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Via Hand-Delivery & Email (rleonh@milwaukee.gov)

Office of the City Clerk

City Clerk Ronald D. Leonhardt

City Hall

200 East Wells Street, Room 205

Milwaukee, WI 53202

Re: -Class B Tavern License of Jerome E. Kosmoski for the premises located at 3402
S. 16th Street, Milwaukee, WI and known as "Sandcastle"
-Objections to Findings of Fact and Conclusions of Law

Dear City Clerk Leonhardt,

Our office is Counsel to Jerome E. Kosmoski and his establishment known as Sandcastle (collectively "Kosmoski"). On June 22, 2009, the Licenses Committee met to consider the renewal of the Class B Tavern license for Kosmoski. The Committee voted to recommend that Kosmoski's license be renewed, but with a 60-day suspension based upon incidents recounted in the police summary and neighborhood objections.

This letter serves as my client's written objection to the "Findings of Fact and Conclusions of Law" and recommendation of the Licenses Committee ("Committee"). The specific objections are as follows:

1. The Committee has failed to adopt Findings of Fact and Conclusions of Law as required by § 125.12(2)(b)(3), Wis. Stats., and § 90-11-2-c2, Milwaukee Code of Ordinances.

Paragraph 5 of the "Findings of Fact" (contained on page 2), states that "Based upon the sworn testimony heard and evidence received, the **Committee makes the following findings of fact**" [emphasis added]. Kosmoski objects to this statement, as the Committee has never adopted these findings. Because the Findings of Fact and Conclusions of Law were never adopted by the Committee, it would be more properly characterized as the City Attorney's proposed Findings of Fact and Conclusions of Law.

2. Paragraph 3 of the Findings of Fact states there were claimed neighborhood objections to "loitering, littering, loud music and noise, parking and traffic problems, drug and criminal activity, prostitution, trespassing, public urination

and conduct detrimental to the health, safety and welfare of the neighborhood.” This statement contained in the Findings of Fact is false. Neither the police summary nor the hearing substantiate this laundry list of alleged conduct that supposedly occurred at Kosmoski’s establishment. This is an inaccurate, false, and inflammatory statement with respect to the record of proceedings.

3. Paragraph 5(A) of the Findings of Fact describes a situation in which Kosmoski’s establishment was the victim of an armed robbery. Kosmoski should not be punished by the City of Milwaukee for being the victim of violent crime.
4. Paragraph 5(E) of the Findings of Fact describes a citation issued to Kosmoski for a building and zoning code violation. As the police summary states, this citation is scheduled for further proceedings on July 21, 2009. Because the citation has not yet been fully adjudicated, it is inappropriate for any action to be taken against Kosmoski based upon its issuance.
5. Paragraph 5(G) of the Findings of Fact is inaccurate and false. The paragraph states, in part, that an “individual has complained to Mr. Kosmoski since October 2008.” The neighbor who testified at the hearing on June 22, 2009, never voiced any of his concerns to Mr. Kosmoski. The only action taken by the neighbor was to place calls to the Milwaukee Police Department. Additionally, Paragraph 5(G) states that the “information supplied by this neighbor is consistent with other complaints the local alderman has received.” Only one neighbor appeared at the hearing to testify and the record does not contain any other testimony from neighbors. Any representations by the local alderman with respect to neighborhood complaints are hearsay which the Committee and Common Council must disregard.

Finally, Kosmoski objects to any suspension based upon Kosmoski’s establishment mistakenly remaining open for business during the time that it was attempting to sort out its Department of Revenue issues. As the police summary states, Kosmoski must pay \$7,500.00 in forfeitures due to this decision. Because Kosmoski has already received a substantial monetary penalty for this behavior, it is now inappropriate for the Committee to recommend and the Common Council to impose a suspension that is almost entirely based upon behavior which has already been punished by the courts.

Thank you for your consideration.

Sincerely,



Michael S. Maistelman
Attorney at Law

Cc: Jerome Kosmoski
Members of the City of Milwaukee Common Council (via email w/enclosures)