

040930

COMMON COUNCIL

CITY OF MILWAUKEE

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Recommendation of the Utilities and Licenses Committee,
Nonrenewal of the Class B Tavern and Tavern Dance
license of Alfredo Garcia for the premises located at
2239 South 13th Street, "Club Galaxia"

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Proceedings had in the above-entitled
matter, commencing at 11:10 a.m., November 23, 2004,
in the Common Council Chambers, 200 East Wells Street,
Milwaukee, Wisconsin, reported by Donna Gulczynski of
Milwaukee Reporters Associated, Inc.

A P P E A R A N C E S

NARCISO L. ALEMAN, 925 East Wells Street,
Milwaukee, Wisconsin, 53203, appeared on behalf of the
Licensee.

BRUCE SCHRIMPF, Assistant City Attorney,
200 East Wells Street, Milwaukee, Wisconsin, 53202,
appeared on behalf of the City of Milwaukee.

P R O C E E D I N G S

1
2 PRESIDENT HINES: Identify yourself for the
3 record, please.

4 MR. ALEMAN: Good morning, Mr. President,
5 gentlemen of the council. My name is Narciso Aleman,
6 A-l-e-m-a-n. I'm an attorney.

7 One of the professional hazards in our
8 business, Mr. President, is that we can be hired on
9 the porch steps right before the hearing, and this is
10 the situation that I found myself in last night with
11 Mr. Garcia. He asked me if I would represent him.
12 I reviewed with him for two hours the records and the
13 recommendations and the proceedings that had taken
14 place.

15 I have had the opportunity to speak before
16 the committee, and I have the utmost respect and
17 regard for the committee members. They work long,
18 long hours and take a great deal of time deliberating
19 the issues before them, and some of them are very
20 complex, and I applaud them for that. And so what I'm
21 about to say and ask of the council to do is not done
22 lightly, and is not done without consideration of the
23 work and the effort of the committee members. All
24 that we're asking for, Mr. President, gentlemen, is
25 that Mr. Garcia be heard.

1 At the time that the notification of the
2 committee hearing was sent out, Mr. Garcia and his
3 family were in Mexico. They did not return until
4 after the hearing. Consequently, he did not have
5 an opportunity to be heard.

6 And looking at his record, that was -- one
7 of my clarifications to him was that, you know, you're
8 a businessman. You've had a number of businesses for
9 a number of years. This is not the first time, you
10 know, you've had this. But he was in Mexico. He
11 didn't have an opportunity to be heard, and that's
12 all that we're asking, Mr. President, members of the
13 council, is that he be heard before the committee.

14 If some of the things that are being said
15 and recorded are accurate and truthful, perhaps the
16 committee recommendation would be the same. But all
17 that I'm asking is that we be heard, and certainly
18 that is not a great deal to ask.

19 With all due respect to the proceedings
20 and the timeliness aspect, that's another thing that I
21 pointed out to Mr. Garcia. I said, if you had come to
22 me three days ago, we could have had at least written
23 objections filed within the time line, but you come to
24 me right before the hearing, and now we're recruited
25 for that. So the only thing left before us is to come

1 before you personally and ask that this matter be sent
2 back to committee, and that we be given an opportunity
3 to be heard. Mr. President, gentlemen, thank you for
4 your patience and your consideration.

5 PRESIDENT HINES: Thank you. Are there any
6 questions of Attorney Aleman at this point in time?
7 Chair recognizes Alderman D'Amato, followed by
8 Alderman Bauman.

9 ALDERMAN D'AMATO: Thank you, Mr. President.
10 Sir, while Mr. Garcia was in Mexico, who operated his
11 establishment?

12 MR. ALEMAN: Well, I can ask him. Would you
13 like me to ask him?

14 ALDERMAN D'AMATO: Was there somebody in
15 charge or was it closed?

16 MR. ALEMAN: I can ask him that.

17 PRESIDENT HINES: We can call him up here
18 and ask him to respond to your questions.

19 (Whereupon Mr. Garcia was sworn under oath.)

20 MR. ALEMAN: He says that there is a
21 bartender that is of confidence that operates the
22 business while he's out of the country.

23 ALDERMAN D'AMATO: And did that bartender
24 receive the notice as provided by the city?

25 MR. ALEMAN: The notice was sent to

1 Mr. Garcia's home address.

2 ALDERMAN D'AMATO: And there was no one at
3 his home opening mail?

4 MR. ALEMAN: No.

5 ALDERMAN D'AMATO: How long was he out of
6 the country?

7 MR. ALEMAN: Eight days.

8 ALDERMAN D'AMATO: Thank you.

9 PRESIDENT HINES: Chair recognizes Alderman
10 Bauman.

11 ALDERMAN BAUMAN: Thank you. I just want
12 to explore this date business a little bit more.
13 Precisely when did you leave the country, and when did
14 you return to the country?

15 MR. ALEMAN: He left on November 5th, and he
16 returned on November 11th.

17 ALDERMAN BAUMAN: And during that time
18 frame, there was no one living at his home, which is
19 referred to here as 5471 South Honey Creek Drive,
20 Greenfield, Wisconsin?

21 MR. GARCIA: No.

22 MR. ALEMAN: No, there wasn't.

23 ALDERMAN BAUMAN: And was the mail left
24 at his home, or was the mail held by the post office?

25 MR. ALEMAN: When they came back, it was

1 piled, there was a pile of correspondence.

2 ALDERMAN BAUMAN: And on what day did
3 Mr. Garcia first realize that there had been a hearing
4 set before the Utilities and Licenses Committee?

5 MR. ALEMAN: When he returned on the 11th.

6 ALDERMAN BAUMAN: That's all.

7 PRESIDENT HINES: Thank you, Alderman. The
8 Chair recognizes Alderman Puente.

9 ALDERMAN PUENTE: I'd like to ask the
10 attorney, when was the notice sent out?

11 PRESIDENT HINES: We can ask that question
12 of City Attorney Schrimpf.

13 ALDERMAN PUENTE: Oh, okay.

14 PRESIDENT HINES: Are there any more
15 questions for Attorney Aleman? If not, thank you,
16 sir. Why don't you remain. The city attorney has a
17 question for you.

18 MR. SCHRIMPF: Mr. Aleman, for the record,
19 I would ask if there's going to be any effort on the
20 part of the licensee, or anyone on behalf of the
21 licensee, to operate the business by court order or
22 any other kind of legal action, pending review of this
23 matter by the Utilities and Licenses Committee and the
24 Common Council.

25 MR. ALEMAN: The answer is that the business

1 is operating now. The license expires in December.

2 MR. SCHRIMPF: That's correct. December
3 17th. All right.

4 PRESIDENT HINES: Any additional questions?
5 Thank you. We will now hear from Assistant City
6 Attorney Schrimpf.

7 MR. SCHRIMPF: Mr. President, members, it
8 had originally been my intention to quickly review
9 the Findings of Fact and the number of neighbors that
10 appeared.

11 Whether or not you decide to remand it back
12 to the committee to give the licensee an opportunity
13 to be heard, in light of the fact that he was out of
14 the country, is certainly something reposed to your
15 sound discretion.

16 I would point out that neighbors did
17 appear, they did testify, and they took time off
18 their schedule in order to appear before the
19 committee.

20 Basically what we're going to have to do
21 is order a transcript of that hearing, and allow the
22 licensee an opportunity to subpoena those witnesses
23 back in if he wants to effectively cross-examine
24 them. That is something that's not unheard of. The
25 committee has done that before. But those are some

1 of the considerations that go into this.

2 Whether or not you send it back to committee
3 to give the licensee an opportunity to defend the
4 matter is, of course, something reposed to your sound
5 discretion.

6 PRESIDENT HINES: Thank you. Are there
7 any questions? Alderman D'Amato has a question for
8 Attorney Schrimpf.

9 ALDERMAN D'AMATO: Thank you, Mr. President.
10 Mr. Schrimpf, in your experience working on behalf of
11 the committee in the past, have you had occasion to go
12 to court for items with regard to notice, if somebody
13 was out of the country or out of town; and if you
14 have, what were those conclusions?

15 MR. SCHRIMPF: No, I've never -- None of
16 those cases have ever gone into court.

17 ALDERMAN D'AMATO: Thank you.

18 PRESIDENT HINES: Thank you. The Chair
19 recognizes Alderman Zielinski.

20 ALDERMAN ZIELINSKI: I'd like the Assistant
21 City Attorney to read off the list of violations.

22 MR. SCHRIMPF: March 19th, '98, gambling
23 machine; November 27th, 1998, a fight on the premises;
24 December 26th, 1998, theft of a patron/property;
25 January 31st, 1999, presence of underage --

1 PRESIDENT HINES: Alderman, I think it's a
2 valid question, but that was why we were given the
3 Findings of Facts, and I think there was testimony in
4 support of that, so I would think we could go into the
5 Committee of the Whole. I mean what's the point,
6 Alderman?

7 ALDERMAN ZIELINSKI: Well, the point is --
8 My concern is that if it takes so long to read the
9 history of problems in this building is, you know, --
10 It just raises some serious concerns on my part.

11 PRESIDENT HINES: Point well taken, and we
12 appreciate that. Any additional questions? Chair
13 recognizes Alderman Puente.

14 ALDERMAN PUENTE: Yes. My original question
15 was -- Thank you, Mr. President. When was the notice
16 sent?

17 MR. SCHRIMPF: I'm sorry, Alderman. I meant
18 to address that. The original notice was sent on
19 November the 3rd of 2004, which if I understood the
20 licensee's testimony correctly, is the day he left the
21 country.

22 ALDERMAN PUENTE: I believe he left the 5th.

23 MR. SCHRIMPF: Thank you.

24 PRESIDENT HINES: Thank you. Are there
25 any additional questions or comments? The Chair

1 recognizes Alderman Bauman.

2 ALDERMAN BAUMAN: In the event that we
3 remand this matter, I gather the worst that can
4 happen is the witnesses have to be recalled.

5 MR. SCHRIMPF: Right.

6 ALDERMAN BAUMAN: Because the establishment
7 will still remain operating, no matter what we do
8 today, until December 17th.

9 MR. SCHRIMPF: Right. Their license does
10 not expire until December 17th.

11 ALDERMAN BAUMAN: So no matter what we do
12 today, their license will expire on the 17th because
13 we don't have another council meeting until the 21st,
14 correct?

15 MR. SCHRIMPF: I believe that is correct.

16 PRESIDENT HINES: Thank you. The Chair
17 recognizes Alderman Witkowiak.

18 ALDERMAN WITKOWIAK: Just a question about
19 the -- If we send this matter back, we can get a
20 transcript from the previous hearing.

21 MR. SCHRIMPF: We'll have to get one.

22 ALDERMAN WITKOWIAK: Yes. And then we
23 have to have that admitted. But as I understood it,
24 though, and how you just answered Alderman Bauman,
25 would all those witnesses have to show up again?

1 MR. SCHRIMPF: Only if they're subpoenaed
2 for purposes of cross-examination. And the committee,
3 in all likelihood, would not do the subpoenaing. It
4 would be the counsel or someone on behalf of the
5 applicant.

6 ALDERMAN WITKOWIAK: Okay. Thank you.

7 PRESIDENT HINES: Any additional questions
8 or comments for the city attorney? There are none.

9 MR. SCHRIMPF: Thank you.

10 PRESIDENT HINES: Thank you. Alderman
11 Witkowiak moves that the Committee now rise. Is there
12 any further discussions or recommendations on this
13 particular item? Chair recognizes Alderman Witkowiak.

14 ALDERMAN WITKOWIAK: Yes, thank you,
15 Mr. President. I would move we send this matter back
16 to committee, and I'm not sure if we will have the
17 same result, but I would like to afford Mr. Garcia a
18 chance to be heard.

19 PRESIDENT HINES: That's an appropriate
20 motion. On the motion, are there any comments or
21 questions? Chair recognizes no additional questions.
22 Will the City Clerk please call the roll on the
23 motion.

24 CITY CLERK: Alderman Hamilton?

25 ALDERMAN HAMILTON: Aye.

1 CITY CLERK: Davis?
2 ALDERMAN DAVIS: Aye.
3 CITY CLERK: D'Amato?
4 ALDERMAN D'AMATO: Aye.
5 CITY CLERK: Bauman?
6 ALDERMAN BAUMAN: Aye.
7 CITY CLERK: Bohl?
8 ALDERMAN BOHL: Aye.
9 CITY CLERK: McGee?
10 ALDERMAN McGEE: Aye.
11 CITY CLERK: Wade?
12 ALDERMAN WADE: Aye.
13 CITY CLERK: Donovan?
14 ALDERMAN DONOVAN: Aye.
15 CITY CLERK: Puente?
16 ALDERMAN PUENTE: Aye.
17 CITY CLERK: Murphy?
18 ALDERMAN MURPHY: Aye.
19 CITY CLERK: Dudzik?
20 ALDERMAN DUDZIK: Aye.
21 CITY CLERK: Witkowiak?
22 ALDERMAN WITKOWIAK: Aye.
23 CITY CLERK: Witkowski?
24 ALDERMAN WITKOWSKI: Aye.
25 CITY CLERK: Zielinski?

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ALDERMAN ZIELINSKI: Aye.

CITY CLERK: Mr. President?

PRESIDENT HINES: Aye.

CITY CLERK: Fifteen ayes.

PRESIDENT HINES: Fifteen ayes. This matter
will be referred back to the committee.

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