

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

2953 W. Belmont, Inc.)
d/b/a Canos Village)
Licensee/Revocation)
for the premises located at)
2953 West Belmont Avenue) Case No. 12 LA 44
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

The licensee received notice from the Local Liquor Control Commission that a hearing was to be held in connection with disciplinary proceedings regarding the City of Chicago Liquor licenses and all other licenses issued to it for the premises located at 2953 W. Belmont Avenue.

The charges were that:

- 1-2. The licensee is not the beneficial owner of the licensed premises and is therefore ineligible to hold a City of Chicago Retail Liquor License pursuant to 235 ILCS 5/6-2(15) and City of Chicago Municipal Code 4-60-030(r).
3. That since September 2011, the licensee, by and through its agent, failed to cooperate with identified police officers, and to fully and truthfully answer all questions posed by those officers, in the investigation of illegal activity upon the licensed premises, in violation of the Municipal Code of Chicago 4-60-141.

A hearing on these charges proceeded on April 16, 2012, and May 14, 2012, before Deputy Hearing Commissioner Raymond Prosser. The City was represented by Rachel Berger and the licensee was represented by Mike Gunderson at the April 16, 2012, hearing. No one

appeared for the licensee on the May 14, 2012, hearing. Attorney David Kugler filed this appeal and represented the licensee at oral argument.

The Deputy Hearing Commissioner entered Findings of Fact that based on the stipulation between the parties on the record, the City met its burden of proof on Counts 1, 2, and 3, and he further found that based on that stipulation and the licensee's prior disciplinary history that revocation on each of the charges was the appropriate disposition.

On April 16, 2012, Mike Gunderson appeared for the licensee. Mr. Gunderson on behalf of the licensee entered into a stipulation with Ms. Berger on behalf of the City, as to Charges 1, 2, and 3. At the subsequent hearing on May 14, 2012, no one appeared on behalf of the licensee. City's Exhibit 3, the prior disciplinary history of the licensee was allowed in evidence. It consists of an \$800 voluntary fine on October 18, 2002, for gambling and no vendor label, and a \$500 voluntary fine on November 30, 2001, for sale of alcohol to minor.

Since this is an appeal of a revocation the jurisdiction of this Commission is limited to these three questions:

- a. Whether the local liquor control commissioner has proceeded in the manner provided by law;
- b. Whether the order is supported by the findings;
- c. Whether the findings are supported by substantial evidence in light of the whole record.

There has been no argument that this matter has proceeded in the manner proscribed by law, and there is no question that there was a stipulation to the charges entered by Mike Gunderson who represented himself as the representative of the licensee. That stipulation provides more than substantial evidence to support the finding that the City met its burden of proof on all counts.

The issue that revocation is not a proper disposition in this case is difficult to be argued by the licensee since it presented no evidence in mitigation of these charges. This Commission is bound by matters that are in the record and based on the record and the prior disciplinary history, the disposition of revocation should not be reversed and is affirmed.

IT IS THEREFORE ORDERED AND ADJUDGED that the order revoking the liquor license of the APPELLANT 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: April 9, 2013

Dennis M. Fleming
Chairman

Donald O'Connell
Member