

JAMES N. WITKOWIAK

ALDERMAN, 12TH DISTRICT

May 3, 2006

To the Honorable, the Common Council

Dear Members:

Re: Common Council File 051652

Attached are written objections to the recommendation of renewal, with a 10-day suspension based on the police report, of the Class "B" Tavern, Billiard Hall and Videogame Center license of Brent Rock for the premises at 10433 W. Appleton Ave. ("Mitchell's Tavern") in the 5th aldermanic district.

This matter will be heard by the full Council at its May 9, 2006 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 below the word "Respectfully,".

James N. Witkowiak, Chair
Licenses Committee

cc: All Council Members
City Attorney's Office
Common Council/City Clerk -- License Division
CCF 051652

CITY OF MILWAUKEE

06 MAY -3 AM 9:23

RONALD D. LEONHARDT
CITY CLERK

LAW OFFICES OF
KOPP & ARENA, S.C.
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May 1, 2006

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

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

RE: Renewal of Class "B" Tavern, Billiard Hall and Video game License
Mitchell's Tavern
10433 W. Appleton Av.
Milwaukee, WI
Brent Rock

Honorable Members of the Common Council:

This office has been retained by Brent T. Rock to represent her interests regarding the license renewal for Mithchell's Tavern . Pursuant to Section 90-12-5-c-2 of the Milwaukee Code of Ordinances, Brent Rock does respectfully file these written objections to the March 28, 2006 Utilities and Licensing Committee report mailed to the licensee and received on May 1, 2006 for your consideration at the Common Council Meeting of May 9th, 2006 at which time the Committee's recommendation will be decided.

The Committee's report is based upon a): a police department report that was submitted to the committee for a meeting on April 25, 2006 and b): Neighborhood objections to the renewal of the license based on loud music and noise, cruising, racing cars, fighting, parking problems and conduct which is detrimental to the health, safety, and welfare of the neighborhood.

BACKGROUND

Brent T. Rock has been the owner and licensee of Mitchell's Tavern for six years. Prior to Brent T. Rock purchasing the business and building from James Mitchell on a land contract he was an employee at the Tavern business. After Mr. Rock purchased the business he started to actively raise funds for the "Make a Wish Foundation" and in the last year he donated approximately \$15,000.00 in funds to that organization. Mr. Rock has also hosted an antique car show on the Sunday of Memorial Day and Labor Day week-ends. The car show has been successful at bringing

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people and revenue into the area, and providing an asset to the local community that serves to enrich the lives of all citizens. The license of Brent T. Rock has never been suspended, and it is the Licensee's position that the record does not support the need for the discipline of a suspension to be taken at this time, therefore, the Licensee objects to the Committee recommendation.

The police report references four tavern related incidents:

1) (incident 5. On police report) On 9/5/04 an officer was dispatched for reckless vehicles. The Officer observed tire burn out marks.

In regards to this incident the Licensee would like the members of the Council to know that this did occur at his annual car show. That two car shows were held in the year of '05 without similar complaints and incidents of cars doing burn outs. This issue was discussed with Alderman Bohl's Office and a written plan to avoid the problem was submitted. The plan was followed and there has not been reckless driving or burn outs at the car show or the location at any other time. Announcements are made to all show participants and spectators through out the day, and they are informed that their license plates will be reported to the police for prosecution, with the consent and assistance of the staff of Mitchell's Tavern. Additional staff has also been hired for the car show to make sure that everyone is aware of the rules, and to act as a deterrent. The actions taken have worked and two car shows were held in 2005 without similar complaints. By being responsible and controlling the situation the Licensee has demonstrated that he can take direction, and can be a successful operator.

2) (incident 6. On police report) On 1-13-05 police officers with an underage aid attempted to procure alcohol. The underage aid was asked for identification and an identification was shown that indicated the aid was under 21 years of age. The City Attorney's Office did not issue the citation.

The Licensee submits that since the case was not issued by the City Attorney, that it can not be used as a basis to discipline the license holder. The Licensee does want the Council to know that a machine has been purchased to check the validity of the identification. The machine will make a record of the identification used. There are also new rules that if any employee is involved in any infraction involving a minor such as allowing them on the premises, or selling them alcohol, that they will be immediately terminated as an employee.

3) (incident 7. On police report) On 7-30-05 police were sent to Mitchell's Tavern for a battery complaint. Investigation showed that an argument began in the Tavern and that there was a fight where two of the patrons battered a third patron. There was an underage girlfriend of one of the combatants found in the bar. Along with two bartenders. The Licensee was contacted on 8-15-05 as a patron of the establishment, he was intoxicated, and told the Officer's to get out in an unprofessional matter.

The Licensee submits that this was the only incident of violence, or a fight in his establishment of 6 years. Fighting is not a regular occurrence at Mitchell's Tavern as is demonstrated by the lack of a Police record in this regard. There isn't a history of a large number of Police calls for violence or weapons. During the incident in question the bartenders handled the matter poorly by not having one arguing party leave the area in their vehicle, before having the other party leave the premises. The two employees working that night were suspended for three days for their lack of judgment. As to the behavior of the Licensee, he submits to the honorable Council that his behavior was unprofessional, abhorrent, and embarrassing. He ensures that this will never happen again and he has made rules for himself and all employees to follow in respects to being cooperative and respectful toward all City of Milwaukee Employees.

The Licensee intends to avoid this type of incident in the future by hiring more employees. It has been determined that two additional bartenders will be hired to allow for additional people to monitor the customers. Also, a private security company will be contracted to supply at least one security individual on busy nights mainly Friday and Saturday, and more if it is determined to be needed. This will create a presence that customers will need to behave or be asked to leave.

4) (incident 8 on Police Report) On 8-31-05 and underage aid entered and procured alcohol.

The Licensee is addressing this issue through new rules that require mandatory use of a identification machine that is capable of checking the i.d. This device is called a cardvisor id scanner. Any employee that fails to use the machine, and is caught serving or allowing minors on the premises will be terminated immediately. The hiring of additional staff and a security employee will also help in this regard.

Neighborhood Objection.

There were no neighbors or opponents that testified to things like noise, litter, constant cars and motorcycles, and public urination. There were also no specific complaints testified to by the Alderman of the District. Due to a lack of neighbor participation at the Committee hearing the Licensee submits that the neighborhood objection is non-existent and can not be used to discipline his license.


Conclusion.

The Licensee submits that his presence before the Common Council has served as adequate notice that certain procedures in the operation of his business need to be changed. More staff will be hired to prevent violence and the problem of failing to check identification. Identification will be checked regularly and any violations by employees will result in their termination. A complete written plan of operation has been drafted to cover these issues and it will be submitted to the Alderman's Office.

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In consideration of the six years of operation by the Licensee, and his statements herein, the Licensee respectfully requests that the Common Council reconsider the recommendation of the U and L Committee and the License be issued with a written warning and not a suspension.

Thank you for your consideration.

Very Truly Yours,

Andrew P. Arena
Attorney at Law

/apa