 on Pizza Shuttle's police report required the MPD to be on scene for almost two hours, involved multiple fights and also involved hundreds of patrons who were spectators and encouraged the fighting. Incident No. 24 states at its conclusion, "Police did speak with management regarding the volume of calls received by the restaurant and that no other businesses in the area have needed this type of police response."

In spite of this extensive police report, the MPD did not object to renewal of the license and the City Attorney's office made no appearance at the hearing to oppose the license renewal or assist the MPD. It is also remarkable that despite the high volume of police calls to Pizza Shuttle, the property received no nuisance letters from the City of Milwaukee.

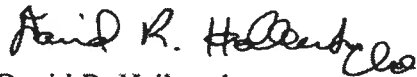
In stark contrast to the Committee's handling of Brew House's renewal (in which Brew House had only *four* new items on its synopsis compared to the *twenty five* on Pizza Shuttle's synopsis), Pizza Shuttle was renewed with only a warning letter. This disparate treatment of the two establishments finds no support in the hearing record, and is clearly a violation of Brew House's right of Equal Protection under the law.

In summary, Brew House objects to the Findings of Fact and Conclusions of Law. In violation of § 90-11-2-c-2, Milwaukee Code of Ordinances, the Licenses Committee has never adopted the Findings of Fact and Conclusions of Law. The reasons relied upon for the 90-day suspension are

unjust and not substantiated by any reliable evidence. In violation of Brew House's right to Due Process, the Licenses Committee accepted the police synopsis as fact without any credible substantiation by the MPD or City of Milwaukee. The Findings of Fact and Conclusions of Law drafted by the City Attorney's office erroneously fail to recount the details of the supporting testimony provided by the approximately ten individuals who testified at the April 20, 2010 hearing in support of Brew House's renewal. Finally, Brew House's right to Equal Protection was violated as evidenced by the undue weight given to the synopsis of the MPD, and the testimony of the objecting witnesses and Alderman Zielinski without any proof, compared to the approximately ten people who testified in support of Brew House's license renewal, and by the contrasting disposition of Pizza Shuttle in its renewal hearing in January 2009.

Thank you for your attention to this matter.

Sincerely,



David R. Halbrooks
Attorney at Law

DRH/abd

Enc.

Cc: Stojan Coralic
Members of the City of Milwaukee Common Council (via email w/enclosures)

MILWAUKEE POLICE DEPARTMENT
LICENSE INVESTIGATION UNIT

CRIMINAL RECORD/ORDINANCE VIOLATION/INCIDENTS
SYNOPSIS

DATE: 12/03/08

LICENSE TYPE: BTAVN

NEW:

RENEWAL: X

No. 15252

Application Date: 12/02/08

Expiration Date:

License Location: 1827 N Farwell Avenue

Aldermanic District: 03

Business Name: Pizza Shuttle

Licensee/Applicant: Gold, Mark H

(Last Name, First Name, MI)

Date of Birth: 01/08/63

Male:

Female:

Home Address: 915 W El Patio Lane

City: Mequon

Home Phone:

State: WI

Zip Code: 53092

This report is written by Police Officer Kristyn Kukowski, assigned to the License Investigation Unit, Days.

The Milwaukee Police Department's investigation regarding this application revealed the following:

1. On 10/21/07 at 3:00 am, Milwaukee Police were dispatched to Farwell and Royall Streets for a Fight complaint. Investigation revealed a fight had occurred inside the Pizza Shuttle that continued onto the streets. As police arrived, the fight dispersed with the victim not wanting to prosecute the unknown subject who had struck him. While investigating the fight on the street, officers received another call from Pizza Shuttle regarding another fight. Officers responded and issued two citations to the patrons for Disorderly Conduct.
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2. On 02/10/08 at 3:13 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Squads responded and advised the incident.
3. On 02/20/08 at 3:00 am, Milwaukee police were dispatched to 1827 N Farwell for Trouble With A Subject. Police spoke to the manager Don who stated he was having trouble with a customer causing a disturbance. Squads responded and advised the incident.
4. On 02/24/08 at 2:12 am, Milwaukee police were dispatched to 1827 N Farwell for a Subject With Gun complaint. An employee Chad advised the telecommunicator that security for the restaurant had broken up a fight and that a subject was seen with a silver firearm by security personnel. An ambulance was also requested for a female patron who was trampled by the suspect as he fled the scene. Reports were filed regarding this incident.

5. On 03/02/08 at 2:27 am, Milwaukee police were dispatched to 1827 N Farwell for an Indecent Exposure complaint. Police spoke to security for Pizza Shuttle who stated they were detaining a male that had urinating on the building. The subject was cited for Disorderly Conduct and released.
6. On 03/15/08 at 1:13 am, Milwaukee police were dispatched to 1827 N Farwell for a loud music complaint. The caller stated subjects were playing loud music in the parking lot of Pizza Shuttle. Officers arrived and were unable to locate any subjects on the lot playing loud music.
7. 03/16/08 at 2:53 am, Milwaukee police were dispatched to 1827 N Farwell for a Trouble With Subject complaint. Officers spoke to an employee "Bill" who stated he had three armed security guards at the door of his restaurant and that several subjects outside this business were making gestures as if they were armed with guns. "Bill" stated these subjects also were saying that " There is going to trouble if they are not allowed into the restaurant." No gun was found on scene by any patron however one subject was cited for Trespassing.
8. On 03/20/08 at 2:36 am, Milwaukee police were dispatched to 1827 N Farwell for a Trouble With Subject complaint. Officers spoke to the manager "Bill" who stated three subjects were yelling and swearing at him refusing to leave. "Bill" also indicated that the subjects were intoxicated. The incident was advised.
9. On 03/27/08 at 12:46 am, Milwaukee police were dispatched to 1827 N Farwell regarding several calls about males in front of the restaurant that appeared as if they were about to drag race their autos. Calls were also received about several subjects in front of the Pizza Shuttle possibly arguing. The manager "Bill" also called police and stated that there were thirty autos blocking traffic and that subjects were running in the streets and playing music. Squads responded and the area was eventually cleared.
10. On 03/29/08 at 3:52 am, Milwaukee police were dispatched to 1827 N Farwell for Trouble With Subjects complaint. Investigation revealed a group of subjects were at the restaurant arguing and refusing to leave. Once police arrived all parties involved were gone.
11. On 03/30/08 at 2:06 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Police spoke to an employee, Sharin, as well as security who stated a large group had gathered and were fighting in the parking lot of the restaurant. The subjects involved were gone once police arrived.
12. On 04/05/08 at 1:28 am, Milwaukee police were dispatched to 1827 N Farwell for a Trouble With Subject complaint. The call was advised but police ended up writing parking citations for several parking violations found. Police were dispatched again at 4:23 am for subjects that refusing to leave the restaurant. Once police arrived, subjects were gone.
13. On 04/19/08 at 1:06 am, Milwaukee police were dispatched to 1827 N Farwell for Crowd Control at the restaurant. Security personnel requested MPD for a large crowd that gathered outside of the location. Police arrived and cleared the area.

14. On 05/04/08 at 3:32 am, Milwaukee police were dispatched to 1827 N Farwell for a Large Fight complaint. A security guard for the restaurant was injured and had sustained lacerations to the knee and elbow while trying to break up a fight. A report was filed.
15. On 06/23/08 at 1:02 am, Milwaukee police were dispatched to 1800 N Farwell for a Fight complaint. Police arrived and observed numerous subjects standing in and around the Pizza Shuttle restaurant as well as multiple autos stopped in traffic. Due to heavy pedestrian and vehicle traffic, more squads were dispatched to help assist clearing the area. Four traffic citations were issued and the area was eventually cleared.
16. On 05/17/08 at 3:38 am, Milwaukee police were dispatched to 1827 N Farwell Avenue for traffic control. When squads responded they did not locate any autos.
17. On 05/25/08 at 2:10 am, Milwaukee police were dispatched to 1827 N Farwell Avenue for a Trouble With Subject complaint. Police were advised that a patron was refusing to leave but upon officers arrival, the subject left. Squads were again dispatched to the restaurant at 2:39 am regarding a Fight In Progress in which security was detaining subjects. Citations were issued to the parties involved.
18. On 05/31/08 at 1:28 am, Milwaukee police were dispatched to 1827 N Farwell Avenue for a Fight complaint. Security was reporting that 300 plus people were at the location and that there was a fight. The caller stated they had only four security guards and needed more help. Updated calls were given to responding squads that indicated that a male was armed with a revolver. As police approached, they observed security has an auto stopped in the street at gunpoint. Police issued several citations and a report was filed regarding the subject who was armed and fled the restaurant.
19. On 06/01/08 at 1:53 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Investigation revealed people were fighting outside the restaurant and in the parking lot. A victim was identified but he refused to prosecute.
20. On 06/07/08 at 1:00 am, Milwaukee police were dispatched to 1827 N Farwell for reports of Shots Fired and Cruising. Squads responded and were not able to locate any suspects. Police were dispatched again at 2:05 am for a complaint of Battery- DV related. Investigation found security personnel used pepper spray on a suspect that was unrelated to the Battery DV complaint. Reports were filed. Police again were dispatched at 3:26 am, for another Battery complaint between two patrons and citations were issued in the incident.
21. 06/16/08 at 1:08 am, Milwaukee police were dispatched to 1827 N Farwell for a Loud Music complaint. Squads were advised that there were 20-30 subjects outside of the restaurant crowding the streets playing loud music and getting in and out of their cars. Squads responded and cleared the area. At 1:35 am, police were flagged down by an employee of Pizza Shuttle about patrons causing problems inside the restaurant. Police again responded and at the request of management, ordered everyone that was inside the restaurant to leave if they were not ordering food. It should be noted an underage party was held downtown that ended up with numerous patrons from that club going to Pizza Shuttle. On that particular night, the restaurant did not have security personnel on scene.

22. On 06/20/08, Milwaukee police were dispatched to 1827 N Farwell for a Trouble With Subject complaint. Police spoke to Christopher Albert, security for Pizza Shuttle who stated patrons who were intoxicated were refusing to leave the property. Albert stated these patrons were screaming profanities and police were called. Citations were issued to two patrons for Trespassing and one citation was issued for Obstructing An Officer.
23. On 06/17/08 at 1:40 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Police spoke to security who stated there was a verbal altercation in the parking lot between two females. When security approached these two women, one subject's boyfriend jumped in and became loud and disorderly to the security guards. Security asked these subjects to leave but they refused. One citation was issued for Disorderly Conduct.
24. On 07/06/08 at 1:12 am, Milwaukee police were dispatched to 1827 N Farwell for a Fight complaint. Investigation revealed a fight took place in the parking lot of Pizza Shuttle with approximately 200-300 people scattered though the waiting area of the restaurant. These patrons appeared to be spectators to the fight and were egging the participants on. A report for property damage was also taken. While on scene, police were advised of another fight inside the mens room of the restaurant. Both subjects involved in that were cited for Disorderly Conduct. While police were issuing citations for the fight, security again advised police of a verbal confrontation between other patrons in which security tried to break up but that both parties directed their anger at security. Officers advised these two subjects to leave or they would both receive citations. They left without incident. Police were on scene for 1 hour and 41 minutes. Police did speak with management regarding the volume of calls received by the restaurant and that no other businesses in the area have needed this type of police response.
25. On 07/07/08 at 1:00 am, Milwaukee police were dispatched to a Fight at 1827 N Farwell. Investigation revealed security was detaining four subjects who were observed in an auto parked in the parking lot of Pizza Shuttle with one actor being in possession of marijuana. Police arrested and charged one actor with Possession of Marijuana.
26. On 10/18/08 at 1:01 am, Milwaukee police were dispatched to 1827 N Farwell for A Trouble With Subject complaint. Police spoke to the manager William Kopatichi who stated a group of club juveniles entered his business causing a disturbance in and around the restaurant. Kopatichi stated the juveniles were trashing the dining room area while yelling obscenities and arguing outside of the restaurant so he called police. The subjects were gone upon police arrival. Police observed that no security was on scene of the business. Kopatichi stated that the owner cancelled security services and was in the process of contracting with a new company. No citations were issued regarding the incident.

CITY OF MILWAUKEE
2010 APR 29 PM 2:29
RONALD D. LEONHART
CITY CLERK