

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

Casa Antigua, Inc.)
d/b/a Casa Antigua)
Applicant (COP-IA))
for the premises located at)
5814 West Fullerton Avenue) Case No. 10 LA 37
)
v.)
)
Department of Business Affairs and Consumer Protection)
Local Liquor Control Commission)
Gregory Steadman, Commissioner)

ORDER

OPINION OF CHAIRMAN FLEMING JOINED BY COMMISSIONERS SCHNORF AND O'CONNELL

Casa Antigua, Inc., applied for a Consumption on Premises – Incidental Activity liquor license for the premises located at 5814 W. Fullerton. The Local Liquor Control Commission denied this application based on its determination that the applicant knowingly filed false or incomplete information on its liquor license application in violation of the City of Chicago Municipal Code 4-60-030. The Local Liquor Control Commission asserted that the applicant stated its business activity as “Dine-in and Carry Out restaurant with incidental liquor consumption on the premises,” but the applicant was advertising as a special event venue available for rent to the public. It also felt the layout of the furniture was consistent with that of a banquet hall rather than a dine-in/carry out restaurant.

Althea Cotton has been employed at the Department of Business Affairs and Consumer Protection for twenty-four years and has been an assistant commissioner for fifteen years. She works in the hospitality unit with the responsibility of reviewing liquor

license applications. In that capacity, she reviewed this application. Those documents were those found on City's Exhibit 1, Tabs B through L, which were allowed in evidence without objection. She recommended to Gregory Steadman, the Local Liquor Control Commissioner, that the application be denied. The basis of her decision was that the layout in the photos did not fit the business activity set out in the application. Ms. Cotton referred to photos in evidence as Tab K of City's Exhibit 1 (this exhibit was also identified as City's Exhibit 3). These pictures were taken by a city investigator on April 20, 2010. Picture A shows a sign in Spanish advertising the establishment was available for rent for events. Picture C shows the size of the bar which seemed to Ms. Cotton to be very small for a 2,200 square foot restaurant, and it did not have sinks or shelving required for a bar. Pictures I, J and K are pictures of the kitchen which she felt were inadequate to serve the food on the menu. The kitchen looked more like a prep area. Pictures E and F show tables set up as a banquet hall. If Casa Antigua operated as a banquet hall there would be additional requirements from zoning and parking requirements that would have to be met. The proper business activity must be listed on the license application to determine the correct license to be issued. Ms. Cotton explained Mr. Steadman denied the license on July 2, 2010, because it did not appear to be a restaurant.

The City called Manuel Barrera as an adverse witness. He is the owner of the applicant corporation. He signed the liquor license application. He described Photo A, as a sign saying they book events like birthdays. The location was opened as a restaurant and still is a restaurant. That sign has been removed. The sign said Casa Antigua books

events. Photo H shows the layout of Casa Antigua in April, 2010, which includes a dance floor.

On clarification, Mr. Barrera stated he opened the location as a restaurant in May of 2009. It had been a restaurant before they took over its operation. They changed the layout to try to expand business and came to the idea of a liquor license. It was a restaurant all the time. After the investigation they changed all the tables. He identified Applicant's Exhibit 1, which shows the new table configuration composed of two top and four top tables. Applicant's Exhibit 2, is a picture of the sign at Casa Antigua as of July, 2010. The restaurant is currently open Monday through Friday. Applicant's Exhibit 3, is a copy of the restaurant menu from February, 2010.

The issue before this Commission is to determine de novo the propriety of the decision of the Local Liquor Control Commission denying this application. The sole basis for denial was that the applicant gave false or incomplete information on its liquor license application when it listed its business activity as "Dine-in and Carry Out restaurant with incidental liquor consumption on premises."

The City argues that the fact that a sign in a properly opened restaurant advertising its availability for rental for special events, as well as the type of tables in the restaurant, prove that a false statement was made about the purpose of the restaurant if an incidental liquor license was issued. The City has also argued that the decision of this Commission must be based on the facts it had in its possession on the date of denial.

This argument means that any evidence of a change in signs in the window or in the configuration of and the type of tables now on the premises are not material or relevant to this decision.

The issue is not whether the restaurant on April 20, 2010, had tables suggesting a banquet hall or had a sign in the window advertising its availability for events. Those facts are not disputed. The issue is whether those admitted facts prove the applicant made a false statement on its application. There is no such evidence in this record to affirm the denial of this license.

Ms. Cotton made her decision based on a review of pictures. She did not visit the site and did not talk about these matters with the applicant. She never testified that she felt there was a false statement on the application. She stated Mr. Steadman denied the license because it did not appear to be a restaurant. She never testified to a false statement as a basis for denial.

The applicant testified that he has been running the location as a restaurant. He testified that before his company took over the premises was a restaurant. He testified that premise will be a restaurant.

The fact that the applicant advertised for events does not automatically mean it is or will be a banquet hall. A restaurant can hold events without it being a banquet hall.

The decision of the Local Liquor Control Commission is reversed.

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: April 20, 2011

Dennis M. Fleming
Chairman

Stephen B. Schnorf
Member

Donald O'Connell
Member