

Buckhead Saloon is before the Common Counsel upon the recommendation of a 10 day suspension from the Licenses Committee. The Licensee objects to the findings of fact and the Conclusions of Law and the imposition of a 10 day suspension. The severity of the incidents do not warrant a suspension and places this location in a league with locations that have a more serious record. The Alderman of the 4th District testified that Buckhead Saloon was a drain on Police Resources which Buckhead Saloon does not agree with. There were instances where police were close by and they basically were flagged down or called over. The Police were parked on third street watching the thousands of persons on the street that are generated by 11 different Restaurants and Bars, that are open until 2:30 a.m. It is the Police Chief that has determined that this area requires certain resources be allocated to it due to the automobile traffic and population that attends the events in the area. Concerning Buckhead Saloon it is the Licensees belief that the incidents where staff summoned the Police were not serious and it was the correct action to take to prevent a bigger problem. It sends a mixed message to look at the incidents on the record and conclude that the Police were called too many times, which was the position of the Alderman for the 4th District.

Although it is rare, sometimes certain people choose to behave in an inappropriate way, and it should be the position of all elected officials that an establishment should be encouraged to call the Police for assistance, and not have people injured by fighting with staff or other patrons. The Licensee submits that the incidents are rare in comparison to the 160,000 patrons that visit Buckhead Saloon each year.

Item A on the findings of fact involved an incident where a female struck two other females for no apparent reason. There was an apparent battery and the staff immediately stopped the violence and called the Police. This incident is not the type of incident that the Licensee desires to have happen, nor does it promote this type of incident. The incident did not result in serious injury and the Police were appropriately called. The Police did not indicate that the combatant was held but it is not the policy of Buckhead Saloon to imprison a person because it is not legal and could lead to liability.

Item B involved an individual that lost his coat check ticket and was adamant that he desired his coat immediately. This individual refused to wait until all of the coats were handed out in order to find his coat. The individual called the Police himself and then in the presence of the Police became disorderly. It was not noted in the report that the individual was intoxicated but that he became unreasonable about his coat. It is the policy of Buckhead Saloon to provide a person in this situation the opportunity to come back the next day. This incident was not violent and did not require the Police to be called and the Police were not summoned by Buckhead Saloon.

Item C involved a person that was not leaving when requested. The individual made a poor decision by breaking a door. The Police were called because the person damaged the property. The person was cooperative with the Police and paid for the damage. This person injured no other people and it was not noted that he was intoxicated or over served alcohol.

Item D involved a request that the Police deal with a patron that illegally obtained the property of Buckhead Saloon. Rather than resort to violence or have the individual become violent the manager contacted the Police. The situation was resolved peacefully and without any indication that the patron was over intoxicated or over served. This was not a violent incident but a dispute that the Police resolved.

Item E involved a disorderly patron that was being held by the staff in order to prevent themselves from being injured. The Police were on the street and flagged down but they were readily available. The

person continued to act disorderly in the presence of the Police and he was appropriately arrested.

Item F and G were two similar incidents where the Police were in the area and it was easy to report the use of false identification. It is the policy of Buckhead Saloon to confiscate i.d. cards that are believed to be fraudulent and inform the person that if they return with the Police and determined that the identification is legitimate it will be returned. These two items demonstrate that Buckhead Saloon is responsible and does not allow in under age persons.

Item H involved an isolated incident that Buckhead Saloon sees as a very unfortunate incident. On the evening the incident occurred the staff indicated to the complainant that they were very sorry that the incident occurred but that it could not be determined who the person was that poured anything on the party. The patio area is fenced and patrons are not allowed to leave the area and approach the upper rail that is above the docks of the edelweiss boats. The fenced patio is 10 to 12 feet from the rail and the fenced patio is watched by an employee to prevent people from entering the patio from the rivewalk and to prevent alcohol being passed over the fence. This patio is monitored closely by staff and the number of staff monitors is increased based upon the number of people on the patio. The incident was not behavior that is promoted or condoned by patrons of Buckhead Saloon. The staff member did not see someone throw the liquid and at the time it could not be verified where the liquid came from. It was testified that there were other people on the river walk waiting to get on the next boat. Daniel Jorgenson as owner of the boats engaged in an investigation and could not "post blame on Buckhead Saloon given the likelihood of alcoholic beverages being transported from another establishment that has an unsecured and unmonitored patio." (See attached)

The incident in item H is clearly an isolated incident. An incident like this has not occurred again and did not occur previously. Since this involved an elected official it appears that person is looking for a scapegoat. The elected official was not splashed by any liquid and he testified that he was 35 feet away and did not see the liquid come over the rail. There is speculation that it came from the patio and it is possible that it did, and apologies were made to this person's party.

Item I involves a claim that there were six incidents the year before this license period. The License for 2007 to 2008 was renewed without appearing before the Committee. Two of those incidents involved voluntary tavern checks by the Police, one call to the Police for a theft, one incident police were flagged down for, and another incident outside at Highland and Third Street. These incidents were ones in which a responsible operator should call the Police. This location has 1000 patrons visit on Thursday, Friday, and Saturday nights. Many of these patrons go from place to place and they also come from long distances to enjoy the vibrant night life.

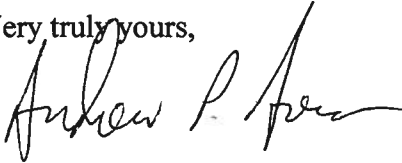
In looking at this record it is not overly violent and each individual incident is not extremely serious. Incidents will happen and they are handled by calling or summoning the Police when it is necessary. The Management does not promote violence or bad behavior, and due to this fact the management has a policy in place to call the Police when it is necessary. In several of the incidents the Police just happened to be outside and it was appropriate to seek there assistance to prevent further problems.

It is Buckhead Saloons position that the incidents are not overly serious, but they are regrettable and policies are being reviewed and put in place to prevent a need for future Police intervention. Therefore, as Licensee I am requesting that the Common Council does not follow the recommendation of the Committee and issues the license with no suspension. The Licensee will attend the Common Council

meeting and utilize its 5 minutes for oral argument.

Respectfully Submitted,

Very truly yours,

A handwritten signature in black ink, appearing to read "Andrew P. Arena". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrew P. Arena
Attorney at Law



FRED USINGER, INC.

1030 N. OLD WORLD THIRD ST. MILWAUKEE, WI 53203-0980

June 30, 2009

Common Council
City of Milwaukee
200 E. Wells St.
Milwaukee, WI 53202

President Hines and Members of the Common Council:

I am not able to comment on the specific incidents regarding Buckhead's license suspension. However, I can address the type of neighbor that Buckhead's has been since opening in September of 2005. Under the leadership of Tate Winckler, Manager of Buckhead's there has been a marked improvement in comparison to the previous businesses that occupied the space, specifically **Banana Joes** and **Bar Milwaukee**.

Mr. Winckler has been in the position of Manager since the establishment opened. There has been consistency and relationship building through the years. It is far easier to deal with one manager, rather than a revolving door where you never really know who is running the place. When concerns are brought up, Tate has been very receptive to trying to accommodate the suggestions plus he quickly responds to correct problems. He is pro-active, cooperative and takes very seriously the responsibility of running the business.

Besides, managing Buckhead's, he has also become very involved in our unique neighborhood. Presently, he serves as Secretary of The Old World Third Street Organization. Being a good neighbor is a value that he embraces. Our area attracts lots of visitors and tourists. Mr. Winckler does work very hard to see that his employees understand the importance of responsible hospitality.

Sincerely,

A handwritten signature in black ink that reads "Debra Usinger". The signature is fluid and cursive, with a large, sweeping flourish at the end.

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June 30, 2009

Buckhead Saloon
Attn: Tate Winkler
1044 N. Old World St.
Milwaukee, WI 53202

Dear Buckhead Staff,

The 2nd Annual *Strike Out ALS* was held on Friday, May 8th, 2009, at Buckhead Saloon to raise money for families affected by ALS, also known as Lou Gehrig's disease. May is ALS Awareness Month and *Strike Out ALS* encourages community-spirited individuals to raise money that will find a treatment and a cure for neuromuscular diseases and ALS. This year's event raised more than last year's and we couldn't have done it without your support, enthusiasm and generosity.

I want to thank all of you for your continuing support of this wonderful event and of our organization. Buckhead Saloon has been a strong supporter of MDA for several years now and it is a pleasure to work with all of you on a regular basis. You have opened your doors and hearts to MDA and we could not thank you enough! It is because of community-minded businesses and individuals like yourselves and Buckhead Saloon that we are able to raise money to assist families right here in Southeastern Wisconsin.

We had a great time at Buckhead Saloon. The atmosphere was fun, and all the participants had great energy! The Muscular Dystrophy Association Staff are looking forward to next year!

Thank you again for all of your support!

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth Wagler', is written over a large, light-colored circular mark.

Elizabeth Wagler
Program Coordinator

Muscular Dystrophy Association
JERRY LEWIS, National Chairman

Dedicated to the eradication of the muscular dystrophies, amyotrophic lateral sclerosis (Lou Gehrig's disease), myasthenia gravis, the spinal muscular atrophies, Friedreich's ataxia and a host of other neuromuscular diseases.
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Milwaukee River Cruise Line
205 W. Highland Ave.
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Milwaukee WI 53203

June 28, 2009

To whom it may Concern,

On August 2nd, 2008 an incident between a private client of the Edelweiss and public Riverwalk patrons was brought to my attention by my staff. A letter from Theodore Lipscomb also was received expressing his discontent with overall situation that he experienced on this day. After reading Mr. Lipscomb's letter and listening to my staff, I learned that persons standing overhead our private dock location on the public Riverwalk, had poured an alcoholic beverage on to private clients below as the clients proceeded to disembark our vessels. At first response, a rage of anger consistent with the degree of this absurd act propagated an onslaught of questioning, investigation and apologies.

After I questioned my staff regarding this incident, I proceeded to investigate on an observational basis. I also met with Buckhead Saloon, specifically Tate Winckler, and mentioned that any incidents inspired by their customers will be unacceptable and grounds for aggressive pursuit of legal action.

I then observed Buckhead's patio and security of the patio on a typical Friday and Saturday night. Buckhead's patio is designated by a fence and monitored by a security guard who restricts Buckhead customers to their premises and leaves them unable to access the public Riverwalk. I then proceeded to evaluate and monitor other patios in the immediate vicinity and found patios that were not monitored and unsecured via barricade/fence or maintained by a physical security guard

I believe that a liquor license is a privilege and it is the responsibility of businesses selling alcoholic beverages to acknowledge and assume the risks associated. After my investigation, I cannot post blame on Buckhead Saloon given the greater likelihood of alcoholic beverages being transported from another establishment that has an unsecured and unmonitored patio.

Sincerely,

Daniel M. Jorgenson

205 West Highland Avenue, Suite 204, Milwaukee, Wisconsin 53203 • 414-276-7447 • Fax: 414-276-7448
sales@edelweissboats.com • www.edelweissboats.com



To whom it may concern,

I'm writing this letter, not only as a business owner on Old World Third Street for the last 5 years, but also as a board member of the Old World Third Street Organization for the last 4 years. After viewing the police incident reports that I requested from Buckhead Saloon, I feel that they do a great job in crowd control and operating their business on a day to day basis. They are not only involved in Old World Third Street activities, but one of their managers also sits on the board. Buckhead Saloon is the largest operator on Old World Third Street, and to only have a couple incidents that I read on the police report, I don't believe this warrants having their license suspended. Although we'd all like to have all businesses open every day for serving food and alcohol, Buckhead Saloon offers a great alternative to nightlife on Old World Third Street, and we already offer 11 different restaurants and bars that are open for lunch and dinner in the two block radius from State to Juneau, some of which are even considering closing for lunch because of the lack of business.

I would have liked to be here in person, but hope this letter will convey my opinions adequately enough.

Thank you,

A handwritten signature in black ink, appearing to read "Brian Bernier". The signature is stylized with a large initial "B" and a long horizontal stroke extending to the right.

Brian Bernier

CITY OF MILWAUKEE COMMON COUNCIL

In re the Class B License of Old World, LLC
d/b/a "Buckhead Saloon" 1044 Old World 3rd St.

MOTION TO RECUSE AND REMOVE

Now Comes the Licensee by its Attorney Arena Law Offices, LLC, by Attorney Andrew P. Arena and hereby moves the Honorable President of the Common Council and the Common Council for the City of Milwaukee to remove the Gentleman from the 4th District, Alderman Robert J. Bauman, from participating in the hearing concerning Old World, LLC d/b/a Buckhead Saloon. The Licensee is entitled to due process of Law pursuant to the Constitution of the State of Wisconsin and the United States Constitution. Alderman Bauman should not be allowed to make any statements to the body as a whole, and he should not be allowed to make any motions or vote on any motions in this matter. The reasons for this motion are stated as follows and the Supreme Court Case *Marris v. City of Cedarburg* attached hereto:

1. At the hearing before the Licenses Committee on June 23, 2009 Alderman Bauman appeared before the Committee as a witness and made statements that he asserted were facts. Those statements included claims that Buckhead Saloon was a negative drag on Third Street and the location used to many police resources. The Alderman took a biased position and he clearly and passionately advocated for the license to be disciplined.

3. The State Law under Chapter 125, et. seq. And Chapter 90 of the ordinances clearly establish that the process concerning this license is a quasi-judicial process and that the Licensees are entitled to due process of law.

4. The State Supreme Court in *Marris v. City of Cedarburg*, 176 Wis.2d. 14, 1993 was a

ROBERT D. BAUMAN
CITY OF MILWAUKEE
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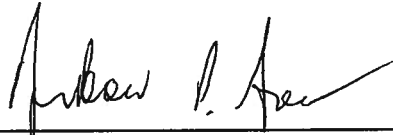
case where a Municipal Corporation had a chairman of its Zoning Board make statements at a hearing that possibly demonstrated that he had pre-judged the case and thereby denied the party the right to have the decision decided by an impartial board. As the Licensees are entitled to a fair and impartial hearing under concepts of due process and fair play it would not be fair to have an Alderman that has clearly established a bias against them, and clearly testified as a witness under oath be allowed to vote and make motions contrary to their property interests in the License.

Essentially, if the Alderman testifies and then votes on motions, it would be like having a witness in a case then deliberate and vote with the jury.

5. To allow Alderman Bauman to have the right to make a statement to the Common Council would also not be appropriate, as the City Attorneys Office has the obligation to address objections timely filed by the applicant, and to advocate for the position of the Committee. Alderman Bauman should not be allowed to end around the Committee's decision, nor should he be allowed to advocate his desires and bias at this point of the proceeding. He was heard in the fact finding hearing as a witness and because he is the representative of the District he should not be given greater input than a regular citizen. Logically the Alderman should not be allowed to have any vote on this matter as it would be contrary to the holding in the above cited Supreme Court Case.

6. Also for public appearances and fairness it would seem that the honorable body would not like public accusations of unfairness and claims that there is such a thing as "Aldermanic Privilege." These matters should be determined by the facts and not the desires and opinions of a biased individual.

Respectfully Submitted this 1st day of July, 2009

A handwritten signature in black ink, appearing to read "Andrew P. Arena". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Andrew P. Arena Attorney and Registered Agent for Old World, LLC