

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

Big Daddy, Inc.)	
d/b/a Big Daddy)	
Applicant (Packaged Goods))	
for the premises located at)	Case No. 09 LA 72
2441 South State Street)	
)	
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

Big Daddy, Inc., filed an application for a Packaged Goods liquor license on August 26, 2009. After conducting a review of the application as well as correspondence and documents from the community, law enforcement and the Alderman, this application was denied on October 29, 2009, by Norma Reyes, Commissioner of the Local Liquor Control Commission. The basis of this denial was that the issuance of this license would tend to create a law enforcement problem. The applicant filed a timely appeal of this denial before this Commission. The matter proceeded to hearing on February 23, 24, and March 31, 2010. Since the case arises out of denial of an application the matter before the Commission is to determine de novo the propriety of this denial. 235 ILCS 5/7-9

A review and summation of the witness testimony and documents in evidence is appropriate to better understand the reasons for this decision.

Captain Al Nagode testified as the Acting 1st District Commander since District Commander Kennedy was on furlough. Captain Nagode is usually assigned as the Watch Commander for the second watch in the First District with the responsibility of supervising 130 police personnel. He is familiar with the applicant store which is located on the main thoroughfare across from the Harold Ickes Housing Complex. Ickes is currently under renovation but there is another housing complex to the south. Commander Kennedy opposes the issuance of this packaged goods license at this location. The applicant's establishment is located in an area historically known as a narcotic and gang area. The two other liquor establishments in the area cause law enforcement problems in the form of narcotics and gang loitering. There is a correlation between the other liquor establishments in the area with gang and narcotics problems. Those stores are a haven where gang members congregate. The location of the applicant's business is adjacent to what is referred to as a Level II Doc Area. That is an area that has the highest level of police services that utilizes substantial police resources against public violence as well as gang and narcotic activities. There has been a decrease in crime in this area but the Commander feels another liquor store selling products like half pints will bring law enforcement issues. The location of this particular store makes this more likely since the parking lot and location of the "L" tracks make it more available for gang loitering and the sale of narcotics. Captain Nagode did acknowledge that they're tearing down several of the of the Ickes buildings directly across from the store and has had an impact on calls for service, and he also admitted he does not know the owners of the store or the store's hours of operation.

Lieutenant Lajewski has been a tactical officer in the First District since 2007 and has served in the First District since 2003. He described the Level II Doc Area near this location as

the area where most of the district crime is based and resources were assigned. In this area was a liquor establishment at 2251 South State Street which was a law enforcement problem due to drug abusers, gang loitering, and the sales of narcotics. With the closing of the store at 2251 S. State Street and the Ickes Homes renovation, crime in this area is substantially down. He opposes the issuance of this type of license at this location because the license would draw substance abusers from the Dearborn Homes which is one to three blocks away. This will cause similar law enforcement problems as were experienced at the closed store. The site and type of building involved in this application lends itself to criminal activity. He was also concerned with the fact that gangs congregate and drink in the park less than a block away.

Audrey Wade appeared in her role as Chief of Staff for Alderman Dowell of the 3rd Ward. The Alderman opposes the issuance of this license. Previous liquor stores in the area fueled problems of criminal activity like urination, narcotics sales and loitering. Gangs congregate in the nearby park where there is graffiti, public urination and dumping of empty liquor bottles. This area has started to stabilize and allowing liquor sales at this location would dent the stabilization process.

Alderman Dowell testified then in person in opposition to the issuance of this license. The city, state and federal government have rehabbed the area and a packaged goods liquor store does not add value to this community. Drug and alcohol problems have existed in the area already. Problems exist at other packaged goods liquor sites in the form of loitering, selling single cigarettes and harassing others. She has no personal problems with these applicants and is not opposed to all liquor applications. She has supported packaged goods licenses in other areas

and is not opposed to licenses affiliated with restaurants. She believes additional police resources would be needed to address problems that would be generated if this license was issued.

Michael Madigan has been the First District Community Policing Officer for four years. At the request of the District Commander he prepared City's Exhibit 2 which reflected a total of 283 calls for service for the area of 2400 to 2500 south on State Street from September 10, 2008 through September 10, 2009. Thirty-four of the calls came from the store or a caller referenced the store's specific address. There were 55 calls violent in nature and 29 police incidents relative to this location. Officer Madigan prepared additional reports relative to calls for service from September 2008 through September 2009 for the area of 2400 to 2499 S. State Street.

The determination by this Commission as to the propriety of a decision by the Local Liquor Control Commission is decided de novo based on the evidence presented at the hearing. Each case is separate from other cases dealing with denials of liquor licenses, and a decision on one case cannot be considered precedential for another case. Some of the factors that are considered by this Commission is the type of license applied for the location and type of building, the past criminal history of the applicant, past criminal history of the location, the type and amount of crime that occurs in the area and opinions from the District Commander or other law enforcement officials, the Alderman and community representatives.

In this particular case the application is for a packaged goods store. This license would allow the sale of half pints, 40 ounce and quart bottles of beer, and cheap wines. There has been

testimony that sale of this type of liquor has a direct correlation on law enforcement problems. This type of liquor can be consumed by people congregating on the streets. The location of these premises has been described as the type that could encourage such loitering. The close distance from this location to a park invites the patrons to congregate and loiter in the park which gives rise to loitering. While overall crime in the area is down due to the closing of the Ickes Homes, the applicant's location is adjacent to a high crime area. The Alderman testified that there has been a combined effort from city, state and federal officials to rehabilitate this area and that allowing a packaged goods license does not add value to that area being rehabbed but would add to problems faced at other liquor establishment with people loitering and harassing people. The law enforcement officials have expressed their opposition to the license at this location due to the correlation between crime and a packaged goods store.

While Mr. Musleh has testified that there have been no police problems relative to the operation of his present store and that he will run the store with a liquor license so that it will not be a law enforcement problem, such a statement does not address the fact the law enforcement problem does not stem in this case from the operation of the store but from what occurs after the patrons leave the store with half pints, 40 ounce bottles of beer and malt liquor and cheap wine. The City has met its burden of proof and it is the decision of this Commission that the denial of this packaged goods liquor license at this location was proper. The decision of the Local Liquor Control Commissioner 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: June 22, 2010

Dennis M. Fleming
Chairman

Stephen B. Schnorf
Member