

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

HQ Beercade Pilsen LLC )  
d/b/a HQ Beercade Pilsen )  
Applicant (COP-IA) )  
for the premises located at )  
917 West 18<sup>th</sup> Street, 1<sup>st</sup> Floor )  
 ) Case No. 20 LA 02  
v. )  
 )  
Department of Business Affairs and Consumer Protection )  
Local Liquor Control Commission )  
Shannon Trotter, Commissioner )  
 )

**ORDER**

**DECISION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER BERG**

**HISTORY OF THE CASE**

HQ Beercade Pilsen LLC applied for a Conditional Consumption on Premises - Incidental Activity liquor license for the premises located at 917 West 18<sup>th</sup> Street, 1<sup>st</sup> Floor, Chicago, Illinois. After the application was processed by the Department of Business Affairs and Consumer Protection, Local Liquor Control Commissioner Shannon Trotter sent an initial denial letter to the Applicant on December 17, 2019, advising the Applicant the application was denied based on deleterious impact concerns by the community and the Alderman of the 25<sup>th</sup> Ward pursuant to Section 4-60-040(h) of the Chicago Municipal Code. The community and the Alderman feel the issuance of the license would lead to increased violations of law, public nuisance behavior, and a substantial increase in noise, litter, and vehicular congestion. This letter also advised the Applicant had 20 days from the date of denial to devise and submit a Plan of Operation that would provide reasonable assurance that the issuance of this license will not have a deleterious impact on the surrounding community.

On February 5, 2020, Commissioner Trotter sent the Applicant a Final Denial Letter based on deleterious impact concerns by the community and the Alderman of the 25<sup>th</sup> Ward. It noted that subsequent to the December 17, 2019 denial for the license, a Plan of Operation was submitted pursuant to 4-60-040 of the City of Chicago Municipal Code. The Plan of Operation was reviewed and disapproved because it did not provide reasonable assurance that the issuance of a liquor license will not have a deleterious impact on the surrounding community. The 25<sup>th</sup> Ward Alderman and the community object on health, safety, and welfare concerns as they feel the issuance of a liquor license at the Applicant's establishment will lead to increased violations of the law, noise, litter, and congestion. The Applicant was told that it had 20 days to appeal the decision of the Local Liquor Control Commission.

The Applicant filed a timely appeal with the License Appeal Commission on February 6, 2020. The matter proceeded to hearing on September 21, 22, and 28, 2020. The City was represented by Assistant Corporation Counsel Daniel Lim and the Applicant was represented by Dimitrios G. Christopoulos and Kevin O. Gerow of the Christopoulos Law Group, LLC.

## **RELEVANT ORDINANCES**

**4-60-040(h)** - ...the local liquor control commissioner shall deny an application if the applicant fails to satisfy the requirements of this chapter, and may deny an application for a city liquor dealer's license if the issuance of such license would tend to create a law enforcement problem, result in or add to an undue concentration of licenses, or have a deleterious impact on the health, safety or welfare of the community in which the licensed premises is to be located.

...In any case in which the local liquor control commissioner finds that an application must be denied under this paragraph, he shall notify the applicant of that finding and afford the applicant 20 days in which to submit a plan of operation, and the time for a final ruling on the application shall be stayed until 35 days after the period in which the plan may be submitted has expired. The plan may include conditions upon the applicant's operation of the premises that are useful or

necessary to mitigate a deleterious impact, including but not limited to providing security personnel, restricted hours of operation, providing outdoor lighting, the display of signs, providing trash pickup services, or any other reasonable restrictions on business practices...

#### **4-60-010 Definitions**

“Deleterious impact” means an adverse effect on the value of any property, an increased risk of violations of law, or a risk of a substantial increase in noise, litter, or vehicular congestion.

#### **ANALYSIS**

The application process of a liquor license in the City of Chicago is specifically set up in Section 4-60-040 of the Municipal Code. This section applies to all applicants and there is nothing in the Municipal Code that empowers individual Aldermen to impose other specific procedures for an applicant to follow to comport with the application process. The application process does allow for Alderman notification and allows for Aldermanic objection but the fact that an Alderman objects to or is in favor of a liquor license application is not the determinative factor in issuing a license. Evidence of an Aldermanic objection in cases in which an applicant has appealed a denial of a liquor license application to the License Appeal Commission may be probative of the issue in that case but it is not determinative.

The evidence in this case from Bryan Knipper is that the application process required under the Municipal Code was followed. After the process was complete, the Liquor Commissioner denied the application based on deleterious impact. This initial denial letter notified the Applicant of their right to submit a Plan of Operation. The Applicant submitted a 17 point Plan of Operation. After review of said Plan of Operation, Commissioner Trotter disapproved it because “it does not provide reasonable assurances that the issuance of a liquor license will not have a deleterious impact on the surrounding community.” While both the original denial and final denial mention

the Alderman and community objected, it is not those objections at issue in this case but Commissioner Trotter's denial of the license and/or disapproval of the Plan of Operation.

Since this case addresses the denial of a liquor license the jurisdiction of the License Appeal Commission is to determine de novo the propriety of the Commissioner's decisions. The determination of the License Appeal Commission is based solely on the evidence presented in the hearings before the License Appeal Commission.

The Chicago Municipal Code allows the Local Liquor Control Commissioner to deny a liquor license application if its issuance would have a deleterious impact on the health, safety, or welfare of the community in which the licensed premises is to be located. Section 4-60-010 of the Chicago Municipal Code states "Deleterious Impact" means an adverse impact on the value of any property, an increased risk of violations of the law, or a risk of a substantial increase in noise, litter, or vehicular congestion.

The first issue to be determined de novo by the License Appeal Commission is whether the City proved by a preponderance of the evidence that the issuance of this license to the applicant at this location would have a deleterious impact on the health, safety, or welfare of the community in which the licensed premises is located.

The first basis for a deleterious impact would be that issuance of this license would cause an adverse impact on the value of any property. The evidence presented on this issue was Mr. Richmond's opinion that property values would go down if this license was issued. This opinion

was based on general economic and market valuations and did not give any specific evidence on specific properties. These general assertions do not establish by a preponderance of the evidence that the license would cause an adverse impact on the value of any property. In addition, Mr. Richmond is not an innocent bystander or neutral appraiser in this case. His testimony on this issue is clearly clouded by his bias against the issuance of this license and his testimony was not credible.

The evidence in the record with respect to whether the issuance of this license would cause an increased risk of violations of the law is that then Commander of the 12<sup>th</sup> District, Stephen Chung, had no objection to the issuance of the Consumption on Premises license for the Applicant. He also noted a Plan of Operation would need to be implemented only if the Applicant sought a Public Place of Amusement License in the future. It should be emphasized Commander Chung did not feel any Plan of Operation was necessary for the issuance of this license. The Commander of the District in which the Applicant premises would be located would be the primary witness on the issue of law enforcement concerns. Since he had no objections to the issuance of the license, the City failed to prove by a preponderance of the evidence that its issuance would lead to an increased risk of violations of the law.

The final matter to be discussed is whether the issuance of this incidental license to the Applicant for this location would cause a deleterious impact by causing a risk of a substantial increase in noise, litter, or vehicular congestion.

The evidence presented by all of the city's witnesses focused on the present problems in the neighborhood. These problems include parking, litter, noise, public intoxication, and public urination. The initial source of these problems seems to be the patrons and the management of a bar called Simone's. It is relevant that evidence in the record is that these problems did not exist when Simone's initially opened but have developed over the years as management has become lax in policing its patrons. The secondary and additional source of these existing problems comes from the operation of Color Cocktail Factory. Patrons bring their own booze to sessions in the evening and are not monitored as they leave. This causes the existing problems. With the exception of Mr. Richmond and Mr. Colon, the City's witnesses on these present issues were credible. It can be noted that some of these City witnesses did not know that the Applicant planned to operate a restaurant. It should be further noted a common theme in the City's witnesses was an objection to any additional license. An undue concentration of liquor licenses may be a basis for denial of a license but that has not been alleged as a basis for denial in this case. The testimony of Mr. Richmond and Mr. Colon was not credible as both testified taking a picture in City's Group Exhibit 23. Their testimony on many issues mirrored each other to the point of suggesting collusion.

The issue on what will happen in the future is open to interpretation. The City seems to take the position that issuing any type of liquor license to any applicant would lead to the risk of substantial increase in noise, litter, and vehicular congestion. That is not what is set out in the application process of the Municipal Code.

What is relevant in this case in deciding this issue is the history of Mr. Jordan and the applicant in the operation of other liquor establishments. If an applicant for a liquor license has a bad history of operating previous liquor establishments that is competent evidence to consider in denying a license application. If an applicant presents with no history of liquor violations and no history of deleterious impact in the operation of other liquor establishments that is competent evidence that the issuance of this license to this applicant will not cause a deleterious impact. Alderman Lopez agreed with this position when he stated in his testimony the type of operation would affect deleterious impact.

The City presented no evidence that the Applicant had any license disciplinary history. It presented no evidence of license disciplinary history with respect to Sound Bar while Mr. Jordan managed. The City presented no evidence of complaints on the operation of the other liquor establishments from neighbors of the Institute location or the earlier Sheffield Avenue location or from the Bucktown restaurant. The City presented no evidence of any disciplinary problems in the operation of the liquor establishment in Nashville.

The testimony of Commander Case was direct and credible. Since he is retired from the Chicago Police Department he had no reason not to tell the truth about the operation of Sound Bar while Mr. Jordan was manager and the operation of the Institute Place establishment by Mr. Jordan as part owner. His opinion that the issuance of this license to this Applicant would not cause a deleterious impact was especially credible since he spent eight years in the 18<sup>th</sup> District addressing deleterious impact concerns on a daily basis. The fact that his letter of recommendation for the Applicant was the only such letter he had ever written is impactful.

Chireal Jordan's testimony on direct and rebuttal testimony was credible and consistent. His testimony on the steps the Applicant took to meet with the community and the Alderman are consistent with the emails in the record. His explanation on how to address possible issues with deleterious impact showed an understanding of possible problems and a plan to address any such problems.

The City has failed to prove by a preponderance of the evidence that the issuance of this license to this Applicant will cause a deleterious impact on the community due to a causing the risk of a substantial increase in noise, littering, and vehicular congestion.

## **RULING**

The denial of the Consumption on Premises – Incidental Activity liquor license application filed by HQ Beercade Pilsen, LLC for the premises located at 917 West 18<sup>th</sup> Street, 1<sup>st</sup> Floor, Chicago, IL 60608 is Reversed and the license shall issue.

## **SPECIAL CONCURRING OPINION OF COMMISSIONER GIBBONS**

After listening to all of the testimony, in this case, I am of the opinion that this owner/operator deserves a liquor license at this location. His deleterious effect will be minimal if at all at this location.

The self-appointed community organizer did not inform the residents of the type of operation the HQ Beercade will have, and any history of the Applicant's other city operations.



Few, if any residents nor the Alderman attended the only public CAPS meetings where the Applicants shared their business plans.

The Alderman claims to have a process for new liquor license applicants, but he has not clearly communicated his process to his staff and any applicants.

The witnesses presented by the Applicant were credible and convinced me that the operator would be a responsible liquor licensee.

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: October 6, 2020

Dennis M. Fleming  
Chairman

Thomas W. Gibbons  
Member

Cynthia A. Berg  
Member