

**LICENSE APPEAL COMMISSION
CITY OF CHICAGO**

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|--|---|-------------------|
| Tarasca, Inc. |) | |
| d/b/a Don Carlos Restaurant |) | |
| Licensee/Suspension |) | |
| for the premises located at |) | Case No. 06 LA 15 |
| 1536-38 North Pulaski Road |) | |
| |) | |
| v. |) | |
| |) | |
| Department of Business Affairs & Licensing |) | |
| Local Liquor Control Commission |) | |
| Scott V. Bruner, Director |) | |

ORDER

OPINION OF CHAIRMAN CALABRESE AND COMMISSIONER ADAMS

The licensee appeals a 15-day Suspension of his City licenses as a result of a finding that he committed a battery of an insulting or provoking nature upon an employee.

The Local Liquor Control Commission after a hearing, found that the licensee forced unwanted physical attention upon his employee. As a result of the finding, they then suspended all of his licenses for 15 days. The majority believes that when the Local Liquor Control Commission believes such conduct to have been committed they have the right to discipline the license holder. While the employee, clearly has additional remedies, the availability of such remedies does not preclude the Local Liquor Control Commissioner from disciplining the conduct of the licensee. Here they have done just that.

We further believe that a 15-day Suspension of all his licenses is a very severe

punishment. This is especially so in light of the 25 year unblemished record of the licensee. While we might have found a lesser penalty, we do not have the power to modify a sanction imposed within the authority of the Local Liquor Control Commission. Such a modification is better left for the consideration of the Circuit Court. We affirm the finding of the Local Liquor Control Commission.

OPINION OF COMMISSIONER KOPPEL IN DISSENT

This matter comes before the License Appeal Commission on a decision by the Mayor's License Commission to issue a 15-day suspension for advances made by the licensee to one of his employees. This is a restaurant with a liquor license. The testimony indicated that the complainant coming to work was greeted by a big sign saying "I Love You". In addition, the owner repeatedly tried to kiss and hug her. She ran out of the premises and went to her brother's house. Later that night, she called the police and filed a report against the owner. She waited a week before she decided to charge him. She indicated that she would drop any charges for \$20,000. She waited nine hours to call the police. There were inconsistencies in her testimony. First, claiming that her breast was touched, but never disclosed that to the police.

The licensee has been in business for 25 years with no violations. He was never cited or charged by the police for battery or any other violation.

It seems to me that this does not come under a violation of a liquor violation. Again, the

police did not charge him with battery. The complainant was seeking to drop any charges for a substantial payment.

This so called action does not seem to be any violation of the liquor law. The alleged, improper touching of an employee by the owner (who was not charged by the police) seems to me to be a civil matter.

To close the place for 15 days predicated upon a non-liquor license violation and on someone who has been in business for 25 years seems improper. This is a civil matter and predicated on all these facts. The case should be reversed.

Irving J. Koppel
Commissioner

IT IS THEREFORE ORDERED AND ADJUDGED That the order Suspending the liquor

license of the appellant for FIFTEEN (15) days 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: February 28, 2007

Anthony J. Calabrese
Chairman

Don W. Adams
Commissioner