

<p>1 CITY OF MILWAUKEE</p> <p>2 UTILITIES &amp; LICENSES COMMITTEE</p> <p>3 *****</p> <p>4 In the Matter of:</p> <p>5 ASSAD, Hana O., Agent for "H &amp; H Assad, LLC", Class "A"</p> <p>6 Liquor and Malt application for "Parkside Liquor &amp;</p> <p>7 Grocery" at 2700 North Murray Avenue.</p> <p>8 *****</p> <p>9 COMMITTEE MEMBERS</p> <p>10 ALD. JEFFREY PAWLINSKI - Chairman</p> <p>11 Ald. FRED GORDON - Vice Chairman</p> <p>12 Ald. James Bohl</p> <p>13 CITY CLERK'S OFFICE by JIM COPELAND</p> <p>14 OFFICE OF THE CITY ATTORNEY by BRUCE SCHRIMPF</p> <p>15</p> <p>16 Proceedings had and testimony given in</p> <p>17 the above-entitled matter, before the UTILITIES &amp;</p> <p>18 LICENSING COMMITTEE OF THE CITY OF MILWAUKEE, on</p> <p>19 the 15th day of October, 2002, reported by Donna</p> <p>20 Gulczynski of Milwaukee Reporters Associated, Inc.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 1</p> <p>1 make a motion, which is fairly lengthy, but I will do</p> <p>2 my best to keep it as concise as possible.</p> <p>3 This matter is being reconsidered by the</p> <p>4 Utilities and Licenses Committee on the order of</p> <p>5 remand of the Honorable David A. Hansher filed in</p> <p>6 Milwaukee County Circuit Court on the 31st of May,</p> <p>7 2002. And my motion would be to recommend denial for</p> <p>8 the following reasons:</p> <p>9 The first is history. This location was,</p> <p>10 prior to the ownership of the Assads, operated under a</p> <p>11 special license that no longer exists in state law,</p> <p>12 namely a pharmacist liquor license. And that can be</p> <p>13 found in Transcript Volume 1, page 47.</p> <p>14 Most recently, under the Assad family, it</p> <p>15 has operated as a grocery store with a Class "A" Malt</p> <p>16 license. Transcript Volume 1, page 71.</p> <p>17 I will make a motion for denial based on a</p> <p>18 number of reasons: The first is appropriateness of</p> <p>19 the location and availability of outlets selling</p> <p>20 liquor in the area, i.e. concentration. That matter</p> <p>21 can be found in Transcript Volume 1, page 56; Volume</p> <p>22 1, page 56; Volume 1, page 63; and Volume 1, page 64.</p> <p>23 Community neighbors have testified as to</p> <p>24 undesirable neighborhood problems. I believe, and I</p> <p>25 ask the committee to join me, in observing that this</p>
<p>Page 2</p> <p>1 PROCEEDINGS</p> <p>2 CHAIRMAN PAWLINSKI: The next matter is in</p> <p>3 the 3rd Aldermanic District. This is for Hana Assad,</p> <p>4 Agent for H &amp; H Assad, LLC, Class "A" Liquor and Malt</p> <p>5 application for the Parkside Liquor and Grocery at</p> <p>6 2700 North Murray Avenue.</p> <p>7 For the record, I just want to move for</p> <p>8 reconsideration of the file so we can take this matter</p> <p>9 up, which is File 020693. Alderman Gordon will so</p> <p>10 move. Is there any objection? Hearing none, so</p> <p>11 ordered.</p> <p>12 At this point, Alderman Gordon, I'm going to</p> <p>13 pass the gavel, and I would ask for recognition on</p> <p>14 this file.</p> <p>15 CHAIRMAN GORDON: Let the record reflect</p> <p>16 that Alderman Pawlinski is asking for recognition.</p> <p>17 The applicant is here and also by his counsel,</p> <p>18 Franklin Gimbel. Alderman Pawlinski?</p> <p>19 ALDERMAN PAWLINSKI: Thank you,</p> <p>20 Mr. Chairman. And with all due respect to Mr. Gimbel,</p> <p>21 who I know is close friends and associates of ours, I</p> <p>22 would ask that this matter not be open for discussion</p> <p>23 today, that we simply take the matter up under the</p> <p>24 remand of Judge David Hansher.</p> <p>25 What I would like to do at this point is to</p>	<p>Page 4</p> <p>1 is an inappropriate location for a Class "A" Liquor</p> <p>2 and Malt license. Additionally, it will cause</p> <p>3 undesirable neighborhood problems as cited by Father</p> <p>4 Joe of St. Peter and Paul Catholic Church, Transcript</p> <p>5 Volume 2, pages 55 and 56.</p> <p>6 Father Joe also testified to litter, Volume</p> <p>7 2, page 56. And Miss Kate Baldwin, a neighbor, is</p> <p>8 concerned about parking, Volume 2, page 57, loud noise</p> <p>9 between the hours of 11:00 p.m. and 4:00 a.m., as it</p> <p>10 relates to UWM students in the area, Volume 2, page</p> <p>11 59, and unruly behavior by those students as it</p> <p>12 relates to the concentration issue in Volume 2, page</p> <p>13 59.</p> <p>14 Furthermore, with the Class "A" Malt liquor</p> <p>15 store, the neighbors have experienced some problems</p> <p>16 with the store as it currently exists with public</p> <p>17 urination in their front yard and vomiting on their</p> <p>18 doorsteps and litter consisting of empty beer bottles</p> <p>19 and beer cans. Volume 6, page 68.</p> <p>20 The area has numerous parties as</p> <p>21 frequently as two or three per night regarding UWM,</p> <p>22 some so bad that the police must be called. Volume 1,</p> <p>23 page 68.</p> <p>24 Trash has been cited as a neighborhood</p> <p>25 objection, Volume 1, page 72. This neighborhood has</p>

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1 too many loud parties, according to the neighbors,  
2 which, adding a full service liquor store, will cause  
3 an exacerbation of the problem, Volume 1, page 74.

4 Miss Janice Ramos, who lives in the  
5 neighborhood, has problems with beer and liquor  
6 bottles on her property. Volume 1, page 83.

7 There is, additionally, an adequate number  
8 of alcohol outlets in this area. This area is  
9 currently served by the Downer Wine and Spirits,  
10 Gilbert Liquor, Smith Beer and Liquor, Beans and  
11 Barley, licensed as a Class "B" with packaged goods,  
12 Transcript 2, Volume 74, and One Stop Pantry, Pick 'N  
13 Save, and Otto's Beverage, Transcript Volume 2, page  
14 67.

15 Prior consideration by the committee on this  
16 matter: The recommendation of the Utilities and  
17 Licenses Committee on January 23rd, 2001 was simply  
18 that; a recommendation. Under state law, and  
19 specifically under State Statute 125.12, Sections  
20 (2)(b)3, and State Statute 125.12, Section (3m), the  
21 full Common Council of the City of Milwaukee must pass  
22 a recommendation of the committee.

23 On February 6th, 2001, the Milwaukee Common  
24 Council reversed the recommendation of the Utilities  
25 and Licenses Committee, and determined to deny this

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1 license by a vote of 15 to 1, with one excused. The  
2 record in this matter then, as well as now, is clearly  
3 such that a Class "A" Liquor and Malt license should  
4 not be granted at this location.

5 On November 26th, 2001, Judge Hansher  
6 determined that a new application, again, filed for  
7 the Class "A" Malt license at this location should be  
8 heard by the Common Council. On February 6th, 2001,  
9 the council denied this license because of a fitness  
10 of location and concentration of outlets. As a  
11 result, a three-year period was supposed to have  
12 elapsed before another application could be  
13 considered. Nonetheless, the matter was remanded, and  
14 the Utilities and Licenses Committee heard the matter  
15 on February 19th, 2002. On that date, the U & L  
16 Committee, consisting of Alderman Pawlinski, myself,  
17 Alderman Bohl, Herron, Cameron, and Gordon,  
18 substituting for Alderman Sanchez, who was at the  
19 original meeting, after hearing further testimony,  
20 the Utilities and Licenses Committee voted to deny  
21 the application by a 4 to 1 vote.

22 On May 31st, 2002, Judge Hansher remanded  
23 this matter for an explanation as to why it  
24 recommended granting in 2001 and denial in 2002.  
25 My motion for denial went through those points that

1 we just discussed.

2 Lastly, a concentration map on the alcohol  
3 beverage outlets was provided, which demonstrated that  
4 many arrests occur within blocks of this location  
5 where individuals have been cited for public  
6 drunkenness and underage drinking, noise violations  
7 and underage parties. Transcript 2, pages 12 and 13.

8 Adding more alcohol in such an environment  
9 would only increase the number of such arrests and  
10 decrease the quality of life for the people who live  
11 in the neighborhood, as they testified before the  
12 committee, Volume 2, page 13.

13 Therefore, it is for those reasons,  
14 Mr. Chairman, that I ask this committee to deny the  
15 request of Mr. Assad and finally put this matter to  
16 rest. Thank you.

17 CHAIRMAN GORDON: Thank you, Alderman.  
18 Are there any questions or comments by committee?  
19 Counsel, do you have a brief rejoinder?

20 MR. GIMBEL: Yes. I think that many of the  
21 references that were offered by Alderman Pawlinski to  
22 items in the transcript were heard in the proceedings  
23 prior to the time that there was a unanimous  
24 recommendation to grant these Class "A" licenses.  
25 Consequently, I believe that Alderman Pawlinski's

1 motion does not embrace the goal that was established  
2 for this committee in the decision of Judge Hansher in  
3 his order that was dated May 31st, 2002, wherein he  
4 stated that on remand, the committee shall explain on  
5 the record the inconsistency between the committee's  
6 votes and recommendations made after the first hearing  
7 and the committee's votes and recommendations made  
8 after the second hearing based upon the evidence  
9 presented before us.

10 So essentially what I am suggesting is that  
11 what the effect of Alderman Pawlinski's motion is is  
12 essentially restating the recommendation of the most  
13 recent decision of this committee; that is, the  
14 February 19th, '02 recommendation, 3 to 1, against  
15 granting the license, reconfirmed in a motion to clean  
16 up the language on March 5th, '02, and doesn't meet  
17 the purposes that were outlined by Judge Hansher; that  
18 is, to explain the differences in the recommendations  
19 of the committees.

20 I think that the motion essentially only  
21 provides a basis to support a vote at the January 23rd  
22 committee meeting that wasn't made. In other words,  
23 the motion that was made in January of '01 was to  
24 support the application. All the evidence that has  
25 been cited now to undercut the application today was

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in the body of information available for consideration of the committee at that time. They didn't feel that that was a sufficient basis to deny the license at that time, and now it's urged as a basis to deny the license at this time.

CHAIRMAN GORDON: Any questions or comments by committee?

**ALDERMAN PAWLINSKI:** That's it.

CHAIRMAN GORDON: You've heard the motion of Alderman Pawlinski. Are there any objections to the motion? Hearing none, the motion carries.

MR. GIMBEL: Thank you.

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STATE OF WISCONSIN )  
 ) ss:  
MILWAUKEE COUNTY )

I, DONNA GULCZYNSKI, of Milwaukee Reporters Associated, Inc., 5120 West Bluemound Road, Milwaukee, Wisconsin, certify that the foregoing transcript, consisting of pages 2 through 9 inclusive, is a full and complete transcript of the proceedings taken in this cause.

**Donna Gulczynski - Court Reporter**

Dated this       day of       , 2002  
Milwaukee, Wisconsin