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CITY OF MILWAUKEE

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UTILITIES & LICENSES COMMITTEE

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In the Matter of:

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ALBITER, Maria D., Class "B" Tavern and Tavern Dance
renewal applications for "Tex Mex Place" at 1900 West
Lincoln Avenue.

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COMMITTEE MEMBERS

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ALD. JAMES BOHL, JR. - Chairman

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Ald. Marlene Johnson-Odom - Vice Chair

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Ald. Fredrick G. Gordon

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Ald. Joseph A. Dudzik

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DEPARTMENT OF NEIGHBORHOOD SERVICES by PANDORA BENDER

15

HEALTH DEPARTMENT by OSCAR L. BOND

16

LICENSING DIVISION by JAMES COPELAND

17

POLICE DEPARTMENT by SERGEANT JOHN HOGAN

18

OFFICE OF THE CITY ATTORNEY by BRUCE SCHRIMPF

19

WILLIAM PADWAY ON BEHALF OF THE APPLICANT

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Proceedings had and testimony given in
the above-entitled matter, before the UTILITIES &
LICENSING COMMITTEE OF THE CITY OF MILWAUKEE, on
the 11th day of March, 2003, reported by Donna
Gulczynski of Milwaukee Reporters Associated, Inc.

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P R O C E E D I N G S

(NOTE: All City Personnel Were Sworn Under Oath Prior to These Proceedings.)

CHAIRMAN BOHL: Maria Albiter, Class "B" tavern and tavern dance renewal application for Tex Mex Place at 1900 West Lincoln Avenue, also in the 8th Aldermanic District. Okay. Miss Albiter, you are here. Are you represented by counsel?

MR. PADWAY: Yes.

CHAIRMAN BOHL: And, sir, your name is?

MR. PADWAY: Attorney William Padway, P-a-d-w-a-y.

CHAIRMAN BOHL: Okay. Miss Albiter, could you please raise your right hand?

(Whereupon the Applicant was Sworn Under Oath.)

CHAIRMAN BOHL: And do you acknowledge receiving notice of today's meeting with the possibility that your license application may be denied based on the items in the police report, as well as neighborhood objection to loitering, littering noisy patrons, traffic congestion, suspected drug activity, and conduct which is detrimental to the health, safety and welfare of the neighborhood?

MS. ALBITER: Yes, sir.

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1 CHAIRMAN BOHL: Okay. With that, Health
2 Department?

3 MR. BOND: No objection.

4 CHAIRMAN BOHL: Neighborhood Services?

5 MS. BENDER: No objection.

6 CHAIRMAN BOHL: Sergeant Hogan?

7 SERGEANT HOGAN: There's one incident since
8 the license was last issued, and I'll be reading from
9 the report filed by one of the investigating
10 detectives.

11 "During the month of October 2002,
12 information was received at the Vice Control Division
13 from a confidential source that individuals associated
14 with the Tex Mex Tavern were involved with large scale
15 drug trafficking. One of these individuals was later
16 identified as Jose Jimeze. Mr. Jimeze subsequently
17 directly delivered and conspired to sell in excess of
18 500 grams of cocaine to an undercover officer during a
19 series of transactions. These transactions occurred
20 within the attached rear garage of the tavern over a
21 period of approximately two months.

22 During the course of this investigation,
23 the undercover officer was directed by Mr. Jimeze to
24 contact the tavern owner known as Jose for cocaine.
25 Jose was later identified as Jose Albiter. The

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1 undercover officer made subsequent contact with Jose
2 Albiter, and between December 4th of 2002 and January
3 3rd of 2003, at least four undercover cocaine
4 transactions occurred with Albiter, totaling in excess
5 of 225 grams. These transactions and meetings
6 occurred within the tavern and the garage attached to
7 the tavern.

8 On January 7th, 2003, a search warrant was
9 executed at the tavern and at the Albiter residence.
10 Recovered inside the tavern was approximately \$12,000
11 in U.S. currency, documents, and one firearm. Inside
12 the garage attached to the tavern was recovered
13 another firearm. A \$50 bill was recovered from the
14 safe in the office area of the tavern and was
15 discovered to match part of the buy money that was
16 used in an undercover transaction with Albiter.

17 When conducting an interview with Maria
18 Albiter, the wife of Jose Albiter, she stated that she
19 handled all the financial dealings and bills generated
20 from the tavern operations. Maria Albiter indicated
21 that the business generated from the tavern operations
22 was not very significant. She denied having any
23 knowledge of drug trafficking by her husband or any
24 other individuals. She stated that the money used to
25 purchase the tavern came from an injury settlement

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1 that her husband received from a prior work-related
2 accident.

3 Jose Albiter and Mr. Jimeze were charged in
4 a criminal complaint with the delivery of controlled
5 substance, cocaine. Mr. Jimeze was also wanted by
6 U.S. Marshals for escape from a federal prison in
7 Duluth, Minnesota.

8 Mr. Albiter admitted to his involvement in
9 conspiring with Mr. Jimeze to distribute cocaine. The
10 street value of the cocaine sold to the undercover
11 officer is estimated to be in excess of \$50,000.
12 Presently actions are being taken to federally seize
13 the tavern property and other assets involved with
14 this incident." That's all.

15 CHAIRMAN BOHL: Thank you, Sergeant Hogan.
16 Miss Albiter, or counsel, you have the ability to
17 raise any questions or respond to the police report at
18 this time. Is there anything --

19 MR. PADWAY: Yes, I would like to respond.
20 Mr. Albiter is currently pending criminal charges in
21 Milwaukee County Circuit Court for the transactions
22 that were reported. What I would note is that -- or
23 what you should know is that Mrs. -- the name of --
24 The ownership and the license is in his wife's name,
25 that she cooperated with law enforcement by giving the

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1 statement, and it was a very truthful statement. I do
2 have with me proof of the large personal injury
3 settlement that was obtained.

4 Mr. Albiter used to work in Illinois,
5 Waukegan, Illinois, and suffered a severe injury where
6 he lost use of his right arm and had to have his knee
7 reconstructed and had back injuries which left him
8 disabled. I can present this personal injury
9 settlement documentation which shows that they
10 received \$142,000, and he no longer works at that
11 company because of his disability, and that settlement
12 occurred on December 1st of 2000. They did then
13 purchase, with those proceeds, the Tex Mex Place.

14 Mrs. Albiter's actively -- very actively
15 involved in the operation of it. She cannot -- What
16 happens in that criminal case will involve her
17 husband, not her. There's no allegation of any
18 problems that she has been involved with. It is a
19 business that she is using, obviously, to support her,
20 her son, and her husband if he's acquitted. If he is
21 convicted of this offense, I suspect he will end up in
22 prison.

23 I should also note that this is a small
24 establishment, 51 people. I read the file -- or the
25 cards and the notice which says there's neighborhood

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1 objections. From reading the cards that were actually
2 filed, that to my knowledge is incorrect. I say that
3 because there were eight individuals that responded on
4 the cards; two individuals of the eight objected, but
5 they did not object for reasons of loitering,
6 littering, noisy patrons or traffic congestion. They
7 objected on the sole basis that there was already a
8 lot of businesses in the area, and they just did not
9 want another licensed tavern. From reading the cards,
10 it would be my interpretation that they thought that
11 this was a new establishment coming into the area.

12 Clearly this is a situation where there is
13 an objection as a result of the spouse of the owner.
14 It is my suggestion that if that is the concern, that
15 that can be easily remedied by an agreement that that
16 spouse not be allowed near the tavern during the
17 pendency of his criminal proceedings, and that can be
18 arranged, and my client has no problem with it. But
19 as far as neighborhood objections, I don't believe
20 there really are any neighborhood objections.

21 There are some patrons here in support of
22 this license being given that would say that it's an
23 extremely clean, low-key tavern that is used by the
24 neighborhood for just a very pleasant social
25 experience.

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1 CHAIRMAN BOHL: Okay. Thank you, Counsel.
2 Are there any questions of committee members relating
3 to the police report at this point? Okay. This item
4 is noticed for neighborhood objections. Are there
5 residents of the neighborhood who are here, just a
6 show of hands, who are here to testify in this matter?
7 Okay. I see one hand up. Ma'am, are you here for or
8 against?

9 MS. ZINKE: Against.

10 CHAIRMAN BOHL: Against. Okay. Thank you.
11 We'll take you in one moment here. Alderman Donovan,
12 is there something that -- would you like to make an
13 opening statement here?

14 ALDERMAN DONOVAN: Yes. Thank you,
15 Mr. Chairman. In the words of the attorney, the
16 patrons of this establishment came to enjoy
17 themselves, and they certainly did, with a great deal
18 of drug trafficking in my estimation going on at this
19 establishment.

20 I believe with the evidence that has come
21 forward, it's critical that we, as elected officials,
22 send a loud and clear message to licensed
23 establishments in this community that this type of
24 behavior cannot be tolerated. This makes a mockery of
25 the term "war on drugs" if this license is granted. In

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1 the words of the attorney here, the applicant was very
2 actively involved in the operation of this tavern, and
3 yet claims to be completely unaware of the goings on
4 or the activities of her husband, which I am convinced
5 operated the establishment just as much as she did.

6 Now, a point was made that there were no
7 significant neighborhood objections, and I'm not going
8 to argue that point. I think we're all aware that a
9 large number of complaints that come forward about
10 taverns are generated because of loud music or because
11 of patrons shooting up -- shooting guns off or
12 urinating in public, and so on and so forth, all the
13 types of testimony this committee has heard on
14 numerous occasions. I'm not saying that took place at
15 this establishment.

16 They had no need -- you know, there was
17 no -- People evidently just came in and bought their
18 drugs and were quiet about it, and I think that is
19 something that can't be tolerated.

20 I should also like to point out that this
21 area along Lincoln Avenue has been and continues to be
22 a problem with prostitution, and I think by allowing
23 for this establishment to remain open, that's just
24 fueling that type of activity. Drug activity in that
25 neighborhood is very high already. This area sits in

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1 the middle of a Targeted Investment Neighborhood. We
2 are trying very hard to turn this particular
3 neighborhood around, so I would -- I feel I would be
4 negligent as an alderman and a representative of my
5 district if I did not plead with this committee to
6 deny this license to this applicant. And I would
7 treat any establishment with this kind of record the
8 same way. Thank you.

9 MR. SCHRIMPF: Mr. Chairman.

10 CHAIRMAN BOHL: Thank you, Alderman Donovan.
11 Mr. Schrimpf?

12 MR. SCHRIMPF: Yeah. I was out of the room,
13 and I apologize for that. I got buttonholed while I
14 was out of here. Are we on Tex Mex?

15 CHAIRMAN BOHL: That is correct.

16 MR. SCHRIMPF: Okay. I just want to caution
17 the committee, what is before you and what is included
18 in the notice is the police report, nothing else.

19 CHAIRMAN BOHL: This is also cited for
20 neighborhood objections. We do have one resident
21 who's here.

22 MR. SCHRIMPF: I don't see that on my
23 notice. It says attached police report.

24 CHAIRMAN BOHL: Right underneath it,
25 neighborhood objections to littering, loitering, noisy

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1 patrons, traffic congestion, suspected drug activity,
2 etcetera, etcetera.

3 MR. SCHRIMPF: That's not on my notice.

4 SERGEANT HOGAN: That's Schultz.

5 MR. SCHRIMPF: Oh, wrong. I'm sorry. Okay.

6 I take it all back.

7 CHAIRMAN BOHL: All right. Thank you,
8 Alderman Donovan. Ma'am, if you would come forward
9 here now.

10 (Whereupon Linda Zinke was Sworn Under
11 Oath.)

12 CHAIRMAN BOHL: For the record we will need
13 your name, your address, and then any testimony that
14 you have directly witnessed, seen or heard.

15 MS. ZINKE: My name is Linda Zinke.

16 CHAIRMAN BOHL: And, ma'am, if you could
17 move forward to the microphone so we can hear you
18 clearly. Thank you.

19 MS. ZINKE: My name is Linda Zinke. I live
20 at 2213 South 18th Street. I am speaking for the drug
21 trafficking and the prostitution. We do not need
22 another liquor license in the neighborhood.

23 We have an elementary school directly across
24 from 19th and 18th and Lincoln. If there's drug
25 activity, it's also fueling the prostitution problems

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1 that we're having. It's also fueling a number of
2 violent activities, and I just don't feel that we need
3 another liquor license, especially as far as this bar
4 has been under investigation and has had obviously
5 drug problems.

6 CHAIRMAN BOHL: Miss Zinke, you indicate you
7 live how far from this establishment?

8 MS. ZINKE: I live on 18th, but --

9 CHAIRMAN BOHL: How far is that from this
10 location approximately?

11 MS. ZINKE: Less than a block.

12 CHAIRMAN BOHL: Okay. So you're less than a
13 block away.

14 MS. ZINKE: Uh-hmm.

15 CHAIRMAN BOHL: What have you directly seen
16 or witnessed related to some of the items that you're
17 talking about?

18 MS. ZINKE: Well, --

19 CHAIRMAN BOHL: And I mean in terms of
20 not only relaying that this is a problem in the
21 neighborhood, but directly established to this
22 particular establishment.

23 MS. ZINKE: Okay. It's not very clean
24 outside of the bar, all right. That's number one.
25 Number two, there's drug trafficking. That's already

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1 been established. There's an elementary school across
2 the street from the bar. We do not need another
3 liquor license in the neighborhood. We have plenty
4 of bars that are proliferating the drugs, the
5 prostitution. We don't need this in our neighborhood.
6 We're trying to revitalize the area.

7 CHAIRMAN BOHL: Okay. Miss Zinke, what -- I
8 guess what I'm getting at is that when the committee
9 takes into consideration residential testimony, we
10 need to hear items that you directly have witnessed.

11 Now, I know that you are aware of items in
12 the police report. That, for the committee's sake,
13 is hearsay evidence. Unless you, yourself, have
14 witnessed drug activity going on or some of these
15 problems directly attributable, that is not testimony
16 that we can use in --

17 MS. ZINKE: So what you're saying is that
18 the people who live in that area that are experiencing
19 these things on a daily basis don't have a voice
20 because we did not directly witness this? Is that
21 what you're telling me? So we don't have a voice in
22 this at all.

23 CHAIRMAN BOHL: What I'm telling you is by
24 state law we are required not to consider hearsay
25 evidence, but direct testimony of residents and

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1 testimony that's attributed in the police report.

2 MS. ZINKE: Uh-hmm. And I'm telling you
3 that many of the bars that are -- and there are many
4 bars, every corner, every corner in a three-block
5 area, and that includes hers, there is a liquor
6 license. There's also an Open Pantry that has a
7 liquor license. We have prostitution going on. It's
8 coming up -- It directly effects my home.

9 CHAIRMAN BOHL: Ma'am, trust me. I am
10 sympathetic to the concerns.

11 MS. ZINKE: We are --

12 CHAIRMAN BOHL: Ma'am, ma'am. Please. We
13 are required by state law. I didn't establish the
14 state law, Alderman Johnson-Odom didn't establish the
15 state law. That is what state law dictates we are
16 allowed. I just want to clarify that for the record.
17 This is something that has to be known. We must
18 follow the rule of the law. If you are unhappy with
19 that, you should talk with your state legislature, but
20 we have to stay with the state law. Other questions
21 at this point for Miss Zinke?

22 ALDERMAN GORDON: Mr. Chairman.

23 CHAIRMAN BOHL: Alderman Gordon.

24 ALDERMAN GORDON: Thank you. Miss Zinke,
25 have you observed at any point in time any activities

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1 such as littering, loitering, public display of
2 alcohol use, public urination, foul language being
3 used, loud language being used, or loud music being
4 played coming from this establishment?

5 MS. ZINKE: Not directly from the bar. From
6 the garage behind the bar that is attached to the bar,
7 yes, because that alley is my access to 19th Street
8 from my parking space behind my house.

9 ALDERMAN GORDON: So that garage that is
10 located behind the establishment, is that, to your
11 knowledge, a part of that establishment?

12 MS. ZINKE: As far as I know. It's attached
13 to the building.

14 ALDERMAN GORDON: It's attached to the bar?

15 MS. ZINKE: Yes.

16 MR. GORDON: And you've observed personally
17 the kinds of activities that I just stated coming from
18 that part of the property?

19 MS. ZINKE: The garage doors are open.
20 There's cars being worked on at times. There's a lot
21 of litter around the bar, yes.

22 ALDERMAN GORDON: Thank you.

23 CHAIRMAN BOHL: Okay. Any other questions?

24 ALDERWOMAN ODOM-JOHNSON: I just have one.

25 CHAIRMAN BOHL: Alderwoman Johnson-Odom.

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1 ALDERWOMAN JOHNSON-ODOM: All of these
2 allegations or charges or whatever are referred to
3 Jose Albiter. Is he in jail now?

4 MR. PADWAY: No, is he not.

5 ALDERWOMAN JOHNSON-ODOM: Is he a part of
6 this establishment?

7 MR. PADWAY: He is my client's husband, he
8 has worked in the tavern, but it is her tavern and her
9 license.

10 ALDERWOMAN JOHNSON-ODOM: Has there been
11 anything since the last time he was arrested? Was
12 that in January?

13 MR. PADWAY: I'm not representing him, but
14 I do not believe -- That action against him, to my
15 knowledge, is what has brought this objection to this
16 renewal, and only that particular action.

17 ALDERWOMAN JOHNSON-ODOM: And he has a
18 hearing tomorrow? I mean on Thursday?

19 MR. PADWAY: I believe he's got a court
20 hearing coming up.

21 ALDERWOMAN JOHNSON-ODOM: A jury trial in
22 April?

23 MR. PADWAY: Could be.

24 ALDERWOMAN JOHNSON-ODOM: But does he hang
25 around this bar.

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1 MR. PADWAY: He used to. I mean if it is --
2 He can be completely disassociated from this tavern
3 during the pendency of that proceedings without any
4 problem.

5 CHAIRMAN BOHL: Mr. Padway, that is
6 something that this committee cannot -- you know, you
7 can attest to that, but that's nothing that we can
8 hold you or the applicant to, just for clarification.
9 Alderman Johnson-Odom, are you finished at this point?

10 ALDERWOMAN JOHNSON-ODOM: Uh-hmm.

11 CHAIRMAN BOHL: Miss Zinke, thank you for
12 your time and your concerns here. We're going to go
13 to Alderman Donovan, if you have any closing remarks,
14 and then we'll go to you, sir, afterwards. And then
15 we'll take this in committee.

16 MR. PADWAY: Well, don't you want to hear
17 from the witnesses that came in support?

18 CHAIRMAN BOHL: Okay. That's fine.
19 Are there other -- I did ask for all neighborhood
20 residents who were here to testify. Are there
21 individuals here to testify in support of this
22 application.

23 MR. PADWAY: Yes.

24 CHAIRMAN BOHL: Okay. If you could come up
25 briefly, provide -- Well, why don't we swear you in.

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1 First off, why don't you all raise your right hands,
2 and we'll swear you in en masse.

3 (Whereupon the Witnesses were Sworn Under
4 Oath.)

5 CHAIRMAN BOHL: And what we'll ask you to do
6 is to come up to this microphone, clearly provide your
7 name and your address, and your reason for supporting
8 the license application. Sir, why don't you go ahead.

9 Let me just -- Let me first off, before we
10 get into this gentleman's testimony, we are still on
11 our 9:30 agenda. The first item of the day took
12 substantially longer time than we anticipated. On the
13 11:00 agenda are a number of bartenders' licenses. If
14 you are here for a new bartender's license -- and I
15 don't know how long it will be. We have a number of
16 items to get through before we get to bartenders'
17 licenses.

18 If you are here for a new bartender's
19 license, and you will not be able to wait around until
20 we get to those matters, you will be able to go out
21 to the hallway, and there should be a person at the
22 back desk. You can provide your name and your -- to
23 that person, and what we will do is we will call you
24 up during our next license hearing in three weeks if
25 you are unable to wait. So if you need to do that,

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1 you have that opportunity. As I said, we don't know
2 what time it will be. It may be an hour. If you're
3 able to wait, that's fine.

4 If you're here for renewal, you must stick
5 around. But if you're here on a new license, a new
6 bartender's license, and if you cannot stick around,
7 this is your opportunity to provide that information
8 here, so --

9 AUDIENCE MEMBER: What about a new location?

10 CHAIRMAN BOHL: Likewise.

11 AUDIENCE MEMBER: Likewise what?

12 CHAIRMAN BOHL: Likewise, if you -- We can
13 hold you on the agenda if you're unable to stick
14 around. Correct. So if you want to just exit out and
15 give your information at the back desk. I'm sorry,
16 sir, go ahead.

17 MR. CASPER: Well, I'm not here for a
18 bartender's license.

19 CHAIRMAN BOHL: We're back on this item
20 here at the Tex Mex.

21 MR. CASPER: Right. I live above the --

22 CHAIRMAN BOHL: Sir, we're going to need
23 your name and your address.

24 MR. CASPER: James Frank Casper, the
25 friendliest ghost, C-a-s-p-e-r, 1900 West Lincoln

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1 Avenue, upper front, Apartment 1, Milwaukee,
2 Wisconsin, 53215.

3 CHAIRMAN BOHL: Okay. Mr. Casper, why is it
4 that you support the license?

5 MR. CASPER: I don't support -- I'm one of
6 her tenants. I live above it. I don't tend bar.

7 CHAIRMAN BOHL: Okay.

8 MR. CASPER: Just when the officers came, I
9 wasn't home that day, but I'm there two and a half
10 years.

11 CHAIRMAN BOHL: Counsel, we'll give you an
12 opportunity to question the witness here. Sir, are
13 you here to support this license or to not support
14 this license?

15 MR. CASPER: Well, as a witness, that there
16 ain't no problem, you know, with us, I mean either
17 upstairs or downstairs. It's very clean and neat.

18 ALDERMAN GORDON: I'll take that as support.

19 CHAIRMAN BOHL: Okay, that you support the
20 license. Are there questions from committee?

21 ALDERMAN GORDON: Mr. Chairman.

22 CHAIRMAN BOHL: Yes.

23 ALDERMAN GORDON: I'm sorry, I missed this,
24 Mr. Casper. Did you say that you live upstairs above
25 the establishment?

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1 MR. CASPER: Yes, I do.
2 ALDERMAN GORDON: But you don't work there.
3 MR. CASPER: No, I'm retired.
4 ALDERMAN GORDON: Okay. How long have you
5 lived upstairs above the establishment?
6 MR. CASPER: Two and a half years, I said.
7 My roommate lived there. That's before Luis and Maria
8 took over. George and Pat Slominski had it for 11
9 years. Then it was Jean's Bar before I moved in.
10 ALDERMAN GORDON: Thank you.
11 CHAIRMAN BOHL: Okay. Mr. Padway, you
12 wanted to ask questions.
13 MR. PADWAY: Mr. Casper, you've been in the
14 Tex Mex Tavern?
15 MR. CASPER: Yes.
16 MR. PADWAY: And how often do you go in
17 there?
18 MR. CASPER: I give Maria's husband, Luis,
19 the rent once a month, and then I have a couple of
20 beers maybe two or three times a day -- I mean a week.
21 Then I go right back up stairs.
22 CHAIRMAN BOHL: Mr. Padway, if you could
23 direct your questions to the committee using the
24 microphone, he can answer them, but that way -- We
25 want to get you clearly on the record here. Thank

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1 you.

2 MR. PADWAY: In your observations is it a
3 clean tavern?

4 MR. CASPER: Yes, it is. It's very clean.
5 You can eat off the floor, or the bathrooms.

6 MR. PADWAY: And when you're upstairs, do
7 you notice any problems from the tavern?

8 MR. CASPER: No.

9 MR. PADWAY: And you would like to see the
10 tavern keep its license?

11 MR. CASPER: Yes, I would like to appreciate
12 that.

13 MR. PADWAY: And how many other people --
14 There are two apartments up?

15 MR. CASPER: Yes, there is.

16 MR. PADWAY: And to your knowledge, you
17 haven't heard any complaints from the other tenant
18 upstairs?

19 MR. CASPER: No, I haven't.

20 MR. PADWAY: I have nothing else.

21 CHAIRMAN BOHL: Alderman Donovan, anything?

22 ALDERMAN DONOVAN: No, I have no questions
23 of this gentleman.

24 CHAIRMAN BOHL: Okay. Thank you,
25 Mr. Casper. The next -- Mr. Casper, we're finished

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1 with you.

2 MR. CASPER: Thank you very much.

3 CHAIRMAN BOHL: Okay. If those who are
4 still here to testify, if you want to start lining up,
5 that would be appreciated here. That way we'll
6 expedite this a little, okay?

7 Ma'am, again, up to the microphone here.
8 And maybe the other two witnesses could take the two
9 seats behind you. Ma'am, if you could state your name
10 and your address, please, for the record?

11 MS. SALINAS: Lisa Salinas, 2812 South 45th
12 Street.

13 CHAIRMAN BOHL: And the spelling of your
14 last name, please.

15 MS. SALINAS: S-a-l-i-n-a-s.

16 CHAIRMAN BOHL: Okay. And our address,
17 ma'am?

18 MS. SALINAS: 2812 South 45th Street.

19 CHAIRMAN BOHL: And your testimony?

20 MS. SALINAS: Well, I'm a bartender there at
21 Tex Mex, and I haven't -- since I've been working
22 there going on two years, I've never had to call the
23 police, never had no complaints, never had a fight,
24 never had gunshots. And as far as drug activity,
25 first of all, they haven't been charged with anything

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1 yet. There was no evidence found in the tavern, at
2 his residence, or on him when he was arrested.

3 And on my behalf, I've never seen any
4 illegal things because, I mean, I wouldn't allow it
5 myself. Especially if I'm working, I would, you know,
6 ask that person to leave.

7 CHAIRMAN BOHL: Okay. Counsel, is there
8 anything that --

9 MR. PADWAY: You've worked there how long?

10 MS. SALINAS: Going on two years.

11 MR. PADWAY: And is the tavern kept clean?

12 MS. SALINAS: Oh, always.

13 CHAIRMAN BOHL: Counsel, we going to --
14 In the issue of time, we're going to go on the
15 record here and say that Tex Mex is the cleanest
16 establishment in the City of Milwaukee, and -- I mean
17 I want to -- I don't want it to get to the point where
18 we're -- just as we stated earlier, -- where we're
19 getting redundant testimony.

20 MR. PADWAY: Okay.

21 CHAIRMAN BOHL: We're looking for new and
22 substantial -- She substantially agrees with the
23 previous gentleman who provided testimony. She can
24 agree to that extent. But if you have additional
25 questions, we'll take that now at this point.

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MR. PADWAY: No.

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CHAIRMAN BOHL: Okay. Committee members?

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Okay. Alderman Donovan?

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ALDERMAN DONOVAN: No questions.

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CHAIRMAN BOHL: Thank you, ma'am.

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MS. SALINAS: Thank you.

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CHAIRMAN BOHL: Sir, if you want to step forward. Again, clearly your name, spelling it if it's difficult, and your address.

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MR. LARA: Okay. My name is Pete Lara, Jr.

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I live at 1725 South Pearl Street, which is about a mile or something from the place. I do go in there two, three times a week, and it's always been nice and comfortable, clean and everything, so --

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CHAIRMAN BOHL: Okay. Thank you. Questions by committee members? Alderman Donovan?

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ALDERMAN DONOVAN: No questions.

18

CHAIRMAN BOHL: Sir?

19

MR. SALINAS: My name is Jose Salinas, S-a-l-i-n-a-s. I live at 1613 South Muskego Avenue, and I go there on a regular basis like four times a week, usually. I'm there for an amount of periods of times. Ever since I've been there, I've never seen a problem or a fight. No police have ever had to show up or anything like that, and it's pretty much one of

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1 my usual hangouts.

2 CHAIRMAN BOHL: Okay. Questions by
3 committee? Mr. Padway, anything?

4 MR. PADWAY: No.

5 CHAIRMAN BOHL: Alderman Donovan?

6 ALDERMAN DONOVAN: I didn't get the address.

7 MR. SALINAS: 1613 South Muskego Avenue.

8 It's about less than a mile from there.

9 ALDERMAN DONOVAN: Thank you.

10 MR. SCHRIMPF: How far away do you live?

11 ALDERMAN BOHL: Mr. Schrimpf.

12 MR. SALINAS: South Muskego Avenue?

13 MR. SCHRIMPF: Yeah.

14 MR. SALINAS: That's about a -- less than a
15 mile.

16 MR. SCHRIMPF: A mile away.

17 CHAIRMAN BOHL: Okay. Mr. Padway, if you
18 have anything else that you want to present forward
19 here, we're going to then hear from Alderman Donovan,
20 and then we'll take this into committee.

21 MR. PADWAY: Okay. The only issue that I'd
22 bring up is there was reference from the other witness
23 about problems with the garage. I would like to note
24 that the garage area and the two apartments are rented
25 out. So whatever complaints there may have been about

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1 the garage, maybe somebody working on their car, would
2 have been by somebody who actually leases -- rents out
3 the garage and leases the space.

4 CHAIRMAN BOHL: Okay. Alderman Donovan,
5 anything else in terms of a closing statement here?

6 ALDERMAN DONOVAN: Yeah. Thank you,
7 Mr. Chairman. Very briefly, you know, with all due
8 respect, and I have no doubt that the testimony from
9 the folks in support is very sincere; I have no doubt
10 that the inside of the tavern is kept clean, but I
11 should also like to point out that the testimony is
12 either from renters or employees or people who live
13 quite a significant distance away from the
14 establishment and are patrons there. Well, certainly
15 patrons are not necessarily going to object because
16 it's where they go and enjoy themselves.

17 The point is, the argument here that I am
18 certainly trying to make is that I feel we -- it's
19 critical that a message be sent that drug dealing
20 taking place in taverns cannot be tolerated. And I
21 should also like to point out that according to the
22 record, drug dealing did take place in the attached
23 garage, or at least some of it, in the attached
24 garage. The garage is a attached to the building, and
25 so anyway, those are my only comments. Thank you.

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1 CHAIRMAN BOHL: Okay. Mr. Padway, this is
2 your last opportunity.

3 MR. PADWAY: Thank you. You know, it's
4 clear that this is here because of an allegation
5 against my client's spouse that there was a drug
6 transaction that took place in the garage, not in the
7 tavern, and he has not been convicted as of yet.

8 This is -- I don't believe that you punish a
9 spouse for an alleged conduct of the spouse when he's
10 not yet even been proven. That would be tantamount to
11 anybody here being held accountable for what their
12 spouse's actions have done in a different location.

13 Mrs. Albiter has operated this tavern two
14 years. It has been operated well. There is no
15 citizen complaint of any foundation that was brought
16 forth complaining. The upstairs tenant who clearly
17 lives right above came forward, other people came
18 forward on her behalf.

19 To not renew her license, in my opinion,
20 would be extremely harsh for the action of another
21 individual, and another individual that we acknowledge
22 is facing criminal charges. And there is a system to
23 punish that individual if in fact they are convicted,
24 and that is the appropriate focus, not taking away a
25 small establishment's license that has, at most, a

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1 capacity of 50 people and that has not caused problems
2 in the neighborhood.

3 CHAIRMAN BOHL: Okay. Before we go to
4 Alderman Dudzik, who has a question, my question is
5 for Mr. Schrimpf, and that is relating to -- Relating
6 to the charges now here against Mrs. Albiter's
7 husband, there has not been an adjudication on these
8 matters. How much leeway does the committee have to
9 utilize these in its decision?

10 MR. SCHRIMPF: In this particular case,
11 Mr. Chairman, the Wisconsin Fair Employment Law
12 actually comes in and governs part of it because --
13 And I understand that the husband is charged, and the
14 husband is not the licensed applicant.

15 But under the Wisconsin Fair Employment Act,
16 where there is a pending charge, the circumstances of
17 which substantially relate to the circumstances of the
18 licensed activity, then the committee can use the
19 existence of the pending charge as the basis for a
20 licensing decision.

21 Now, let me get to the next issue which is
22 the fact that it is the husband who's not the licensed
23 applicant. As I review the police report, -- and I'm
24 given to understand that this information has come
25 into the committee, -- some of the transactions took

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1 place within the tavern, and some of the transactions
2 took place within the garage that was attached to the
3 tavern, and some of the buy money was recovered in the
4 safe of the office area of the tavern. Therefore, you
5 have -- at least arguably, it's up to the committee as
6 to how they view that, but certainly you have a link
7 to the licensed premises, and you have a link to the
8 activities of the licensed premises.

9 I would point out that the under the
10 ordinances, the husband can function as a Class D
11 bartender within the place. That's one point. And I
12 would commend to the committee their review of like
13 cases where bartenders have been involved in drug
14 transactions within taverns, and what the committee
15 has done in those particular cases with licenses. So
16 those are my comments in answer to your question.

17 CHAIRMAN BOHL: All right. Alderman Dudzik?

18 ALDERMAN DUDZIK: Mr. Schrimpf answered the
19 questions in his description. Thank you.

20 CHAIRMAN BOHL: Okay. We are now in
21 committee. Is there a motion?

22 ALDERMAN GORDON: Yes, Mr. Chairman.

23 CHAIRMAN BOHL: Alderman Gordon.

24 ALDERMAN GORDON: Thank you. At this time
25 I'm going to move for renewal of the license with a

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1 10-day suspension based on police objections or the
2 police report. I think that the report clearly shows
3 that illegal activity has been taking place in this
4 establishment, and whether it's adjudicated or not,
5 I think that there is sufficient evidence for this
6 committee to impose the minimum penalty.

7 I think that will give Miss Albiter the
8 opportunity to talk with Alderman Donovan relative to
9 what is going to be happening at this establishment,
10 henceforth, after the Common Council weighs in on it
11 on March the 25th. But clearly the illegal activity
12 that has been alleged is serious, and it's caused,
13 obviously, some consternation amongst residents in the
14 immediate community surrounding the establishment.
15 Thus, I think that the minimum suspension period is
16 appropriate, and that's my motion.

17 CHAIRMAN BOHL: The motion before us is
18 for renewal of the Class "B" tavern and tavern dance
19 license with a 10-day suspension. On the motion?

20 ALDERMAN GORDON: Just as a further caveat
21 to the motion, Mr. Chairman.

22 CHAIRMAN BOHL: Alderman Gordon.

23 ALDERMAN GORDON: The husband, Jose L.
24 Albiter, -- I don't know if we can impose this, but
25 based on Mr. Schrimpf's comments, is there a way to

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1 prevent him from being involved in the daily routine
2 of the establishment? Or can we impose his not being
3 allowed on the premises?

4 MR. SCHRIMPF: Not without a change in the
5 current ordinance.

6 ALDERMAN GORDON: Okay. Thank you. So
7 that's my motion.

8 CHAIRMAN BOHL: Again, we have the motion
9 before us. Is there any comments on the motion? I'm
10 going to again pass the gavel and ask for recognition.
11 Madam Chair?

12 ALDERWOMAN JOHNSON-ODOM: Alderman Bohl.

13 ALDERMAN BOHL: I can appreciate the
14 concerns brought by the one resident. Again, in this
15 instance I have too many concerns with the police
16 report and the level of drug activity. I do not
17 believe that 10 days is sufficient, so I will oppose
18 the motion in hopes that it does not move forward, and
19 maybe we'll see where it goes.

20 But the motion before us is renewal of the
21 Class "B" tavern and tavern dance license with a 10-
22 day suspension. Are there any other objections other
23 than my own?

24 ALDERMAN DUDZIK: I'll object, please.

25 CHAIRMAN BOHL: Okay. We have two

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1 objections. That's a two-two vote. Is there another
2 motion on the floor?

3 ALDERMAN DUDZIK: I would move --

4 CHAIRMAN BOHL: All Dudzik.

5 ALDERMAN DUDZIK: Thank you. I would move
6 for a nonrenewal, please.

7 CHAIRMAN BOHL: Okay. The motion before us
8 is for nonrenewal of the Class "B" tavern and tavern
9 dance application. On the motion? Anyone else?

10 ALDERWOMAN JOHNSON-ODOM: I would think --

11 CHAIRMAN BOHL: Alderwoman Johnson-Odom.

12 ALDERWOMAN JOHNSON-ODOM: I think that
13 that's too severe. I would go for a -- for a longer
14 suspension and see what happens on April 28th. Was
15 the stipulation that the husband not be involved with
16 the bar? Was that --

17 CHAIRMAN BOHL: Alderwoman Johnson-Odom,
18 that is something that the committee does not have the
19 purview to hold him to.

20 MR. PADWAY: May I --

21 CHAIRMAN BOHL: We are in committee,
22 Counsel.

23 MR. PADWAY: I apologize. I can address
24 that issue.

25 CHAIRMAN BOHL: Okay. Alderman Dudzik, I

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1 don't know where this is going to go, but we'll give
2 it a shot. The motion before us is for nonrenewal of
3 the tavern, tavern dance. The rationale was the items
4 in the police report?

5 ALDERMAN DUDZIK: Yes.

6 CHAIRMAN BOHL: Based on items in the police
7 report. Are there any objections to this motion? And
8 I will object.

9 ALDERMAN GORDON: I object.

10 ALDERWOMAN JOHNSON-ODOM: I object.

11 CHAIRMAN BOHL: Okay. There's a
12 one-to-three. I'm going to pass the gavel here.

13 ALDERWOMAN JOHNSON-ODOM: Alderman Bohl.

14 ALDERMAN BOHL: Thank you, Madam Chair.
15 This is -- I think that there's some difficulty. I
16 think that the bar was clearly too low in the first
17 motion and too high in the second.

18 I think that what we have before us is
19 extremely troubling. It would have been much easier
20 for me to take a harder stance on this if there was
21 more residential testimony to substantiate some of the
22 neighborhood concerns that were raised.

23 I do think that what's clear, and the police
24 report shows, that there has been some blatant drug
25 activity. I do not believe the rationale of the

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1 applicant that she did not have a firm understanding
2 of what was going on with her husband.

3 I would therefore move at this point for
4 renewal of both licenses with a 40-day suspension,
5 okay? Four-zero. And it will based on items in the
6 police report.

7 Are there any comments on the motion we have
8 before us? Okay. The motion is again for renewal of
9 the tavern and tavern dance license with a 40-day
10 suspension. Are there any objections to that motion?
11 Hearing none, so ordered. Mr. Schrimpf?

12 MR. SCHRIMPF: Mr. Padway, the committee is
13 going to be doing Findings of Fact and Conclusions of
14 Law recommending renewal of this license with a 40-day
15 suspension.

16 You'll have an opportunity to receive a copy
17 of that report and to submit written objections to
18 that report, as well as to appear before the Common
19 Council, and they meet on this matter at approximately
20 9 a.m. on March 25th, 2003 at approximately 9:00 in
21 the Common Council Chambers of this building.

22 CHAIRMAN BOHL: Thank you.

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2 STATE OF WISCONSIN)

) ss:

3 MILWAUKEE COUNTY)

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I, DONNA GULCZYNSKI, of Milwaukee Reporters
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Wisconsin, certify that the foregoing transcript,
consisting of pages 2 through 35, inclusive, is a
full and complete transcript of the proceedings taken
in this cause.

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Donna Gulczynski - Court Reporter

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Dated this day of , 2003

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Milwaukee, Wisconsin

