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- Licenses Committee

VICE CHAIR

- Zoning, Neighborhoods and Development



MILELE A. COGGS
ALDERWOMAN, 6TH DISTRICT

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- Library Board
- Neighborhood Improvement Development Corporation Board
- Special Joint Committee on the Redevelopment of Abandoned and Foreclosed Homes
- Steering and Rules Committee
- Wisconsin Center District Board

February 4, 2021

To the Honorable, the Common Council

Dear Members:

Re: Common Council File Number 200945

Attached are written objections to file number 200945, Motion relating to the recommendations of the Licenses Committee relative to licenses, relating to a recommendation of:

Renewal, with a ninety (90) day suspension, based on the police report, video, and applicant, aldermanic, and neighborhood testimony of the Class B Tavern, Food Dealer, and Public Entertainment Premises licenses for Joyce Hill for the premises located at 6901-05 W Brown Deer Rd. ("Retox Martini Lounge") in the 9th aldermanic district.

This matter will be heard by the full Council at its Tuesday, February 9, 2021 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,

Milele Coggs, Chair
Licenses Committee

cc: All Council Members
City Attorney's Office
Common Council/City Clerk – License Division
CCF 200945



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February 3, 2021

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

CITY OF MILWAUKEE
2021 FEB -3 PM 4:34
CITY CLERK'S OFFICE

Re: Objection to the Findings of Fact and Conclusions of Law and Motion to be returned
To the Committee for a De Novo Hearing with Instructions.
For: Retox Martini Lounge, LLC,
Premises Address: 6901-05 W. Brown Deer Rd.
Registered Agent: Joyce Hill

Dear Clerk:

Pursuant to Chapter 90 of the City of Milwaukee Ordinances the renewal applicant Retox Martini Lounge, LLC d/b/a Retox Martini Lounge and its Registered Agent, Joyce Hill, 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 Milele A. Coggs on the 29th of January, 2021. Furthermore, the motion for a recusal and return to the Committee appears at the end of this objection.

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 90 day suspension for the Class B License, and in addition the imposition of a change of hours to 8:00 p.m., which was forced upon the Licensee by undue coercion being exerted by Alderperson Chantia Lewis, who represents the District that the licensee's business is located. The discipline imposed did not take into account progressive discipline and was contrary to the testimony of the witnesses, as the testimony and questioning allowed by Chantia Lewis was full of innuendo, heresy, and lies. The Alderperson was allowed to attack and cross examine the witnesses for the licensee without impunity or control. The questions were full of accusation and explanations were cut off by the Chair person. Additionally, when the Licensee was asking questions of a witness the questions were cut off by the Chairperson, which was a complete denial of the Licensee's guaranteed right to due process in the State Constitution and by the State Statute 125.14(4)(d), Wis. Stats., which is the State Statute that must be followed in these matters. This is the legislation that allows the City of Milwaukee Common Counsel a role in the denial of the property rights of Retox Martini Bar, LLC.

The ideal of due process is that the government has to provide certain rights to its citizens, to prevent the government abuse, such as happened to Retox Martini Lounge. The first issue is notice. It is an affront to Due Process that a notice comes to the licensee less than one week before a hearing. It is extremely difficult to mount a defense with witnesses.

The next requirement of due process is that rules are followed by witnesses. Some form of the rules of evidence must be adhered to, in order to prevent decisions being made upon oral statements, and stories with no foundation. Within this framework there has to be a meaningful ability to search for the truth with proper cross examination of the witnesses. This notion of due process was denied in such a way that it was humiliating and embarrassing. The Alderperson of the district was allowed to cross examine witnesses by making long statements with multiple questions and innuendo. The Alderperson of the district arranged for two witnesses which were orchestrated and directed. In essence the Alderperson was the prosecutor, witness, committee member and made the motion to non-renew the license.

As to the Findings of Fact:

Paragraph A. This paragraph regards an incident on June 27, 2020. Individuals left in their cars and were shooting at each other. The establishment does pat down searches and wands with a metal detector. It is impossible for someone to have a gun in the establishment. It is also unknown if anyone was shot. There has never been a victim found, nor has one ever come forward. The Brown Deer Police Department responded to a call at WalMart. The Brown Deer Police Department had no victim but went to the bar to investigate upon the witness stating there was a shooting at Retox. It is reported that they needed a warrant and this was not their jurisdiction. The son of the agent Larry Williams denies that the Brown Deer P.D. was denied entry. The Milwaukee report states there were three Brown Deer squads blocking the entrance and they were contacted inside. The investigation revealed there was no known victim of a gunshot. There was no evidence of a gun shot inside. 11 casings were found in the parking lot.

If there is no victim, there is no shooting period. The Police Department does not have the "Corpus Delicti" or in English the body of the crime. No body, No Crime. As for the casings there is no proof that these casings were fired on that night, or just strewn about. If it is believed they were shot this is one isolated incident, and unfortunately this type of behavior is common place all over the City of Milwaukee, and may be impossible to predict in order to stop it. Only the best preventative practices can be used, which are at this location. Weapons screening and uniformed security guards are in the parking lot with two patrol cars.

Paragraph B. The Licensee demonstrated she is proactive in keeping the location safe. There is security inside and out. Wands and weapons screening is done.

Paragraph C. Recounts a license premise check where two visits were made. No violations were noted.

Paragraph D. There was an argument in the main bar that was quashed. Someone in that argument, most likely, called the Police and claimed shots were fired to get police attention. The Police responded and were advised there was no shooting, and they did not find evidence of a shooting.

Paragraph E. A fight was stopped in the parking lot. Police assisted the staff and the matter was resolved without serious injury.

Paragraph I. This concerns video of an event that showed people dancing without masks. The operator takes Covid seriously and has a Covid plan on file that was approved. This particular incident involved a private event of a record label that scheduled a meet and greet of an artist about to release an album. An issue was made by flyers that were put on a pole. Those flyers were testified to by a Brown Deer Neighborhood Association person Wanda Montgomery, and when questioned she admitted that the flyers had no reference to Retox, nor did they advertise an event at Retox.

The Licensee asserts the flyers were not for the event at Retox. Upon finding out about the flyers the son of the Licensee testified he went out and removed all of the signs he could find.

As for the event itself, there is no denial that the best Covid practices were not followed. However, there are many places around the City that go on. Attached and added to the file is video of a recent event in the last 10 days at Kiss Ultra Lounge, which is around the corner on 76th Street. These are difficult times and it is very hard to survive in business due to the restrictions. The record of the Licensee is one more of cooperation. At Police meetings or any contact by a neighbor or Alderperson, it was made clear by Joyce Hill and her son that they are willing to employ any means possible to prevent problems. Their record clearly demonstrates their commitment to safety.

One neighbor testified about hearing noise. This neighbor contacted the Alderperson in June, July, and August. The licensee was not made aware of this issue so that it could be addressed. It seems it would be appropriate to give a licensee notice of the complaints, and the chance to resolve this issue to the satisfaction of the neighbor. The Licensee is willing and able to resolve the noise issue, but it couldn't have been done sooner, without any knowledge.

It is clear that Chantia Lewis has some kind of vendetta or personal issue with Retox Martini Lounge. All that is known by the Licensee is Ms. Lewis comes in for food and expects it free. Also, that Ms. Lewis does not make any effort to communicate any noise complaints. The noise issue should not serve for any basis for suspension to this license because it couldn't be fixed if it wasn't known about, and it was intentionally not provided to the licensee. The licensee never had a violation upon tavern checks, and were never advised of noise complaints by the Police.

Once Chantia Lewis concluded, the Licensee had other witnesses that were on the video call and did not have an opportunity to give their testimony. These individuals included Antoine Perkins, Lisa Wholean, Tanisha Allen, and Adah Rawlings. These individuals were signed in on the system and were ignored.

Conclusion:

The Licensee was cut off from asking relevant questions about the flyer that did not mention the name of Retox. The Licensee through his Attorney objected to the speeches made by Chantia Lewis that were to be a question, but the Attorney was told she could say what she wanted and we could deal with it in our statement to the Counsel. Ms. Lewis was then allowed to continue to charge at the witnesses in an argumentative manner. It was clear from the outset that Chantia Lewis was opposed to the license being renewed. She made a long statement in Committee that was consistent with her innuendo she made

previously without appropriate evidentiary proof. She first moved to non-renew, and then changed when it was pointed out there was a "change of hours" request. This request was made by mistake, but formed the basis for a 90-day suspension if it was agreed to close the establishment at 8:00 p.m. To close a Restaurant and Lounge at 8:00 p.m. is surely going to result in the location being closed permanently. The Licensee believes the record has one fight that the Police helped to break up. There is no proof of any person being shot by a gun. As many positive reports are in the record, that clearly demonstrate a willingness to cooperate and operate safely. Ms. Lewis clearly had her mind made up that she was against the license. Therefore, she should not have been allowed to participate as a Committee Member, who made motions and voted upon them. It is also a dubious and unfair practice to force changes to the plan of operation while holding the license and livelihood over the head of the applicant. It was stated by Ms. Lewis that if the Licensee wanted a license they had to agree to close at 8:00 p.m. This is coercive, as it places too much power in the hands of one Alderperson. This practice must stop immediately. The matter of a liquor license hearing is a legal one in which the State Statute guarantees an aggrieved party the right to have a Judicial Review. The issue is due process and whether or not a fair process was adhered to. This dubious practice of the Alderman of the District testifying, questioning witnesses, and making motions upon which they are voting cries for a member of the Counsel to recognize this is an affront to due process, and demonstrates that the practice of Aldermanic Privilege is an issue in the City of Milwaukee. In this environment Businesses will not want to come to Milwaukee, and many businesses will leave. Under these circumstances the rest of the Committee and the Counsel are irrelevant, as the process is a joke. There was not one statement in opposition much less a vote against the motion of Chantia Lewis. The record does not support the action. If this is the test then every Licensee should lose their license. Many aren't enforcing masks. Many have an occasional noise complaint, and every bar has the occasional fight.

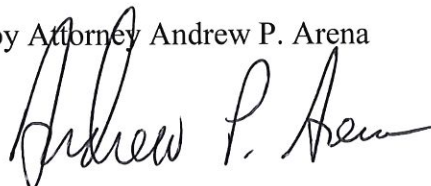
MOTION

The Licensee hereby moves that this matter be returned to Committee for an appropriate hearing. The re-hearing should not allow the Alderperson of the District to ask questions, make motions, or vote on her own motions. This is completely contrary to the Wisconsin Supreme Court Decision in Marris v. Cedarburg 176 Wis.2d 14, The Supreme Court has stated the smallest indication of a bias or a pre-hearing conclusion that demonstrates the mind was made up before the hearing is a violation of due process rights. It places the decision maker in the position of Judge, Prosecutor, and Jury.

The Marris Court states the issue. (1) Did the chairperson (member of the committee) pre-judge the matter and create an impermissibly high risk of bias so that his refusal to recuse himself deprive the individual a fair hearing. In this case the Court would answer yes. This case should be returned to the Committee on this ground alone.

In the alternative this record does not support a 90- day suspension. It should be a written warning or the absolute minimum suspension. There are plenty of establishments with much worse records.

Respectfully Submitted this 3rd day of February, 2021 by Attorney Andrew P. Arena



Kuether-Steele, Molly

From: Arena Law Offices LLC <arenalawoffices@gmail.com>
Sent: Wednesday, February 03, 2021 4:31 PM
To: Owczarski, Jim
Cc: Kuether-Steele, Molly
Subject: Fwd: for Retox objectionIMG_0291.jpegl

Please add this as attachment for Retox

Sent from my iPhone

Begin forwarded message:

From: Arena Law Offices LLC <arenalawoffices@gmail.com>
Date: February 3, 2021 at 1:44:38 PM CST
To: Andrew Arena <arenalawoffices@gmail.com>
Subject: IMG_0291.jpeg



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