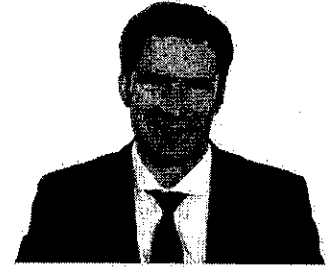


CHAIR

• Licenses Committee

MEMBER

• Community and Economic
Development Committee
• Steering and Rules Committee



TONY ZIELINSKI
ALDERMAN, 14TH DISTRICT

October 8, 2015

To the Honorable, the Common Council

Dear Members:

Re: Common Council File Number 150408

Attached are written objections to file number 150408, Motion relating to the recommendations of the Licenses Committee relative to licenses, relating to the recommendations of:


Nonrenewal, based upon police report, police testimony, applicant testimony, and failure to comply with the operation plan, of the Class B Tavern and Public Entertainment Premises license(s) for Robert Smith for the premises located at 730 N Old World Third St ("Rusty's Old 50") in the 4th aldermanic district.

Renewal, with a twenty-five (25) day suspension, based upon the police report, of the Class B Tavern and Public Entertainment Premises licenses for Lynn Goelzer for the premises located at 5321 W Green Tree Rd ("New Entertainers") in the 9th aldermanic district.

Renewal, with a twenty (20) day suspension, based upon the police report, aldermanic testimony, and applicant testimony of the Class B Tavern and Public Entertainment Premises licenses for Jason Moeller for the premises located at 1577 W Morgan Ave ("Coop's Tavern") in the 13th aldermanic district.

This matter will be heard by the full Council at its Tuesday, October 13, 2015 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,


Tony Zielinski, Chair
Licenses Committee

cc: All Council Members
City Attorney's Office
Common Council/City Clerk – License Division
CCF 150408



ARENA LAW OFFICES, L.L.C
1110 NORTH OLD WORLD THIRD STREET
RIVERFRONT PLAZA, SUITE 515
MILWAUKEE, WISCONSIN 53203

ANDREW P. ARENA

October 7, 2015

James R. Owczarski
City Clerk
City Hall, Room 205
200 East Wells Street
Milwaukee, WI 53202-3570

4) 645-6100
FAX (4) 645-3500
CITY CLERK'S OFFICE
OCT - 7 PM 4:25
CITY OF MILWAUKEE

Re: Objection to the Findings of Fact and Conclusions of Law
For: Boardroom Entertainment MKE, LLC d/b/a Rusty's Old 50 agent
Premises Address: 730 Old World Third St.
Registered Agent: Robert Smith

Dear Clerk:

Pursuant to Chapter 90 of the City of Milwaukee Ordinances the renewal applicant Boardroom Entertainment MKE, LLC d/b/a Rusty's Old 50 and its Registered Agent, Robert Smith, by their Attorney, Arena Law Offices, LLC, by Attorney Andrew P. Arena files these written objections to the findings of fact and conclusions of law entered by Alderman Tony Zielinski on September 28, 2015. .

The Licensee objects to the findings of fact and Conclusions of Law. As to the findings the Licensee asserts that the following items are objected to, and do not form a legal basis for a non-renewal for the Class B License. The non-renewal did not take into account progressive discipline and was contrary to the testimony of the witnesses, as every witness against the Licensee was against the request to change entertainment to allow exotic dancing, and none of those witnesses stated that there have been any problems with noise, litter, unruly patron behavior etc. when the business was being operated as a Class B establishment. In fact all of the witnesses when asked affirmatively stated that they did not object to the location based on its operations as a tavern. Those witnesses included Joe Werick, John Hennessey, and Stacy Callis. Clearly, the recommendation by the Committee was based on its desire to punish the applicant for seeking the change in entertainment.

In reality this case involves the cross roads of politics, and emotionally charged opinions, and not correct facts to base a non-renewal. The applicant accepts the fact that the Committee is not recommending the approval of the request to change the entertainment, but the non-renewal of the Class B License is extremely harsh and not progressive, when examining the record. In fact it is the renewal applicants supported belief that the action was capricious, and a demonstration of the Committee imposing its will, and not its reasoned and rational judgment, which is the requirement of law.

When considering the Politics of the situation it is a well known fact that operators of Silk have applied

for a gentlemen's club / exotic entertainment license at least four times, and one of those applications was for the location at issue. It is a fact that Silk has recently won a jury verdict against the city for the entertainment at issue in Federal Court that is nearly one million dollars after the costs and fees are added. It is a fact that the owner of Boardroom Entertainment MKE, LLC has filed a federal law suit regarding its constitutional right to provide exotic entertainment. These facts are brought up to support the statement that its "Politics" that are involved. The licensee attaches hereto and incorporates by reference two articles that were in the public domain by internet publications. One of which is from Urban Milwaukee on August 12, 2015 (incorporated by reference as though fully stated herein as exhibit A) where Alderman Robert Bauman commented that the opponent running against him for his job as Alderman only had the financial support from entities interested in operating a strip club downtown and he stated therefore using Rusty's for the opponents fund raiser was appropriate.

It only makes logical sense that Alderman Bauman would oppose every license at the location, as there was a fund raising event at the for his political opponent at Rusty's Old 50. The Alderman clearly made a recommendation for a non-renewal and most likely lobbied and enlisted Alderman Kovac and others to put the location out of business based upon its political threat to his livelihood, which is one that he desperately needs to ensure that he receives a pension from the City of Milwaukee. As the process is governed by Wisconsin Statute 125.12(4) entitles the renewal applicant to due process, it is improper to consider other factors that may demonstrate the imposition of the will and may be arbitrary and capricious.

The next article that demonstrates the "Political" nature of the licensee's request was in "On Milwaukee.Com" on July 28, 2015 (incorporated by reference as though fully stated herein as exhibit B) where Alderman Bauman stated that the "Council ought to consider whether the city actually wants to spend all that money on an issue like this. "There are a lot of needs in this City," Bauman said. "I wonder if we want to keep spending money on strip club application lawsuits.""

Alderman Bauman stated in the hearing for the renewal and change of entertainment, that he is not against "gentlemen's clubs" but it's the particular application, and operator that he is against. And of course one reason he is against this applicant is the fact that they are backing an opponent in his upcoming re-election. This of course is the very reason that he was against the renewal of the Class B License and enlisted Alderman Kovac in that endeavor. Another reason may be that he believes he needs support of the business people testifying against the change of entertainment to get re-elected.

The applicant believes the above statements are the case because as stated not one witness was opposed to the Class B License. The actual police record is nearly non-existent and will now be specifically addressed as follows:

As to Paragraph 5 A. The applicant did not receive a citation for any of the alleged violations because the things alleged are not a violation. The applicant did not have a food license at that time and was not serving food, therefore, there is no legal requirement that a food license be posted. There is no legal requirement to have an i.d. scanner, therefore, that is not even a violation. This is an example of harassment brought on by the Police Department.

As to Paragraph 5 A and B these incidents resulted in citations to three different individuals. Citations to Radomir Buzdum and Timothy Miller were dismissed by the City Attorney's Office. The

citations issued to the registered agent, Robert Smith, were dismissed by the Municipal Court after a trial. Judge Chavez found the Defendant "Not Guilty" of the violations. For that reason any member of the Common Council should be suspicious of the Committee action, as action based upon Political bias and outlined above, or the desire of certain individuals to exercise their will and not proper judgment. In looking at the specifics of the testimony of the Officers and the statements in 5A and B, there is actually nothing illegal or contrary to ordinance. The clothing by the individuals was not illegal. The dancing depicted on video from the Police showed ladies dancing by themselves. There was no testimony that any lady dancing was receiving money or tips. As the Court found Robert Smith "Not Guilty" there is some question as to the credibility of the investigation. After the citations were issued the operation was changed as demonstrated by Paragraph D. As of January 24, 2015 the female customers were no longer invited to dance. Subsequent, to that Paragraph E establishes, that there were women present in "club" clothing. There were no citations issued to any of those women for their dress, to any employee, or the registered agent. Obviously, these women were dressed similarly to every other woman at night clubs on Water Street, or anywhere else in the City. Paragraph D and E actually have no value as evidence what so ever and it appears that these paragraphs are added in an attempt to pile on a high volume of things that are meaningless, and can't possibly form the basis to deny the license renewal.

As to paragraph 5 F which concerns a discussion of a man named Radomir Buzdum who has sued municipalities to exercise his first amendment rights to the United States Constitution. It is the applicants position that certain activities and entertainment are protected speech, and there is case law that supports that fact, including the recent case in which the City of Milwaukee was tagged with a substantial jury verdict. One persons opinion on that issue demonstrates that the actions of the Counsel are directed at the political hot potato created by this entertainment. The License Committee has spent significant time over the last couple of years hearing from business people, priests, and citizens that have an opinion based upon the type of entertainment asked for. Once again those are factors that are irrelevant concerning the Class B Liquor License. The statements made by that individual concerned other places, involved his rights and are irrelevant.

As to paragraph 5 G, H, J, K and L this involves a noise complaint that was never verified. A citation was not issued and there were only 10 patrons. This paragraph is another example of harassment and demonstrates that after January 21, and January 22 the operation was operated properly and conformed to the legal requirements imposed by City of Milwaukee Ordinance. The additional paragraphs cover officer testimony that was covered previously in this objection.

Paragraphs M, N, and O demonstrate testimony of people that have a contrary opinion regarding the change of entertainment. None of these individuals were against the current use and in fact stated that they don't even notice Rusty's as a Class B establishment. None of these witnesses had any evidence that any persons health, safety, and welfare were affected. As a form of entertainment they were against a gentlemen's club, but had no data or proof that such a location causes any harm to a person or economic loss. Again, this information has really nothing to do with the renewal application.

Conclusion:

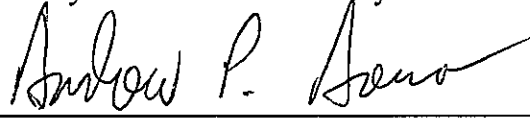
The applicant submits to the honorable body that he has a right to be treated according to law, and due process requires that the Common Council use proper reason, and progressive discipline. As it is clear

from the evidence the location was operated without violence, noise, and unruly behavior for the entire year. Not one neighbor or citizen complained about the operation. The Alderman of the District keeps pointing out some dessert and wine bar as one that became a problem. That is not the case in this situation as the evidence has demonstrated that urban hip-hop problems do not take place at this location. If progressive discipline is required, certainly a death sentence for the business by non-renewal of the license is over kill on the record and evidence before the Council. This business has changed its path. It did allow some women to dance on two nights, which was an activity that was stopped and now will remain stopped. For two nights out of 365 there was questionable activity that may not have been allowed by the plan of operation, no person was physically hurt, no citizen was bothered by noise, or complained, and no one testified that they witnessed any thing that affected their health, safety, or welfare. With all that in mind it appeared that the Chairman of the Committee understood those things and opposed the non-renewal based on the fact that no citizen opposed the renewal of the Class B License.

Its clear the politics may be taking over. The lack of progressive discipline clearly demonstrates a desire to punish applicant in an illegal capricious manner, as the Committee is purely relying on two nights and not all of the evidence.

Based upon the above reasons the licensee requests that this matter be sent back to committee or that a motion be made and accepted to issue the license with a reasonable suspension.

Respectfully Submitted this 7th day of October, 2015.

By: 
Attorney Andrew P. Arena on behalf of Robert Smith

AUG. 12, 2015

URBAN MILWAUKEE

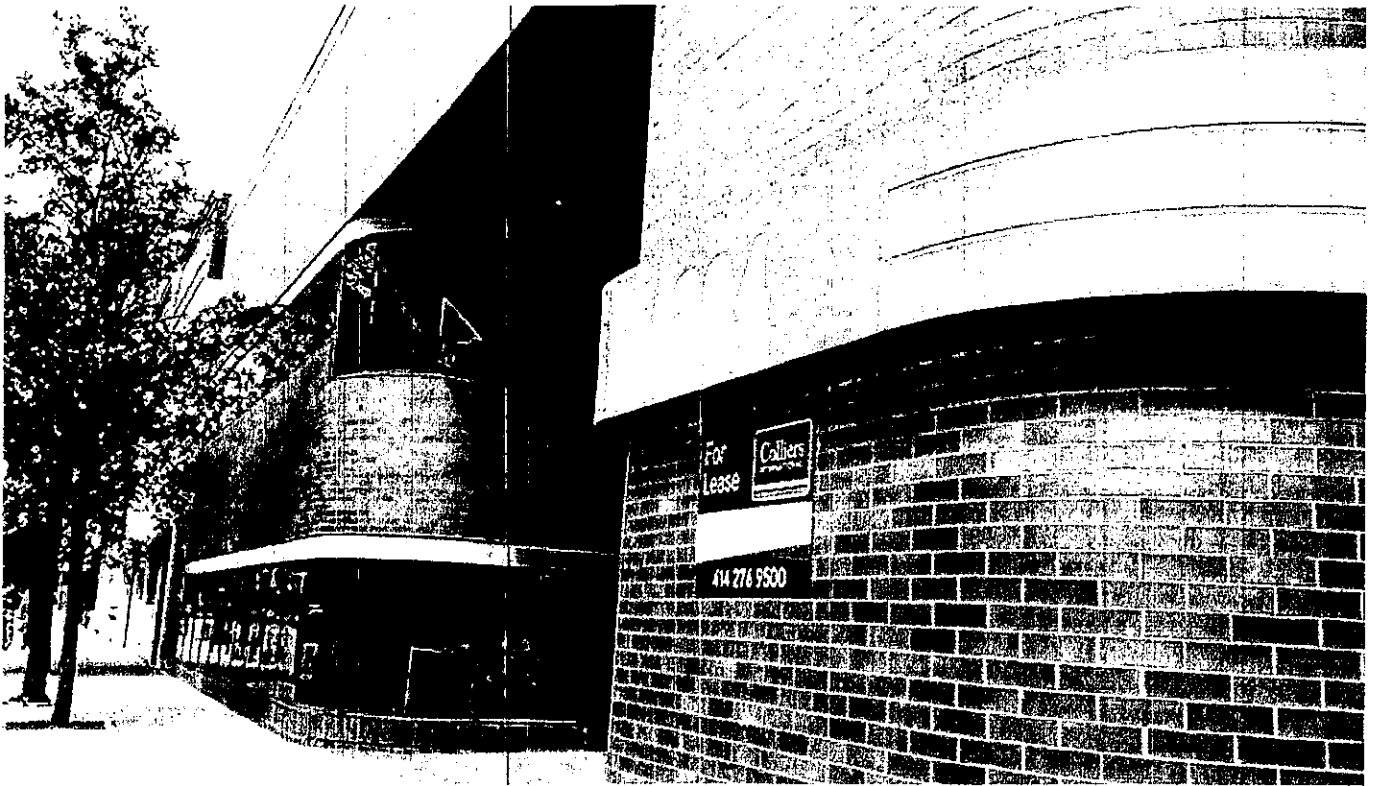
Shaw to Challenge Bauman

A small group of about two-dozen supporters encountered a large amount of delicious food from Thai Bar-B-Que restaurant Monday as lawyer Andrew Shaw announced his plans to run for 4th District Alderman at Rusty's Old 50, 730 N. Old World Third St.

Shaw, a Marquette-trained attorney in private practice, previously ran for mayor. Shaw, who calls himself a "zealous advocate for our community," says "we need a new kind of leadership," in the 4th District, which is represented by Ald. Bob Bauman, who is expected to run for re-election. Shaw says he has a strategy for reducing murder in Milwaukee, including getting illegal guns off the street through a "Gun Bounty Program," which he says is not a "gun buyback program." The bounty would pay "substantial rewards for information leading to the arrest and confiscation of illegal firearms." The bounty could also include reduced sentencing in plea bargains agreements for offenders facing criminal charges, he said. His plans also include improving economic opportunity, improving the relationship between law enforcement and the community, and crime prevention.

Bauman, for his part is unfazed. He noted that Shaw has drawn limited financial support for his campaign. Outside of Shaw's own contribution to his campaign, the remainder of his support came from entities interested in operating a strip club downtown, Bauman said. Rusty's site for the fundraising was appropriate, since Bauman opposed the use of it as a strip club some years ago.

EXhibit A
to objection



Silk Exotic applied Monday for another Downtown location, this time at 804 N. Milwaukee St.

Updated: Silk Exotic applies for licenses to open on Milwaukee and Wells

by **Dave Begel**

Published July 28, 2015 at 4:56 p.m.

The Milwaukee Common Council will hold a special hearing Sept. 17 to hear two applications for a license to operate a gentlemen's club in Downtown Milwaukee, one of them from Silk, which has tried for years to open a club Downtown.

Silk filed its application for liquor and food licenses for a club at 804 N. Milwaukee St. in a vacant office building. Silk plans to operate the club on the top floor of the building. The lease was signed with Jenó Cataldo, owner of the building and part of the family that owns Jo-Cat's on Brady Street. The lease is for \$20,000 per month for 20 years.

In recent years, the owners of Silk have tried and failed to open in a number of locations Downtown, including most recently on Water Street

(<http://onmilwaukee.com/bars/articles/silk618deal.html>), and in two locations in Walker's Point (<http://onmilwaukee.com/bars/articles/silkexoticclub.html>).

Exhibit B to
objection

The other party, Diane Collins, is applying again to open a club at 730 N. Old World 3rd St. Collins was unavailable but she is the sister of Rad Buzdum, who has experience in the strip club business.

That location – the former home of Rusty's 50 bar, The Velvet Room and Martini Mike's – was one that Silk applied for in the past, but was turned down by the Utilities and Licensing Committee after neighbors staged a strong protest.

Two of the committee objections in the past for Silk have been a lack of parking space and the street-level entry that might attract attention. The Milwaukee Street location has two large parking ramps nearby and the entrance would be on the fourth floor.

In February, Silk won a half-million dollar judgement (<http://onmilwaukee.com/bars/articles/silkdecision.html>) against the city in relation to failure to grant a previous license. The city has appealed that federal court ruling to the Seventh Circuit Court of Appeals and reports are that negotiations are in the works for a settlement.

Ald. Robert Bauman, who represents Downtown, recently took note of the award, which will be nearly a million dollars after attorney fees are included, and he said the council ought to consider whether the city actually wants to spend all that money on an issue like this.

"There are a lot of needs in this city," Bauman said. "I wonder if we want to keep spending money on strip club application lawsuits."

Web address: <http://onmilwaukee.com/articles/silkdowntownapplication.html>

Vincent J. Bobot

Attorney at Law
5414 South 13th Street
Milwaukee, WI 53221
(414) 430-1249

James R. Owczarski
City Clerk, City of Milwaukee
200 East Wells Street, Room 205
Milwaukee, WI 53202

Re: Lynn Goelzer, L. Sharodel, Inc.
Class "B" Tavern and Public Entertainment Premises License

CITY OF MILWAUKEE
2015 OCT -7 AM 9:43
CITY CLERK'S OFFICE

Dear Clerk Owczarski:

On behalf of my client, Lynn Goelzer, I am filing a written objection to the Licenses Committee recommendation to suspend Ms. Goelzer's Class "B" Tavern and Public Entertainment Premise license for twenty-five (25) days.

Ms. Goelzer and/or Charles Anderson wish to speak to the full Common Council. Their testimony will supplement the written objections contained in this letter to the Common Council. Basically, the Licenses Committee made their twenty-five (25) day license suspension based on an incident that occurred in the license premises on Sunday, February 8, 2015.

On that day, two men were killed by gun fire from a man who entered the tavern intent on shooting one of the two victims. One of the victims was Charles Anderson's brother, namely, Terrance Z. Anderson. Mr. Anderson was not targeted by the perpetrator but was shot and killed during the altercation. It is our understanding that the intended target of the perpetrator responsible for the shooting was a Desha M. Robertson. It is also our understanding that the perpetrator was "tipped" off by someone that Mr. Robertson was in the license premises at the time of the shooting. The perpetrator then proceeded to the license premises and waited a short period of time before he committed this heinous crime.

We are asking that the full Common Council eliminate or reduce the license suspension recommended by the Licenses Committee. Considering the circumstances surrounding the aforementioned crime, the punishment recommended by the Licenses Committee is not just or fair. In addition to losing his brother, Charles Anderson and Lynn Goelzer are now facing a tremendous financial loss by the suspension recommendation.

Very truly yours,



Vincent J. Bobot
Attorney at Law
State Bar No. 1020732

Dear Sirs and Madam-

CITY OF MILWAUKEE

2015 OCT -7 P 1:50

I am writing this appeal to request a reduction in the suspension of Coops's tavern license. I agree that the bar should be held responsible for incidents under its control. However, I do not believe it should be held responsible for things out of its control- such as the actions of another. Nobody can anticipate what someone else will do when they leave the bar. I am not trying to provide excuses. I am just trying to provide the facts that should be considered.

In the case of the incident on 4/3/15 involving Ms. Cox- the tavern report does not accurately reflect the incident. Ms. Cox and Ms Villanueva were "regulars" at Coops. They would come in at least once a week and shoot darts and play pool. They were known to the bartenders and had never caused an incident prior to this date. On this date Ms. Cox consumed two beers at Coops, however became quite intoxicated causing the bartender to wonder what she had in her system prior to coming in. The bartender told Ms. Cox and Ms. Villanueva they had to leave and they did without incident. A few minutes after leaving Ms. Villanueva re-entered the bar and asked for help. She stated Ms. Cox had fallen in the parking lot and she needed help getting her to her feet. The bartender asked a few of the patrons if they would assist. They went outside and tried to help however Ms. Cox became combative and kicked and punched them so they returned to the bar and informed the bartender of the incident. At that time the bartender went outside to see what she could do. She talked to Ms. Cox and gave her some water. Ms. Cox threw the water on the bartender and tried to kick her. The bartender went back inside and got more water and tried again. Nothing had risen to the level of police intervention at this time so the police were not called. Ms. Sierra arrived at the bar and became aware of the situation. She offered to try to help as she is a Spanish speaker and thought that might build a rapport. Ms Sierra was able to talk Ms. Cox into calming down and getting to her feet however at that time Ms. Cox again became combative and began to punch Ms. Sierra in the face and tried to rip off her shirt. Ms. Sierra defended herself causing Ms. Cox to fall to the ground. While this was going on the bartender called me to ask for assistance. My wife and I headed up to the bar. By this time the neighbor had heard the commotion outside and called the police. In his statement to the officer (which was not included in the tavern report but is in the actual incident report and is pertinent to the situation) he stated he did not see what was actually going on but that there was a scuffle. By the time my wife and I had arrived at the bar the police were already there and investigating. Ms. Villanueva repeatedly lied to officers by first stating that she did not know Ms. Cox, then by stating she had not come there in a vehicle (which was parked in the lot) and even tried to state she had not been drinking and that neither had Ms. Cox. I witnessed this questioning. One of the officers told my wife they would be issuing battery tickets to both Ms Sierra and Ms. Cox as it appeared to be a mutual fight and the judge could decide who was at fault. However, my wife was then told that he was overruled by his sergeant who was "looking for overtime" and they were making it a state battery case as Ms. Cox had allegedly lost consciousness. (She didn't -she just passed out due to intoxication) Ms. Cox was conveyed by ambulance to St Francis Hospital where she became combative with the staff attempting to rip off their

shirts and trying to spit on them. She was handed an order in slip to appear at the DA's office and she threw it away. Due to the fact that Ms Cox did not show up at the DA's office the case was not processed. Ms Cox and Ms Villanueva did come to Coops the next day to retrieve their vehicle. They spoke to the bartender on duty who asked Ms Cox if she remembered what had happened last night and she said no. He told her what had occurred and she apologized. Ms. Cox and Ms Villanueva were told not to return to Coops. This incident occurred because of Ms. Cox's actions toward those who were attempting to aid her. Ms. Cox appeared to the patrons as if she needed assistance. So, a couple of good Samaritans from Coops tried to help Ms. Cox. While rendering that aid Ms. Cox became violent. Ms. Cox's violent and disorderly actions could not have been foreseen nor prevented by Coops or its patrons. Ms. Cox should be held accountable for her actions. This incident should not be a negative incident on Coops' record. This was a no process case by the DA. No tickets were issued. No charges were issued. It's as if this never happened.

With regard to the 12/27/14 shots fired incident the tavern report is lacking pertinent information. (Tavern reports are often missing information as they are only a synopsis of what happened, usually not written by an officer who actually investigated the incident and is often written in such a way as to cast a dim light on the establishment.) The tavern report does not include Ms. Miller's mirandized statement and pertinent details. Ms Miller stated she had never been to the bar before. She stated she was carded. It was later discovered she did have someone else's ID, however, the ID in her possession had not been tampered with, appeared to be hers, and had a birth date of 3/1/90 which put her of legal age. Ms Miller stated that after exiting the bar she "shot the gun". She stated her friends didn't know she had the gun until she fired it in the air. She also stated that her and her friends were not involved in any type of argument with anyone at the bar and continued by stating it was an accident. When asked where she got the gun she stated she found it in an alley around 15th and Greenfield or 15th and Orchard by a garbage cart. She said she kept it because it is dangerous out there and she has been jumped seven times in recent years. She stated she had never fired the weapon before and had never reloaded it. If Ms. Miller's own friends didn't know she had a gun then one would assume she didn't normally carry a gun. She did not brandish the weapon in the bar. She did not threaten harm to anyone. She clearly stated she and her friends were not involved in any altercations. So why would anyone have assumed she would have done this. This could not be anticipated. Nobody at Coops would have predicted this.

I feel that the bar should not be held accountable for these two incidents. Nobody could have anticipated Ms Miller's actions. She was carded. She appeared to have an ID that showed her of legal age. She was not intoxicated (for someone of legal age) as her BAC was only .03 according to the police report. She had not been involved in any incident in the bar during the evening that would have caused anyone to anticipate an issue with her or her friends. She didn't fire the gun in the bar or even on the bar property. She fired it into the air in the alley. Don't get me wrong. I don't want guns be fired anywhere. However, I feel you need to consider the circumstances in this instance. Nobody was injured. No property damage occurred. She was arrested and only charged with misdemeanors of Disorderly Conduct and Carrying a Concealed Weapon. Nothing

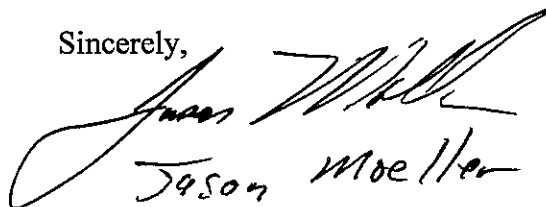
about the discharging of a firearm. The disorderly conduct charge was dropped and she pled guilty to the CCW charge. She was sentenced to 12 months of probation. She is walking around free as a bird. It apparently didn't mean as much to the courts as it does to you and I. If there had been security at the door as was eluded to in the hearing the incident would have been the same. She did not exhibit behavior that would have caused alarm and even if she had been patted down at the door- she did not bring the firearm into the bar. And she had a valid ID that appeared to be hers. This could have been anyone. An off duty firefighter. An off duty police officer. A city worker. A business owner. The results would have been the same. It was not something that could have been prevented as it was not something that could have been anticipated.

If people could anticipate the actions of other then there would not be 114 homicides to date in this city, 20 of which have occurred on the south side. That's about 18%. There would not have been 488 non fatal shooting in the city to date, 67 of which have occurred on the south side or about 14%. And the south side has only two districts. There are 5 others. There would not be thousands of calls for service every day. The culture in this city has changed and is rapidly deteriorating. People believe that violence is the answer to their problems. There is no respect for authority- not even for the police. This cities crime rates are out of control. There have been over 4000 aggravated assaults to date, over 2700 robberies, over 5000 motor vehicle thefts. I can go on and on. The individuals that commit these offenses are responsible for their actions. Not you. Not I. Not the bar. They need to be held accountable. The bar didn't do anything that caused this.

I don't like shots being fired anywhere in the city. But the bar had no control over this incident. During the hearing you seemed to focus on this and I believe that was the reason for the harsh suspension. Coops has never had a suspension in its 12 years in business. I agree that we should be held accountable for incidents that are preventable which would be the after hours incident on 10/27/14 and the underage police aide sting on 4/15/15. Both of those were certainly preventable. We were issued a \$6246 ticket for the after hours incident and we enrolled in the Respect 21 program after the sting. Everyone that is not personally known to the bartender as being of age is now carded. We have turned people away that appeared to be in their 40's because they did not have an ID. We have been tested on three random occasions and passed all three times and if we pass once more there will be no tickets issued. We installed a camera system that we can monitor to insure no after hours incidents will occur. When an incident has occurred that is within our control we have changed our procedures to insure it doesn't happen again.

I'm asking that you consider the totality of the circumstances and reduce the suspension to 10 days which seems to be more in line with the incidents that could have been prevented. Thank you in advance for your consideration.

Sincerely,


Jason Moeller