

Jeff Pawlinski
Alderman, 13th District



CHAIR:
Utilities & Licenses Committee

COMMITTEES:
Zoning, Neighborhoods and Development
Administrative Review Appeals Board
Resolutions Committee - League
of Wisconsin Municipalities

April 5, 2001

To the Honorable
The Common Council
City of Milwaukee

Dear Council Members:

RE:

File Number: 001233 Recommendation of renewal with a 15-day suspension of the Class "B" Tavern and Cabaret license of Steven E. Tyczkowski for the premises at 2401 W. Wisconsin Avenue ("The Rave") in the 4th Ald. District

This is a follow-up letter regarding the proposed recommendation in the above-captioned matter.

Please be advised that written exceptions have been filed. As they were filed within the prescribed time limit by the licensee, it is mandatory you also read this follow-up prior to this matter being heard by the full Common Council on Tuesday, April 10, 2001, at 9:30 A.M.

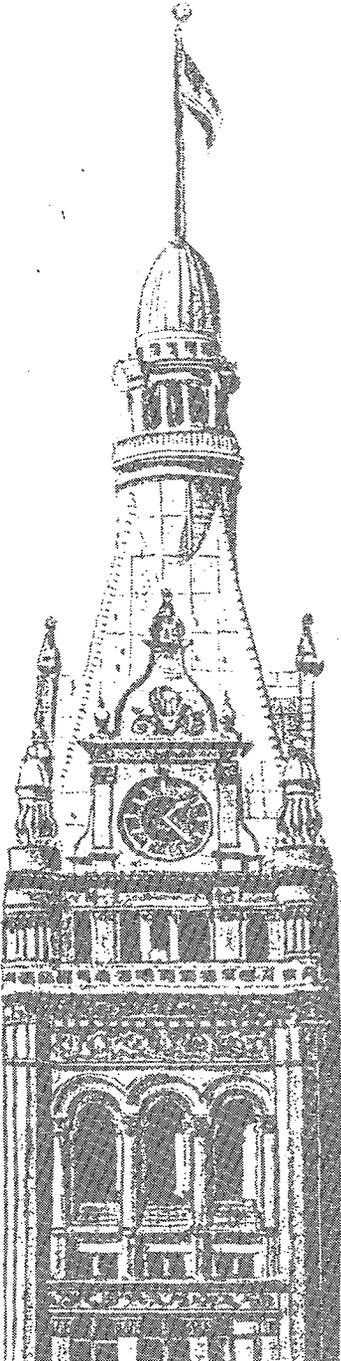
Respectfully,

A handwritten signature in black ink, appearing to read 'Jeffrey A. Pawlinski'.

JEFFREY A. PAWLINSKI, Chair
Utilities & Licenses Committee

BDS:crr
Attachment

cc: City Attorney
Chief License Clerk
File Number 001233



LAW OFFICES OF
MICHAEL A. I. WHITCOMB

633 W. Wisconsin Avenue, Suite 510
Milwaukee, Wisconsin 53203-1918

Telephone 414-277-8384
Facsimile 414-277-8002

April 5, 2001

The Honorable Common Council
of the City of Milwaukee
Room 205, City Hall
200 E. Wells Street
Milwaukee, WI 53202

Re: Renewal of Class "B" Tavern
Agent: Steven E. Tyczkowski
Corporate Entity: Beverage Services of Milwaukee, Inc.
Premises: 2401 W. Wisconsin Avenue / "The Rave"

CITY OF MILWAUKEE
2001 APR -5 AM 9:06
RONALD D. LEONHARDT
CITY CLERK

Honorable Members of the Common Council:

Please be advised that this office represents the above-referenced license renewal applicant. This communication is submitted as the applicant's written objections to the March 30, 2001 report of the Utilities & Licenses Committee (hereinafter "Committee"), recommending that applicant's license be renewed with a 15-day suspension. The applicant requests that these written objections be considered at the Common Council meeting of Tuesday, April 10, 2001, at which time the Committee's recommendation regarding the license renewal will be considered. The recommendation of the Committee was based only upon the synopsis of the Milwaukee Police Department.

Initially, the report of the Committee misrepresents the record of the renewal hearing conducted on March 27, 2001. Paragraph 5(A) of the report references an incident in Grant Park on July 30, 1998, and a conviction regarding the incident on February 12, 1999. There was no evidence admitted at the hearing, nor testimony given at the hearing, regarding any incident on July 30, 1998. There were no convictions of any kind on February 12, 1999. The synopsis of the Milwaukee Police Department indicated only that in July of 1988, the agent for the corporation applicant was involved in an incident in Grant Park. Fines were imposed in February 1990. This incident occurred nearly 13 years ago, when the agent was 18 years old.

It is important to note that the information contained in paragraphs 5(B) through (O), was considered by the Committee in 1999, when at that time it recommended renewal of the license. In 2000, the license was renewed without objection or hearing before the Committee, notwithstanding the concern of Captain Lucas expressed in paragraph 5(Q).

It must be noted that since Captain Lucas expressed his concerns regarding the premises, management personnel of the Rave/Eagle's Auditorium have been in regular contact with Captain Lucas. It was Captain Lucas who wisely suggested the placement of private security throughout the neighborhood on the nights of concerts. Such security is now provided as disclosed in the area maps contained in the materials submitted herewith. The neighborhood security force assures that patrons traveling to and from the Rave/Eagle's Auditorium are protected, and that patron vehicles parked in the neighborhood are secure. The neighborhood of the Rave/Eagle's Auditorium remains in transition.

As also testified at the Committee hearing, suggestions proposed by Avenues West neighborhood organization, also have been implemented, which include having a coat check within the facility. This provides patrons with an option not to leave their coats in their vehicles, which in the past appeared to have enticed vehicle break-ins during concert performances.

The two reported incidents in 1996 include a failure to display a license, and an apparent neighborhood complaint. The citation for failure to display a license was held open, the neighborhood complaint was resolved, and the license was renewed in 1997 without any neighbor objections.

The reported incidents in 1997 have not affected the license renewal in the past, and should not affect it now. The three incidents listed relate to conducting concerts without a license, which was not a knowing infraction, but an oversight in renewing a license. The other two incidents were a burglary, and some individual flashing a laser light.

Regarding the reported incidents in 1998, the incident of January 23, 1998 appears twice on the report of the Committee. This incident involved a patron arrested for possession of marijuana. There was only one other incident in 1998, where a patron was arrested for possession, and that occurred on March 11, 1998. The incidents of January 11, March 6, and March 25, all involved conduct outside of the licensed premises. In September 1998, a fight apparently broke out in the men's room, and one subject was cited for battery. In November 1998, an unruly patron was arrested for disorderly conduct when he attempted to regain entry after being ejected. The only other incident in 1998, was a report of a private security guard directing traffic, which apparently may only be done by the Milwaukee Police Department.

There were no reported incidents in 1999, which is quite remarkable for a facility which entertains anywhere from 250,000 to 300,000 people per year. There were two reported incidents in 2000. The first, in March 2000, involved a battery committed by an employee against another employee of the facility. The assailant was promptly discharged by the applicant. None of the foregoing incidents have in the past warranted the Committee to do anything other than to renew the license.

It is submitted respectfully that none of the foregoing incidents now warrant the imposition of a 15-day suspension. Therefore, this Honorable Council is left with but one question, and that is whether the incidents as set forth in paragraph 5(R) are sufficient to warrant a 15-day suspension for a major entertainment facility in Milwaukee. This facility known as either The Rave or the Eagle's Auditorium, is not a tavern. It is a performing arts center that provides a wide range of entertainment; from concerts, to weddings, to Hispanic dances, to boxing, and to convention activity. To impose a 15-day suspension would deprive the applicant of its ability to conduct any business, even without the ability to sell adult beverages, because its entertainment licenses, we have been told, are inextricably tied to its liquor license.

The facility has six major events scheduled from April 25 through May 6, 2001. None of these events may go on without renewal of the liquor license. This is because, we are told, the companion licenses to a liquor license cannot be given full force and effect without a liquor license. Therefore, the concert scheduled on April 28, 2001, cannot be conducted because the Cabaret license, which authorizes the concert activity, we are told, is inextricably tied to the liquor license. Thus, unlike a tavern which loses its ability to sell drinks for 15 days and whatever profit is derived therefrom, the Rave/Eagle's Auditorium will not only lose the ability to sell alcohol, but will lose the ability to provide any entertainment whatsoever, which in actual out-of-pocket costs to the facility exceeds \$150,000 for the fifteen days. This exacts a penalty which is totally inequitable in light of the only basis for the suspension, and that is the incidents which are set forth in paragraph 5(R).

The incidents set forth in this paragraph, occurred on June 30, July 7, and Labor Day weekend 2000. All of the incidents involved "The Bassment," which is located in the basement level of the facility. At the time, The Bassment provided club music entertainment through national disk jockeys. On June 30 and July 7, 2000, undercover officers reportedly were able to purchase Ecstasy while in The Bassment. On September 2, 2000, reportedly an undercover agent was able to purchase cocaine and LSD within The Bassment. It is critical to note that none of these three incidents was ever brought to the attention of the facility until it received a copy of the police department synopsis for its renewal hearing this year.

None of the purported activity involved employees, bartenders, security or entertainers employed by or contracted with the facility. The sales purportedly were made by patrons. These sales were not made due to any lack of diligence or lack of security at The Bassment. As presented to the Committee, and disclosed herewith, patrons are not admitted to The Bassment with hats, purses, backpacks or overcoats, so as to limit apparel which may be used to conceal illicit drugs. Patrons are subjected to a wand metal detector search. Thereafter, upon permission only, they are subjected to a pat-down search. If security suspects contraband is being carried, a patron is asked to empty all pockets. As was testified before the Committee, Captain Lucas remarked to management personnel upon observing the security precautions employed, that he had not before observed at any other facility such professional, comprehensive and thorough screening and security for patrons.

As testified before the Committee, security personnel suspected that an undercover operation was being conducted over Labor Day weekend. A highly suspicious individual was at The Bassment on Saturday, September 2, 2000. The Committee refers to this individual as an undercover officer who was removed from The Bassment. This is true; but only after management personnel contacted the Milwaukee Police Department, in an attempt to verify whether an undercover operation was being conducted at the time. Management personnel was advised that the Milwaukee Police Department was not aware of any undercover operation ongoing at the time, and instructed management personnel to do that which they would do under customary circumstances. Therefore, the highly suspicious undercover officer, dressed in a red satin suit, was asked to leave after patrons complained that he was attempting to buy drugs from them.

Subsequent to the repeated presence of undercover officers at the facility on Labor Day weekend, management personnel conferred with the authorities, who expressed concern about the type of entertainment being provided. Therefore, management personnel voluntarily closed The Bassment, at a cost of upwards \$20,000 per week. As past Committees are aware, when the Rave/Eagle's Auditorium provided entertainment which created any type of concern due to the type of patrons which attended the entertainment, the Rave/Eagle's Auditorium ceased providing that type of entertainment. Such is now the case with the disk jockey club music.

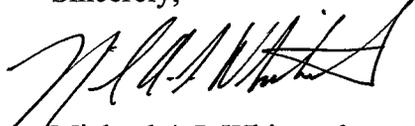
It is respectfully submitted that penalties imposed for licensed activity must be premised upon a showing of knowing, improper conduct of the licensee, or a showing of disregard for the safety or conduct of its patrons. In this case, all we have is purported sales by patrons of illicit drugs to undercover agents. The facility did everything it possibly could to avoid and monitor such activity. In addition to the intensive screening process to gain entry, there were 16 private security personnel in attendance during The Bassment events. Once the facility was alerted to the fact that law enforcement authorities were concerned with the type of crowd being attracted, The Bassment was closed. It was not closed because of knowledge of the sale of illicit drugs, because the facility was not alerted to these purported sales until immediately prior to their hearing before the Committee.

The lack of any substantial or persistent, improper activity at the Rave/Eagle's Auditorium over the last five years, during which time over a million patrons went through the doors, is not only remarkable, it is uncanny. One only can imagine what a similar synopsis from the Milwaukee Police Department would look like if it were to list each and every incident of police activity at Summerfest, Milwaukee County Stadium, or the State Fair, for the last five years.

If a penalty is to be meted on this meager record, might it be suggested that The Bassment, where the purported improper activity occurred, be effectively closed for fifteen days. This could be done by your Honorable Council by renewing the applicant's license without suspension, but at the same time granting the applicant's request to use the lower level of the facility for licensed activity, where The Bassment was located, effective only after April 25, 2001. This would permit the facility to honor its contracts with the entertainers, to honor the tickets sold to its patrons, and to continue to use the remainder of the facility for which there has been no improper conduct.

Given the nature of this licensed establishment, given the large number of patrons who attend the facility, and given the management personnel's positive, responsive nature to any complaint or concerns, it would be highly inequitable and unfair to impose a suspension on this license. Therefore, it is submitted respectfully that the licenses for the Rave/Eagle's Auditorium be renewed notwithstanding the recommendation of the Committee.

Sincerely,



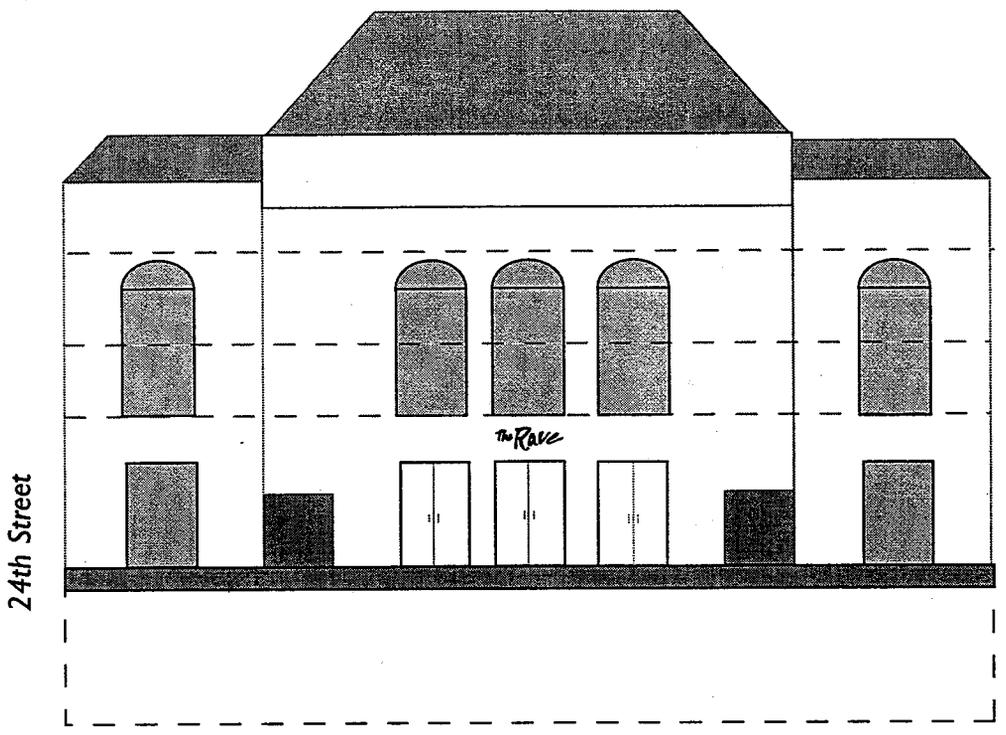
Michael A.I. Whitcomb

encs.

c: Eagle's Auditorium, Inc. w/encs.

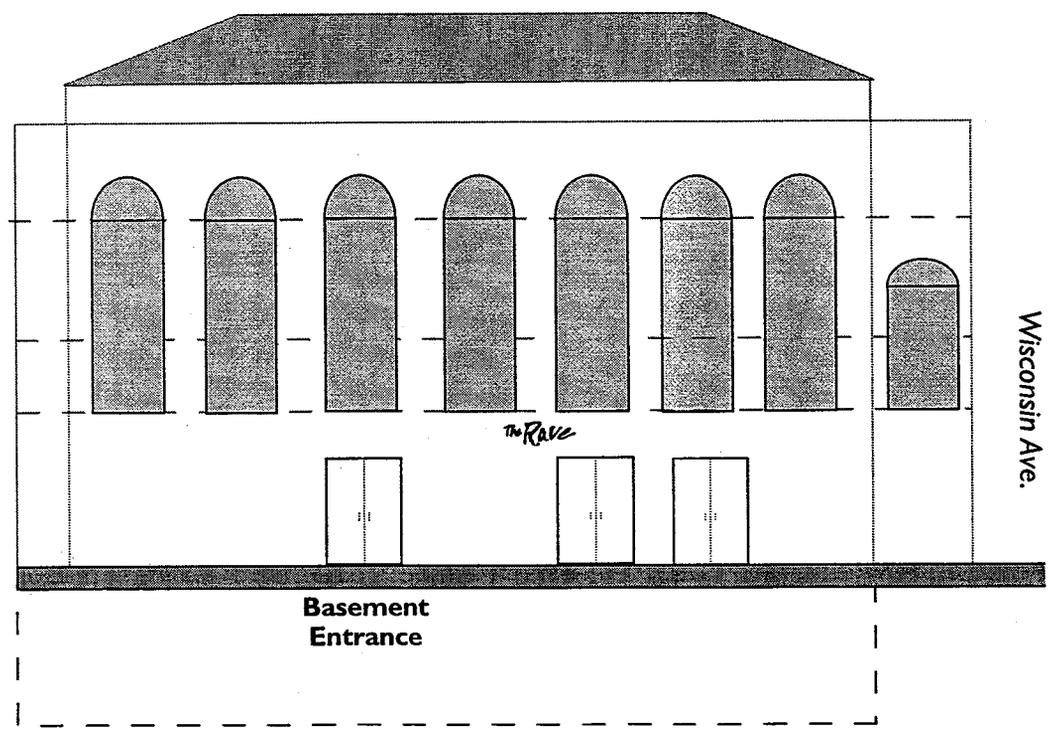
The RAVE Split-Level

- The Eagles Balcony** →
- The Eagles Ballroom** →
- The Rave Balcony** →
- The Rave** →
- Basement Level** →



Wisconsin Ave. (Front of building)
(North side)

- The Eagles Balcony** →
- The Eagles Ballroom** →
- The Rave Balcony** →
- The Rave** →
- Basement Level** →



24th Street (Side of building)
(East side)

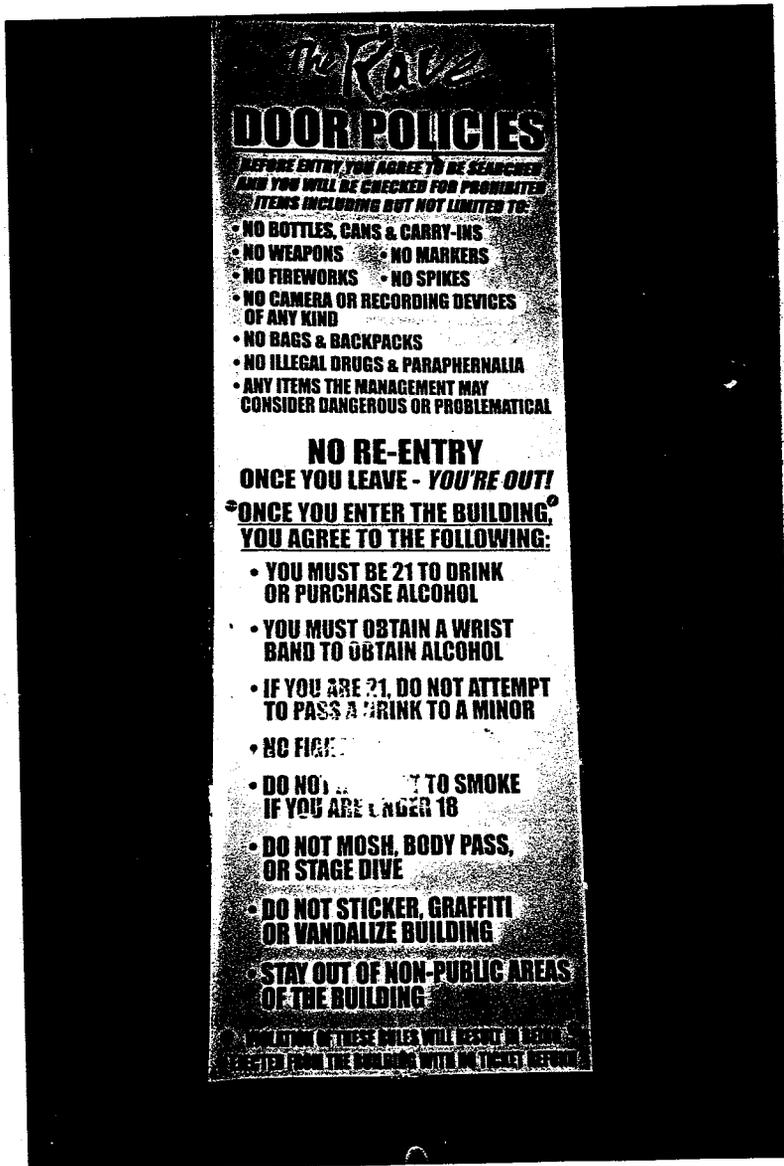


THE EAGLES BALLROOM

SECURITY POLICIES

(Inside the Building)

1). There are 26 signs posted under plexiglass located at all entrance doors and throughout the building stating the building policies and rules. They include:



2 4 0 1 W W I S C O N S I N A V E

M I L W A U K E E W I 5 3 2 3 3

4 1 4 . 3 4 2 . 0 3 0 0 F A X 4 1 4 . 3 4 2 . 0 3 5 9

W W W . T H E R A V E . C O M



THE EAGLES BALLROOM

SECURITY POLICIES

(Inside and Outside the Building)

- 2). The building employs the RTM Security firm to manage all concert security, crowd control, the "pat-down" process before admitting patrons and enforcement of all building rules. RTM Security employees are highly trained, bonded and insured. RTM Security has been hired by most concert facilities in the State of Wisconsin, including the Marcus Amphitheatre, the Midwest Express Center, Riverside Theatre, and the Kohl Center to name a few.

We were asked by District 3 Captain Lucas in September 2000 to post security guards at "static post" positions on street corners surrounding our building to distract and deter individuals who may want to commit crimes, mostly auto break-ins. We have honored the Captain's request, and placed paid guards at needed intersections in the neighborhood. The next two pages are area maps, which show the placement of the guards in the neighborhood based upon the number of expected patrons. The guards are present one hour before a show until one hour after a show ends.

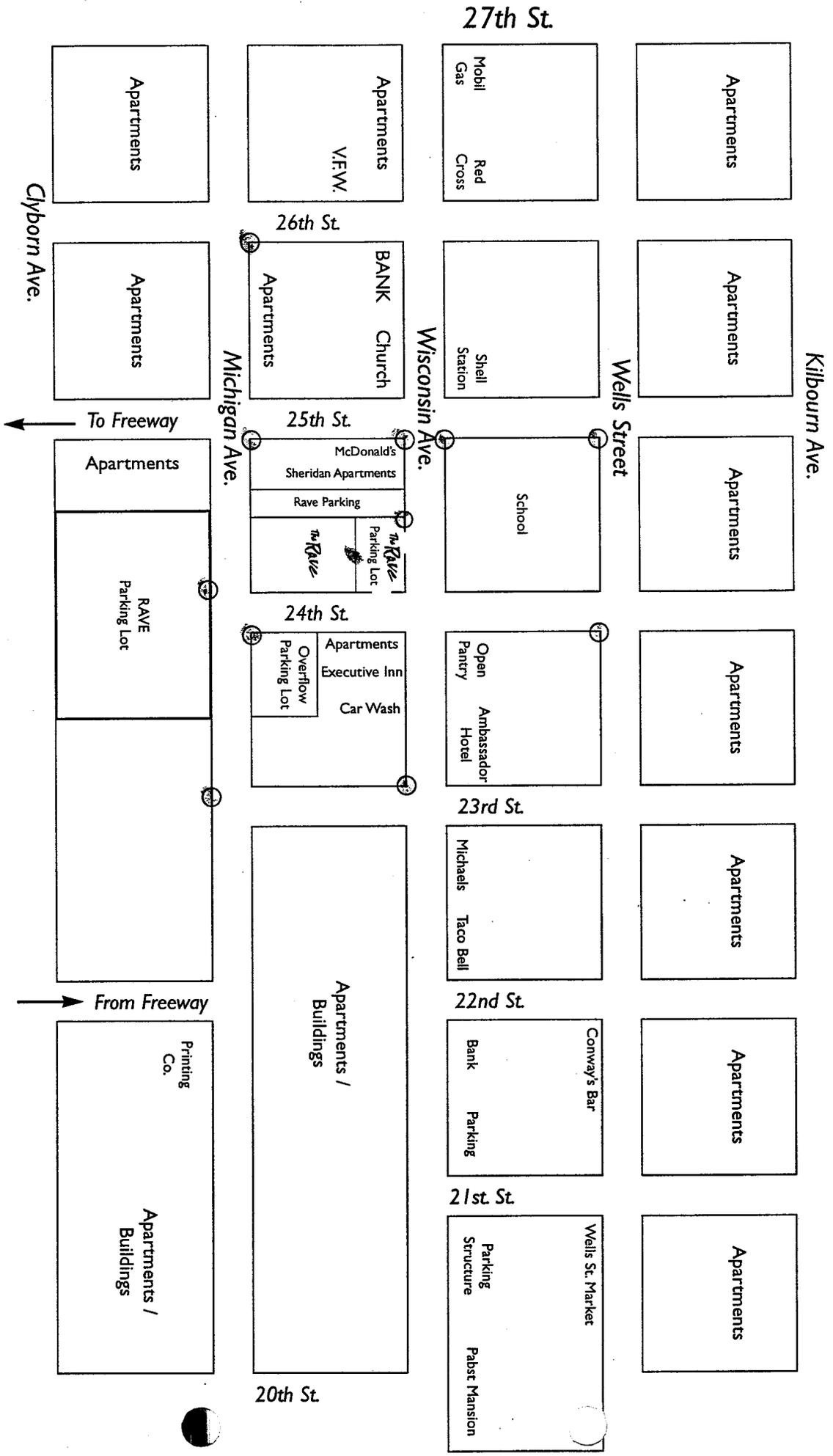
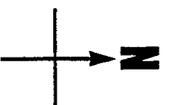
- 3). Upon entering the building, patrons are asked to submit to a physical search. If they decline, their ticket money is refunded and they are not admitted to the facility. Patrons are asked to empty their pockets.

We do not allow any backpacks or carry-ins of any kind. No hats may be worn of any kind. Depending upon the patrons expected for the show, we also use metal detectors.

- 4). Any person breaking the posted rules for any reason is ejected from the building. There are no second chances.

2 4 0 1 W W I S C O N S I N A V E
M I L W A U K E E W I 5 3 2 3 3
4 1 4 . 3 4 2 . 0 3 0 0 F A X 4 1 4 . 3 4 2 . 0 3 5 9
W W W . T H E R A V E . C O M

The Rave Area map

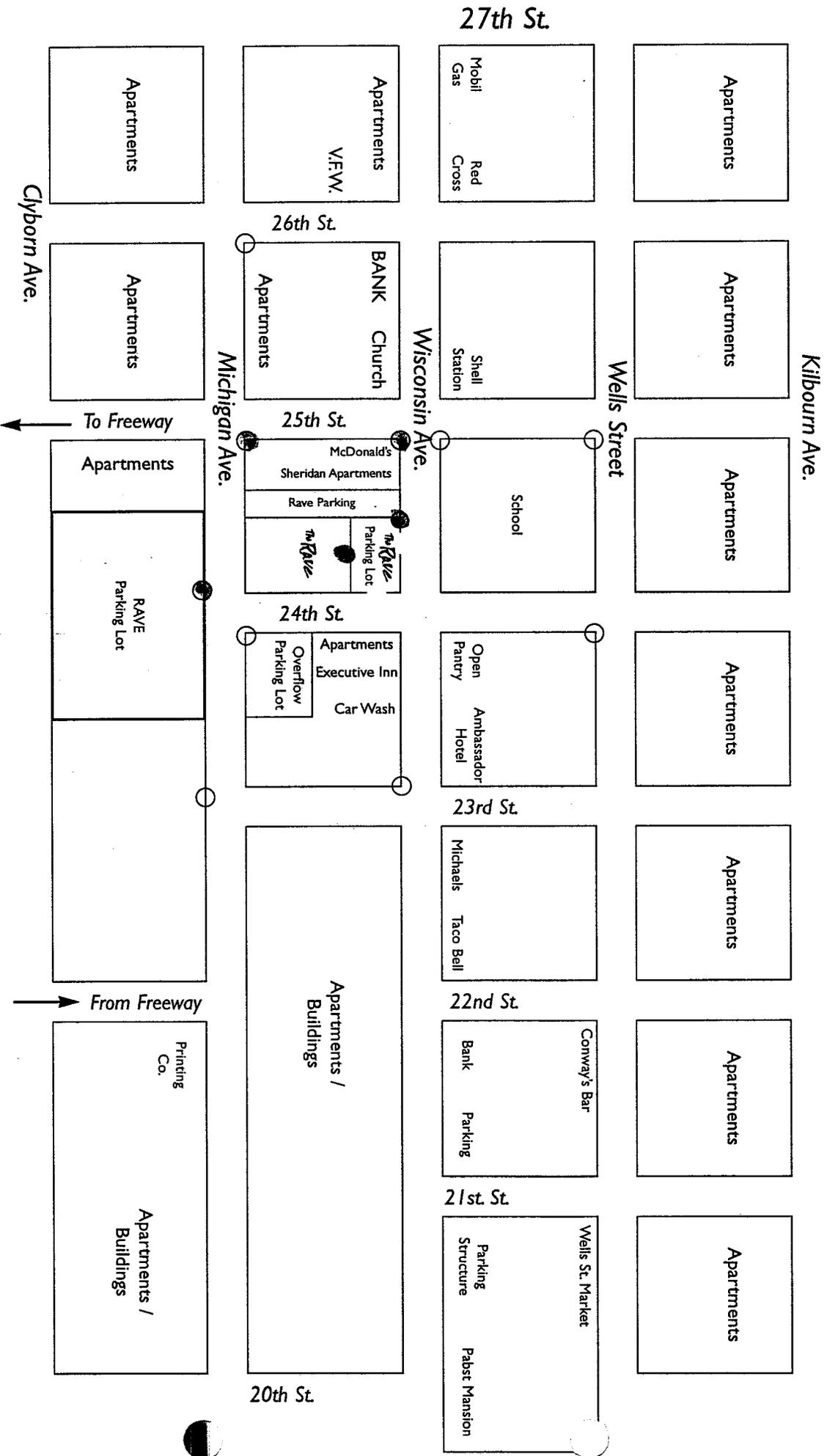


● Indicates a security guard on large show nights

○ Indicates a security guard on small show nights

Security is in place one hour before show time until one hour after show ends.

The Rave Area map



○ Indicates a security guard on large show nights

● Indicates a security guard on small show nights

Security is in place one hour before show time until one hour after show ends.



THE EAGLES BALLROOM

ALCOHOL POLICIES

- 1). Upon entering the building, if a patron 21 or older wants to purchase alcohol, they must go to the ID check booth, which is located at the front entrance of the building. Anyone showing valid proof that they are 21 or older has a design colored wristband attached to them by the security guard that is checking I.D.'s. Bartenders use the wristbands to screen out underage patrons. We select, at random, different colored wristbands with different designs for each show. See item #4 for details on additional security measures at the I.D. booth.

- 2). As with any venue or event that serves alcohol, there is a risk of an adult purchasing alcohol for an underage person. Therefore, as an added precaution, all alcoholic beverages are served in translucent cups: 16-oz cups for beer, and 10-oz cups for mixed drinks. Non-alcoholic beverages are served in 16-oz red cups. It is thus obvious to bartenders, employees and security if a patron without a wristband is drinking an alcoholic beverage.

- 3). Plain-clothed RTM Security guards continually patrol concert crowds, on the alert for persons who are holding a translucent cup, but do not have the required wristband.

2 4 0 1 W I S C O N S I N A V E

M I L W A U K E E W I 5 3 2 3 3

4 1 4 . 3 4 2 . 0 3 0 0 F A X 4 1 4 . 3 4 2 . 0 3 5 9

W W W . T H E R A V E . C O M

THE EAGLES BALLROOM

ALCOHOL POLICIES

- 4). At the I.D. Check booth, we purchased and have in place an EYE-D Cam. It is an unit that videotapes patrons as they approach the ID check booth, and take out their ID. The ID is then placed in a separate box that videotapes the ID. The entire process of requesting and receiving a wristband is videotaped.

PHOTO OF THE I.D. UNIT:

