

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

B & B Madison Entertainment Corporation)
d/b/a Brick's Sports Bar & Grill)
Applicant (Tavern)) Case No. 15 LA 8
for the premises located at)
4422 West Madison Street)
)
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

B & B Madison Entertainment Corp.'s application for a Tavern license for the premises located at 4422 West Madison was denied by the Local Liquor Control Commissioner. The application was denied due to the law enforcement concerns of the 11th Police District. The Commander of the 11th Precinct objected to this license application for the following reasons:

- The location has several incidents of violence near the property
- The location received over 80 calls for service for the following:
 - Homicides (4)
 - Robberies (34)
 - Batteries (24)
 - Criminal Sexual Assault (5)
- The adjacent parking lot has constant loitering and poor lighting
- The business view from the street is obstructed and prevents interaction with law enforcement

The applicant filed a timely appeal of the decision to deny the tavern license with the License Appeal Commission.

The City called Tartane Hutchinson as a witness. He has been a Chicago Police Officer for thirteen years and is currently assigned to Community Policing Troubled Buildings unit within the 11th District. In that position, he interacts with the community concerning issues of drugs and raising enforcement. He has been assigned to the 11th District for twelve years and is familiar with the area. He appeared as a witness in his official capacity on behalf of Commander West. Commander West's opinion is that this location should not have a liquor license.

The area around 4422 West Madison has a history of prostitution, narcotics, and gang activity for years. The department uses the CLEAR system as a database of information about police incidents such as calls for service and arrests. The witness identified City's Exhibit 5 as a letter from the 11th District Commander Barbara West. Pages 2 and 3 of this exhibit show a list of 80 incidents in which police reports were generated within a half mile radius of 4422 West Madison. It lists the time period and the dates and times of the occurrences. These pages are entitled Violent Compstat Crime Within 1/2 Mile Radius of 4422 W. Madison. Over objections, City's Exhibit 5 was allowed in evidence.

Officer Hutchinson identified City's Exhibit 6 as a list of calls for service for criminal incidents within a half mile radius of the location. It lists calls of criminal incidents in which reports were generated as well as calls in which reports were not generated. The time period was from January of 2014 to December 2014. A criminal incident requires the police to generate a report. A call for service does not necessarily entail a report, but the police responded to a call and took some sort of action. Over objection, City's Exhibit 6 was allowed in evidence.

The witness never spoke to Commander West about this particular matter. He has passed by this location often but has never gone inside. He could not tell whether any of the incidents in City's Exhibit 5 and 6 were ones he was involved in. He has no personal knowledge of where these exhibits came from.

He acknowledged a call for service does not mean an arrest was made or that a crime was committed. Case reports are generated as a result of a specific incident but a case report does not mean someone was arrested; or charged does not mean the individual is guilty of a crime. Since he had not looked at any case reports listed in City's Exhibits 5 and 6, he could not say if any report has any connection to the sale of liquor from a liquor license establishment. He could not say if any of the calls for service had any connection to the sale of liquor from a liquor license establishment.

The officer has never had the occasion to visit this location for a law enforcement issue in the thirteen years he has been assigned to the district. He was not aware the business was in operation with a liquor license from 2010 to 2013.

Barbara West has been the Commander of the 11th District since January 9, 2015. Her duties in that position are to try to solve disorder problems, address violence, and reduce quality of life issues. She is aware that B & B Madison Entertainment Corporation has applied for a tavern license at 4422 West Madison. She identified City's Exhibit 5 as a letter of objection she submitted on January 26, 2015.

She opposes this tavern license after a review of the calls for service in that geographical area and the issues surrounding the area. With the violence and crime that was occurring, she felt this was not a location for a license. The geographical area is approximately one-quarter mile around the location. It is somewhat commercial and somewhat residential. Madison Avenue is a big thoroughfare with people walking and driving to and from work. It is also a main bus route. There is quite a bit of crime in that area in terms of prostitution, armed robberies, drinking, loitering and robberies. Her letter specifically referenced violent crimes which include homicides, robberies, aggravated batteries, and criminal sexual assaults. Pages two and three of her letter are the statistics she referenced in her letter.

The Commander explained how the issuance of a liquor license would hamper her efforts to rid the area of crime. This area is just a small portion of the much larger district. In terms of manpower, this could possibly task her on a Friday or Saturday night which are usually the busiest in any district.

Commander West reviewed City's Exhibit 6 and described it as calls for service and crime incidents month by month in 2014. These statistics deal with an area that could be not even a quarter of the 11th District and may be only a tenth or an eighth of the entire district. She asked this statistical information be compiled because it demonstrates the activity currently going on in that area. She explained that a call for service could be a multitude of things, but a criminal incident is a documented case report of some sort. Police respond to a majority of calls for service and all criminal incidents require a police response.

In summary, Commander West opposes this liquor license because given the fact this area already has issues to deal with, it would task her to pull additional resources from someplace else to address some of the things that may go on there.

Commander West denied she opposed the issuance of all liquor licenses in her district. This was the first liquor license application since she started this assignment on January 9, 2015. She met with Ms. Johnson at a community meeting but does not recall telling Ms. Johnson the decision to deny was made by someone other than herself.

Commander West agreed that calls for service can be done for a specific address and that City's Exhibit 5 was a half mile radius from the applicant's address. Maybe two of the calls for service pertain to 4422 West Madison and one criminal incident was at that address. She did not review any of the case reports and could not say if any of the calls for service pertain to the sale of liquor from a retail licensed establishment. She could not tell if any of the case reports dealt with the sale of liquor. She stated a call for service does not mean an arrest happened and the fact a case report is generated does not mean a criminal act took place or that a conviction resulted as a result of the case reports.

The City rested its case.

Alderman Jason Ervin testified that he heard the testimony of Commander West. His opinion is that this location does not pose an issue for the community. The location is suited for that type of activity. Years ago, Madison was the place you found taverns and nightlife. Over the years, the area has lost a tremendous amount of places where people can go and have a beer and a burger, and he believes that has led to other issues in the communities. He is happy these folks decided to make an investment on the west side. We need places to go like every other community.

With respect to the resource issue, Alderman Ervin stated when the City deems it necessary; they put resources where resources are needed. The 18th District had a lieutenant dedicated to a four or five block strip of Rush Street. That should not be a reason to not move forward. If additional resources are needed, they need to be placed. In his old ward area, he only had three or four consumption on premises licenses. In the new area, he picked up 10 to 15 along Taylor Street between Racine and Ashland. There is one in a mile radius of the applicant's location.

Alderman Ervin first met Ms. Johnson in the late 1990's when she owned an ice cream shop and general restaurant. She is a responsible business owner that has grown the business. It is one of the better establishments on Madison. It is located at 4123 West Madison. Ms. Johnson operated a liquor license business at the applicant location from 2010 until 2013. It had a consumption on premises license, a food license, and a PPA license. She purchased the building and expanded it which is why new licenses are needed. Since he became Alderman in

January of 2011, he had not heard of any complaints with respect to that business or the business at 4123 West Madison.

In summary, Alderman Ervin supports this application because the applicant has been a responsible business person in the community and lives in the community. She has been a good corporate citizen. Folks have no place to go to have a drink in their community. In general, the police have not supported liquor license applicants and it is a standard practice to automatically reject license applications.

A recent application for a license for a social club was denied by either Commander Washington or Evans. Commander West needs to effectively deal with the community and should have the needed resources; the Alderman agreed she does not control how many officers she gets. He has spoken to Superintendent McCarthy in general about overall resources. He has only three taverns in the ward.

In response to questions from Chairman Fleming, Alderman Ervin agreed that the problems related by the Commander are not limited to the half-mile radius from the applicant's location and one could face similar type problems on a half-mile radius on Harrison or Monroe.

Bettie Johnson is the owner of B & B Madison Entertainment Corp. She grew up on the west side and went to Bryant, John Marshall and Mason on the west side. She then went to Sawyer Business College. Her first business was a clothing boutique on Madison and Keeler about two blocks from the applicant location. She then opened a restaurant at 4123 West

Madison twenty-four years ago. It serves fast food and soul food but specializes in Philly cheese steaks.

She previously operated a business at 4422 West Madison starting in 2010. It was a banquet hall type business but it was too small. She purchased the building and expanded it. She closed down during the expansion. She paid about \$105,000 to \$110,000 for the building and the renovation has cost \$40,000 or more. She applied for new licenses because of the renovation and expansion. The business will not change but it will have more space. Her patrons range from 35 and older. While she was open, she had no incidents of violent crime as described by Commander West and no gun or narcotic incidents. There were no robberies, homicides, or criminal sexual assaults. Food will be served at all times when open. She met Commander West at a CAPS meeting. Commander West told her it was a higher power opposing the liquor license and that they oppose every liquor license that comes into the district.

The previous occupancy was 100 and the current occupancy is 293. She applied for a tavern license so that she would not need to always sell food. She will always be selling food but would not have to sell food.

The sole basis for the denial of this tavern license is that its issuance would cause law enforcement concerns to the 11th Police District. There have traditionally been two approaches to denials of liquor license based on such concerns. The first approach is to review the past history of the applicant for violations of liquor laws and the law in general. If there is such a past history, it can be extrapolated that there will be future violations of the law. There is no evidence

in the record that the applicant has any history of violations of liquor laws while she operated a liquor business at this location. There is no evidence of a disregard of the law in the twenty-four year operation of her restaurant. There is no evidence she has ever violated a municipal ordinance.

A second approach to law enforcement denials concentrates not on the applicant, but on the community and how a liquor license might exacerbate existing conditions that include crime. Under this approach, there is no standard rule of thumb on what evidence is required to deny a license. Each denial must be reviewed on the facts of that particular case.

There is evidence in the record of crime and calls for service within the one-half mile radius of the applicant's location. The sad fact, as stated by Alderman Ervin, is that this type of crime is not localized to this applicant location but exists throughout his ward. None of the calls for service or criminal incidents were connected to the applicant's location or the applicant. There was no testimony that the previous operation of a liquor establishment at this location has led to quality of life issues such as loitering, noise or public urination. Commander West's testimony did not address any evidence to sustain her opinion that a liquor license at this location would exacerbate existing crime in that area. There is not enough evidence in the record to support a nexus between the issuance of this tavern license and law enforcement concerns.

The denial of the tavern license to B & B Madison Entertainment Corp for the premises at 4422 West Madison is reversed.

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 REVERSED.

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: June 25, 2015

Dennis M. Fleming
Chairman

Donald O'Connell
Member