

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

Paliatsos & Son Co.)
d/b/a Roma's Restaurant)
Applicant (Change of Officers))
for the premises located at)
9273 S. South Chicago Avenue) Case No. 11 LA 61
)
v.)
)
Department of Business Affairs and Consumer Protection)
Local Liquor Control Commission)
Gregory Steadman, Commissioner)

ORDER

DECISION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER O'CONNELL

Applicant filed a timely Notice of Appeal with the Commission from the decision of the Local Liquor Control Commission denying its application for a Change of Officers. The initial denial letter dated November 23, 2011, set out four reasons for the denial:

1. The licensee has Outstanding Debt with the City of Chicago with regards to Permit and License fees.
2. Pending liquor license revocation case against the licensee.
3. There is a Moratorium at this location (4-60-023-10.260) preventing transfer of the license.
4. Fingerprinting was denied due to failure of the applicant to provide additional information on a 12-20-2002 arrest in Schererville, Indiana.

Prior to the start of the hearing, the Local Liquor Control Commission issued an Amended Denial Letter on January 12, 2012. That denial letter withdrew the moratorium basis for denial listed on the original denial letter as Reason 3. It also modified Reason 2, which now stated:

2. As a result of a recent license disciplinary case, the liquor license of Paliatsos & Son Co. for the premises located at 9273 S. South Chicago Avenue was revoked on December 11, 2011. As a result, the licensee (Paliatsos & Son Co.) is no longer eligible to hold a liquor license and a one year ban is in effect prohibiting the issuance of any new liquor license at this location.

This case proceeded to hearing on the amended denial of a Change of Officers, Type 3, application filed by Paliatsos & Son Co. This point is emphasized since the record contains some conflicting opinions raised by counsel for the licensee/applicant.

A synopsis of the relevant testimony and documents in the record will hopefully aid in understanding the reasons for this decision.

Sophia Carey has been a Business Consultant Supervisor with the Department of Business Affairs and Consumer Protection for over six years. She has access to the City's database called IRIS. She appeared before this Commission on behalf of the Local Liquor Control Commissioner Gregory Steadman. She is familiar with the procedures for reviewing applications for a change of officers in a corporation that has a liquor license. A change of officer's application can be denied for all the same reasons that a new liquor license application can be denied.

She is familiar with this application for Change of Officer's filed by Paliatsos & Son, a corporation, as she was one of several individuals who worked on processing the application and the review. The witness identified City's Exhibit 2, in evidence, as the Change of Officer's application for Paliatsos & Son Co. The filing date, which is the date they paid for the

application, was in May of 2009. The department reviewed all the necessary paperwork to process the application in August of 2010. Emanuel Tzanidakis listed himself as the president of the corporation, and as the individual requesting to be added to the liquor license as the new president. The application is asking the City to update its files to reflect he is now the sole shareholder and president of the corporation. This application was denied by the Local Liquor Control Commission. Ms. Carey identified City's Exhibit 3, in evidence, as the original denial letter dated November 23, 2011. The reason for the time delay from August of 2010 through November 23, 2011, was because the City was still investigating and looking for clarification or additional verification from the applicant. There are no deadlines on Change of Officers applications. City's Exhibit 4, in evidence, was identified as the Amended Denial Letter dated January 12, 2012.

The first reason for denial was that the licensee has outstanding debt to the City of Chicago with regards to permit and license fees. City's Exhibit 5, in evidence, lists several monetary holds on this account. The first two holds are tax holds for failure to file restaurant tax returns for 2009 through 2010, and 2010 through 2011. Since the returns were not filed, no dollar amount could be determined. There are also three license adjudication holds that do not allege debt. There are also holds for an overdue Public Way Use permit and for an overdue Awning permit. The public way hold has been of record since November 28, 2010, and the awning hold has been in effect since January 30, 2011. There are additional holds for a sign and two holds due to overdue billing for the signs. The first of these holds on Page 3 was in effect as of November 27, 2011, the second was effective as of December 13, 2010, and the third was in

effect as of December 12, 2011. The final two holds refer to ongoing disciplinary cases. There is also a hold for a \$3,500.00 fine placed on July 10, 2011.

As of the date of the original denial on November of 2010, Paliatsos & Son Co. owed four debts to the City with specific amounts owed and two tax holds without specific amounts due. Since that denial, two new holds have accrued.

Ms. Carey explained that once a hold is placed on an account, a hold notice is generated and mailed to the business. The department did notify Paliatsos & Son Co. of all the holds discussed.

The witness explained the second reason for the denial was that the liquor license of Paliatsos & Son Co., for the premises located 9273 S. South Chicago Avenue, was revoked on December 11, 2011. As a result of that revocation, this applicant is ineligible to hold a liquor license and a one-year ban prohibiting a license at this location goes into effect.

The third reason set out for the denial was that fingerprinting was denied due to failure of the applicant to provide additional information on a 12-2-2002 arrest in Schererville, Indiana. Fingerprinting is requested to ensure the applicant is eligible to hold a liquor license under City of Chicago's Municipal Code and the State Liquor Control Act. Information from fingerprinting showed the Indiana arrest, but the applicant did not provide information about the specifics of the arrest. City's Exhibit 8, in evidence, reflects that failure to provide information as of August 12, 2011.

Ms. Carey explained that Paliatsos & Son Co. did apply for a Consumption on Premises – Incidental Activity Liquor License. A copy of that application is in City’s Exhibit 1. That application was never processed because the applicant did not submit payment for it.

City’s Exhibit 7, in evidence, was identified by the witness as a Certified Copy of the Order of Revocation and Findings of Fact entered in case 09-LR-94. The findings, in essence, were that Mr. Emanuel Tzanidakis operated the business as a subterfuge and the liquor licenses were revoked. The City’s Municipal Code and State of Illinois Liquor Control Act state corporations whose licenses are revoked are ineligible to hold a liquor license. Paliatsos & Son Co. was not eligible to hold a liquor license now and was not eligible to hold a liquor license in November of 2011, because of the revocation in April of 2011. The Department does not grant a Change of Officer’s application for a revoked license held by a corporation.

Ms. Carey did admit that there is no document in the record showing Mr. Tzanidakis was told he needed to provide additional information about the arrest in Schererville, Indiana. Usually the applicant is notified by phone. The witness reviewed Respondent’s Exhibit 3, which is a certified copy of a letter from the Clerk of the Superior Court of Lake County, Indiana stating no criminal records had been found with respect to Emanuel Tzanidakis with a date-of-birth of September 11, 1956. The witness explained she does not review these types of documents and could not say if this information would satisfy the criminal history terms. While there is nothing in the record reflecting that Paliatsos & Son Co. had been notified of the holds, Ms. Carey explained the holds are automatically sent to the business through an automated computer system. Ms. Carey reviewed Respondent’s Group Exhibit 5, which consisted of paid

receipts similar to the holds on this account, but she could not verify if they were the same and had been reviewed. She also explained she did not know why the moratorium issue had been removed or reason for the denial, but Ms. Carey asserted the application had not changed from a tavern application to a restaurant application. Ms. Carey repeated the application for the restaurant to incidental license was never filed.

This Commissioner acknowledges the record of this hearing is difficult to follow since there seems to have confusion on the part of the applicant's attorney as to whether this case dealt with a denial of the Change of Officer's application for the existing tavern license, or an application for a Change of Officer's for a new liquor license incidental to a restaurant. There is also confusion because this application was started in 2009, and the initial denial was not issued until November 23, 2011.

There is no confusion with respect to the fact that the liquor license for this corporation, at this address, was revoked by the Local Liquor Control Commission. It is a matter of public record that this revocation was affirmed by this Commission. Based on the revocation, this corporation is ineligible to have a liquor license under the Chicago Municipal Code and the State of Illinois Liquor Control Act. This ineligibility would apply to tavern license or to an incidental activity liquor license.

The denial of this Change of Officer's application is affirmed on the fact that the corporation is ineligible to hold a license. Since it is ineligible on this basis, it is not necessary at this time to address whether the other reasons for denial have been established.

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 24, 2012

Dennis M. Fleming
Chairman

Donald O'Connell
Member