

COMMITTEE ASSIGNMENTS

CHAIR

- Licenses Committee

VICE CHAIR

- Zoning, Neighborhoods and Development



MILELE A. COGGS
ALDERWOMAN, 6TH DISTRICT

MEMBER

- Finance and Personnel Committee
- Library Board
- Neighborhood Improvement Development Corporation Board
- Special Joint Committee on the Redevelopment of Abandoned and Foreclosed Homes
- Steering and Rules Committee
- Wisconsin Center District Board

October 27, 2022

To the Honorable, the Common Council

Honorable Members:

Re: Common Council File Number 220900

Attached are written objections to file number 220900, Motion relating to the recommendations of the Licenses Committee relative to licenses, relating to a recommendation of:

Renewal with a ten (10) day suspension of the Filling Station, Food Dealer and Weights & Measures licenses for Tejinder P. Rajput, for the premises located at 1645 W Forest Home Av. ("Forest Home Petro") in the 12th aldermanic district

Nonrenewal of the Extended Hours Establishments license for Muhammad A. Rana, for the premises located at 1801 W Greenfield Av. ("Alina Petroleum") in the 12 aldermanic district.

Renewal with a ten (10) day suspension of the Class B Tavern, Public Entertainment Premises and Food Dealer licenses for Andrew C. Deuster, for the premises located at 1133-37 N Water St. ("McGillicuddy's Bar & Grill") in the 4th aldermanic district.

Renewal with a fifteen (15) day suspension of the Class B Tavern and Public Entertainment Premises licenses for Jacob E. Dehne, for the premises located at 1044 N Martin L King Jr Dr. ("Red White and Blue") in the 4th aldermanic district.

Nonrenewal of the Class B Tavern and Public Entertainment Premises licenses for Tanisha Kelly, for the premises located at 3621 N Teutonia Av. ("Penthouse Lounge") in the 6th aldermanic district.

This matter will be heard by the full Council at its Tuesday, November 01, 2022 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached statement and materials.

Respectfully,

Milele Coggs, Chair
Licenses Committee

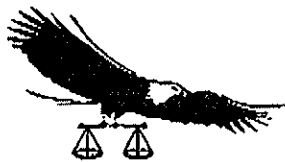
cc: All Council Members
City Attorney's Office
Common Council/City Clerk – License Division
CCF 220900



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BOBOT LAW OFFICE

VINCENT J BOBOT

October 21, 2022

James R. Owczarski
City Clerk of the City of Milwaukee
200 E. Wells Street, Room 205
Milwaukee WI 53202

RE: Tejinder Rajput, Agent
Forest Petroleum Inc.
1645 W. Forest Home Ave.
Milwaukee WI 53204

Dear Clerk Owczarski,

I am filing a written objection to the Licenses Committee recommendation to suspend my client's license for 10 days.

The car wash that is attached to Forest Petroleum's gas station does not allow people to loiter about the property. The gas station also does not allow people to sleep on the lot.

There was only one neighbor who testified against Forest Petroleum's business operation. That witness complained about the car wash which does not require a license but was part of the plan of operation.

The calls for police service noted in the License Premises Report. Testimony was provided to the Committee about the measures taken to reduce the need for police service.

Very truly yours,

Vincent J. Bobot
Attorney at Law
State Bar No. 1020732



LAW & CONSULTING, S.C.

October 26, 2022

Emil Ovbiagele
emil@ovblaw.com

[via Email & US Mail]
City of Milwaukee
Office of the City Clerk, Licensing Division
Attn: Jim Owczarski & Dana J. Zelanzy
City Hall, Rm. 205
200 E Wells St.
Milwaukee, WI 53202
jowcza@milwaukee.gov
d.zelanzy@milwaukee.gov

**RE: Alina Petroleum LLC – 1801 W Greenfield Ave., Milwaukee, WI
Extended Hours Establishment License**

To Whom it may concern,

Please be advised that my office represents Alina Petroleum LLC (“Business”), c/o Rana Muhammad & Rana Anwar, located at 1801 W Greenfield Ave., Milwaukee, WI (“Premises”), as it relates to the City of Milwaukee Licensing Committee’s recommendation of nonrenewal for my client’s Extended Hours Establishment license (“License”).

I am in receipt of the Report of the Licensing Committee relating to the Committee’s Findings of Fact and Conclusions of Law, dated October 21, 2022 which recommends a nonrenewal of the License. We write to object to the committee’s findings and to preserve our client’s rights to present oral arguments to the full common council.

My client objects to the Licensing Committee’s deliberations that occurred at the October 18th hearing on this matter on due process grounds as it is my client’s position that the proceedings were not in accordance with fundamental rights afforded by pertinent ordinance and state law.

The Licensing Committee allowed, and largely based their Findings of Fact and Conclusions of Law, on impermissible hearsay testimony in contravention of pertinent law. Although several neighbors testified in opposition to the renewal of my client’s License, the testimony provided was not based on factual evidence submitted to the record prior to the October 18th hearing. From the neighbors’ testimony, it is evident that they speculate nuisance and criminal activities occur on the Premises of my client’s Business, however, my client rejects that assertion. My client continues to maintain that most issues that occurs at the Premises actually occur on or around a parking lot, believed to be owned by the City of Milwaukee, that is not located on the Premises in question for this matter. Further, the License involved here is the extended premises license which goes to my client’s ability to operate between midnight and 6 AM. The record lacks any substantial evidence that

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would allow one to conclude that the issues complained about by the neighbors occurred during that time frame.

My client maintains that they have implemented strict “No Loitering” enforcement at the Premises and does not allow patrons, customers, or loiterers to remain on the Premises for longer than 5-minute increments, unless otherwise purchasing fuel or convenience goods. Further, the Licensing Committee failed to identify in their Findings of Fact and Conclusions of Law the remedies my client has sought following the neighbors’ testimonies at a previous Licensing Committee Hearing regarding my client’s Weights & Measures, Filling Station, and Food Dealer licenses. Some actions being taken to remedy specific situations, or other factors that contribute to the criminal and nuisance activities, that are not reflected in the Findings of Fact and Conclusions of Law include:

- i. Interviewing at least four security companies, and additional private individuals to maintain and secure the Business and Premises from any criminal or nuisance activities that may occur on, *or around* (emphasis added) the Premises;
- ii. Additional upgrades and installation of surveillance cameras on the Premises to assist Milwaukee Police Department regarding any ongoing or initial investigations into criminal and nuisance activities on, *or around*, (emphasis added) the Premises. More importantly, my client has installed a specific surveillance camera that overlooks that parking lot where it is believed that the majority of these criminal and nuisance activities occur; and,
- iii. That a certain food truck, identified as Taqueria Campechano, had previously installed its business directly in front of my client’s business, which helped to create additional loiterers at the Premises. Since the October 18th hearing, that food truck has subsequently removed itself from directly in front of my client’s Business and Premises, and my client affirms that the number of loiterers since the food truck’s removal has decreased.

The Licensing Committee’s recommendation for nonrenewal and the process itself failed to comport with recognized and applicable standards of law and was not supported by credible evidence. I appreciate your attention to this matter. Please feel free to contact me directly with any questions or concerns you have regarding this matter.

Very Truly Yours,

OVB Law & Consulting, S.C.

/s/

Emil Ovbiagele, JD, MBA
Attorney



LAW & CONSULTING, S.C.

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OEO/*ab*

cc. stasst5@milwaukee.gov (via email)
Client (via email)

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Melendez, Yadira

From: Drew Deuster <drew@wild-planet.com>
Sent: Monday, October 24, 2022 1:33 PM
To: Owczarski, Jim; Melendez, Yadira
Subject: Regarding the license suspension for Booby JDK, LLC, dba McGillicuddy's
Attachments: PastedGraphic-1.tiff

Good afternoon,

I would like to file an objection to the license hearing in which McGillicuddy's Bar & Grill, located at 1135 N Water St., was given a recommendation of a 10-day suspension. I would like to appeal that decision and have an opportunity to be heard by the common counsel on Tuesday November 1st.

Thank you,

Drew Deuster
Partner - Wild Planet Hospitality Group
(414) 510-5006





LAW & CONSULTING, S.C.

October 26, 2022

Emil Ovbiagele
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[via Email & US Mail]
City of Milwaukee
Office of the City Clerk, Licensing Division
Attn: Jim Owczarski & Dana J. Zelanzy
City Hall, Rm. 205
200 E Wells St.
Milwaukee, WI 53202
jowcza@milwaukee.gov
d.zelanzy@milwaukee.gov

**RE: MKE Events LLC, d/b/a Red White & Blue
1044 N Martin Luther King, Jr. Dr., Milwaukee, WI
Class "B" Tavern and Public Entertainment Premises Licenses**

To Whom it may concern,

Please be advised that my office represents MKE Events LLC ("Business"), c/o Jacob Dehne, located at 1044 N Martin Luther King, Jr. Dr., Milwaukee, WI ("Premises"), as it relates to the City of Milwaukee Licensing Committee's recommendation of a renewal with a 15-day suspension for my client's Class "B" Tavern and Public Entertainment Premises licenses ("Licenses").

We are in receipt of the Report of the Licensing Committee relating to the Committee's Findings of Fact and Conclusions of Law, dated October 21, 2022 (the "Findings"). We submit this correspondence to object to the Findings and to preserve my client's right to present oral arguments to the Common Council at the next meeting.

After further review of the Report of the Licensing Committee relating to the Committee's Findings of Fact and Conclusions of Law, my client objects to the Licensing Committee's recommendation of renewal with a 15-day suspension of the Licenses on the grounds that fundamental processes of law were not followed in accordance with due process rights my client is entitled to under state law and relevant ordinances.

As a threshold matter, the licensing committee failed to establish a pre-calibrated standard of proof, an important due process requirement. In fact, the City of Milwaukee remains in the minority amongst major municipalities in its resistance and refusal to apply an identifiable and pre-calibrated standard of proof. Any due process hearing which involves the potential deprivation of

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constitutionally protected property rights that fails to identify or apply a standard of proof is void as a matter of law.

According to the committee, it based its decision on police reports and aldermanic testimony. The police reports, by themselves, do not support any conclusions that my client's violated any applicable laws. Most (if not all) of the police contacts were initiated by my client. The evidence in the record indicates that my client was always cooperative with law enforcement and was never found wanting.

The bulk of the discussion centered on a drink special my client offers to its patrons on Thursday nights and the committee's discontent with such drink specials. My client's Business is one of several that operates a Class "B" Tavern and Public Entertainment Premises within only a two-to-three block radius of the Premises. Several other competitor businesses operate similar event nights/drink specials to increase patron attendance and sales. And yet, my client's Business was the only one brought into question at the October 18th hearing. However, the committee neither pointed to any laws violated by my client's drink specials nor has the committee established its authority to dictate how and what a business can charge for its products.

Further, at the committee hearing, Alderman Bauman made several improper speculative conclusions that amounted to blaming my Client for the City's budgetary issues as it relates to the fire department. First, it is perplexing as to how one business can be blamed for the City's budget crises or its use of fire department resources without any evidence. Second, attempting to place blame on a business for proactively using law enforcement resources fails to pass muster.

When the record is reviewed in totality, a 15-day suspension is just not justifiable. There is no evidence of significant violence, code violations, legal infractions, or mismanagement. In fact, when compared to other similarly situated businesses with far more egregious conduct, one is left to wonder as to how the 15-day suspension recommendation here isn't the exact type of arbitrary and capricious decision making that the law decries. As such, we humbly ask that the common council set aside the committee's 15-day suspension recommendation and renew the Licenses without a suspension.

I appreciate your attention to this matter. Please feel free to contact me directly with any questions or concerns you have regarding this matter.

Very Truly Yours,

OVB Law & Consulting, S.C.

/s/

Emil Ovbiagele, JD, MBA
Attorney



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Page 3 of 3

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WEBB LAW SERVICES, LLC

Robert E. Webb Jr., Principal Attorney
rwebblaw@gmail.com
O: 414.774.0750
F: 414.258.8080

October 26, 2022

City of Milwaukee Common Council
C/O Jim Owczarski – City Clerk
200 E. Wells Street
Rm 205
Milwaukee, WI 53202

Re: Written Objection to Licenses Committee Report of the Renewal Application of the Class "B" Traven and Public Entertainment Premises (PEP) Licenses of Tanisha Kelly, Agent for Penthouse LLC, for the premises located at 3621 N. Teutonia Avenue in the City of County of Milwaukee, Wisconsin ("Penthouse Lounge").

WRITTEN OBJECTION

I am retained counsel on behalf of "Penthouse Lounge" and its' agent Tanisha Kelly. Counsel my also hire separate counsel as the proceedings require legal action in Milwaukee County Circuit court. I am filing his written objection to the Licenses Committee's recommendation that the Class "B" Traven and Public Entertainment Premises (PEP) non-renewal. The decision of the Licenses Committee is without substantive due process – proper notice of violations and sufficient opportunity to provide a detailed response to the City's Allegations. Notice was provided in community members complaints. Also, the lack of substantive review in the ad hoc proceedings relative to the short notice and incomplete list of allegations to support non-renewal. Further, that Penthouse Lounge did not have procedural due process of actual notice claims of violations with supporting documentation to able to rebut the committees' ranging allegations. Committee members relied upon police reports that were not provided to the Penthouse.

The License committee relied upon six allegations from law enforcement and DNS personnel to form the basis along with citizen complaints at the hearing. For the purposes of this objection counsel will respond to the Committees' findings from 5A – 5G. Counsel does not waive any claim to respond to the citizen opposition.

PREMISE OF NON-RENEWAL

"Alderwoman Coggs said that what the "police report exemplifies and communications from neighbors and testimony from the police demonstrate that this establishment is not well managed and, that the fact the Licensee was not available to the police department at all, shows the lack of management."



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PENTHOUSE LOUNGE RESPONSE

The stated premise that Penthouse lounge is not "well managed and Licensee was not available to the police department at all," is a conclusory statement not based in fact. Here the City alleges that Ms. Kelly was not present on November 5, 2021 "when it appeared to be open and operating." In fact, the respond provide by the Licensee and Business manager reflects that the business was not open for the public and work was be completed. Penthouse did begin its' kick-off event until it was permitted by the Licensee Committee to operate. Therefore, once alleged incident of Ms. Kelly's lack of physical presence does not equate to a failure to respond to completely to MPD.

Next, the Committee relied upon by November 12, 2021 to further support Ms. Kelly's absence. However, again a representative of the Penthouse Lounge LLC was present – the business manager. Who responded to officer's inquires and provided documentation. The assumption that Ms. Kelly must be present during all open hours is unrealistic. However, since November 2021; Ms. Kelly and her operating manager have a consist work schedule to ensure proper supervision and coverage of the establishment.

Any all allegations for violation of municipal codes located in 5C – 5E are in being disputed with an initial appearance before the City of Milwaukee Municipal Court. And to rely upon an allegation that has not reached conclusion with a judicial determination or a plea of guilt by Penthouse Lounge again is inappropriate. It also violates the substantial rights of Penthouse Lounge LLC to respond to municipal code violations denying its' property rights in this hearing. Further, the Licensee Committee relied upon police report narratives that read into the record that were not in possession of the Penthouse despite Penthouse Motion for Discovery to the City Attorney's Office.

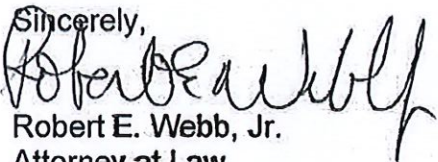
Lastly, the implication that Penthouse Lounge is solely responsible for increase criminal liability is without merit and evidence. At no point has an arrest occurred inside or immediate outside of the Penthouse Lounge LLC property location. Instead, the majority of the cited Shotspotter complaints occurred either several hours prior to opening or one-two hours after Penthouse Lounge LLC was closed for business. In addition, Penthouse Lounge is not responsible for the owner's violations of DNS code for the upstairs portions of the physical structure. Any DNS violations in the physical structure of Penthouse have been complied with or remediated according to DNS.



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Penthouse Lounge LLC was not given a substantive hearing to respond to the allegation and the ad hoc hearing provide no guarantees of procedural or substantive due process. The Licensee Committee did not afford Penthouse the opportunity to remediate any issues with a renewal and suspension of operation up to 30 days which is appropriate for the listed allegation.

Sincerely,

Robert E. Webb, Jr.
Attorney at Law

cc: Penthouse Lounge
Tanisha Kelly