

BEFORE THE COMMON COUNCIL OF THE CITY OF MILWAUKEE

IN THE MATTER OF THE "FOOD – DEALER RESTAURANT" RENEWAL APPLICATION OF
LITTLE CAESAR ENTERPRISES, INC.
PREMISES: 2831 NORTH OAKLAND AVENUE

CITY OF MILWAUKEE
13 JUN -6 PM 4:09
CITY CLERK'S OFFICE

To: Clerk, City of Milwaukee
200 East Wells Street, Room 205
Milwaukee, WI 53202

Little Caesar Enterprises, Inc. ("LCE" or "Little Caesars"), by its attorneys, Stafford Rosenbaum LLP, hereby objects to the May 31, 2013 Findings of Fact, Conclusions of Law and Recommendation that LCE's "Food Dealer Restaurant" be renewed, subject to a ten-day suspension from and including July 1, 2013 and July 10, 2013. This objection is made on the grounds that (1) LCE has fully satisfied all of its obligations under the Plan of Operation regarding working with the Urban Ecology Center ("UEC"); and (2) the testimony is insufficient to establish any of the grounds for suspension set forth in Section 68-44-11-g of the Ordinances of the City of Milwaukee.

1. **The Objection of the Urban Ecology Center.**

Little Caesars' Obligations. In December of 2009, the Board of Zoning Appeals granted LCE a special use permit to continue occupying the premises on Oakland Avenue as a fast-food/carry-out restaurant. One of the conditions of that special use was that the plan of operations and all plans submitted to the Board be fully complied with and maintained. With respect to the Urban Ecology Center, the plan of operation provides that "Little Caesars is working with Urban Ecology Center to develop additional ways to keep Riverside Park as free from litter as possible," but does not require that any

particular action be taken. Additionally, the plan of operation provided that Little Caesars personnel remove litter of all kinds from any source in the parking lot, the adjacent sidewalk and the children's playground at Riverside Park. Currently, this is accomplished by LCE personnel going to the park at least three to four times daily when litter is present to pick up and remove the litter from the park.

Because of these actions, Little Caesars is in full compliance with its obligations under the Plan of Operation. However, Little Caesars view this situation as involving responsibilities to a community, and not merely a matter of legal obligations. In that light, LCE has proposed a significant increase in the level of its support to the activities of UEC. In connection with Little Caesars' renewal application for a food dealer-restaurant license, Little Caesars has proposed to provide three dumpsters with three compartments each that are eco-friendly and can be easily cleaned of graffiti. LCE has offered to provide an additional three containers that are specifically designed to accommodate larger objects, such as pizza boxes. Little Caesars has proposed to remove on a regular basis from the park the contents of the containers made specifically for pizza boxes and will dispose of such trash at LCE's site and at LCE's cost. Further, LCE has offered to send employees to the park on a regular basis to pick up litter; as noted above this would occur 3-4 times a day. Little Caesars' proposal is reflected in a draft Memorandum of Understanding, a copy of which is attached hereto.

As of today's date, UEC has declined to accept LCE's proposals. Notwithstanding that rejection, for the present LCE will continue to send its employees to the park to pick up litter.

Community Outreach. In addition to Little Caesars, there are eight food service restaurants located in the 2800 block of North Oakland Avenue, several of which sell carry-out food.. Aside from street parking, the only parking available to service this business is the parking lot between Little Caesars' site and Riverside Park. Three of these establishments (a gyro shop, a submarine sandwich shop and a pizza restaurant) serve food that is traditionally purchased for carry-out. Little Caesars is likely not the sole source of the litter problem, but it is asked to be the sole source of its remedy. LCE will encourage the UEC to involve all members of the Oakland Avenue community in joint support of UEC's work at Riverside Park.

2. **The Objections of Mr. Ramirez are Unfounded.** Mr. Karl Ramirez resides at 1734 East Geneva Place, immediately east of the Little Caesars site. In opposition to LCE's application, Mr. Ramirez made a number of accusations which upon closer examination are either unfounded or based on speculation.

Mr. Ramirez first complained that he saw litter from pizza boxes and litter from customers at Little Caesars' site and at Riverside Park. What Mr. Ramirez does not say is that any litter was cleaned up by Little Caesars' personnel. Little Caesars has the policy of sending its employees out to its parking lot and sidewalks three to four times per day to pick up litter that may have been deposited at the site. A log is kept identifying which employees performed this duty, on which dates, at which times. Little Caesars does not deny that some of its customers may litter, but it is equally true that the litter is promptly picked up.

In considering Little Caesars' application for renewal of its food service license, the Council need not rely solely on Little Caesars' representation that there is not an excessive litter problem. That fact is also established by the records of the Department of Neighborhood Services. There have been 11 total complaints related to garbage on the Little Caesars property, identifiable as follows:

DISPOSITION OF GARBAGE COMPLAINTS
TO DNS REGARDING LITTLE CAESARS' PROPERTY

SERVICE REQUEST NO.	SERVICE REQUEST DATE	DISPOSITION
676598	05/01/13	Advised manager that there should be a nightly premise litter check (which Little Caesars is doing)
659529	11/07/12	Inspection verified complaint; clean-up order written.
657365	10/11/12	Inspection was unable to verify the complaint.
654996	09/21/12	Inspection was unable to verify the complaint.
637915	05/08/12	Inspection was unable to verify the complaint.
636284	04/24/12	Inspection was unable to verify the complaint.
622970	12/02/11	Inspection was unable to verify the complaint.
616506	10/05/11	Inspection was unable to verify the complaint.
613681	09/13/11	Inspection was unable to verify the complaint. No violations observed.
613536	09/12/11	Inspection was unable to verify the complaint. Not enough garbage to warrant a clean-up order.
552255	03/30/10	Inspection was unable to verify the complaint. No scattered garbage on property.

Ten of those complaints were investigated by Department inspectors, who were unable to verify the claim that excessive litter existed. Only one time did the Department issue a clean-up order, on November, 2012, which was investigated and completely abated in less than three weeks, by November 23.

Mr. Ramirez next contends that the application for renewal should be denied because Little Caesars has "too many customers." Normally, having large numbers of customers is viewed as a positive attribute for a restaurant. However, having too many

customers could cause some would-be patrons to go elsewhere for their food, thereby reducing the number of visitors to the Little Caesars site and necessarily reducing the potential for littering.

Mr. Ramirez next complains about finding glass on his driveway. It is an extremely long leap from finding glass on your driveway to conclude that Little Caesars is the source of that problem. He does not provide any reason to reach that conclusion, nor could he: **Little Caesars does not sell any beverage or food in glass containers.** Little Caesars has no authority to police what patrons of other establishments do with their purchases on Geneva Place or at Riverside Park.

Another basis for Mr. Ramirez' opposition is his claim that there is a "lack of consistent adherence to Board of Zoning Appeals rules." Mr. Ramirez does not specify what, if any, rules are violated. He has not identified any provision of the plan of operation submitted by Little Caesars, and in any event, Little Caesars does provide for ample trash deposits on its site, but cannot compel those who are not on Little Caesars' site to use them.

In a somewhat confusing allegation, Mr. Ramirez claims of poor management and uncertainty who the management consists of. If he does not know who the manager is, how can he complain that they are poor managers? Even if either of the claims is true (and neither is true), they are not a sufficient bases for suspension of the food dealers license. Moreover, this store has had the same manager for two years, and Mr. Ramirez has yet to speak directly to her. Additionally, last week, following the May 29 hearing before the Licensing Committee, representatives of Little Caesars attempted to discuss

these issues with Mr. Ramirez. That conversation ended when Mr. Ramirez said to Mr. Joseph Dattolo the following:

“You know, this is not gonna make any difference, no matter what you guys do, it’s not gonna be enough, and you guys are gonna be gone.”

It is impossible to resolve a dispute with someone when that person has no interest in getting it resolved. Such seems to be the case here.


Conclusion.

Little Caesars’ application for food service/restaurant should be approved without qualification or without any suspension. Little Caesars has done considerably more and gone considerably farther with respect to the Urban Ecology Center than is required under the terms of its special use permit.

Mr. Ramirez’ objections lack any foundation in fact, a proposition which can be proven by records in the City’s own departments. For these reasons, Little Caesars respectfully submits that notwithstanding the recommendation of the Licensing Committee, the application of Little Caesars for a food service/restaurant be approved, without suspension.

Dated at Milwaukee, Wisconsin, this 6th day of June, 2013.

STAFFORD ROSENBAUM LLP,
Attorneys for Little Caesar Enterprises, Inc.

By 
Michael J. Lund (SBN 1004968)

1200 North Mayfair Road, #430
Milwaukee, WI 53226-3282
Email: mjlund@staffordlaw.com
414.982.2870

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is entered into this 4th day of June, 2013 by and between the URBAN ECOLOGY CENTER ("UEC") and LITTLE CAESAR ENTERPRISES, INC. ("LCE").

1. **The Parties.** Little Caesar Enterprises owns and operates a restaurant located at 2831 North Oakland Avenue, Milwaukee, Wisconsin (the "Restaurant"). Urban Ecology Center maintains Riverside Park, south of the Restaurant.

2. **Background.** In 2009, LCE applied for an extension of its special use permit granted to permit its operation of a carryout pizza restaurant at 2831 North Oakland Avenue. At that time, concerns were raised regarding litter, including, but not limited to, pizza boxes and napkins with respect to pizzas purchased from the Restaurant. At that time, LCE personnel would pick up litter of all kinds, from any source, from the parking lot between LCE and Riverside Park, the adjacent sidewalks, and the children's park area at Riverside Park. Additionally, LCE paid for and installed some trash barrels to accommodate litter at the park. LCE further agreed to make an outreach to UEC to brainstorm ways to help maintain Riverside Park and East Geneva Place as free from litter as possible.

UEC and LCE have discussed ways to further reduce the amount of litter and trash at Riverside Park. Those discussions have resulted in this Memorandum.

3. **LCE Commitment.** LCE agrees that it will provide to UEC three dumpsters with three compartments each that are eco-friendly and can be easily cleaned of graffiti. LCE will provide an additional three containers that fit pizza boxes specifically (the "LCE Containers"). LCE agrees to remove on a regular basis from the park the contents of the LCE Containers and will dispose of such trash at LCE's site and at LCE's cost. LCE further agrees to send one or more of its employees to the park on a regular basis to pick up litter; provided, that LCE shall not be required to have any employees in the park after dusk.

4. **Agreement by UEC.** UEC acknowledges the commitments made by LCE in the preceding paragraph and agrees that they provide sufficient consideration for UEC's agreement to support LCE's application for renewal of the Food Dealer - Restaurant license previously granted to LCE for the Restaurant. UEC authorizes LCE to provide a copy of this Memorandum of Agreement to members of the Milwaukee Common Council in connection with LCE's renewal application.

5. **Term.** This Agreement will terminate (a) at such time as UEC and LCE determine by mutual agreement or (b) at such time as any permit necessary for the operation of the Restaurant is suspended, non-renewed or revoked.

6. **Negotiation of disputes.** UEC and LCE agree to negotiate in good faith any alleged default or change in circumstance before resort to litigation.

[the remainder of this page is left blank intentionally; signature page follows]

URBAN ECOLOGY CENTER

By _____

Date: _____

LITTLE CAESAR ENTERPRISES, INC.

By _____

Date: _____