

**LICENSE APPEAL COMMISSION
CITY OF CHICAGO**

Walgreen Company)	
d/b/a Walgreens #03950)	
Applicant (Packaged Goods))	
for the premises located at)	Case No. 16 LA 10
4343 North Kedzie Avenue)	
)	
v.)	
)	
Department of Business Affairs and Consumer Protection)	
Local Liquor Control Commission)	
Shannon Trotter, Commissioner)	

FINAL ORDER

**DECISION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER O'CONNELL AND
COMMISSIONER CAHILL**

On or about November 30, 2015, the Respondent applied for a Packaged Goods liquor license for the premises located at 4343 North Kedzie Ave., Chicago, Illinois 60618. On May 27, 2016, this application was denied by Local Liquor Control Commissioner Gregory Steadman. This denial was based on a finding by the Investigations Unit for the Department of Business Affairs and Consumer Protection that the business was located within 65.00 feet and 8 inches from Jesus House Chicago which is located at 4332 North Kedzie Avenue, Chicago, Illinois. The denial letter stated liquor licenses are not permitted within 100 feet of a church.

Section 5/6-11 of the State of Illinois Liquor Control Act prohibits the issuance of a license at retail for any alcoholic liquor within 100 feet of a church. It further states that with respect to a church, the distance of 100 feet shall be measured to the nearest part of the building used for worship services or educational programs. Over the years, this provision of the Liquor

Control Act has been amended by the Legislature to allow exceptions to this 100-foot prohibition.

The denial letter of May 27, 2016, advised the applicant it had 20 days to appeal the decision by filing an appeal with the License Appeal Commission. A timely appeal was filed with the License Appeal Commission and this matter was scheduled for hearing on January 10, 2017.

At the hearing, the parties entered into the following stipulations per a written agreement:

- The applicant's premises is located at 4343 N. Kedzie Avenue, Chicago, Illinois.
- Jesus House Chicago is located at 4332 North Kedzie Avenue, Chicago, Illinois.
- Jesus House Chicago is a church which is actively operating.
- The applicant's premises is located within 100 feet of Jesus House Chicago.
- Legislation is pending in the Illinois Legislative that if passed would exempt the applicant premises and other similarly situated retailers from the statutory prohibition of selling liquor within 100 feet of a church.

It was orally stipulated by the parties on the record that this was the only basis for denial of this application and that there were no objections to this license from the Alderman, the Police Commander, or any community groups. A letter from Alderman Deborah Mell to Senator Martinez and Representative Andrade in which the Alderman expressed her support for the legislative action that would create an exception for this applicant was allowed in the record.

This letter notes that Walgreens has over 100 liquor licenses in the city of Chicago and has never

had a complaint about their practices from the liquor control commission or the police department.

Based on these stipulations, it is the decision of this Commissioner that the City has proved by a preponderance of the evidence that the premises of the applicant is located within 100 feet of a church in violation of the Illinois Liquor Control Act. The denial of this application is affirmed.

In the original decision in this case entered on January 23, 2017, this Commission found special circumstances existed to justify a continuance of the date of entry of a decision affirming the denial. The attorney for the City had no objection. The special circumstances was the fact that a legislative proposal had been introduced in the Illinois Legislature that would have created an exception to the 100-foot rule in this case and allow the issuance of this license.

The record in this case also showed that there was no objection from the Police District Commander and that Alderman Deborah Mell supported the issuance of this license.

This case was continued until June 7, 2017, and again continued until July 9, 2017. At the hearing on July 9, counsel for the applicant could not give this Commission information on whether the legislation to create an exception to the 100-foot rule, in this case, had even been filed and if it had been filed, what was the status of that legislation. The attorney for the City indicated his research showed no legislation had been filed to create an exception in this case.

The License Appeal Commission has extended all possible courtesies to Walgreens in this case. The fact still remains that this applicant is within 100 feet of a church and it is not eligible for a license.

The denial of the application of the Packaged Goods license for the Walgreens located at 4343 N. Kedzie is affirmed.

This is a final and appealable order.

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: August 1, 2017

Dennis M. Fleming
Chairman

Donald O'Connell
Member

Cynthia Cronin Cahill
Member