

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

DJJ Entertainment, Inc.)	
d/b/a Nouveau Tavern)	
Refusal to Renew)	
for the premises located at)	Case No. 14 LA 19
358 West Ontario Street)	&
)	14 LA 22
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

This appeal arises out of a decision by the Local Liquor Control Commissioner of the City of Chicago to issue a Refusal to Renew the liquor licenses issued to DJJ Entertainment, Inc. for the premises located at 358 W. Ontario for the time period of February 2014 until February 2016. The specific reason listed on the Refusal to Renew was:

Owner, Agnes Chua, sold business in 2013 and new owners have been operating establishment after failing to complete a change of officers application in a timely manner.

On June 1, 2013, a Change of Officers/Owner Application was filed in which Marsette Mangum was to become the President/Secretary and 100% stockholder of DJJ Entertainment, Inc. DJJ Entertainment had been doing business as Ai Sushi and it held a Consumption on Premises – Incidental Activity liquor license. DJJ Entertainment, Inc. was incorporated in the

State of Illinois on May 31, 2007. Agnes Chua was the sole shareholder of DJJ Entertainment, Inc.

Among the items in evidence that the Local Liquor Control Commissioner reviewed in issuing the Refusal to Renew is the contract for the Stock Purchase Agreement between Agnes Y. Chua and Marsette Mangum. That agreement references an Interim Management Agreement, but the record does not seem to contain a copy of that agreement. The record is also silent on whether a copy of that Interim Management Agreement was ever given to the Department of Business Affairs and Consumer Protection in the course of the Change of Officers application.

Bryan Knipper from the Department of Business Affairs and Consumer Protection testified that this license was not renewed due to the need for an updated occupancy sign, revenue holds on the account, and in addition to the reasons stated in the Refusal to Renew document. As stated previously, the only reason listed on this form was that the new owners have been operating the establishment after failing to complete a change of officers application in a timely manner. In the course of Mr. Knipper's testimony, he specifically stated that the application for a change of officers was still open and that the Department had not issued a denial on the change of officers application. As to the date of Mr. Knipper's testimony, there were still holds in the system.

In the applicant's case, it introduced exhibits that showed that an occupancy sign for 238 people was issued to Nouveau Tavern on February 13, 2014. Testimony and exhibits showed that holds on the accounts of the licensee had been satisfied by payment. Also allowed in evidence was Licensee's Exhibit 7, which is the receipt for payment for the license renewal in the amount of \$6,050.00. This renewal was done online and the exhibit reflects it is proof of submitting license renewal information online.

Due process in administrative hearings does not require the pleadings be as specific as might be required in a common law court. It does require that the respondent be made aware of the charges in such a manner as would give that respondent knowledge of what is being alleged. The refusal to renew form in this case does not allege the refusal to renew was based on financial holds in the account or for lack of an updated occupancy card. The only basis for refusal to renew before this Commission is that stated on the Refusal to Renew form. For the purposes of expediency in the event of an appeal, this decision will address those other bases argued at the hearing as bases to refuse to renew.

With respect to the holds in this license for unpaid fees there is another procedure set out in the Municipal Code for the Department of Revenue to determine if those holds are still in effect. It would seem that issue would not be within the jurisdiction of this Commission. Assuming such a determination is within the jurisdiction of this Commission, the evidence presented by the licensee as to payment of holds would be sufficient to establish those holds are no longer in effect. The introduction of Licensee's Exhibit 1, showing an occupancy placard issued to Nouveau Tavern on February 13, 2014, would remove that reason to refuse to renew.

The only remaining basis for refusal to renew is that set out in the Refusal to Renew document. Based on the testimony of the City's witness, Bryan Knipper, the change of owners application was submitted, has been amended and as of the date of the hearing, no decision had been made on the application. Evidence in the licensee's case also established the application was still under review and no decision had been issued. This evidence supports the fact that a change of officers application was completed in a timely manner and does not support a finding that the application was not filed in a timely manner. The evidence in the record shows ongoing communication between the parties on this application. While there was evidence that the proposed new officer was operating the establishment under a manager's statement, there was no evidence that this operation of the business in itself was a reason for the refusal to renew.

The decision of the Local Liquor Control Commissioner to Refuse to Renew the liquor license issued to DJJ Entertainment, Inc. is reversed.

It should be noted this decision is based solely on the issue before this Commission in this case and the evidence presented in this case. It is not and should not be considered a precedent should the Local Liquor Control Commissioner refuse to renew for a different reason or should it deny the Change of Officers application.

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: September 2, 2014

Dennis M. Fleming
Chairman

Donald O'Connell
Member