



JAMES A. BOHL JR.
Alderman, 5th District

January 14, 2011

To the Honorable, the Common Council

Dear Members:

Re: Common Council File 100742

Attached are written objections to:

Renewal with warning letter, though the extension of premises should not be renewed due to amendment to the licensee's plan of operation to not permit consumption of beverages outside of the tavern buildings on the premise's exterior deck(s), based on neighborhood testimony, License Division staff testimony and the police report, of the Class "B" Tavern, Tavern Dance and Video Game Center license of Christina M. Elliott, agent for "Competitive Ventures, LLC" (Jerseys Sports Pub & Grill & 4014 Lounge), for the premises at 4014-24 S Howell Ave in the 14th aldermanic district. (Committee vote: Ayes: 2, Noe: 1, and Excused: 2)

This matter will be heard by the full Council at its January 19, 2011 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached statement and materials.

Respectfully,

James A. Bohl, Jr., Chair
Licenses Committee

cc: All Council Members
City Attorney's Office
Common Council/City Clerk – License Division
CCF 100742

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January 13, 2011

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

CITY OF MILWAUKEE
11 JAN 13 PM 4:42
RONALD D. LEONHARDT
CITY CLERK

RE: Renewal of Class "B" Tavern License of Competitive Ventures, LLC
Christina Elliott Registered Agent

Honorable Members of the Common Council:

This office represents Competitive Ventures, LLC and the Registered Agent Christina Elliott in regarding the license renewal for "Jersey's Sports Pub and Grill" at 4014-24 S. Howell Avenue. Pursuant to Section 90-12-5-c-2 of the Milwaukee Code of Ordinances, Christina Elliott does respectfully file these written objections to the January 7, 2011 Utilities and Licensing Committee findings of fact and Conclusions of Law mailed to the licensee.

The Committee has recommended that the Class B License be renewed with a warning letter and that the plan of operation is amended to non-renew the extension of premises for the deck. Attached is a drawing to give the Counsel an understanding as to the importance of this deck to this particular establishment, as it has become the norm in the City of Milwaukee that patrons of hundreds of establishments, have become accustomed to eating outdoors. At one time it was actually an initiative of Mayor Norquist to promote patio's, decks, and outdoor dining.

In fact within a block of either direction there are two establishments that have very similar outside patios for outdoor dining. The establishments are Packy's at 4068 S. Howell and Rookie's at 3915 S. Howell, which are both on Howell Avenue. The recommendation by the Committee would give an unfair business advantage to these two establishments. The Licensee is requesting that a motion to be made to modify the recommendation to include the extension of premises to the deck and if necessary for limited hours which could be 10:00 p.m. on week nights and 11:00 or 12:00 on Friday and Saturdays. The deck was not used for the summer of 2010 and the loss of business revenue was over \$40,000.00 per month. Those sales actually sustain the business for the entire year. The establishment serves a full menu, and it is important to allow people to drink an alcohol beverage while they dine.

The deck has had a state of the art digital video and audio system that records and saves the video on every inch of the deck. The establishment has no music speakers and does not allow music to be played on the deck. Due to the smoking ban the deck is very important to the business because it does allow people to have a smoking area where they can eat and have a drink.

The deck at Jersey's is surrounded by an iron fence on the street side and there is a wood fence that covers the entire distance of the lot line on the back side giving visual and noise protection to the residences on that side of the block. A second address included in the license is a building at 4014 that has a door on the deck that connects the two buildings. Legally it is the deck that connects the two places that has caused the entire establishment to be covered by one liquor license. The Licensee attaches a drawing of this configuration to this objection.

One good reason for this recommendation to be changed is that this establishment has been unfairly, and illegally punished unmercifully by the City of Milwaukee. The summer of 2010 found the licensee facing an action by the Department of Neighborhood Services that resulted in the deck being placarded for a zoning violation, because it was the Departments position that the deck was tied to a volleyball court that required a special use permit to be issued by BOZA. This special use was issued since 1994-95. In 2010 the establishment did not have volleyball and did not apply for the special use. The reality was that the issuance of the placard was illegal as was determined by the City of Milwaukee Municipal Court when the City issued tickets for the patrons using the deck. The result was that the deck was not used when it was decided that a new occupancy permit should be applied for as the fastest way to correct the issue of the placard. At that time it was advisable for the Licensee to file a law suit for money damages, but they chose not to in an effort to concentrate on being a good business citizen in the City of Milwaukee. The Licensee was punished again when the matter was sent back to the Committee. This resulted in a 35 day closure which is a defacto suspension based on an issue created by the Alderman of the District, that claimed the registered agent was not truthful. This issue was determined by the Committee to be one that was at best an interpretation of ambiguous statements by the Alderman, that were used against her and did not actually amount to anything that would change any recommendation.

The actual recommendation is based on neighbors testimony. The Licensee invites the Council to read the transcript and directs the Council to the earlier filed written objection. The testimony of two households is incredible, and not enough to shut down the deck. The two people that live behind the volley ball court are the Murphy's. Both Murphy's claimed they could not be outside but concede that they walk there dog in front of the location and they both claim that they see people on the deck and sidewalk despite a 10 foot solid wood fence blocking their view. These individuals are motivated by an irrational belief that this business affects their property value. Their testimony is that people on the deck use vulgar language, yet they concede that the deck and volleyball court were not used in the summer of 2010. They then turn to complaints about people on the sidewalk which is not only impossible to see, but when the Police have been called the Police have not verified any of the complaints. These people make very large statements that are fictitious exaggerations. They said they were prisoners in their own home and that they could not go outside and enjoy their yards. However, the Murphy's have a pool that they swim in set up on their driveway! They claimed they didn't go outside, yet the deck was not used all summer.

The Police testified that due to the complaints of the Murphy's they paid very close attention to Jersey's. The Police were always in the area and were there very quickly upon a complaint. The tavern squad Tyler Kirkvold testified that he went to the location every three nights but on many occasions he visited the establishment nightly. On two occasions he went to the location twice in one night.

Officer Conrad testified that she was assigned to be in the area. Seven Officers were subpoenaed to testify and the Committee heard from 4 of them including the Captain of the District. The problems described by the neighbors were not verified and not agreed to by the Officers that testified. The Officers in fact described the place as one that did not have noise problems, and did not have unruly patrons. The testimony of several Milwaukee Police Officers directly contradicted the neighbors. And this testimony

was from unbiased individuals, that were instructed to cite the bar for any and everything to establish a bad record for the establishment, yet no citations were ever issued.

The second neighbor to testify was Denise Atkins. This neighbor was actually less credible than the Murphy's. She explicitly stated that she called the Police many times in regards to cars illegally parked. On page 68 of the transcript she said, "they are parking in front of people's driveways. We're having to call the Police."

Officer Conrad specifically testified that she would write parking tickets for parking problems, but that she hasn't written a parking ticket in this area. Officer Conrad while doing her regular patrol has never written a parking ticket or observed a parking problem. Officer Conrad also testified that she did not observe wild or unruly behavior from patrons of Jersey's. She also testified that she was never dispatched to deal with a complaint of a parking problem or persons's trespassing on the property of Denise Atkins. The testimony from this witness is not verified through any official police records and is in fact contrary to the truth.

The Licensee has an agreement to use a bank parking lot across the street and there are signs telling the patrons to park there. The recommendation to non-renew the extension to the deck should not be undertaken because a neighbor has complaints about where people park. The public streets are open for all citizens to park on, and a resident does not have any greater right to park than anyone else. As the deck was closed all summer, Miss Adkins complaints about noise can not be possibly related to the deck.

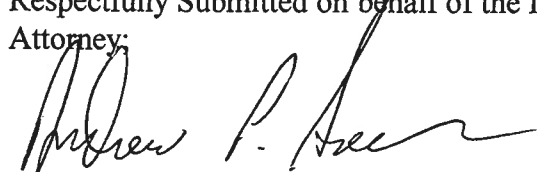
It would not make sense to punish the Licensee for noise on the deck when the deck was closed by order of the City until Labor day week end. As soon as the deck was used the Murphy's called to complain about people on the deck. The Police were present several times and did not issue citations for noise, or believe that there was unruly, loud behavior taking place on the deck.

The Licensee submitted CAD reports that demonstrate the scrutiny that has been endured by the Licensee. This is a bar and people will drink in a bar. But people will not drink in a bar that has the Police coming in nearly every night to check the place out. The Police involvement has been costly on Police resources and is not necessary. The problem is that the Murphy's are making complaints to neighborhood services, the Police Captain and the Alderman. The complaints are with such regularity that they have caused action to appease Kelly Murphy. This has been done at the expense of a business on Howell Avenue which is a busy commercial street, that has a reasonably large volume of traffic. There are many residences in this area and only these two have testified. There was one neighbor that testified that these complaints were exaggerated. If the problems were truly as bad as the Murphy's claimed there would have been many more neighbors making an effort to testify. There also would have been more evidence documented by these neighbors. Kelly Murphy claimed she had video but did not produce any of it for the Committee. If anything really proved what she was saying she would have brought it before the Committee. The City's own web site advises people to call the police and document there complaints to bring them to the Committee. The only one that put any documentation before the Committee was the Licensee. Denise Atkins testified that patrons were loud and would fight, but this would be gone before the Police arrived. These are general statements without a log, dates, and times, however, she is certain these things take place and they disturb her. The CAD reports show no violence or fights, and the Police Report to the Committee do not contain any incidents of patrons being in fights or violence. These things do not relate to the deck, and the testimony about them is undocumented and untrue. On one such noise complaint called in by the Murphy's the Police were present in less than 10 minutes, yet the complaint could not be verified.

The fact is that this establishment has suffered enough punishment. To issue more punishment at this time is completely unwarranted, and is extremely unfair considering the lack of credible evidence that the deck creates noise. The noise is not any different than Rookies or Packy's. The Licensee poses these simple questions and submits that if your answer to any one of them is no, then you should make a motion to allow the extension of premises to be renewed, or support such a motion. Is it fair to say all the noise must come from Jersey's? Does it make sense to remove the deck of Jersey's and yet allow it at two places within a block in each direction? If people smoking and eating on a deck make unreasonable noise in this neighborhood then how can the City allow it in any other neighborhood?

The Licensee hereby requests that the Committee recommendation be amended to allow for the renewal of the extension of premises to include the deck.

Respectfully Submitted on behalf of the Licensee, By Competitive Ventures, LLC and Christina Elliott's Attorney;

A handwritten signature in black ink, appearing to read "Andrew P. Arena", written over a horizontal line.

Andrew P. Arena
Attorney at Law

Howell Ave

SIDEWALK

FENCE

RESIDUAL

RAMP

STAIR

GATE

DECK

GRASS

FRONT DOOR

DOOR

DOOR 2014

Jerseys

4024

Volleyball

FENCE

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