

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

2256 Club, Inc. )  
d/b/a El Camino )  
Licensee/Revocation )  
for the premises located at ) Case No. 11 LA 25  
2256 South Albany )  
)  
vs. )  
)  
Department of Business Affairs and Consumer Protection )  
Local Liquor Control Commission )  
Gregory Steadman, Commissioner )

ORDER

DECISION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER O'CONNELL

The licensee received notice that pursuant to 235 ILCS 5/7-5 and 4-4-280 of the Chicago Municipal Code, a hearing was to be held in connection with disciplinary proceedings regarding the City of Chicago Retail Liquor License issued to it for the premises located at 2256 S. Albany, Chicago, Illinois. The charges against the licensee were:

1. That on or about December 11, 2009, the licensee corporation was involuntarily dissolved and the licensee ineligible to hold a City of Chicago Retail Liquor License pursuant to Title 4, Chapter 60, Section 030(l) of the Municipal Code of Chicago.
2. That on or about December 11, 2009, the licensee corporation was involuntarily dissolved and the licensee is therefore ineligible to hold a City of Chicago Retail Liquor License pursuant to 235 ILCS 5/6-2 (a)(10a).
3. That the licensee corporation failed to notify in writing the Director of Revenue of the City of Chicago of the addition of a manager to the licensed premises within ten (10) days of the effective date of such change, in violation of Title 4, Chapter 60, Section 040(k) of the Municipal Code of Chicago.

4. That on or about August 17, 2010, the licensee, after reasonable notice, failed to make books and records available during an investigation, in violation of 235 ILCS 5/6-10.

This matter proceeded to hearing before Deputy Hearing Commissioner Raymond J. Prosser on February 11, 2011, March 24, 2011, and April 28, 2011. Assistant Corporation Counsel Rachel Berger represented the City, and attorney John Mraibie of the Law Offices of Akram Zanayed and Associates represented the licensee.

Deputy Hearing Officer Prosser entered Findings of Fact that the City proved by a preponderance of the evidence Charges 1 through 3, but did not prove that Charge 4 was sustained. He further found revocation to be the proper penalty on each of the Charges 1, 2, and 3. Gregory Steadman, as the Local Liquor Control Commissioner, and Norma Reyes, as Commissioner of the Department of Business Affairs and Consumer Protection adopted the Findings of Fact of the Deputy Hearing Commissioner as those of the Department of Business Affairs and Consumer Protection. The licensee filed a timely Notice of Appeal with this Commission.

With respect to Charges 1 and 2, City's Exhibit 5 was allowed in evidence without objection. It is a certified document that the 2256 Club, Inc., was involuntarily dissolved by the Secretary of State's Office on December 11, 2009. Title 4, Chapter 60, Section 030(l) of the Chicago Municipal Code and 235 ILCS 5/6-2 (a)(10a) require corporate licensee to be in good standing. Since the corporation was involuntarily dissolved on December 11, 2009, the corporation was not in good standing and could not

hold a City of Chicago or State of Illinois license. The findings that the City met its burden of proof in Charges 1 and 2 are supported by substantial evidence in light of the whole record.

With respect to Charge 3, there was a stipulation between the parties that a manager's statement under Title 4, Chapter 60, Section 040(k) was never filed by the licensee corporation. There was no stipulation that a manager's statement was required, as there was no stipulation that a manager was on the premises or that a manager had been hired. This section requires that any change in the information required to be provided by 4-60-040(b) must be reported to the Department of Business Affairs and Consumer Protection within ten days of the change.

It is the position of the licensee corporation that there is not substantial evidence in the record as a whole to prove a manager was ever hired or on the premises. That would nullify any reporting requirement.

Mr. Rafael Pereda testified his father Rafael Pereda, Sr., was the president of the licensee corporation. After his father passed away on February 7, 2007, he was appointed executor of his father's estate. He identified Licensee's Exhibit 1, as a court order dated September 29, 2008, and signed by Judge James Kennedy the right to continue operating the corporation until such time or the City of Chicago approves the change of officer application. Mr. Pereda stated has been running the business since that date.

This evidence is sufficient for the City to have met its burden that there is substantial evidence in the record as a whole that Rafael Pereda was acting as a manager of the licensee corporation since at least September 29, 2008. That evidence combined with stipulation that no manager's statement was ever filed is sufficient evidence to affirm the Finding of Fact on Count 3. If a reviewing court were to feel otherwise, the affirming of the Findings of Fact on Counts 1 and 2 are sufficient to serve as the bases for revocation.

The decision of the Department of Business Affairs and Consumer Protection and the Local Liquor Control Commission is affirmed. The liquor license issued to the 2256 Club, Inc., is revoked.

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: March 1, 2012

Dennis M. Fleming  
Chairman

Donald O'Connell  
Member