



JAMES N. WITKOWIAK

ALDERMAN, 12TH DISTRICT

July 25, 2007

To the Honorable, the Common Council

Dear Members:

Re: Common Council Files 070556 and 070190

Attached are written objections to Common Council File 070556, which is a substitute motion suspending the Class "B" Tavern license for 90 days and revoking the Tavern Dance license of John Strege for the premises at 9316 W. Appleton Avenue ("Side Pocket Sports Bar") in the 2nd aldermanic district. (Committee vote: Ayes: 3, Noes: 2)

Also attached is the written objection to the recommendation of renewal, with a 90-day suspension based on neighborhood objections and the police report, of the Class "B" Tavern license of Montal Hinton for the premises at 2525 N. Holton Ave. ("Montal's Lounge") in the 6th aldermanic district. (Committee vote: Ayes: 3, Noes: 2) contained in file 070190.

This matter will be heard by the full Council at its July 31, 2007 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached objections.

Respectfully,

A handwritten signature in black ink that reads "James N. Witkowiak". The signature is written in a cursive style and is positioned above the printed name and title.

James N. Witkowiak, Chair
Licenses Committee

cc: All Council Members
City Attorney's Office
Common Council/City Clerk – License Division
CCF 070556 and 070190

LAW OFFICES OF
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July 26, 2007

The Honorable Common Council
of the City of Milwaukee
City Hall
200 East Wells St.
Milwaukee, WI 53202

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

Re: Renewal of Class "B" License
For Montal's Lounge
2525 N. Holton St.
Milwaukee, WI.
Montal Hinton, Licensee

CITY OF MILWAUKEE
07 JUL 26 PM 2:07
RONALD D. LEONHARDT
CITY CLERK

Honorable Members of the Common Council:

This Office has been retained to represent the licensee, Montal L. Hinton, regarding the renewal of his class "B" License for "Montal's Lounge". Pursuant to Section 90-12-5-c-2 of the Milwaukee Code of Ordinances, Montal Hinton does respectfully file these written objections to the July 19, 2007 Findings of Fact and Conclusions of Law that were filed as a result of the renewal hearing on July 17, 2007. The Licensee and his representative will be present at the meeting of the Common Council on July 31, 2007 at 9:00 a.m. to present oral argument.

The Licensee appeared before the License Committee on July 17, 2007 without an Attorney, however he did have two witnesses to address specific items in the Police Report. The witnesses were two staff members of Montal's Lounge and were working on the nights that were reported by the Police Department. This was the first time that Montal Hinton was before the Committee since his initial hearing when his license was granted. The Committee decided to recommend re-issuance of the License with a 90 day suspension.

It is the position of the Licensee that the recommendation, in no way, represents progressive discipline. If forced to be closed for 90 days the Licensee will most likely not be able to endure the financial hardship and be forced to go out of business. Progressive discipline is required by the equal protection clause of the 14th Amendment to the Constitution and has been an accepted principle by the Common Council for many years.

Furthermore, the Licensee submits that the facts in the submitted Findings of Fact do not

demonstrate a need for a 90 day suspension. The Police Report contained three items that were related to the location. The first item which appears as paragraph 5. C of the Findings of Fact concerned an incident of gun fire outside the establishment well after the establishment was closed. As the establishment operates with its clocks advanced 15 minutes, and regularly closes a half hour early, the establishment was closed for nearly 30 minutes. The Police Report indicated that the gun was fired at 2:19 a.m. If the incident occurred at that time, the clock in the bar would have been on 2:34 a.m., which given a 30 minute early closing time the bar was already closed for one half hour. The Licensee was present and testified that he did hear a gun, and checked it out. That no persons were allowed into the bar because it was closed for the evening. Upon checking outside to determine what happened the Licensee and his staff found an empty street. The Licensee herein denies and denied to the Police that there was any altercation in the bar on that evening or anything else that would cause him to believe that the incident was related to Montal's Lounge. Unfortunately, gunshots in the surrounding neighborhood are not that uncommon.

The second incident in the Police Report as stated in paragraph 5. D of the Findings of Fact recount an incident on May 20, 2007 at 1:30 a.m. The Police responded to a complaint about somebody with a gun, but no such item could be found or substantiated. The Police noted that the location appeared crowded, but no actual head count was conducted, nor was any citation issued. As no gun or citation was issued, this non-incident should hardly give rise to a warning letter, much less a suspension. Therefore, this incident should not be considered at all.

The third incident in the Police Report as stated in paragraph 5. E of the Findings of Fact discusses an incident on May 24, 2007 when Police were looking for a Robbery subject. The Police alleged that Mr. Hinton was argumentative. Mr. Hinton denies that he was argumentative and only expressing that an area in which the Police wanted to search, was not open to the patrons and was not part of the listed premises in the License application. It is true that the Police came back to a locked door, however, this was done out of the concern that there was a Robbery suspect in the area, and bars and their patrons are often victimized by such individuals.

Three neighbors testified against the Licensee. Two of these witnesses were married and offered a video tape that they claimed showed extensive noise, patrons congregating after hours, and acts of public urination. None of these things were present on the video. **The video only showed that Holton street is a busy street, with many cars traveling through the area that were obviously not patrons of Montal's Lounge.** Concerning the patrons outside the Licensee has checked the street after he closes and does announce to people to leave quietly. In this regard the Licensee has a plan to add security, including a private security company with a car to ensure that people do not loiter.

The first neighbor to testify lived at 2543 N. Holton and testified about noise from people loitering and playing music. She submitted several discs of videos to the Committee that didn't show any incident anywhere near the magnitude of what she testified about in her oral statement. She stated that she called the Police at least 6 times since October of 2006 but could not actually produce her own written records or official Police records to prove the calls were made. When she

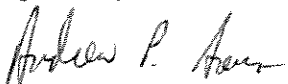
was questioned by Committee members about the calls she only had notes of a call in April, one in May, and one in July. She told the same story twice about the same incident involving an object thrown at her husband because the people were objecting to being filmed. She also stated that she wanted to talk to Mr. Hinton about the incident, but the Police told her not to. She stated that her husband had spoke to Mr. Hinton, however, when he testified he stated that he only talked to the previous owner, and never raised the issues with Mr. Hinton. After reviewing the video's and considering the inconsistencies in the witnesses testimony, it is clear that she has over exaggerated the nature of the incidents and the amount of the incidents. Mr. Hinton believes that there have been times that people have been talking, and maybe someone has urinated, but he submits to the Council that these incidents are isolated and preventable with some diligence on his part. Unfortunately these issues were not brought to his attention so that he could be made aware that his checking the area after closing was not enough of a presence on the street.

Mr. Hinton is aware of his responsibilities and is making sure that he closes early and has added additional personnel to keep people moving from the establishment to their cars, and leaving immediately and quietly. There are certain houses on the block where people do sit outside and do make some noise. Generally it could be seen in the video submitted, that cars associated with the bar were already gone, as there were empty places on the street. There were three or four individuals in the street that were engaged in a conversation in front of the house that they were visiting.

Attached hereto and incorporated by reference is a written plan for Montal's Lounge. It is short because satisfying the neighborhood concerns is the issue. Generally, the business is operated pursuant to ordinance and law. There have been no citations issued for underage drinking, noise, or any other violation of Ch. 90 of the Milwaukee Ordinances. There have been no incidents of violence, guns, knives, or fights, inside the establishment. However, Mr. Hinton will work to satisfy the neighborhood concerns by making sure he closes 30 minutes before legal closing time, increases security to escort people to their cars and make sure they are quiet, and add additional signs inside to put patrons on notice to leave and be quiet.

Montal Hinton understands that his neighbors are entitled to enjoy a peaceful and quiet neighborhood. He will take the necessary steps to aid in this endeavor, and will remain available for any one to speak to him on a daily basis. As Mr. Hinton understands his duties and that he has to take steps to meet these obligations, he is very fearful of a 90 day suspension. Because he has never been before the Committee before he respectfully requests that the 90 days be amended to something far less, and he does not object to having the matter sent back to the Committee for reconsideration.

Respectfully Submitted,



Andrew P. Arena,
Attorney for the Licensee

Montals' 2550 N. Holton

Neighborhood Concerns:

*Patrons leaving the bar noisily
Loud music from cars
Public Urination
Concerns about parking
Alleged drug dealing*

Combatting the issues:

Mr. Hinton will make himself available to the neighbors. Provide phone number to the residents.

Diligently work with Milwaukee Police Department's District 5 to address the neighborhood concerns that were raised by residents.

If there is not an established block watch/block club organization, willing to start one and hold meetings at the bar or a choice chosen by members.

Will increase Security and have them escort patrons to their cars. Also will have Security do neighborhood walks while the Bar is open.

Post signs instructing patrons to leave quietly and loitering is not permitted.

Will Close the Bar one-half hour earlier and the signage will be turned off immediately when the Bar closes.