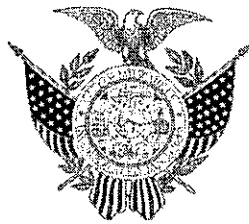


CHAIR

- Licenses Committee

MEMBER

- Community and Economic Development Committee
- Steering and Rules Committee



TONY ZIELINSKI
ALDERMAN, 14TH DISTRICT

July 14, 2015

To the Honorable, the Common Council

Honorable Members:

Common Council File Number 150129 contains the following recommendations:

Renewal, with a ten (10) day suspension, based on concerns with littering, illegal car sale activity, loitering and panhandling, of the Food Dealer license for Erik Gast for the premises located at 2012 W Capitol Dr ("Family Dollar Store #6587") in the 1st aldermanic district.

Renewal, with a ten (10) day suspension, based on items #7 and #9-11 of the police report and neighborhood testimony, of the Class B Tavern and Public Entertainment Premises licenses for Adam Kirchner for the premises located at 730 N Milwaukee St ("Dicks") in the 4th aldermanic district.

Nonrenewal, based on nonappearance, of the Class D Operator's License for Shanekqua Chambers.

Common Council File Number 150330 contains the following recommendations:

Renewal, with a sixty (60) day suspension, based on the police report and police testimony, of the Class B Tavern license for Man Zhang for the premises located at 200 W Wisconsin Ave ("Kiku") in the 4th aldermanic district.

Respectfully,

A handwritten signature in black ink that reads "Tony Zielinski".

Tony Zielinski, Chair
Licenses Committee

cc: All Council Members
Files 150129 and 150330





Office of the City Clerk

Jim Owczarski
City Clerk
jowcza@milwaukee.gov

Richard G. Pfaff
Deputy City Clerk
rpfaff@milwaukee.gov

July 10, 2015

Man Zhang
Kiku, LLC
200 W Wisconsin Ave
Milwaukee, WI 53203

Atty Andrew Arena
1110 N Old World Third St #210
Milwaukee, WI 53203

Dear Mr. Zhang:

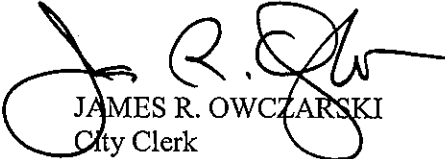
You are hereby notified that the Milwaukee Common Council will hold a hearing on Tuesday, July 21, 2015, commencing at 9:00 a.m., or as soon thereafter as this matter may be heard, in the Common Council chambers on the third floor of City Hall, 200 East Wells Street, Milwaukee, Wisconsin to consider whether to renew, renew with a suspension between 10 and 90 days, or not renew the Class B Tavern license(s) for the premises located at 200 W Wisconsin Ave ("Kiku").

Attached you will find a copy of the Report of the Licenses Committee, which includes its Findings of Fact, Conclusions of Law, and Recommendation, recommending a 60 day suspension of the Class B Tavern license(s) based upon the police report and police testimony. This recommendation is the result of a public hearing before the Committee held on Tuesday, July 7, 2015.

Please be advised that the Common Council will determine whether to renew, renew with a suspension between 10 and 90 days, or not renew your Class B Tavern license(s) based upon the Findings of Fact contained within the Licenses Committee report.

You may file a written response to the report of the Licenses Committee. The written response must be filed with the City Clerk by 4:45 p.m. on Wednesday, July 15, 2015 in Room 205 of City Hall. If you wish to file your objections via e-mail, they must be sent to both jowcza@milwaukee.gov and jlcelel@milwaukee.gov. You will be sent an e-mail notification that your objections were received within 24 hours. If you do not receive this notification, please contact City Clerk Jim Owczarski at (414)-286-2998. If you file written objections, you or a legal representative may then also appear at the Common Council to make oral arguments supporting the written objections. You will be given approximately five minutes to present the oral argument.

Respectfully,



JAMES R. OWCZARSKI
City Clerk





Office of the City Clerk

Jim Owczarski
City Clerk
jowcza@milwaukee.gov

Richard G. Pfaff
Deputy City Clerk
rpfaff@milwaukee.gov

July 10, 2015

Atty Andrew Arena
1110 N Old World Third St #210
Milwaukee, WI 53203

Man Zhang
Kiku, LLC
200 W Wisconsin Ave
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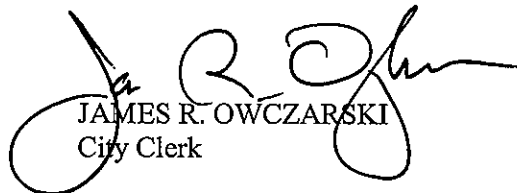
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Respectfully,



JAMES R. OWCZARSKI
City Clerk



CHAIR
• Licenses Committee

MEMBER
• Community and Economic
Development Committee
• Steering and Rules Committee



TONY ZIELINSKI
ALDERMAN, 14TH DISTRICT

Date: July 10, 2015

To: All members of the Milwaukee Common Council

From: Licenses Committee

Re: Report on the hearing for the Complaint of Revocation against the Class "B" Tavern license of Man F. Zhang, Agent for Kiku, LLC, for the licensed premises at 200 West Wisconsin Avenue in the City and County of Milwaukee, Wisconsin ("Kiku").

FINDINGS OF FACT

1. Man F. Zhang (hereinafter the "Licensee") is the holder of a Class "B" Tavern, license for the premises at 200 West Wisconsin Avenue in the City and County of Milwaukee, Wisconsin ("Kiku").
2. A complaint for revocation of this license was filed on June 16, 2015 by Police Captain Leslie Thiele on behalf of Police Chief Edward Flynn, both of the Milwaukee Police Department. The complaint alleged that the premises known as "Kiku" was violating the licensing provisions of Wis. Stat. Chapter 125 and MCO Chapter 90 as alleged in the complaint. A summons was issued and served upon Man F. Zhang on June 30, 2015.
3. Said summons commanded the appearance of Man F. Zhang to answer the complaint for revocation of license of Captain Leslie Thiele and Chief Edward Flynn on July 7, 2015 at 3:00 p.m. in Room 301-B of City Hall. At that date time and place Man F. Zhang appeared and answered the complaint as summoned and was represented by counsel, Attorney Andrew Arena, 1110 N Old World Third St #210, Milwaukee, WI 53203. Attorney Nicholas DiSiato of the Office of the Milwaukee City Attorney, Room 800, City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202, represented the Milwaukee Police Department.
4. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. Attorney Andrew Arena indicated that the establishment uses a bracelet system to identify patrons that are old enough to drink. It was discovered that an employee was selling wristbands to underage individuals. The applicant has terminated the individual.



- B. The applicant confirmed that he has been convicted of four misdemeanors and is serving a jail sentence with Huber work release privileges and is allowed to work between 4 p.m. and 4 a.m. The business opens at 11 a.m. A manager opens the business and there is always a licensed bartender on premise when he is not there. He confirmed that he filled out the form labeled as exhibit H in the complaint and checked "no" to question 2b, related to municipal citations. He did, however, have municipal citations convictions. At the January 6, 2015 Licenses Committee meeting, there was a conversation regarding having a licensed person on premise. At the meeting, he stated security guards would check IDs. He is aware that a licensed bartender needs to be on premise at all times. He was recently cited for not having a responsible person on premise. He had not initially been scheduling any licensed bartenders on premise when the establishment opened beginning at 11:00 a.m. When he completed exhibit H, he did not understand what the question meant. He did admit the citations to the committee at the last meeting and did not check "no" to intentionally deceive anyone. He states that there was an incident where he did tell an undercover police aide to give beer to another individual if police came to the establishment. He thought she was coming in for food and then he discovered she had a drink so he checked the ID. He stated that 70-80% of people who order dinner order alcohol as well. He obtained an ID scanner 3-4 weeks ago so he can verify that security guards are checking IDs. Fifteen employees rely on the business. He states he thinks he can do a better job of running the business given the opportunity.
- C. Assistant City Attorney Nick DeSiato was present and stated that the owner's convictions range from 2011 - 2014, so municipal citations convictions occurred before the exhibit H form was completed.
- D. Theresa Westfall, Police Aide for Milwaukee Police Department stated that on February 27, 2015 at approximately 1:00 am. she and a police officer in plain clothes went to about 27 locations. She did not have an ID and was instructed to attempt to gain entry to establishments without an ID. Upon entering Kiku, no one checked for an ID. The owner told them to take a seat. She ordered a beer from a waitress and was given a bottle without having an ID checked. A squad car then went past the restaurant. She was approached by the owner with two orange wristbands and asked for ID. She was instructed to give her beer to the undercover officer if police came in. Officers entered the establishment and asked her to leave. Other patrons also began to leave. Before leaving, staff told her to tell police that the undercover officer was having the beer. When she paid for the drink, she was again told to state that the alcohol belonged to the other individual she was with. She was 19 years old at the time of the incident and was instructed to not lie about her age.

- E. Officer Mariolys Flores stated that on March 7, 2015 she was undercover with an underage police aide. They arrived sometime after 10 p.m. and were asked for IDs at the door by security. She said she did not have her ID and the police aide said she must have lost her ID. The owner came and asked if they were going to eat or drink and they were seated. There was loud music playing in the establishment at the time. She stated she does not generally encounter security at restaurants. After being seated, the 19 year old police aide ordered a beer. The police aide was served a beer and no ID was checked. Later in the night police officers came in. The waitress then approached her and the police aide asking if they had IDs. The waitress took away the beer and said she would bring it back when the police left. She called over the waitress to see if they should pay for the beer before leaving. The owner then approached the table. He asked if they had IDs and then told them they did not need to pay and should just leave. Security stopped them as they were leaving and asked why they were leaving. She stated her friend did not feel comfortable with police present. Security advised that they could stay in the back area of the restaurant, as the police do not normally go there. They then left the establishment.
- F. Police Aide Candice Fons stated that she is 18 years old and entered the establishment on April 17, 2015 with a police officer. They were both in street clothes and it was about 11:00 p.m. Upon arrival security asked for IDs. They said they did not have one so they went back to the car to get IDs. She brought back an ID of a different person. The ID was for an individual with a different height, hair color, and hair style. She gave the ID to the security guard. The guard passed it to another security guard who scanned it with his phone. The security guard seemed confused about which ID belonged to which individual so he passed them both back to the officer. Both individuals were given wristbands. Upon entry, she ordered a Miller Lite and the officer ordered water. She was served the bottle with a glass.
- G. Officer Dean Drajkowski stated that on June 5, 2015 he visited the establishment with Officer Brown and Wisconsin Department of Revenue Agent King to conduct a licensed premise inspection. It was around 1:30 p.m. and the business was open. There were two women at the front counter. There were no individuals on premise with a Class "D" Operator's license. A licensed individual showed up about an hour and a half later. An employee, Ms. Bustamante, indicated that she opens the business each day at 11:00 a.m., but she does not have a license. He observed two bottles of alcohol that were contaminated. The exterior of the establishment had a sign stating the bar is open until 3:00 a.m. Inside the bar there was a sign stating bottle service is available. Ms. Bustamante elaborated that bottles are brought to the table and patrons pour their own alcohol. Bottle service is not legal.

- H. Sgt. Joseph Gonzelka stated that on June 9, 2015 after 2:00 a.m. he was patrolling the area and observed there were several people seated at the bar. He approached the establishment to determine why people were in the bar. The owner was outside stacking chairs. When the owner saw him approaching, he hurried inside and attempted to get individuals in the premise to leave. He then interviewed the people exiting the establishment. Two individuals said they were using the restroom. One individual was a friend of the owner, one was an employee, and one gave incoherent answers. He spoke with owner, who said people were using the bathroom and everyone else on premise was an employee. He offered video, which showed people seated at the bar area with drinks on the table. The owner was consuming alcohol with another individual. The individuals who said they were there to use the bathroom used the bathroom and then looked at menus. At 2:05 a.m. all individuals were still inside. The owner left and then came back in and quickly removed drinks from the bar. He was able to confirm the video footage had the correct times, as the times on the camera were synced within seconds to the times on his phone.
- I. Captain Leslie Thiele stated that underage drinking is a large concern in the district. The district does underage stings and meets with tavern owners once per year to discuss expectations. The establishment has had numerous underage incidents. Sixty eight percent (68%) of the tavern licenses in the city are in the district, but this is her first time appearing before the committee for a revocation. She has not observed such a high frequency and continuation of incidents at other establishments.
- J. Khastia Bustamante, 6800 West Forest Home Avenue a former employee of Kiku stated that she was fired after the owner received notice of the hearing. There were several incidents of her selling beer to an underage individual. She states that they looked to be of age. She stated she did not know the police aide was underage, but took the beer from her since she did not have an ID. She stated she did not know a licensed bartender needed to be on premise on the date that there was not a licensed bartender. Employees are now much more careful about checking IDs and following laws.
- K. Danny Brahm, 330 South 17th Street stated he has been a customer for about five years. He has observed the use of an ID scanner recently. The carding policy has gotten more strict recently.
- L. Gloria Rocha, 7985 South Bine Ct., Oak Creek stated that she patronizes the business a few times per year.

- M. Sierra Perry, 5563 Root River Drive stated that she is a manager at Kiku. Employees are reminded by the owner regularly to check IDs. She advises employees to watch groups to ensure no one who is underage receives a drink. Security checks ID and they are all new employees.
- N. John Rivera, 1820 South 21st Street stated he patronizes the business 3-4 times a week. There has been a noticeable change since security has been replaced.
- O. Roberto Fuentes, 1216 Marquette Avenue stated that he is a customer of the establishment. He has his ID checked each time he comes in, but does not get a wristband because he does not drink. He thinks the owner is responsible.

CONCLUSIONS OF LAW

1. The Committee has jurisdiction to hold hearings and provide Findings of Fact, Conclusions of Law and a Recommendation regarding complaints seeking revocation to the full Common Council pursuant to Chapter 125 of the Wisconsin Statutes and Chapter 90 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found regarding the complaint for revocation of license of Captain Leslie Thiele as it relates to the licensed premises, the Committee concludes that Man F. Zhang, the licensee, for the premises located at 200 West Wisconsin Avenue in the City and County of Milwaukee, Wisconsin ("Kiku"), has not met the criteria of Chapter 125 of the Wisconsin Statutes or Chapter 90 of the Milwaukee Code of Ordinances and that as such a sixty (60) day suspension of the licenses held by Man F. Zhang should be imposed. The Licenses Committee finds the complaint filed by Captain Thiele, as stated above, to be true.
3. The Licenses Committee recommends that the full Common Council of the City of Milwaukee exercise its discretion to suspend the Class "B" Tavern license held by Man F. Zhang for the premises located at 200 West Wisconsin Avenue in the City and County of Milwaukee, Wisconsin ("Kiku") for sixty (60) days based upon the testimony heard and the evidence received because of the dangers that the operation of this premises poses to the health, safety, welfare, and of the citizens of the City of Milwaukee.
4. The License Committee specifically did not consider the five citations issued to the licensee pending in Municipal Court for sale to underage person(s), one for a lack of responsible person on site and one citation for being open after hours.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a **vote of two (2) ayes, one (1) noe and two (2) excused** recommends that the Class "B" Tavern license held by Man F. Zhang for the premises at 200 West Wisconsin Avenue in the City and County of Milwaukee, Wisconsin ("Kiku") be suspended for a period of sixty (60) days based upon the evidence and testimony received.

Said suspension is to be in effect between July 21, 2015 and 11:59 PM September 18, 2015.

Dated and signed at Milwaukee, Wisconsin this 10th day of July, 2015.



TONY ZIELINSKI, Chairman
Licenses Committee

145512