

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

Devera M. Glenn )  
Licensee/Revocation )  
for the premises located at )  
113 East 47<sup>th</sup> Street ) No. 10 LA 26  
)  
v. )  
)  
Department of Business Affairs and Consumer Protection )  
Local Liquor Control Commission )  
Gregory Steadman, Commissioner )

ORDER

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

The licensee received an Amended Notice of Hearing that pursuant to 235 ILCS 5/7-5 and Title 4, Chapter 4, Section 280 of the Municipal Code of Chicago a hearing was to be held in connection with disciplinary proceedings regarding the City of Chicago liquor license and all other licenses for the premises at 113 E. 47<sup>th</sup> Street, Chicago, Illinois. This amended notice charged:

1. That since August 10, 2009, the licensee has not been the beneficial owner of the licensed business and is therefore ineligible to hold a City of Chicago Retail Liquor license pursuant to 235 ILCS 5/6-2 (15).
2. That since August 10, 2009, the licensee has not been the beneficial owner of the licensed business and is therefore ineligible to hold a City of Chicago Retail Liquor license pursuant to the Municipal Code of Chicago 4-60-030 (r).

A hearing was held at the Local Liquor Control Commission on May 4, 2010, before Deputy Hearing Commissioner Robert Nolan. The City was represented by Assistant Corporation Counsel Maggie Shiels and the Licensee was represented by attorney Thomas J. Murphy. The Deputy Hearing Commissioner entered Findings of

Fact that since August 10, 2009, the licensee has not been the beneficial owner of the licensed business and is ineligible to hold a City of Chicago Retail Liquor license pursuant to 235 ILCS 5/6-2 (15) and Section 4-60-030 (r) of the Chicago Municipal Code. He further found by operation of law, 235 ILCS 5/6-1 the license issued to Devera Glenn ceased and since more than six months has expired since the death of Devera Glenn, all operations at this establishment are unlicensed and must cease. The licensee filed a timely Notice of Appeal with this Commission. A review of relevant evidence will be helpful to this determination.

Shawn Burnett-Whitaker testified she was the Deputy Commissioner of Business Affairs and Consumer Protection with the duty of overseeing the disciplinary process for licensees. She checked the data base of the City of Chicago and learned a tavern license was issued in the name of Devera Glenn for the premises of 113 E. 47<sup>th</sup> Street. The license expires April 15, 2011.

City's Exhibit 3 was allowed in evidence by agreement. It is a certified copy of the death certificate of Devera Glenn showing a date of death of August 10, 2009.

The licensee's Motion to Dismiss at the end of the City's case was taken under advisement.

Sandra Bronson-Griffin testified she is the manager of the 113 Club located at 113 E. 47<sup>th</sup> Street, Chicago, Illinois. She identified Licensee's Group Exhibit 6, in

evidence, as her manager's statement and a copy of her Basset Training certificate. She has worked in the beverage business for 40 years and started at the 113 Club in May of 2009. She was to take over the business from Ms. Glenn but Ms. Glenn passed away before they could complete the process.

By agreement Licensee's Group Exhibit 5 was allowed in evidence. Those include Letters of Office from the Probate Court of Cook County appointing Linda Langhart Independent Administrator of the Estate of Devera M. Glenn and a Petition for Letters of Administration signed by Ms. Langhart.

Ms. Bronson-Griffin also testified to additional steps she has taken to obtain a new liquor license including forming a corporation and applying for a special use with the Zoning Board of Appeals.

235 ILCS 5/6-2 (15) states no license of any kind issued by the State Commission shall be issued to a person who is not the beneficial owner of the business to be operated by the licensee. The Municipal Code of Chicago in 4-60-030 (r) bars the issuance of a license for the sale of alcoholic liquor to a person who is not the beneficial owner of the business to be operated by the licensee. 235 ILCS 5/6-1 states in relevant part that a license shall be purely a personal privilege and such license shall not descend by the laws of testate or intestate devolution but it will cease upon the death of the licensee. It does allow executors or administrators of the estate of a deceased licensee to obtain a court order to operate the business but for no longer than six months after death.

The record in this case contains an order from Judge James Kennedy of the Probate Court of Cook County allowing the Estate of Devera Glenn to continue to operate this tavern on license 24077 through February 3, 2010.

While the result in this case and similar such cases may seem harsh the fact is that this Commission does not have the power to determine if equity and fairness require that the location continue to operate until a new license is issued. This Commission can only rule in this case whether the findings are supported by substantial evidence in light of the whole record. There is no dispute as to the facts Ms. Glenn held the license as in individual. She passed away on August 10, 2009, and by court order this license remained valid until February 3, 2010.

The decision of the Local Liquor Control Commission is upheld.

IT IS THEREFORE ORDERED AND ADJUDGED that the order revoking the liquor license of the APPELLANT 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: June 2, 2011

Dennis M. Fleming  
Chairman

Stephen B. Schnorf  
Member

Donald O'Connell  
Member