



JAMES N. WITKOWIAK
ALDERMAN, 12TH DISTRICT

July 22, 2004

To the Honorable, the Common Council

Dear Members:

Re: Common Council File 031480

Recommendation of renewal with a 10-day suspension based upon police report of the Class "B" Manager license of Ollie Harrison for the premises at 6222 W. Fond du Lac Ave. ("Phoenix Bar and Grill")

With regard to the items listed above, the Utilities and Licenses Committee held an evidentiary hearing on July 22, 2004.

Pursuant to section 90-11, Milwaukee Code of Ordinances, and section 125.12(12), Wis. Stats., the Committee is transmitting a copy of its Report and Recommendations, regarding the above matters to your Honorable Body.

Pursuant to City Ordinances, prior to the time the Common Council acts on the Committee's Report, a **roll call vote will be taken** to confirm that all members present and voting have read the Committee's Report and any objections that have been filed by the Licensee.

These matters have been scheduled for a hearing before the full Common Council at its meeting on **Tuesday, July 27, 2004** at 9:00 A.M. in the Common Council Chambers.

Respectfully,


James N. Witkowiak, Chair
Utilities & Licenses Committee

cc: License Division
All Council Members
File No. 031480



JAMES N. WITKOWIAK

ALDERMAN, 12TH DISTRICT

Date: July 22, 2004

To: All Members of the Milwaukee Common Council

From: The Utilities and Licenses Committee

Re: Report of the Renewal Application of Ollie Harrison for a Class "B" Manager license for the premises located at 6222 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("Phoenix Club "), operated by Diamond Food & Beverage, Inc.

FINDINGS OF FACT

1. Ollie Harrison (hereinafter the "Licensee") is the holder of a Class "B" Manager license for the premises located 6222 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("Phoenix Club "), operated by Diamond Food & Beverage, Inc. Said license expired at midnight, June 30, 2004.
2. An application to renew said license was filed with the Office of the City Clerk on June 8, 2004.
3. Pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes, the matter was referred to the Milwaukee Police Department for investigation. The Milwaukee Police Department responded with a report that could form the basis of non-renewal or suspension of this license on June 9, 2004.
4. On July 16, 2004, the City Clerk's Office provided notice to the Licensee, pursuant to Chapter 90 of the Milwaukee Code of Ordinances and Chapter 125 of the Wisconsin Statutes of the police report that could form the basis for suspension or non-renewal of the licenses of the Licensee. The matter was scheduled for a hearing on the police report on July 22, 2004 at 8:00 a.m. in Room 301B of the third floor of City Hall. At said date, time and place the licensee appeared at the hearing and was not represented by counsel.
5. Based upon the sworn testimony heard and the evidence received at the hearing,

the Committee finds the following:

- A. On November 25, 2003 the Milwaukee Common Council renewed the Class "B" Tavern and Tavern Amusement (Cabaret/Nite Club) license of Andrea Chavis for the premises at 6222 West Fond du Lacey Avenue in the City and County of Milwaukee, Wisconsin ("Phoenix Bar & Grill") with a 60-day suspension. The reasons for the 60-day suspensions were as follows:

"A. The applicant was interviewed regarding the license application on November 5, 2001. The applicant stated she worked at the licensed premises for the prior three years. She stated at that time that she applied for a Class "D" Bartender license to work on the premises on October 30, 1998. She also stated at that time that she applied for a Class "B" Manager license for the premises on October 17, 2001. The same applicant also applied for a Class "B" Manager license to be the manager of "The Matrix" located at 352 East Capitol Drive in the City and County of Milwaukee, Wisconsin. The application for a Class "B" Manager's license for "The Matrix" was also filed on October 17, 2001. The applicant stated she works at the Phoenix during the days and evenings at "The Matrix."

Applicant also revealed to police officers that she worked as a bartender at "The Matrix" and was going to be the manager of that location as well. The applicant had been tending bar at "The Matrix" since February, 2001.

- B. On Saturday, April 28, 2001, at 1:40 a.m., officers of the Milwaukee Police Department were approached by security guards at licensed premises at 352 East Capitol Drive in the City and County of Milwaukee, Wisconsin ("The Matrix"). The security guards were having trouble with a customer. In the subsequent investigation, the police officers spoke with the licensed applicant, Andrea Chavis, who represented herself to the officers as the manager of "The Matrix." When asked if she had a Class "B" Manager's license, she replied, "Yes." When she was asked to produce the license she stated that she did not actually have it, but indicated it had been approved but not yet issued. The applicant was issued a citation for Class "B" Manager's license required. The case was heard on October 17, 2001 and she was found not guilty, October 17, 2001, being the same date she applied for a Class "B" Manager's license as manager of "The Matrix."
- C. On Sunday, October 21, 2001, vice control officers conducted an investigation regarding a complaint of "nude strippers" at the

licensed premises at 6222 West Fond du Lac Avenue (“Diamond Inn”). The officers entered the premises undercover at 10:15 p.m. Prior to being allowed to enter they were verbally informed of a \$20 cover charge. No such cover charges were posted at the entry. One of the officers observed a female dancing in a sexually suggestive manner, that she was nude, with her breasts, buttocks, and genitalia fully exposed to the officer’s view. The dancer inserted several objects into her vaginal cavity, including two beer bottles, rubber balls, and glow sticks. The officer observed at least two separate male patrons placing US currency into the vaginal cavity of the dancer. The undercover officers called for uniformed officers for the purpose of conducting a license premises check. They spoke to a person who identified himself as the “manager”, in the absence of the owner who was “out of town.” The “manager” said that he was overseeing the day-to-day operations of the business. The “manager” was asked to produce a Class “B” Manager’s license. This individual did not have such a license. The “manager” was on the premises and observed the dancer’s performances. The “manager” did nothing to stop the performance. The bartender working at the bar was asked to show her bartender license. That individual did not have one. A sergeant on the scene located a quantity (2.42 grams) of cocaine powder, contained in film canister and a quantity (2.33 grams) of marijuana contained in a sandwich baggie. Both had been discarded on the floor of the tavern. The items were inventoried. In addition, the premises did not have a tavern amusement license allowing them to have cabaret performances or floor shows.

As a result of this incident, the following citations were issued:

1. Display of license, § 90-16 of the Milwaukee Code of Ordinances (bartender).
2. Prohibited performance or costume (dancer).
3. Prohibited performance or costume (manager’s responsibility).
4. Class “B” manager’s license required (acting manager).
5. Display of license/license required (licensee responsibility).
6. Display of license/license required (licensee responsibility).
7. Prohibited performance or costume (licensee responsibility).
8. Tavern charges to be posted (licensee responsibility).
9. Report of changes required (licensee).

The following disposition occurred as to the above citations:

1. Warrant issued regarding display of license (bartender).
 2. Case dismissed as to prohibited performance or costume (dancer).
 3. Guilty and fined \$824.00 on March 11, 2003, commitment issued for prohibited performance or costume (manager).
 4. Case dismissed as to Class "B" Manager's license required.
 5. Case dismissed (display of license/license required, licensee responsibility).
 6. Guilty and fined \$339.00 on March 11, 2002 (display of license/license required, licensee responsibility).
 7. Case dismissed March 11, 2002 (prohibited performance or costume, licensee responsibility).
 8. Guilty and fined \$339.00 on March 11, 2002 (tavern charges to be posted, licensee responsibility).
 9. Case dismissed on March 11, 2002 (report of changes required, licensee responsibility).
- D. On April 5, 2003, at 1:34 a.m., officers of the Milwaukee Police Department responded to a shooting at the licensed premises at 6222 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("Phoenix Bar & Grill"). It was determined that two patrons who were at the club suffered gunshot wounds during an altercation. The licensee, Andrea Chavis, stated that she did not hear or see the shooting in that the incident which happened outside of the club. The police investigation demonstrated that there were three substantial battery cutting victims at St. Joseph's Hospital as a result of that altercation and that it occurred inside the club. The two shooting victims were shot as they exited the club through the north exit.
- E. On June 14, 2003, at 10:00 p.m., a Milwaukee Police Department detective assigned to the Vice Control Division entered the licensed premises at 6222 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("Phoenix Bar & Grill") to investigate a complaint of illegal strippers. The detective observed a female dancer on the stage clad in a small brassier and underpants. She was gyrating in front of a patron next to the stage and pulled down her brassier exposing both breasts entirely. The patrons placed a dollar bill between the dancer's exposed breasts and the dancer accepted the bill by clenching her breasts around it using her hands to push her breasts together. She did not have any covering on her breasts when doing this. When asked to talk to the owner, the doorman took the detective to James H. Harrison. Mr.

Harrison talked to the detective. Mr. Harrison showed the detective a copy of the Milwaukee supplemental application for entertainment and the box marked "exotic dancers male and female strippers" was not marked. Mr. Harrison stated that Andrea Chavis is his stepdaughter. The detective stated to Mr. Harrison that "you own and control the tavern and take care of the day to day operations, but put the tavern license in your step daughters [sic] name because of your criminal record?" Mr. Harrison stated that he did not believe that was against the law. The detective was also taken into the VIP room where there were five female dancers who were using the room as a changing room.

Citations were issued to Ollie Harrison and James Harrison for certain performances and costumes prohibited and change in entertainment. As a result of a plea negotiation, a guilty adjudication was entered on certain performances and costumes prohibited and the change in entertainment citation was dismissed. On October 8, 2003, a guilty finding was entered and a fine of \$500 was imposed.

- F. On September 6, 2003 at 2:09 a.m., City of Milwaukee Police Officers were dispatched to 6249 West Fond du Lac Avenue for shots fired into a residence. An auto driving eastbound on Fond du Lac Avenue was struck through the driver's window injuring the driver. While checking the area, police found seven 9mm casings in the parking lot adjacent to the licensed premises at 6222 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("Phoenix Bar & Grill").
- G. This licensed premises, specific with reference to Class "B" Manager's license required, prohibited costumes and performances, display of license, and tavern charges to be posted and reported was the subject of a warning letter issued by the Milwaukee Common Council on November 26, 2002. The committee has determined that the incidents of April 5, 2003 and June 14, 2003 indicate that the previous warning of the Common Council was not taken seriously by the operators of this premises. The Phoenix Bar and Grill had been before the committee for the 2003 incidents. At that time, the applicant was interviewed regarding the license application on November 5, 2001 and she stated she worked at the licensed premises for the prior three years. She stated at that time that she applied for a Class "D" Bartender license to work on the premises on October 30, 1998. She also stated at that time that she applied for a Class "B" Manager license for the premises on October 17, 2001. The same applicant also applied for a Class "B" Manager license to be the manager of "The

renewal of his Class "B" Manager license without undergoing a ten (10) day suspension. The Committee finds the police report to be true.

3. In order to protect the health, safety and welfare of the citizens of the City of Milwaukee, it is the recommendation of the Utilities and Licenses Committee that the full Common Council of the City of Milwaukee should exercise its judgment to renew the Class "B" Manager license of Ollie Harrison as a manager for Diamond Food & Beverage, Inc. for the premises at 6222 West Fond du Lac Avenue in the City and County of Milwaukee, Wisconsin ("Phoenix Club") with a ten (10) day suspension.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of five (5) ayes and zero (0) noes recommends that the Class "B" Manager license of Ollie Harrison, as manager for Diamond Food & Beverage, Inc. for the premises located at 6222 West Fond du Lac Avenue ("Phoenix Club") be renewed with a ten (10) day suspension.

Said suspension is to be in effect from midnight, July 27, 2004 through midnight, August 5, 2004.

Dated and signed at Milwaukee, Wisconsin this 22nd day of July, 2004.


JAMES N. WITKOWIAK, Chair
Utilities and Licenses Committee