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June 14, 2010

Via Email

Alderman James Bohl, Jr.
City of Milwaukee City Hall
200 E. Wells Street
Milwaukee, WI 53202

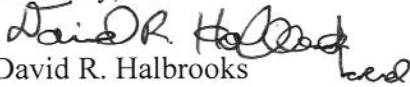
Re: 20 Below, LLC d/b/a Club Sugar – 126 E. Mineral Street
-Proposed Findings of Fact

Dear Alderman Bohl,

Enclosed with this letter please find proposed Findings of Fact of the Licenses Committee which we have prepared in relation to the above-referenced licensee. As you are aware, the City Attorney's office also prepared proposed Findings of Fact and Conclusions of Law for which we timely filed written objections last week. Many of our client's written objections were made due to errors contained in the City Attorney's proposed Findings of Fact. In that light, we have prepared our own version of the Findings of Fact and request that the same be considered by you and the Committee at tomorrow's Common Council meeting.

Thank you for your attention to this matter.

Sincerely,


David R. Halbrooks
Attorney at Law

DRH/abd

Enc.

Cc: Sean Pliss
Members of the Common Council
Assistant City Attorney Bruce Schrimpf
City Clerk Ronald Leonhardt

City of Milwaukee:

Before the City of Milwaukee Licenses Committee

IN THE MATTER OF the renewal application of 20 Below, LLC, d/b/a Sugar, 126 E. Mineral Street, for renewal of its Public Dance Hall License

FINDINGS OF FACT OF THE LICENSES COMMITTEE

1. Sean A. Pliss (hereinafter the "Licensee") is the holder of a Public Dance Hall license for the premises located at 126 E. Mineral Street in the City and County of Milwaukee, Wisconsin. This premise is known as Club Sugar. Said license for Club Sugar expires at midnight, June 30, 2010. Club Sugar's license is granted Club Sugar operates pursuant to Chapter 108, Milwaukee Code of Ordinances.
2. An application to renew said license was timely filed with the Office of the City Clerk.
3. Pursuant to Chapter 108 of the Milwaukee Code of Ordinances, the matter was referred to the Milwaukee Police Department for investigation. On May 9, 2010, the Milwaukee Police Department communicated that the licensee had no police report and that the Milwaukee Police Department was not objecting to renewal of this licensee. However, there were a number of objections submitted by members of the public to the City Clerk's Office that could form a basis for non-renewal or suspension of said license.
4. On April 29, 2010, the City Clerk's Office provided timely notice to the Licensee of potential neighborhood objections that could form the basis of non-renewal or suspension of this licensee. Those potential objections were summarized as follows: "Neighborhood objections due to the congregations of person which have resulted in one or more of the following: disturbances of the peace, illegal drug activity, public drunkenness and drinking in public, harassment by passers-by, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, battery, acts of vandalism, including graffiti, trespassing, excessive littering, fights, shootings, loitering, loud noise and disorderly patrons at times when the licensed operation is open for business and after hours, curfew violations, cruising, traffic and parking problems, impeding the normal flow of traffic, and other factors which reasonably relate to the public health, safety and welfare, or which demonstrate that the establishment has generated the undesirable secondary effects."

The matter was scheduled for a hearing on those issues for May 10, 2010 at 3:15 p.m. in Room 301B of City Hall, 200 East Wells Street, Milwaukee, Wisconsin. At said date, time and place the licensee appeared and admitted receipt of the Notice of Hearing and the possibility that his license could be denied renewal or suspended for those reasons. At said date, time and place, the licensee appeared and admitted receipt of the Notice of Hearing and the possibility that his license could be denied renewal or suspended for those reasons. At said date, time and place, the licensee was represented by Attorney Michael Maistelman and Attorney David Halbrooks, Maistelman and Associates, 5027 West North Avenue, Milwaukee, WI 53208.

At the May 10, 2010 hearing, the licensee objected to the items contained in the City Clerk's Notice as "neighborhood objections." Based upon the licensee's objection, the Licenses Committee struck those portions of the notice which were not based upon actual neighborhood objections and thereafter notice was amended to the following, "Neighborhood objections due to the congregations of person which have resulted in one or more of the following: disturbances of the peace, public drunkenness and drinking public, public urination, excessive littering, loud music and disorderly patrons at times when the licensed operation is open for business and after hours; cruising, traffic and parking problems, and impeding the normal flow of traffic, and other factors which reasonably relate to the public health, safety and welfare of the public, or which demonstrate that the establishment has generated undesirable secondary effects."

5. A hearing was held on this matter, however the Licenses Committee deadlocked on a recommendation to the Milwaukee Common Council and as a result the matter was held in Committee to await a date when the Committee could consider the matter and not deadlock.

6. On May 25, 2010, the City Clerk Office provided timely notice to the Licensee pursuant to Chapter 108 of the Milwaukee Code of Ordinances of the neighborhood objections as follows: "Neighborhood objections due to the congregations of person which have resulted in one or more of the following: disturbances of the peace, public drunkenness and drinking public, public urination, excessive littering, loud music and disorderly patrons at times when the licensed operation is open for business and after hours; cruising, traffic and parking problems, and impeding the normal flow of traffic, and other factors which reasonably relate to the public health, safety and welfare of the public, or which demonstrate that the establishment has generated undesirable secondary effects." The matter was scheduled for a hearing on the neighborhood objections on June 2, 2010, commencing at 4:00 p.m. in Room 301B of City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202. At said date, time and place, the licensee appeared and admitted notice of the hearing and of the neighborhood objections and further acknowledged that his license could be non-renewed or suspended based upon those issues. The licensee was represented by Attorney David Halbrooks and Attorney Matthew Lerner of Maistelman and Associates, 5027 West North Avenue, Milwaukee, WI 53208.

7. Based upon the sworn testimony heard and the evidence received at the hearings, the Committee finds the following:

- A. The objecting neighbor testified to noise generated from the patrons of the premises, particularly at closing time. Specifically, the neighbor had seen patrons hanging out of cars, yelling and screaming to the detriment and disturbance of the neighborhood.
- B. At one incident, approximately four weeks before the May 10, 2010 hearing, an episode was described by the objecting neighbor wherein approximately 100 cars were cruising the area. The neighbor described these vehicles as “zig-zagging” around the area as late as 1:37 a.m. On cross examination, the neighbor was asked if he knew that Club Sugar closed at 12:30 a.m. and the neighbor acknowledged that he did not know that.
- C. The objecting neighbor discussed additional conduct he had witnessed which he believed may have come from another establishment, possibly Club Rain. Alderman Witkowiak testified that Club Rain had not been open for several months.
- D. The objecting neighbor provided additional testimony of alleged incidents wherein the patrons of Club Sugar would congregate at a BP Station and go from there to Club Sugar, causing disturbances both at the BP Station and on their way to Club Sugar. During those episodes, the objecting neighbor observed the patrons of Club Sugar throwing liquor and beer bottles out of their vehicles.
- E. The local alderman personally counted 60 vehicles (he estimated 100 vehicles in total) in front of Club Sugar on Easter Sunday, 2010 at approximately 7:30 or 8:30 p.m. He claimed that patrons were milling about on the street in front of the club, cars were blocking traffic, and causing noise and disturbances of the peace. He claimed to have observed patrons entering cars, driving off and turning corners at high rates of speed. The alderman claimed he saw these individuals leave Club Sugar and cause disturbances.

The licensee entered a video recording into evidence which consisted of a news story aired by Fox 6 at 10:00 p.m. on Easter Sunday. As testified to by the licensee, some of the video shown during the Fox 6 story was shot live at 10:00 p.m. on Easter Sunday while the remainder of the video shown during the story was shot by Fox 6 in the hours leading up to the live newscast. The Fox 6 story did not show any of the alleged behavior or problems testified to by the local alderman.

- F. A meeting was held at the behest of the local alderman at Tech High School in the district, and one individual testified that prior to the meeting an email went out to several individuals who received an email from the local alderman’s aide regarding the neighborhood meeting. The individual testified

that the email provided warning that if citizens came to the meeting and told falsehoods about Club Sugar that these individuals may have to defend themselves in court for their false statements. The email also advised this small group (approximately 12 people) that there would be a court reporter and videographer present to record the proceedings. The transcript of the meeting was not provided to the Committee, but the individual who testified about the email provided a copy of the email to the Committee. She testified that she felt threatened by the email. In addressing the email, Attorney Halbrooks (the email's author), stated that he stood by the statements contained in the email. The email went to 12 people, most of whom were in attendance at the neighborhood meeting along with approximately 50 or 60 others. Halbrooks additionally stated that at the time of the neighborhood meeting, Sugar had not been provided notice of any specific issues regarding its operation or problems it was causing and Sugar therefore believed that neighbors planned to come to the meeting and create controversy by making false statements.

- G. The licensee also put in evidence that there is a Facebook user who uses the name "Perry Manof Steel" and who urges his followers to appear at various locations throughout the city to engage in disorderly behavior including cruising and that Club Sugar had been one of the places where this individual would arrange for his followers to meet. The licensee provided testimony that Perry Manof Steel had been responsible for all cruising behavior and general disorder that was occurring after Sugar was closed for the evening and which was testified to by the objecting neighbor. The licensee provided testimony that within one week of discovering Perry Manof Steel's activities and targeting of Club Sugar, that the licensee was able to completely stop the complained of behavior.
- H. At the May 25, 2010 hearing, a representative of the local neighborhood group testified that the licensee had become actively involved with the neighborhood group, that the licensee had attended a neighborhood meeting, that the licensee had reached out to the representative personally, and that the behavior of concern was no longer occurring. This testimony substantiated the licensee's earlier statements that it had put a stop to the complained of behavior through its identification of Perry Manof Steel's activities and the plan it had implemented to stop the behavior.

Dated and signed at Milwaukee, Wisconsin this 15th day of June, 2010.

JAMES A. BOHL, Jr., Chair
Licenses Committee