

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

Two Brothers Mart, Inc.)
Refusal to Renew)
for the premises located at)
3756 West Montrose Avenue)
) Case No. 09 LA 31
v.)
)
Department of Business Affairs and Consumer Protection)
Local Liquor Control Commission)
Norma I. Reyes, Commissioner)

ORDER

OPINION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER SCHNORF

This case deals with an appeal by Two Brothers Mart, Inc., of a decision of the Local Liquor Control Commissioner of the city of Chicago refusing to renew the liquor license for the premises located at 3756 W. Montrose Avenue. That refusal was effective on April 13, 2009, and the basis for that refusal was that an approved officer of the corporation did not personally come in to the offices of the Local Liquor Control Commission. This case was consolidated with 09 LA 36, for the purposes of hearing only. In that case a Change of Officers application was denied because the business failed to satisfy the moratorium license mailing and petition requirements mandated by the Municipal Code. Some of the evidence at the hearing was relevant to both cases and some was relevant to only one of the cases. Since there are separate issues, separate decisions will be issued for each case.

On July 28, 2009, the parties made of record a Stipulation of Facts. That stipulation was that if called to testify a representative of the Department of Business Affairs and Consumer Protection would testify that the last renewal period for Two Brothers Mart, Inc., at the address of 3756 W. Montrose was December 16, 2008, and that the licenses were not renewed after that date. On April 13, 2009, Majdi Eid attempted to renew the licenses and was denied because the approved officers did not personally appear. The approved officers for Two Brothers Mart, Inc., are Lito Mamuri, and Juliana Mamuri. Those were the only two officers approved by the department for this corporation at that address. On April 13, 2009, Majdi Eid and his attorney Phyllis Price signed a Refusal to Renew document for this corporation. It was also signed by Mr. Greg Steadman on behalf of the department, and Randi Holzman. There was a further stipulation that City's Exhibit 1, in evidence, is the document for the refusal to renew signed by the abovementioned people on April 13, 2009. It was further stipulated Lito and Juliana Mamuri did not come in and those were the two officers that were approved by the Department of Business Affairs and Consumer Protection.

Shawn Burnett-Whitaker testified she is the Deputy Commissioner with the Department of Business Affairs and Consumer Protection responsible for overseeing the disciplinary process for liquor licensees. She identified City's Exhibit 1, in evidence, as the Refusal to Renew form in this case. The approved individuals were Lito and Juliana Mamuri and they did not appear. Majdi Eid who was not an approved individual appeared. While a license may be renewed by a non-approved individual in certain situations, that will not happen if there are holds on the account for any reason. While she could not remember the specifics she did know there were

holds on this account. The witness identified as City 1- a, in evidence, as a Voluntary Closing Agreement for a narcotics violation that occurred on these premises on May 17, 2007. It called for a 21 day closing and that agreement was signed by Majdi Eid on behalf of the licensee. She allowed Mr. Eid to sign off on this 21 day closing on September 25, 2008, since Mr. Eid informed her he was actually operating the business and was in the Change of Officers application process. The 21 day closing was served from October 6 through 28, 2008. As of December, 2008, Mr. Eid's Change of Officer's application had not been approved. The witness was aware at the time of the agreed 21 day closing that a 10 day or greater closing in the two years prior to a Change of Officer's application would prevent the approval of the application. She also agreed that if Mr. Eid had been a proper officer of the Two Brothers Corporation he would have been a proper party to appear for the renewal of the license. To be considered a proper party, Mr. Eid would have needed to have gone through the Change of Officers application process and have been approved.

Majdi Eid testified that he is an Officer with Two Brothers Mart, Inc. He identified Respondent's Exhibit 1, in evidence, as the minutes of a Special Meeting of the Board of Directors of Two Brothers Mart, Inc., held on July 25, 2006. At that meeting Mr. Eid was elected Treasurer of the corporation. Mr. Eid admitted he has been operating at 3756 W. Montrose since 2007. He did not fill out an application with the City in 2006 advising that he had become an officer of the corporation. He did sign for the 21 day closing in October, 2008, and he closed the store down for 21 days. In December of 2008 he was trying to renew the license on behalf of the Mamuri's since his application was pending. That license was not

renewed. He is running the business under the Mamuri names.

Counsel for the corporation has asked that this Commission issue decisions in both cases simultaneously. Respectfully we decline to do that. Mr. Eid had been operating this premise since at least 2007 without being on the liquor license. If it is necessary, at a later date, a motion to consolidate appeals can be filed in the Circuit Court of Cook County.

The issue in this case is whether Mr. Eid was an approved officer of the corporation on April 13, 2009. If he was an approved officer the refusal to renew was improper, and if he was not an approved officer the failure to renew was appropriate. The fact that Mr. Eid produced minutes of a special meeting that elected him Treasurer of this corporation does not make him an approved officer. A person must go through the process set out in the Municipal Code to become an approved officer. To start that, Mr. Eid's application for a Change of Officers had not been approved on April 16, 2009. He was not a proper party or officer of the corporation.

The Refusal to Renew this license is affirmed.

THEREFORE, IT IS HEREBY ORDERED That the said order or action of the Local
Liquor Control Commissioner of the City of Chicago be and the same hereby is AFFIRMED.

Pursuant to Section 154 of the Illinois Liquor Control Act, a Petition for Rehearing may be filed with this Commission within TWENTY (20) days after service of this order. The date of the mailing of this order is deemed to be the date of service. If any party wishes to pursue an administrative review action in the Circuit Court, the Petition for Rehearing must be filed with this Commission within TWENTY (20) days after service of this order as such petition is a jurisdictional prerequisite to the administrative review.

Dated: May 5, 2010

Dennis M. Fleming
Chairman

Stephen B. Schnorf
Member