

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

Dieppa, Inc.)
d/b/a Picosito Grill-Bar)
Applicant (COP-IA))
for the premises located at)
3553-3559 East 100th Street) Case No. 13 LA 47
)
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

Dieppa Inc.'s application for a Consumption on Premises – Incidental Activity license for the premises located at 3553-3559 East 100th Street, 1st Floor, was denied by the Local Liquor Control Commissioner. The basis for the denial was that the applicant's money lender Javier Navarro had been cited twice for Public Indecency at his business at 3500 W. 47th Street. These incidents led the Local Liquor Control Commissioner to determine that Javier Navarro was not the type of person to be entrusted as a Money Giver to the business. The applicant filed a timely Notice of Appeal with this Commission and the matter proceeded to a de novo hearing to determine the propriety of the denial on December 11, 2013 and December 19, 2013.

On the first hearing date, the City did not have its witness. City's Exhibit 1, which are the documents reviewed by the Local Liquor Control Commissioner were allowed in evidence

for that limited purpose, not for substantive evidence. In order to expedite the hearing, the witnesses for the applicant testified at the first hearing.

Joseph Montgomery, the owner of the applicant corporation and Javier Navarro both testified that Mr. Navarro lent Joseph Montgomery \$8,000.00. This \$8,000.00 was used by Mr. Montgomery to finance the purchase of this business. Both witnesses denied that Mr. Navarro had any ownership interest in the applicant business.

Evidence was presented by the City that the business located at 3500 West 47th Street operated by Mr. Navarro and known as Rendezvous, Inc. received a 14-day suspension in 10 LR 0103, for charges that included allowing an act in which the performer exposed her breasts and genitals. (City's Exhibit 2) City's Exhibit 4 established that in case 11 LR 97, the liquor license issued to Mr. Navarro for 3500 W. 47th Street was revoked for permitting adult entertainment at the licensed premises without proper registration. The revocation was affirmed by the License Appeal Commission.

City's Exhibit 6, in evidence, is a Voluntary Closing and Fine Agreement entered into between the Local Liquor Control Commission and Javier Navarro with respect to the licenses at 3500 W. 47th Street and specifically the liquor license at that address. That agreement in effect rescinded the revocation of the license and in its stead agreed upon a 30-day closing and a \$3,000.00 fine was imposed.

On the second date set for hearing, the City also did not produce a live witness to explain why this license should be denied.

The applicant has not argued that the reason listed for denying the application is not a reason for denial set out in either the Municipal Code of Chicago or in the State of Illinois Liquor Control Act. Since it was not raised at the hearing, this Commissioner will not address it in the decision.

There is not enough evidence in the record to prove by a preponderance of the evidence that Javier Navarro is the type of person who cannot be trusted to be a money lender to an applicant for a liquor license. It is illogical for the Liquor Control Commission to deny this license because Mr. Navarro is such a bad person at the same time it is rescinding a revocation of Mr. Navarro's own liquor license.

The denial of this Consumption on Premises – Incidental Activity license 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: January 21, 2014

Dennis M. Fleming
Chairman

Donald O'Connell
Member