

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

P and SD, Inc.)
d/b/a Rainbow Grocery)
Applicant (Change of Officers))
for the premises located at)
2003 West 69th Street) Case No. 10 LA 27
)
)
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

This case arises out of an appeal of the decision of the Local Liquor Control Commissioner denying the Change of Officer's application. This denial was based on his decision that the applicant did not provide the required number of petitions in support of lifting a moratorium. The numbers relied on by the Local Liquor Control Commissioner were that 88 signatures were required and that only 69 valid signatures were presented. The applicant filed a timely Notice of Appeal with this Commission.

The City Council has established certain procedures to allow a liquor license applicant to avoid the prohibition of liquor licenses in designated moratorium locations. These provisions allow for the lifting of the moratorium if the applicant presents signed petitions in support of lifting the moratorium from 51% of registered voters residing within 500 feet the premises.

Barbara Parker testified in the City's case. She is employed with the Department of Business Affairs and Consumer Protection as a Senior Business Consultant for five years. In that position it is her responsibility to assist clients who are seeking to obtain a business license. She is now aware that in October of 2009, P and SD Incorporated filed a Change of Officers application for the premises of 2003 W. 69th Street. This matter was actually handled by Florence Hardy who has left the department. There is a moratorium in place at this location which prohibits new packaged goods liquor licenses at that location. In this type of situation the applicant could submit their application and then receive instructions on how to secure signatures and the time limits for return of the moratorium application.

After it is determined the business is located in a moratorium area the applicant is given a list of voters located within 500 feet of the premises. That list is generated through the City's computer system. Parker identified City's Exhibit 1, in evidence, as the list of voters within 500 feet of 2003 W. 69th Street that was given to the applicant. It was issued on June 19, 2009. City's Exhibit 2, in evidence, was the Liquor Moratorium Petition submitted by the applicant. This form was reviewed by Ms. Hardy and another employee Sophia Carey. Ms. Carey is presently on maternity leave. Parker identified City's Exhibit 3, in evidence, as the Department's Analysis Form. It is used to calculate signatures and numbers from the actual petition signature form.

This form reflects that the list of registered voters, City's Exhibit 1, was given to the applicant on June 19, 2009. As part of this process all registered voters must be

notified by certified mail. This form lists August 19, 2009, as the date of the mailing of the certified mail notices. Applicants then have 60 days to collect signatures but this form shows signatures were done in 28 days from August 29 through September 22, 2009. This form then lists the total number of registered voters on City's Exhibit 1 was 467. Three names were deducted as being duplicates on the list which reduced that number to 464. Deducted from that number of 464 were 292 people that had moved or died. That number was calculated from an affidavit from the applicant combined with input from the Department. City's Exhibit 4, in evidence, is the affidavit provided to the City by the applicant listing people who had moved or died.

After deducting those 292 the form reflects a total of 172 voters within 500 feet. 51% of that number or 88 signatures were required to lift the moratorium.

Ms. Parker explained that the names marked in purple on City's Exhibit 1, are those who have moved according to the list supplied by the applicant. The ones marked in red are deceased. The signatures marked in black on page 9 were the duplicates. The City then took 51% of the number of remaining voters and determined 88 signatures were needed.

The applicant submitted 102 signatures on its petition. The City disapproved 33 signatures and approved 69 signatures. With respect to City's Exhibit 2 and the 33 disapproved signatures those marked in green were disapproved as illegible; those marked in red were disapproved as moved or fraudulent signatures; those in pink were

written over or crossed out, those in purple incomplete and those in blue were disapproved as not being listed on the voters list.

On cross Ms. Parker admitted she did not personally determine there was 1 illegible signature and she did not personally remove 24 signatures as being fraudulent or that the individuals had moved. She also did not personally remove 1 signature for white out. She also did not personally conclude there were a total of 33 unapproved signatures on the petition.

Parker indicated City's Exhibit 4 contains the affidavit of Yusif A. Jaber as to people no longer living at their addresses listed on City's Exhibit 1. The number she sees on this affidavit is 293 and she has no personal knowledge the number was actually 292. The date on the notary was December 20, 2009, and the dates on the actual petition were November 4, November 9 and September 21, 2009.

Yusif Jaber is President and Secretary of P and SD, Inc. He signed the affidavit portion of City's Exhibit 4, as to the veracity of the information on people who moved or died. The total number listed is 293. Jaber received this information from the circulators. This information was given to the Department of Business Affairs and Consumer Protection on December 20, 2009. His brother and a circulator obtained the signatures.

Akram Jaber is familiar with the Change of Officers application because his brother is purchasing the corporation. He was one of the circulators that obtained

signatures by walking door to door. Each of the persons on the petitions he circulated identified themselves as a registered voter and signed the petition in his presence. With respect to City's Exhibit 2, he collected the signatures listed on page 7, lines 2-6. They purport to be the signatures of Tyesha Green, Eva Green, Arthur Green, Shirley Green and Tenisha Green. Jabar agreed the signatures were similar but to the best of his knowledge five different people signed the petition. With respect to lines 8-12 on page 2 of City's Exhibit 2, the witness recalled collecting them but not specifically. Jabar did not state they looked like they were written by the same person. He assisted his brother make the list of deceased and moved voters by keeping another voter list while circulating petitions and marking moved or deceased or not home or come back later. Mr. Jabar admitted he is not a handwriting expert and he named the other circulator as Maurice Washington.

Shirley Green lived at 6836 S. Winchester on September 7, 2009. Some came to the door and she signed a petition. Other Greens are listed on the petition such as Trena, Eva, Tamesha and Arthur. They all lived at the address on September 7, 2009. She was told by them to sign the petition for them.

Maurice Washington was another circulator. His procedure was to go door to door off the walk sheet. When someone came to the door he would ask for the person on the walk sheet. Nine times out of ten he would ask for identification. He has 20 years of experience circulating petitions for people like Dorothy Brown, Danny K. Davis and

more. He was paid by the hour on this case. 102 total signatures were obtained and he obtained almost half.

The parties seem to agree in the process to be followed in this case with the exception over a dispute of whether there was a math error by the City in counting the number of voters who moved to 292 or 293. This issue is really not relevant to a decision in this case.

One issue that is material to this case is whether the names of voters stricken from the petition are included in the list of moved voters submitted by the petitioner. If the petitioner has sworn in affidavit that a certain voter no longer resides in the 500 feet area from the applicant premise and the City has reduced the number of signatures needed to lift the moratorium based on that affidavit, the petitioner should not then seek to use the signature of a “moved voter” to reach the needed goal of 51% of the voters.

In comparing names on the signed petitions to the list of voters who had moved the following names appear on both sets of documents:

1. Herman Clemons 2007 W. 68th Place
2. Patrice Clemons 2007 W. 68th Place
3. Paul Watson 6832 S. Winchester
4. James Funches 6914 S. Winchester
5. Alice Robinson 2043 W. 68th Place
6. Dina Jackson 2016 W. 69th Place
7. Barbara Hubbard 6927 S. Damen
8. Aaron Hubbard 6927 S. Damen
9. Shinnette Trimble 6927 S. Damen
10. Sidney Mills 2052 W. 69th Street
11. Diane White 6941 S. Damen
12. Derrick Hubbard 6941 S. Damen

13. Larketta Trimble 6927 S. Damen

These 13 names must be discounted from the 102 signatures presented which reduces the number of valid signatures to 89. This leaves a cushion of one signature before the issue of fraud is addressed.

The issue of whether a signature is fraudulent is often open to subjective interpretations of signatures by different people. That is not the case with at least some of the signatures stricken as fraudulent. As noted previously, Shirley Green testified that on September, 2009, she signed the names of Tyesha Green, Eva Green and Arthur Green on a petition in support of lifting the moratorium. Deducting those three signatures from the 89 signatures reduces the number of good signatures to 86.

If the required number of signatures was 51% of 172 that number would be rounded to 88. If the required number of signatures was 51% of 171 that would be rounded to 87. Under either scenario there are insufficient signatures without addressing other signatures removed by the City.

Four other signatures were removed from the petition on the basis they were not on the voter list of the voters within 500 feet of the proposed license. Feite Rudolph signed with an address of 6835 S. Winchester that appears to be outside the 500 foot circle. Ethel Williams with an address of 2047 W. 68th Place is not on the voter list. Antoinette Trumble with an address of 6932 S. Damen is not on the voter list. These

three signatures should clearly be deducted from the 86 which leaves 83 signatures. An argument could be made that the name of Stacy Stewart which was printed but not signed as Stacy Anderson should not have been removed since a Stacy Anita Anderson is listed on the voter list.

Since there are insufficient signatures on the petitions without needing to address the remaining signatures removed from the petitions this Commission will not address them. This should not be interpreted as saying the petitions are good signatures or bad signatures. Judicial economy suggests it is unnecessary to address those issues since a finding in favor of the petitioner would not change the fact it does not have enough valid signatures as the petition to lift the moratorium.

The decision of the Local Liquor Control Commission is affirmed.

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: November 24, 2010

Dennis M. Fleming
Chairman

Stephen B. Schnorf
Member

Donald O'Connell
Member