

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

Darrin’s LLC )  
Darrin Sutton, President )  
Applicant (Tavern) )  
for the premises located at )  
1249 East 87<sup>th</sup> Street ) Case No. 12 LA 55  
)  
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

Darrin’s LLC applied for a tavern license for the premises located at 1249 East 87<sup>th</sup> Street. The Local Liquor Control Commission denied this application due to concern that issuing the license would create law enforcement problems. Specifically, this location had been the subject of several calls for service due to criminal activity at this current establishment. In addition, the 4<sup>th</sup> District Commander submitted an objection to the approval of the liquor license application due to the overall calls for service and violent crime in the area. The denial was based on Section 4-60-040 of the Chicago Municipal Code which states “The local liquor control commissioner...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.” The applicant filed a timely Notice of Appeal with this Commission.

Since this case deals with the denial of an application for a liquor license this Commission has the duty to review de novo the propriety of that denial. A summation of the relevant evidence will aid in understanding this decision.

Ruberscott Ruiz has been the Police Commander of the 4<sup>th</sup> District since March 2012. He is familiar with the establishment at 1249 E. 87<sup>th</sup> Street and that Darrin's LLC has filed for a tavern application at this address. He objected to the issuance of this license based on his experience as Commander of the 10<sup>th</sup> District. There was a big issue with taverns over there and over a year and a half they shot down and revoked licenses for seven different taverns. The problem is the crowd that some of the taverns attract. The issue is individuals coming over selling drugs and loitering. There have been issues in other liquor locations with shootings outside. His objection is based on his experience with taverns and how they have deteriorated a community and what it took to shut them down.

The Commander has had no professional or personal experience with 1249 East 87<sup>th</sup> Street and that block on 87<sup>th</sup> Street has not presented a law enforcement problem. He is aware the Alderman introduced an ordinance to lift the moratorium.

Darrin Sutton is the single member and President of Darrin's LLC who has applied for a tavern license at 1249 East 87<sup>th</sup> Street. He met with Alderman Michelle Harris about this property and she lifted the moratorium as of May 9, 2012. He attended CAPS meetings when he operated a liquor establishment. To his knowledge, there were no community objections to this application and no aldermanic objection. When he met with the Commander, the Commander

indicated he was denying all liquor applications in the precinct and there was nothing personal against the applicant. The Commander explained that based on his experience in the 10<sup>th</sup> District he did not want new licenses in the 4<sup>th</sup> District since his experience was that liquor establishments are trouble.

The applicant previously operated two packaged goods locations at 9041 S. Ashland and 8058 S. Racine. These liquor licenses were never suspended or revoked. He was fined for liquor violations and fined for ordinance violations. These violations involve food, tobacco, and price marking. City Exhibits 5 and 6 were admitted in evidence over the applicant's objection. Group 5 reflects a voluntary fine of \$1000 on April 22, 2010, for a sale to minor by Sutton Opare LLC at 8058 South Racine Avenue, and voluntary fines of \$500 and \$2500 for sales to minors by Sutton Liquor Corporation at 9041 South Ashland Avenue on November 14, 2007, and October 1, 2011. City's Group 6 consists of findings of liability against Sutton Opare for non-liquor ordinance violations from 2010 to 2012.

Willa Shegog-Neely is a member of the LLC that owns 10 ½ lots including the lot at 1249 East 87<sup>th</sup> Street. Her father in law and his brother purchased the property in the 80's and she and her husband bought in 2004. There was a lounge at the premises in 2004 which had been there since the 80's. That lounge did not cause a problem in the community.

Cases at Administrative Hearings do not need to have charges or allegations as detailed as cases brought in the Circuit Court of Cook County. Due process does require that an applicant be timely and adequately apprised of the reasons the application was denied. In this case, the

City notified the applicant its application was being denied based on law enforcement issues. The denial letter lists only the police commander's objection as a basis for the law enforcement denial. It did not list as a basis for the denial that other licensed establishments operated by Mr. Sutton have a disciplinary history of three sales to minors and a number of non-liquor related ordinance violations. Under the Vino Fino case, that type of history could have been alleged as a basis for the law enforcement denial.

Since the past disciplinary history of the applicant was not cited in the denial letter, it is the opinion of this Commissioner that evidence of past disciplinary history cannot be used as a reason to uphold the denial. This issue will be addressed later for purposes of judicial economy.

The issue before this Commission is whether the issuance of this tavern license at this location would tend to cause a law enforcement problem. The evidence needed to support such a finding must have some nexus to the applicant's premises. The fact that the Commander had problems with taverns in another district, in another assignment, and the fact that the Commander may be correct in his assessment that a tavern license tends to attract crowds and subsequent problems, is not sufficient to deny this tavern license at this location to this applicant.

In the event a reviewing court decides that the past disciplinary history of liquor establishments operated by Darrin Sutton is an issue in this case, it is the decision of this Commissioner that the disciplinary history in evidence in itself is not sufficient to affirm the denial of the tavern license.

The denial of the tavern license to Darrin's LLC for the premises located at 1249 E. 87<sup>th</sup> Street 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: July 16, 2013

Dennis M. Fleming  
Chairman

Donald O'Connell  
Member