

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

West Lakeview Liquors, Inc.)
Applicant (Expansion of Packaged Goods))
for the premises located at)
2154-2156 West Addison Street) Case No. 12 LA 31
)
v.)
)
Local Liquor Control Commission)
Department of Business Affairs and Consumer Protection)
Gregory Steadman, Commissioner)

ORDER

DECISION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER O'CONNELL

West Lakeview Liquors, Inc. applied for a business license expansion for the premises located at 2154-56 West Addison Street. This application was denied by the Local Liquor Control Commissioner based on his determination that the issuance of the expansion would have a deleterious impact on the health, safety, and welfare of the surrounding community. The issues raised in the community responses included parking problems, safety concerns for pedestrians, noise, public intoxication, and unruly behavior for patrons of the establishment. Section 4-60-040 of the Chicago Municipal Code defines deleterious impact as:

Having an adverse effect on the value of any property,
an increased risk of violations of the law, or a risk of
a substantial increase in noise, litter, or vehicular congestion.”

The applicant filed a timely appeal of this denial with the License Appeal Commission.

Since this case deals with a denial of a license, the issue before the Commission is to try the matter of the propriety of the denial de novo.

A synopsis of the testimony and exhibits in the record will help one understand the reasons for the decision.

Both sides presented a number of secondary witnesses in support of their respective positions. There is no need to analyze their testimony as it was brief and dealt only with whether they supported or opposed this expansion. These witnesses did not address the issue of whether the issuance of this expansion would cause a deleterious impact on the health, safety, and welfare of the community.

Sean Babiarz has owned 2141 W. Addison since 2010, and moved in officially in August of 2012. His home is directly across the street and five houses east of West Lakeview Liquors at 2156 W. Addison. He personally has experienced problems he attributes to this liquor store when he caught people urinating, puking, and making loud noise after a West Lakeview party in the fall of 2012. The tenants he had at the building from 2010 to 2011 complained of noise one to three times a month mainly in the summer.

The store presently impacts parking as he sees people taking up spots on Addison to go into the store. He was not aware if the store had its own parking spaces. He opposes the expansion because it would ruin the dynamics of the family oriented neighborhood. He did not buy his property because there was going to be a big liquor store. Roscoe Tap and the original liquor store are small, but an expansion could impact his property values. The expanded liquor store could bring in people who would be eyeing his property. In the fall of 2012, there was a mini pub crawl that started at the liquor store and went across the street to the bar. The witness

was not aware of any other parties that occurred at West Lakeview Liquors. He did sign a letter and sent it to the Local Liquor Control Commissioner but he did not write the letter. He reviewed the letter and signed it since it referenced his view point. He has no personal knowledge whether the statement in his letter that parties had been held at the store for ten years was true. He has no expertise with respect to appraising property values. He is aware that the Chicago Zoning Board of Appeals concluded that the expansion would not negatively impact property values in the area, but he disagrees with that conclusion. He was not aware that the applicant, Ms. Bozic had committed to not expanding her liquor inventory by more than 10% but that would not change his position. His opinion would not change if he became aware that the store had a parking lot for customers. He does not know the total footage of Ms. Bozic's storefronts. He feels the liquor store is sufficient as it is. He does not know where the problems, complained of by his previous tenants, emanated from. The problems he experienced did peak in the summer and could have emanated from Wrigley Field except for the people urinating in the gangway that came from the party at the liquor store. That happened early in the morning at 8:00 or 9:00. There was a line outside the liquor store and then they were coming out of the bar. He does not know exactly if Ms. Bozic was related to this group of people who were walking by his house. He has never called the police with regard to any activities at West Lakeview Liquors.

Sophia Carey is a Business Consultant Supervisor with the City of Chicago's Department of Business Affairs and Consumer Protection. She works with Gregory Steadman, the Local Liquor Control Commissioner, and testified in this case on his behalf. She assists Mr. Steadman in reviewing liquor license applications and is familiar with the procedures for reviewing

applications for expanding liquor operations. A request to expand can be denied for the same reasons as a new liquor license application. She is familiar with an expansion. The expansion application for West Lakeview Liquors, Inc., is identified as City's Exhibit 1, in evidence, as the documents reviewed by the Local Liquor Control Commissioner prior to making his decision. As part of the application process, the Local Liquor Control Commissioner solicits input from community members. In response, the Local received about 40 letters. She personally reviewed the letters and then recommended the application be denied because of the high number of letters and the specific concerns listed in the letters. These letters did not object to the expansion because one did not like liquor in general, but they had specific points about why they were concerned with the particular liquor license expanding. The application was denied for deleterious impact on June 17, 2012. The residents were concerned that expanding the location would affect the value of their property. There was increased risk of violations of the law, risk of increased noise, liquor, traffic congestion, and would impact the quality of life in the neighborhood. Tab B of City's Exhibit 1, are true and correct copies of the letters opposing the expansion. Tab E contains various drafts of Plans of Operation. The parties did not agree on the details of a Plan of Operation. Tab F of City's Exhibit 1, contains the FINAL DENIAL letter dated February 13, 2013.

In order to attempt to clarify the record, City's Exhibits 2, 3, 4, and 5 were identified as proposed Agreed Liquor License Plan of Operations. The parties agreed that City's Exhibit 5 was the first draft composed by the applicant, 2 was next and was drafted by the Local, three was then drafted by the applicant, and 4 was drafted by the Local in conjunction with the Corporation Counsel's office.

The final denial letter lists the reasons the applicant's proposed Plan of Operation was not acceptable was that it failed to provide assurances to the community that the rear yard of the premises would not be used for outdoor parties and events; that there was no mechanism in place to address how the expansion would not adversely affect residential property values; that there was no mechanism in place to assure how to prevent patrons from using drugs and urinating in the neighbors yards; and no commitment to reasonable business hours.

Those concerns were raised in the 40 letters of objection in the record as City's Exhibit 1(d). These letters were form letters and Ms. Carey did not know the author of the form letter. She did not personally check to ascertain the veracity of the signatures and addresses of the people who signed and sent in those letters. She cannot say if anyone else from the Local checked the veracity of these signatures. She did not personally investigate any of the allegations contained in the letters and does not know if anyone else at the department did an investigation. She admitted she took the letters at face value. She did not recall if she knew that West Lakeview Inc. had sought and obtained a special use from the City's Zoning Board of Appeals. The investigation found no evidence of any illegal activity in Ms. Bozic's background, or any other disqualifying factors. The sole basis for denial was deleterious impact.

Petra McKewin owns and has lived in a townhouse at 3606 N. Leavitt for thirteen years. She has an eight year old son living with her. The neighborhood is family-based and is primarily home owners as opposed to renters. She is familiar with the liquor store at 2156 W. Addison. She attributes traffic problems to this store because the customers park on Leavitt which makes these spaces unavailable for residents coming home from work in the rush hour period. People

picking up or dropping off children need to drive up the street to find parking. She sees beer cans on the front yard on a weekly basis; this is less in winter and more in the summer. She believes the beer cans come from West Lakeview because there are no other locations nearby that sell beers in cans.

The witness has been at home when the liquor store hosts parties in its backyard. This happens twice a year in the backyard and they have less noticeable parties in the store in the winter time.

The witness opposes the expansion application. She sent a letter drafted by Judge Ford to the Local Liquor Control Commissioner expressing her objections. She is concerned about increased traffic from customers and delivery trucks, and increase in litter. She is also concerned people might not want to buy a property next to a large liquor store. She did attend one of the backyard parties about 13 years ago when she had just moved in. She was not yet married and had no children. She did not pay money to get into that event.

Nicholas Ford has lived at 3614 N. Leavitt since 1998 or 1999. This neighborhood is primarily residential. West Lakeview Liquors is about 150 feet away from his home and is a kiddie corner from the property and the rear of the location. There is a grocery store next door to the liquor store which he has not patronized for a while. He knows the owner of the liquor store, Kristina Bozic. He has experienced problems in the neighborhood that he attributes to the liquor store arising from a series of parties held in the rear yard behind the liquor store in which beer distributors came into the rear yard and sold all you can drink tickets for \$30.00. That party was

a celebration of the Belgian beer holiday. That party was in the first part of December following a meeting with the Alderman when Ms. Bozic said she would no longer have parties. This party could have been in December of 2011, and this year it was across the street in a bar but there was a line of people down the street. The witness's wife was told that the tickets were \$30.00. This was the first mercantile party. The previous parties were social engagements with beer and wine but there was no admission charge. The other parties also caused problems because there were no bathroom facilities except in the rear of the store. He caught men and women urinating in the alley and observed people leave the party, smoke marijuana in his gangway, and then return to the party. The parties started becoming a problem over the last five years. They last sometimes between midnight and 2:00 a.m. Other than the parties, Judge Ford attributes parking problems and littering problems to the liquor store. He found empty beer cans in his yard and his neighbor's yard. The parking and litter problems have gotten worse over the last five years. The cans or bottles are from high-end 16-ounce Belgian beer. Consumption starts as soon as they walk out of the store.

The witness opposes the expansion. His biggest concern is that Ms. Bozic cannot be trusted to place any restrictions on herself because she had a backyard party after agreeing at a meeting with the Alderman in the Addison Community Church basement in August of 2011 that she would not have any more backyard parties. That party was the one where the \$30 was charged for the Belgian beer. He sent letters opposing the expansion to the Mayor, the Commissioner of the Department of Business Affairs and Consumer Protection, and the Local Liquor Control Commissioner. He sent a letter, City's Exhibit 1D, to his neighbors as well.

He also drafted an objection letter that neighbors could submit to the Local Liquor Control Commission under their own signatures.

With respect to crime in and around the store referenced in his letter to the Mayor, he was referring to a number of garage burglaries and an incident where Ms. Bozic's tires were slashed. The store sold one liters and sorts of items used to conceal marijuana when using rolling papers.

The witness admitted it is legal to sell one liters and that his objection is what the sale of those items bring into the neighborhood. He is aware that people use marijuana in the store. He is not aware if Ms. Bozic has ever been charged with any criminal activity or any type of license violation. He did notify the police the night of the Belgian beer party but did not see them respond. He also emailed the Alderman.

On further questioning, the witness was not certain about whether the Belgian party was in December, but sometime after the meeting at the church Ms. Bozic had a party at which admission was charged. That party did not take place at the Roscoe Village Pub, it was in the backyard. It was after a meeting with the Alderman and it was two or three years ago. The witness did not attend but his wife was told the cost to enter the party was \$30.00. He observed 200 people in the rear yard drinking beer in the backyard of the liquor store. He and his wife had attended previous backyard daytime parties for two or three years. At a point, the parties changed and admission was charged and the party in question lasted until midnight to 2:00 in the morning.

In his letter to his neighbors, the witness stated Ms. Bozic planned to double the size of her liquor store. He denied knowing Ms. Bozic promised to not increase her liquor inventory by more than 10%, but he would not have believed that statement since he finds Ms. Bozic not to be credible. He did admit he has no basis to assert that Ms. Bozic was involved in any of the crimes in the neighborhood and no basis to assert her employees were involved in the garage burglaries. He has no basis to say the burglaries have anything to do with the sales of alcohol at West Lakeview.

William Pareya is the Pastor of the Addison Street Community Church located at 2312 W. Addison. He is familiar with the applicant's stores which are located across the street. He met Kristina Bozic in 2012, and is aware of her desire to expand her liquor license to consolidate the two stores. He identified Licensee's Exhibit 3, as a letter of support he sent to the Local Liquor Control Commission.

He has not experienced any parking problems, trash problems, or crime problems that he would attribute to Lakeview Liquors. He has no concerns with respect to property values. His congregation has not expressed any concerns or objections about how Ms. Bozic operates her business. He does not believe the expansion would have a deleterious impact in the area. He became Pastor in November of 2012. He does not own property in the neighborhood and does not live at the church. He has not been a regular in the neighborhood until November of 2012. He has not seen alcohol related litter or garbage in the area.

Matthew Johnson has lived next door to West Lakeview Liquors for eight years at 2152 W. Addison. He lives with his wife and brother. He meets Kristina Bozic almost daily and he considers them good friends. The friendship is based on a common interest in the neighborhood and both of them are beer geeks which means an appreciation for the nuances of good beer. The interior of the liquor store has sections for wine, beer, and spirits. Ms. Bozic is kind to everybody and knows most of the neighbors by name. He has never experienced any parking or traffic congestion attributable to West Lakeview Liquors. Parking is fine even on game days.

He has not seen double parking on Addison but has seen cars park at the bus stop with flashers on. He has seen litter but does not attribute it to West Lakeview Liquors. Addison is a main street and he, his wife, and Kristina are out there grabbing it daily. Belgian beer does not come in cases and he has not seen empty bottles of Belgian beer strewn around the neighborhood. He has never seen a customer or employee of West Lakeview Liquors urinating on the public right of way or the alley. There has not been a pub crawl in the liquor store and none of the liquor store's customers have ever disturbed his quiet enjoyment of his home. He feels property values increased when Kristina opened the grocery store in the area where a mailbox et cetera had been located. He is familiar with the backyard and has attended "personal parties" in the backyard. He was not charged money to attend. These parties ended about dusk, they did not last until midnight or 2:00 a.m. He feels Ms. Bozic should be allowed to expand because it would make it a perfect corner store in a slow, sleepy, residential area. His hours of work are such that he would be parking his car around rush hour. He does vaguely recall Ms. Bozic stating she would increase her liquor by 10%. He does not remember the neighbors at the meeting at the church complain about outdoor parties and he did not remember Ms. Bozic

promising not to have any more outside parties. The last backyard party he attended was in October of 2011. It was an Oktoberfest party and Ms. Bozic's dad roasted a pig. There were maybe a hundred people and there was no charge for anything. He has attended three backyard parties in total. Two were for Oktoberfest and one was a Belgian Beer Party. He never paid to get into these parties but he brought beer he purchased at West Lakeview Liquors as a courtesy. The litter he has seen are Miller Lite bottles in the parkway which he attributes to someone walking or driving by and throwing a bottle.

As indicated earlier, the licensee presented a number of secondary witnesses in favor of the expansion. Their testimony is noted but will not be summarized in this decision.

Fhirin Nevin is a licensed and certified accountant and Kristina Bozic is her client. She provides tax returns and bookkeeping services for her businesses and also does her personal tax returns. They have discussed consolidating her two businesses since it would make sense to do so from a tax and bookkeeping perspective.

Kyung Gsook Lee owns a dry cleaners at 2201 West Addison across the street from West Lakeview Liquors. She and her mother have operated the business for thirty years. She has known Kristina Bozic almost ten years. She has been a customer at West Lakeview and found the interior to be clean. They always pick up the garbage on the sidewalk and backyard. She has never seen any of Ms. Bozic's customers behave in an unlawful manner such as urinating on the public right of way. She has not experienced any crime in the neighborhood she would attribute to the operation of the liquor store. She is in favor of the expansion. She wrote a letter in favor

of the expansion and gave it to Kristina to deliver. Her store is not open at night as it closes at 7:00 p.m. Monday through Friday, and at 5:00 p.m. on Saturdays. She has seen backyard parties maybe twice a year.

John Lechanski lives directly behind West Lakeview Liquors at 3615 North Leavitt and he has views of the backyard area. He was in the military for seven years and served in Afghanistan and Iraq twice. He is getting a master's degree from Northwestern. He has been a customer at West Lakeview two or three times a month the two years he has lived on Leavitt to buy the high class beer carried in that store. Ms. Bozic is very friendly, warm, and welcoming. She is always watering her plants or cleaning up to make sure everything is clean. He has never experienced any parking or traffic congestion, or any crime related issues that he would attribute to West Lakeview Liquors or its customers. He has never seen any of the customers engaging in unruly behavior. He attended a backyard party in or about October, 2011, at the invitation of Matt Johnson. The party was for a special limited edition Szwanze beer. He was not charged an admission to the party and he did not have to purchase alcohol or other items from Ms. Bozic to attend the party. He has not seen any other party in the backyard since October of 2011. He is in favor of the expansion to consolidate the two businesses. He has not noticed any alcohol related litter in the neighborhood like cans or bottles.

Jennifer Watson lives in Riverdale but spends the bulk of her time at 2152 W. Addison. She is currently dating Ben Johnson, who lives there, and she is planning to move to that address. She is currently there three to four days a week. She met Kristina Bozic four years ago and has a very friendly relationship. Ms. Bozic is very inviting and friendly. She is also very helpful when

you go into the store. The witness was invited and attended the Szwanze party in the backyard in October of 2011. She was invited to try some rare beers and was present from 4 or 5 in the afternoon until dusk at 7 or 8 o'clock. She was not charged any admission fee for the party and tickets were not being issued for the store. She was not required to purchase any product from Ms. Bozics's store to attend the party. It was a gathering of friends and neighbors. She is in favor of the expansion because Kristina Bozic is a good owner that attracts a higher clientele. She has never seen any traffic or parking congestion or seen any type of criminal activity that she would attribute to the operation of West Lakeview Liquors. She was in attendance at a meeting in 2011 in the church basement and could not recall if Ms. Bozic said she would not have any more backyard parties. She believes the backyard party she attended was before the meeting at the church. She has seen beer cans and bottles in the area in the summer during Cubs games but she does not attribute it to the store. She believes the litter is from people drinking on the way to Wrigley.

Gregory Jol was the brewmeister for Goose Island from 1991 through 2011. He lives about four blocks away from West Lakeview Liquors and has a personal relationship with Kristina Bozic. He described the reputation of West Lakeview Liquors as being the premiere independent off-premise beer store in the time zone. This is where people in the industry want to do tastings. It carries the most high end, the most rare, and the most scarce product. Large commercial brands like Bud Light or Natty Light are available but you have to scrounge around to find them. He has noticed some alcohol related litter in the area but no more than in the general north side of Chicago. He has attended four of five backyard parties over the last ten years. He has never attended a party where any sort of admission was charged and has never

been required to purchase tickets. He was not in town and did not attend the Szwanz party. Szwanz is a Belgian beer which is made by a family owned brewery called Cantillon. This brewery chose West Lakeview Liquors to feature this special single release because that is where real beer aficionados choose to get this beer.

David Nichols has lived at 3621 N. Hamilton for 13 years. That address is one block east and slightly north of the liquor store. He lives there with his wife and three small children. He has known Kristina Bozic for thirteen years. He met her initially as a customer and he remains a frequent customer a couple of times a week. He is in support of the expansion and sent a letter of support to Mr. Steadman, the Local Liquor Control Commissioner. He has had the chance to observe Ms. Bozic's professional demeanor over the last 13 years and he finds her to be a great store owner and provider. It is a great asset to the community. He has never witnesses any residential parking or traffic congestion problems, litter, or crime related issues he would attribute to the operation of West Lakeview Liquors. He feels the expansion would have a positive effect on his property value as it would provide goods he buys by walking to a store. He has attended many backyard parties. Some were open and some were by invitation. He attended the Szwanz party in October of 2011 with forty or fifty others. He was not required to pay a cover to attend this meeting and has never been required to pay any type of cover to any party. No admission tickets were issued and one was not required to purchase alcoholic beverages to be allowed to the party. He finds the area of the liquor store is a pretty clean area. The staff is cognizant of sweeping and keeping the sidewalks and back alleys clean.

Kristina Bozic has owned West Lakeview Liquors at 2156 W. Addison and A & L Grocery at 2154 W. Addison for ten years and five, six, or seven years respectively. Her father bought the building in 1986 and the family has operated the liquor store since 1988. She started working the liquor store ten years ago with the intent to clean it up and sell it. She started to enjoy what she was doing and when she met the producers of her products she liked it even more. She meets with these producers at her store or through international travel. She has gained a good deal of knowledge about various styles of beer, wine, and spirits. She regards herself as an industry expert. She does research on the products she stocks and looks to stock smaller producers of craft products. She has received an award from Rate Beer organization as one of the top beer retail stores in the world for the last six years. She decorates the exterior of the store on a regular basis depending on the season. She plants flowers every spring. She hangs no more than two neon signs facing Addison. West Lakeview Liquors is successful, but A & L Grocery does okay. She has lent A & L Grocery money to keep it afloat. The problem she faces is that customers of the liquor store are reluctant to purchase liquor and then make a separate purchase in the grocery store. She presently needs to keep two sets of books which have increased her costs.

When she decided to try to combine these two businesses, she needed to obtain an expert opinion on what the effect of this expansion would have on the property values in the surrounding areas. This was needed to obtain a special use approval from Zoning. The report from LaSalle Appraisal Group found the expansion would have no impact on property values. The decision from the Zoning Board of Appeals was favorable. As part of that process, she attended a meeting at the Addison Community Church basement in summer or fall of 2011.

The Alderman was present at that meeting. No one told her to stop selling tickets to parties in the backyard or to stop having all-you-can-drink beer parties in her backyard. Only Nick Ford accused her having such parties. She has never engaged in any of that type of activity. She never committed that she would cease using the backyard for any type of gathering.

The last time she had a party in the backyard of West Lakeview Liquors was in the fall of 2011. Prior to 2011, there would be a family pig roast in the backyard usually around German Oktoberfest. These would be for family and friends. On occasion, she would invite friends to share a rare beer she had received. She has never issued any type of ticket for admission to a backyard party; has advertised that she was having a backyard party; has never allowed a stranger to a backyard party; and has never required attendees at a backyard party to purchase something as a condition to go to the party. If granted this expansion, she has no plans to start doing any of those activities.

Szwanze is a rare and exclusive beer made by the Brasserie Cantillon brewery in Brussels, Belgium. It is a very small operation run by a family with whom she has developed a relationship. She was invited to participate in Szwanze day in which she was chosen to share some of it with her. This was in 2011, and 22 kegs were produced in its entirety. She received one keg and invited friends to share it with her. This party was not advertised and no one was charged for admission. Judge Ford was not invited to this party but she could see him on his porch. Judge Ford's wife was not invited and did not attend. There were 40 to 50 guests invited and the party started about 1:00 p.m. and ended at 7:00 or 8:00 p.m. There was merchandise for sale in the store but no one was required to make a purchase to attend the party. They were

selling Cantillon tulip glasses which are the proper glass for that type beer. None of her guests were urinating in the alley and none of the guys were smoking marijuana in the alleyways. At one point, she was very friendly with Nick Ford and his family. That ended when she broke up with her ex-boyfriend who is still good friends with Nick Ford. She regularly picks up trash on the street and sweeps the front walk.

She has never been a sponsor of pub crawl event but the bar across the street, the Roscoe Village Pub, does engage in pub crawl events. West Lakeview Liquors does not use plastic bags because paper is better for the environment.

She has never had a backyard party last past midnight until 2:00 a.m. The parties are daytime gatherings that did not go past dusk.

Alderman Pawar hosted the August, 2011 meeting in the church basement that dealt with the issue of the special use application. He sent a letter of support on August 9, 2011. At that meeting, some neighbors were opposed to the expansion plans and some complained about parties in the backyard. There were no complaints about parking or litter. It is her intention to increase liquor stock by ten percent and to increase her non-liquor product mix by adding items like Bennison's bread and sandwiches. She stopped selling sandwiches because no one would go to that side to get these items. She never said she would not have parties in the backyard. The Szwanze party consisted of 40 to 50 friends to drink the Szwanze keg and one or two other kegs. There was no advertising and no strangers at the party. She did have a Szwanze Day party which was held on December 1, 2012, at the Roscoe Village Pub. She rented the pub for the day and

charged \$30 or \$40 for the glass. People would buy the glass in the store and go to the bar for the beer. She did advertise this party on Facebook and in the store. One hundred and forty people registered to come on Facebook, and 24 others indicated maybe. There was a line to get into the store to pay for the glass. She had security and crossing guards. She did not use the backyard because of the complaints. There were no complaints from neighbors about the 2012 Szwanze Day party. All the beers selected for this party were rare beers with limited quantity. The glassware for the party consisted of a two-ounce pour.

The Chicago Municipal Code allows for the denial of a liquor license if the issuance of said license would cause a deleterious impact on the health, safety, and welfare of the surrounding community. Deleterious impact is defined as having an adverse effect in the value of the property, an increased risk of violations of the law, or a risk of a substantial increase in noise, litter, or traffic congestion. If this Commission feels the City has met its burden of proof on any of these matters, the denial of this license can be sustained.

The City did not meet its burden of proof on the question of whether the issuance of this license would have an adverse effect on the value of property. None of the witnesses from the City have the type of background in real estate valuation to support their position that the expansion of the existing stores would negatively impact property values. While expert opinion on this issue may not be needed in all cases, the evidence presented on this point in this case is insufficient. This is particularly so since the applicant has produced documentation from the Chicago Zoning Board of Appeals that this expansion would not negatively impact property values.

The issue of whether the issuance of a license will lead to increased risk of violations of the law is argued by the City under two separate theories. The first theory is that set out in the Vino Fino case which is based on proof that the licensee-applicant has a history of violating the law in general and liquor related laws. That past history is used to argue that the violation of the law will continue in the future. There is no such history of liquor related violations in the record in this case. The history of non-liquor ordinance violations is not sufficient evidence to prove future violations of the law.

A second approach used by the City in proving deleterious impact based on an increased risk of violations of the law is to show that the location of the applicant's store and/is the type of store is such that it will lead to increased violations of law. In those cases, evidence in the form of police documents showing the calls for service and the number of crimes reported from the applicant's locations are introduced in evidence. No such documents were introduced in this case and no live testimony from the police in opposition to this expansion was introduced. There was testimony concerning a number of garage burglaries but the city's witness did not attribute that criminal activity to the operation of these stores. There was also testimony about a one-time criminal damage to Ms. Bozic's vehicle but that type of crime is not sufficient to establish that it would reoccur in the future. There was also testimony about marijuana use, public drinking, and public urination. If one assumes there is a sufficient nexus between the operation of West Lakeview Liquors and these events that evidence does not establish that such activity happens on such a regular basis so as to prove that issuing this license would lead to an increase in such criminal conduct from the operation of the expanded liquor store.

The final basis for denial under deleterious impact is proof that the issuance of this expansion license would lead to a substantial increase in noise, litter, or vehicular congestion.

With respect to litter, the evidence in the record is that there is some litter in the area of the stores. The evidence also is that the stores are located on Addison, which is a major thoroughfare. The litter described in the record does not seem to be different than unfortunately what is found on main thoroughfares throughout the city. There is a lack of evidence relating this litter to the liquor store. While the store does sell regular beer such as Miller-Lite, there is no way of establishing these types of beer cans come from West Lakeview Liquors. The testimony from Ms. Bozic that she does not use plastic bags was not rebutted. If West Lakeview does not use plastic bags, it is not responsible for plastic bags found in the neighborhood. If in fact there is litter in the form of specialty beers, then those beer cans or litter probably comes from West Lakeview. Testimony from witnesses for the applicant indicated the specialty beers sold by West Lakeview do not come in cans. It seems unlikely that beer geeks who go to West Lakeview for specialty beers would drink these beers directly out of the bottle. If it is done on occasion, there is insufficient evidence in the record to establish a substantial increase in this type of activity to prove deleterious impact.

The testimony on parking congestion was divided almost equally pro and con. Some witnesses feel this expansion would increase traffic congestion while others feel there is no existing traffic congestion and the expansion would not lead to traffic congestion. The witnesses opposing expansion did not testify that they could not find parking spaces due to West Lakeview,

but that the spaces were not in close proximity to their residences. This evidence is insufficient to prove deleterious impact due to traffic and parking congestion.

The evidence in the record dealing with noise emanating from the operation of West Lakeview Liquors centers on the noise from the backyard parties. The evidence in the record is that such backyard parties were held at most twice a year and there have not been any backyard parties at all since the fall of 2011. Assuming that there was excessive noise at these parties on these limited occasions, that fact is not sufficient to prove that the issuing of this license would lead to a substantial increase in noise.

For all the preceding reasons, the City failed to prove that the issuance of this license, to this applicant at this location, would cause a deleterious impact on the health, welfare, and safety of the surrounding community, and failed to prove the issuance of this licensed would have an adverse effect on the value of property, an increased risk of violations of the law, or a risk of a substantial increase in noise, litter, or vehicular congestion. The denial of this application 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: August 15, 2013

Dennis M. Fleming
Chairman

Donald O'Connell
Member