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CITY OF MILWAUKEE

COMMON COUNCIL

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In the Matter of: THE AMUSEMENT MACHINE DISTRIBUTOR
renewal application for:

HEATH NORMAN WASSERMAN
"DUFFY AMUSEMENTS"
2740 South 9th Place

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Proceedings had and testimony given in
the above-entitled matter, before the COMMON
COUNCIL OF THE CITY OF MILWAUKEE, on
the 28th day of October, 2008.

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P R O C E E D I N G S

(Whereupon the Court Reporter was sworn.)

CITY CLERK: Is Heath N. Wasserman or his counsel present and wish to address the Council?

PRESIDENT HINES: It appears that the counsel of Mr. Wasserman is available and present. Alderman Bohl moves that the committee - - the Common Council resolve itself into the Committee of the Whole for the purpose of hearing oral arguments on behalf of the licenses in opposition to the report and recommendations. Then a statement presented by the City Attorney. Any objections to the motion? Seeing and hearing none, we are now in the Committee of the Whole. Each side shall be limited to five minutes. And the arguments shall be limited to the subject matter of the report and recommendations of the Licenses Committee contained in this file and any other written exceptions. Again, we will first hear from the licensee's attorney, and then we will hear from the City Attorney. You have five minutes, sir.

MR. GIMBEL: Thank you very much, Mr.

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1 President, members of the Council. My name is
2 Franklyn Gimbel, and I am here today representing
3 Heath Norman Wasserman.

4 Obviously, I have known each and every
5 one of you for many years. I have appeared
6 before the License Committee on numerous
7 occasions during the course of my 48 years as a
8 lawyer. This is the first time that I've ever
9 appeared before the Council where the committee
10 has forwarded to you for your consideration the
11 matter of the renewal of the application of my
12 client, Heath Norman Wasserman, for an amusement
13 device license, without recommendation.

14 As you have undoubtedly already learned
15 from the materials that I have provided to you on
16 behalf of my client, this license was - - was not
17 forwarded with a recommendation, because there
18 was a two-two vote on the committee. The two
19 people who opposed the recommendation for
20 approval took the position that Mr. Wasserman had
21 not demonstrated satisfactorily that he was a
22 resident of the State of Wisconsin for the year
23 preceding the time when this application for
24 renewal was before the committee. You will note
25 in my materials that the first thing that I

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1 demonstrate to you and the addendum to the letter
2 to the clerk is from the conclusions of law,
3 which states that no - - no amusement machine
4 distributor's license shall be granted to any
5 person or partner not a resident of the State of
6 Wisconsin at least one year prior to the date of
7 filing the application.

8 Mr. Wasserman presented to the
9 committee several, what I suggested to the
10 committee, and I suggest to you as a Council of
11 the whole, compelling documents demonstrating his
12 residency for the year preceding the filing of
13 the application. Most compelling was that during
14 the entirety of the period up until September of
15 2008 of the year preceding the filing of his
16 application, Mr. Wasserman was on probation,
17 having been convicted of an offense of felony
18 possession of a firearm. As a consequence of
19 that probation, Mr. Wasserman was being monitored
20 by a probation officer from the Department of
21 Corrections. The records of the Department of
22 Corrections, which were filed with our
23 presentation in front of the committee,
24 demonstrated unequivocally that this agent
25 required as a condition of Mr. Wasserman's

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1 probation that he be a resident of the State of
2 Wisconsin. That is reflected by his getting
3 travel permits whenever he wished to travel
4 outside of the Milwaukee County area. At a point
5 in time in May of 2008 he did get such a - - a
6 permit, went to Illinois, and while there was
7 arrested and charged with battery. One of the
8 documents that I have put within the materials
9 submitted for your consideration here today is
10 Mr. Wasserman's signature on a personal
11 recognizance bond issued out of the 19th Judicial
12 Circuit Lake County of Illinois, which indicates
13 that he was awarded personal recognizance bail
14 and he showed his address at 2901-2903 North 23rd
15 Street in Milwaukee. Additionally, Mr.
16 Wasserman's probation officer, on page number 11
17 of the transcript of the proceedings here,
18 indicated that he lived at that address. On page
19 six of the transcript the probation log showed
20 that in October of '07 the probation officer
21 visited Mr. Wasserman's home at 1400 North
22 Prospect. He was living with his grandmother at
23 that time at Chai Point. His grandmother passed
24 away in the Spring, and he moved to the building
25 that he owned at 2903 North 23rd Street. The

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1 probation officer visited that home, on page
2 seven of the transcript, on 4/25/08. In May he's
3 arrested in Illinois, and he signs his personal
4 recognizance. You will see that there were some
5 mailings sent to California. His father lives in
6 California. There are documents attached to the
7 - - to the materials that I've submitted for your
8 consideration here today that indicate clearly
9 his father had Power-of-Attorney of Mr.
10 Wasserman, and he got his City tax bill. There's
11 also a deed, which has been unrecorded, conveying
12 half interest in the property on North 23rd
13 Street to his father.

14 PRESIDENT HINES: One minute.

15 MR. GIMBEL: The - - The method by
16 which licenses are reviewed certainly are - - are
17 not perfect. But at the end of the day people
18 expect, who have an interest in the property
19 associated with a license, an objective standard
20 to be followed. I suggest to you today that the
21 evidence is more than adequate. It's beyond the
22 preponderance that Norman Wasserman lived in
23 Milwaukee and in the State of Wisconsin for a
24 year preceding the filing of his application. I
25 am - - I am somewhat taken aback by the fact that

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1 the Chairman of the committee said on page 47 of
2 the transcript in this proceeding, "I don't think
3 you can survive on 23rd and Locust. That's a
4 difficult neighborhood." Suggesting that Mr.
5 Wasserman wouldn't live there for that reason.
6 Additionally, there was a suggestion by - - by
7 Alderman Bohl, and I have respect for him and his
8 leadership on this committee, that Mr. Wasserman
9 was living in Illinois. There is not one
10 scintilla of objective evidence to suggest that
11 Heath Norman Wasserman lived anyplace other than
12 in the State of Wisconsin for the year preceding
13 his filing of the application. I earnestly urge
14 that you recomm - - that you pass this license
15 and approve it. Thank you.

16 PRESIDENT HINES: Thank you. Why don't
17 you stay here, Mr. Attorney Gimbel. Are there
18 any particular questions that members of the
19 Council have of Attorney Gimbel at this time? If
20 not, thank you.

21 MR. GIMBEL: Thank you.

22 PRESIDENT HINES: Yes, sir. We will
23 now hear from the Assistant City Attorney from
24 the City Attorney's office, Assistant City
25 Attorney Bruce Schrimpf.

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1 MR. SCHRIMPF: Thank you, Mr.
2 President. Members, Bruce Schrimpf from the City
3 Attorney's office.
4 One of the issues that came before the
5 committee was the fact that in approximately May
6 of 2008 Mr. Wasserman was arrested in Gurnee,
7 Illinois, and he gave an address at that time,
8 during the course of that arrest, at 711
9 Creekside Circle, Gurnee, Illinois. And that was
10 something that the police reported to the
11 committee. And, of course, gave the committee
12 pause as to whether or not he was really living
13 in Illinois. There was in the reports that Mr.
14 Gimbel referenced regarding the visits by the
15 probation officer, an indication that during the
16 year 2008 there was an effort on the part of Mr.
17 Wasserman to have his probation transferred to
18 Illinois. That ultimately did not work out, and
19 the probation stayed here in Wisconsin. The
20 documents that Mr. Gimbel introduced before the
21 committee indicated that the probation officer,
22 in addition to office visits where Mr. Wasserman
23 gave the 2903 North 23rd Street address, there
24 were, additionally, home visits on March 15th,
25 2007, June 14th, 2007, August 16th, 2007,

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1 December 3rd, 2007 and February 27th, 2008,
2 wherein the probation officer visited Mr.
3 Wasserman during the time that he was living with
4 his mother at 1400 Prospect Avenue. His mother
5 passed away, and the next visit that shows up in
6 those reports indicates that the probation
7 officer met with Mr. Wasserman at 2903 North 23rd
8 Street, Milwaukee. The documents that Mr. Gimbel
9 provided indicated that, yes, there was a
10 personal recognizance bond executed by Mr.
11 Wasserman in September of 2008. And that
12 indicates that - - I'm sorry - - on May 30th,
13 2008, and that indicated the 2903 North 23rd
14 Street address. Those documents did not come
15 before the committee, because as Mr. Gimbel
16 explained, those documents were sent to this
17 Council after the fact, because the committee
18 deadlocked on whether or not Mr. Wasserman was a
19 resident of the City of Milwaukee for a year
20 preceding his application.

21 There is a warranty deed. There was an
22 issue regarding the deed. And that came up
23 because I asked Mr. Wasserman, during the course
24 of the hearing, about the fact that there is a
25 deed for the property at 2903 North 23rd Street

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1 indicating that the City of Milwaukee sends the
2 tax bills to an address in Agoura Hills,
3 California. In response to the question Mr.
4 Wasserman indicated that his parents live in
5 Agoura Hills, California. That's why the tax
6 bills go there, and that they own the property
7 with him. Alderman Zielinski got ahold of the
8 deed, and the deed indicated that it was owned by
9 Mr. Wasserman singly.

10 In the materials Mr. Gimbel presented,
11 he also presented a warranty deed which is dated
12 May 22nd, 2007, which gives a 50 percent interest
13 in the property at 2903 North 23rd Street from
14 Ronald Wasserman, apparently Heath Wasserman's
15 father, to Heath Wasserman. So that - - And
16 apparently that document was not recorded. It is
17 not authenticated, which is probably why it
18 wasn't recorded. It is, nonetheless, however,
19 dated May 22nd, 2007.

20 All that information can be balanced
21 against the fact that - - Oh, there was also a -
22 - a Power-of-Attorney - -

23 PRESIDENT HINES: One minute.

24 MR. SCHRIMPF: - - executed in Lake
25 County, indicating that Mr. Wasserman gave his

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1 father the power over some of his affairs, and
2 that was with the materials provided by Mr.
3 Gimbel. The findings of fact regarding the other
4 issues stand on their own. If you have any
5 questions, I'll be trying to answer them.

6 PRESIDENT HINES: Yes. The Chair
7 recognizes Alderman Jim Bohl.

8 ALDERMAN BOHL: Thank you, Mr.
9 President. Mr. Schrimpf, the - - the first
10 question I have for you is wouldn't it be a
11 violation of Mr. Wasserman's probation parole to
12 reside in a state other than in the State of
13 Wisconsin?

14 MR. SCHRIMPF: Absolutely. Absolutely.

15 ALDERMAN BOHL: And was it not stated
16 in the testimony provided that his parents also
17 own a home that he would visit in Gurnee,
18 Illinois?

19 MR. SCHRIMPF: Yes. He indicated
20 that's why he gave the 711 Creekside Circle
21 address.

22 ALDERMAN BOHL: The very - - The very
23 same address where he indicated on the time where
24 he was arrested for - - for the allegation of a
25 battery, that that was his home address?

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1 MR. SCHRIMPF: That's what he told the
2 Gurnee police, yes.

3 ALDERMAN BOHL: And - - And it was also
4 testified that he had lived at first with his
5 grandmother on Prospect Avenue sometime during
6 the last period of the year, and then moved to
7 the subsequent address on roughly 23rd and
8 Locust. Is that correct?

9 MR. SCHRIMPF: Correct. That's
10 correct.

11 ALDERMAN BOHL: Where he has been for a
12 period of time. Did he not also submit for the
13 committee's record, a phone bill - - Well, with
14 the name that was his middle - - that started
15 with his middle name, indicating that his middle
16 name was the name that he sometime uses in
17 public, and as proof of his residence at the
18 location on 23rd and Locust?

19 MR. SCHRIMPF: Correct. There was a
20 phone bill in the amount of five dollars and 77
21 cents, which included a 16 dollar 37 cent credit.

22 ALDERMAN BOHL: And did I not ask him
23 his home phone number at the time for that
24 location, which he did not know?

25 MR. SCHRIMPF: That's correct.

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1 ALDERMAN BOHL: And did I not point out
2 at that time, question him as to the amount of
3 use at that particular home phone to indicate a
4 five dollar bill?

5 MR. SCHRIMPF: Right. You did.

6 ALDERMAN BOHL: Thank you. That's all.

7 PRESIDENT HINES: Chair recognizes
8 Alderman Puente.

9 ALDERMAN PUENTE: Thank you, Mr.
10 President. Can you tell me if those probation
11 visits were scheduled or unscheduled? In other
12 words, were they surprised or did they set that
13 up and he could have been there at that time at
14 that location?

15 MR. SCHRIMPF: The - - They appear to
16 be scheduled.

17 ALDERMAN PUENTE: Thank you.

18 PRESIDENT HINES: Chair recognizes
19 Alderman Bauman.

20 ALDERMAN BAUMAN: Thank you, Mr. Chair.
21 There appears to be more going on here than meets
22 the eye. I mean, Mr. Gimbel has presented some
23 evidence, which is relevant to the question of
24 residency. But as I understand it, that evidence
25 wasn't submitted at the committee, nor did anyone

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1 at the committee have a chance to sort of cross-
2 examine on that evidence. Is that correct?

3 MR. SCHRIMPF: That is correct.

4 ALDERMAN BAUMAN: Wouldn't the best
5 course of action be to send this back to
6 committee for consideration of this new evidence?

7 MR. SCHRIMPF: That's an option the
8 Council always has.

9 ALDERMAN BAUMAN: Thank you. Because
10 there appears to be more going on here than meets
11 the eye. I don't know what it all it is, but
12 there does appear to be more.

13 PRESIDENT HINES: Are there any
14 additional questions of Assistant City Attorney?
15 Seeing and hearing none.

16 MR. SCHRIMPF: Thank you.

17 PRESIDENT HINES: Thank you. Alderman
18 Bohl moves that the committee now rises. Or
19 before we get - - No additional question. Before
20 now rises, the Chair recognizes Alderman Tony
21 Zielinski.

22 ALDERMAN ZIELINSKI: Thank you, Mr.
23 President. Attorney Gimbel is a very esteemed
24 attorney. He could take the most difficult cases
25 and make them seem - - seem more confusing and

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1 convoluted when - - when in reality, it's an open
2 and shut case. Mr. Gimbel had indicated that
3 there is not one scintilla of evidence to
4 indicate that this individual does not reside at
5 the address that he listed on his license
6 application. And he must be confusing this with
7 another case, because we've - - I'm - - I'm going
8 to share with - - with the Council here,
9 objective evidence that is irrefutable to the
10 point that he does not live at this address. And
11 I'm going to begin with Mr. Wasserman's own
12 words. When he was arrested in Illinois earlier
13 this year, he gave an Illinois address. His
14 driver's license doesn't list the address that he
15 has on his application. His phone bill that goes
16 to that address, he didn't even know his own
17 phone number. The tax bill that he has goes to
18 California. The deed that we have has him listed
19 as the only individual on the deed. He had
20 testified before the committee that his parents
21 were on the deed with him, and that's why it's
22 going to California. Well, the warranty deed he
23 submitted is from May of '07. It's not
24 authenticated, which means he cannot file it. It
25 is not filed. And how does he explain the - -

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1 the - - the tax bill going to California for all
2 the years previous to that.

3 You know, this is just - - I just think
4 that, you know, he has to have an address in
5 Illinois for his probation officer because of his
6 felonies and other, you know, violations against
7 the State throughout the years. And I think that
8 it's a complete - - would make a complete mockery
9 of the system in the face of all this evidence to
10 allow him to pull the wool over the Council's
11 eyes. I think it's critical that we send a
12 message to these applicants that if you lie
13 before this committee, if you mislead the
14 committee, you're not going to get away with it,
15 and you will be held accountable. And I would
16 move denial of the renewal of the license. Thank
17 you.

18 PRESIDENT HINES: Thank you. The
19 motion by Alderman Zielinski is to move denial.
20 On the motion, are there any discussions relative
21 to that motion? If not, we will subject that to
22 an appropriate vote. Mr. City Clerk, please call
23 the roll.

24 CITY CLERK: On the motion to deny,
25 Alderman Hamilton?

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1 ALDERMAN HAMILTON: Aye.
2 CITY CLERK: Davis?
3 ALDERMAN DAVIS: Aye.
4 CITY CLERK: Kovac?
5 ALDERMAN KOVAC: No.
6 CITY CLERK: Bauman?
7 ALDERMAN BAUMAN: Aye.
8 CITY CLERK: Bohl?
9 ALDERMAN BOHL: Aye.
10 CITY CLERK: Wade?
11 ALDERMAN WADE: Aye.
12 CITY CLERK: Puente?
13 ALDERMAN PUENTE: Aye.
14 CITY CLERK: Murphy?
15 ALDERMAN MURPHY: Aye.
16 CITY CLERK: Dudzik?
17 ALDERMAN DUDZIK: Aye.
18 CITY CLERK: Witkowiak?
19 ALDERMAN WITKOWIAK: No.
20 CITY CLERK: Witkowski?
21 ALDERMAN WITKOWSKI: Aye.
22 CITY CLERK: Zielinski?
23 ALDERMAN ZIELINSKI: Aye.
24 CITY CLERK: Mr. President?
25 PRESIDENT HINES: No.

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CITY CLERK: 10 ayes, three nos, two
excused.
PRESIDENT HINES: 10 ayes, three nos,
two excused. The motion carries.

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3 STATE OF WISCONSIN)

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5 MILWAUKEE COUNTY)

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8 I, JEAN M. BARINA, of Milwaukee Reporters
9 Associated, Inc., 5124 West Blue Mound Road,
10 Milwaukee, Wisconsin 53208, certify that the foregoing
11 proceedings is a full and complete transcript of the
12 Common Council meeting of taken in the Duffy
13 Amusements matter.

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JEAN M. BARINA
Court Reporter

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22 Dated this day of November, 2008.

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