

LICENSE APPEAL COMMISSION CITY OF CHICAGO

KLEO's CORNER, LLC d/b/a)
THE PARK SUPPER CLUB)
Maryann Marsh (Managing Member))
APPLICANT (Outdoor Patio))
For the premises located at)
63-65 E. Garfield Blvd. Chicago, Illinois 60612)
)
v.)
)
Department of Business Affairs and Consumer Protection)
Local Liquor Control Commission)
Shannon Trotter, Commissioner)

Case No. 20 LA 05

ORDER

DECISION of Commission Chair PARRY with
Commissioner GIBBONS CONCURRING, and
Commissioner BERG CONCURRING

A denial letter was issued by the Local Liquor Control Commissioner on March 6th, 2020, denying the application for an outdoor patio liquor license submitted by KLEO's CORNER, LLC d/b/a THE PARK SUPPER CLUB, Maryann Marsh (Managing Member) for the premises located at 63-65 E. Garfield Blvd., City of Chicago, County of Cook, State of Illinois ("Applicant(s)" or "The Park Supper Club"). For the reasons stated herein, the denial of the outdoor patio liquor license is REVERSED.

JURISDICTION

This appeal was heard pursuant to the authority granted to the License Appeal Commission of the City of Chicago ("License Appeal Commission" or "LAC") by the State of

Illinois under (235 ILCS 5/) Liquor Control Act of 1934 (“Liquor Control Act”). The appeal was timely and properly filed by the Applicant. Applicant seeks review of a denial of its application for an outdoor patio liquor license pursuant to 235 ILCS 5/7-9.

BASIS FOR DENIAL

The Local Liquor Commissioner issued a denial letter on March 6th, 2020 denying Applicant’s outdoor patio liquor license application based on: “Law enforcement concerns of the 2nd district police commander.”

“The 2nd district police commander has objected to the approval of the Outdoor Patio liquor license based on law enforcement concerns. They feel the issuance of a liquor license at the applicant’s establishment will jeopardize the safety of the public. The Commission agrees that the issuance of this license would not serve the best interests of the community.”

SUMMARY OF PROCEEDINGS

City’s Case in Chief

Prior to testimony, City’s Exhibit 1, which includes the entire application, affidavit of the local liquor control commissioner, denial letter, and letter from the police commander was admitted into evidence. City’s Exhibit 2, the affidavit of the local liquor control commissioner, was also admitted.

Testimony of Bryan Knipper

Witness Knipper identified himself as an employee of City of Chicago, Department of Business Affairs and Consumer Protection and 12-year business consultant supervisor for the Local Liquor Control Commission which is part of that department. His responsibilities include supervising the business consultants who review liquor license applications, including outdoor patio licenses, and making sure applications are complete before reviewing them with the Local Liquor Control Commissioner. He explained outdoor patio liquor licenses allow for outdoor

sales and consumption of alcohol in an enclosed, adjacent private property on the same premises as a licensee who holds a tavern or on-premises consumption license. During the explanation on direct and cross, the witness explained that the application includes a printed checklist for the applicant to use for reference and that whether or not the check list was marked off was a matter of convenience for the applicant and was not a checklist the business consultants used in making sure the application file was complete, and that the local liquor control commissioner viewed the entire application and supporting documents in the file for this application before making a decision. The witness explained the application process on both direct and cross-examinations. At one point during the process the community, police commander, and alderman are made aware of the application and are allowed time to respond with feedback. He testified that the local liquor control commissioner approves or denies the application. He testified that in this case after reviewing the file the application was denied based on law enforcement objections because of high gang activity and a concern that innocent people may be hurt. It was not a deleterious impact denial, which would have triggered a 20-day window to allow the applicant to submit a Plan of Operation to mitigate concerns the outdoor patio would have a deleterious impact. The witness further testified the Commander had not objected to the public place of amusement, retail food establishment or the consumption-on-premises incidental activity license applications – all of which received conditional approval.

City Exhibit 2, the denial letter; City Exhibit 3, the application and supporting documentation; and City Exhibit 4, the letter from the Police Commander, were admitted into evidence during the business consultant supervisor's testimony.

Testimony of Commander Joshua Wallace

The witness identified himself as Police Commander of the 2nd District since February 2020 and previous to that as a detective and lieutenant there. The district includes 15 beats, and the building at Michigan Ave. and Garfield Blvd./55th St is in Beat 231 of the district. That is the corner building for which the outdoor patio liquor license was sought. He succeeded Deputy Chief Dion Boyd as the commander. He described the neighborhood as residential, and includes a senior home, multiple single-family homes and multiple multi-unit apartment buildings with retail space along Garfield Blvd./55th St. He testified that he is familiar with the building at Michigan Ave. and Garfield Blvd./55th St. and the application for an outdoor patio liquor license made by Applicant for that location. He testified that he objects to the outdoor patio liquor license because it is one of the most violent areas in the district “and out of concern for citizens and the fact that the business is not established yet” and for the safety of residents and future patrons. He explained that he agreed with the position stated in the January 3, 2020 letter sent by then Commander Boyd objecting to the license. The commander described the area as a high gang conflict area and that it involves two different gangs and “their propensity for violence is high in that area.” He explained that the CLEAR database tracks police incidents and calls for service at or near the time the reports are made. He identified City Exhibits 6A-D as printouts of searches for incidents and calls for service. He described “incidents” as “basically arrests,” and “calls for service” as “basically times when the police are called to various locations.” He identified City Exhibits 6A and B as a list of incidents for January 1st – October 19th, 2020 for the 5500 block of S. Michigan Ave in Exhibit 6A and 100 W. – 100 E. on Garfield Blvd./55th St.¹, respectively. He described the number of calls on Michigan as substantial and the number of calls on Garfield Blvd./55th St. as high. He described the area as one-to-three blocks away

¹ A review of 6B shows addresses 100 E. – 400 E. Garfield Blvd./55th St., with no West addresses.

from The Park Supper Club building to be the most violent area, with the highest incidents of violence in the district. He explained that strict mandatory beat integrity is maintained in this area and that it was a high resource area, and that they quite often try requesting additional resources. He explained that there were two Beats that required strict beat integrity, which means a patrol car must stay in the Beat until another arrives to relieve it. This is done, according to the witness, because of high historical violence in the Beat that continues (as of his testimony). A couple of violent crime incidents stood out to him – “such as a person being shot and homicide.” He explained that the police respond to each call, the calls are prioritized and that a high number of calls “basically makes officers tied to the radio for the entire tour.” The witness also agreed to the question posed as to “whether there are times the District’s resources are stretched to its outer limits.” He agreed to the question posed that an outdoor patio liquor license for The Park Supper Club “would exacerbate the problems in that area.” He opined that the area is a violent zone, and that because it requires beat integrity, it could happen that the patrol car might have to leave for another emergency or higher priority call that may not be in that area and it would leave the Beat without a patrol car presence for a time, and that without police presence it opens up opportunities for violence or property crimes. He testified that if there is no police presence, “we know crime does occur.” Commander answered in the affirmative when asked whether he sees increased incidences of property crime and violent crime near businesses. He also noted a 125% increase in car-jackings in 2020.² He also expressed concern that there was a senior home on the next property and that with more patrons outside there could be more shootings and a bullet could hit anyone, and that was one of his biggest concerns. The commander expressed his preference that the business be a “good neighbor, first,

² There was no testimony or evidence on how that compares to any City-wide increases in 2020.

prove they can be a good neighbor, and then maybe [the outdoor patio license] is something that we could revisit,” and iterated that there was no objection to any other license applications made by Applicant. The commander testified that he feels that they’re putting people at risk due to the historic nature and ongoing violence in the area if there is an outdoor patio, and that it is his “sole responsibility to secure the safety of everybody who enters the 2nd District.” When asked if granting this outdoor patio liquor license would create law enforcement problems in the District, the commander answered that it’d “be one more thing on our radar that we’d have to be – you know, dedicate our attention towards” with people on the patio or leaving the establishment to walk down the blocks to their vehicles.

On cross examination Commander answered in the negative when asked if private security or fencing would be crime deterrents. He testified there was nothing Applicant could do to deter or minimize crime with respect to the patio except possibly to enclose it with a brick wall, although he wasn’t sure whether that would help, either.

Upon questioning of the Commissioners, the witness knew of no other outdoor patio licenses granted in Beat 231.

City Exhibits 6A-D were admitted over objection during the commander’s testimony.

Testimony of Torrey Lamar Barrett

The witness identified himself as part owner of The Park Supper Club and the owner/landlord of the mixed-use (residential) building in which the restaurant is located. He explained that he built the mixed-use building (KLEO Art Residences) two years prior and that it was at capacity with a waiting list to move in. He described himself as a real estate developer by trade, and owner and operator of the KLEO Center, a nonprofit youth empowerment organization of 14 years named after his sister who died as a result of gun violence. It is housed

approximately a half-block away at 119 E. Garfield Blvd. He further described his relationship to the Washington Park neighborhood as one in which his family has been investing in for 50 years and his father being the pastor at the church next door to the community center. He described the neighborhood as having once been such a gang-infested area that one couldn't walk down Garfield Blvd. He explained that KLEO Center services over 1500 families annually, runs a mobile food pantry once a week with over 250 people in the parking lot on which it hosts other outdoor activities, and sponsors a jobs program that employs about 300 youth a year, from ages 16-24, with about half being referred by the Juvenile Justice Center detention center. He feels the work and people associated with KLEO center are respected by the neighborhood and some of the people who used to terrorize the neighborhood and/or their children now work with KLEO Center. He explained that their outdoor basketball court has never had an incident of violence – not even a fist fight – and that the weekly open mic attracts almost a hundred youth a week and there's not been any violence there, either. He testified that he agrees that there is gang violence in the area but that it's targeted gang retaliation and not random acts. He testified that he disagrees with the commander and was appalled that the commander would say that operating a patio would lead to increased violence and crime. He testified that he dines in Hyde Park and the Gold Coast where there have been several shootings and the restaurants there weren't shut down (presumably for outdoor dining). He opined that bringing more establishments to the area might help stop some of the crime and speculated that maybe the young people currently engaged in violence might find a place to work at The Park Supper Club or use the event space. He said that three former gang members are entrepreneurs working with him. He also testified that he has roundtables with gang members on a regular basis and has invited District law enforcement to attend. He said he has sent plans for security to the

Alderman and District Commander for their input. The owner testified that the Applicants had two videoconferences with area's district commander and alderman. He also pointed out that the restaurant has secured a nationally reputed armed security company with experience in the Chicago market, explaining that Applicant has invested in security plans and additional security the same as the restaurants and patios do in Hyde Park and on the Gold Coast to make sure patrons are safe. He went on to explain his knowledge of other restaurants who are in different ward offices but within the Commander's district, but different aldermanic wards that were originally denied outdoor patio licenses for similar reasons but were eventually granted licenses with the support of the alderman in those wards. Over objection, the witness was allowed to testify as to his efforts to secure the support of the alderman but said he had not heard from her after having submitted the security plan she requested. He iterated they have had no incidents with the establishments he and his family operate in that area or the retail businesses in the Arts residence building. He described the other nearby establishments to include a church administrative building, KLEO Center, a couple of fast food restaurants and a beauty salon. He also felt it important to note that the creation of the restaurant and event space was mostly funded with a Neighborhood Opportunity Fund ("NOF") grant in which part of the application included reference to a need for an outdoor patio for people to enjoy. He testified there used to be a restaurant in the area with an outdoor patio that was popular, but that it had closed.

On cross examination he testified he personally has no law enforcement experience, but that he has family members in law enforcement, and he attended military school. He also testified that he used to have regular communication with District Commander Waller (prior to Boyd) and knew when there were incidents in the neighborhood.

Upon questioning by the Commissioners, Applicant Barrett testified that he has owned and operated several restaurants in the St. Louis area, that most of his business in Chicago was real estate development, and because he is typically a landlord in Chicago, he sought out co-Applicants MaryAnn and Reginald Marsh because of their experience in owning and operating restaurants in Chicago. He testified that he lives about 10 minutes from the Arts residences.

Testimony of Reginald Marsh

The witness identified himself as one of the Applicants and a bar/restaurant owner of 15 years. He described The Park Supper Club as an upscale restaurant. He currently owns and operates with his wife a jazz martini lounge in the South Loop neighborhood and a lounge in the Loop. He explained that the owners are very hands on. He testified that they would like to have their South Side patrons be able to dine al fresco as they do at restaurants downtown, especially now given the pandemic. He testified as to his experience going through the liquor licensing process with his other two establishments, that they've overcome prior objections as to deleterious impacts and have had no incidents. He said they run their establishments very well. As to law enforcement concerns, the witness testified that they are used to having security and are prepared to deal with security at their locations, if ever the need arises. He explained that they will have security at The Park Supper Club restaurant, and have gone so far as to have developed a security plan, and hired a security company that will provide armed security at the location. His understanding of the plan is that there will be full armed security in the outdoor patio, and there will be planters on the perimeter of the outdoor dining area so diners will not be bothered by traffic, and they will be of the type and size to obstruct the view of passersby into the outdoor dining area. There is also a planned parking valet and parking in the lot across the street. The valet may also serve as an escort to the parking lot. He explained that like their other

businesses, there will be an alarm system and panic buttons for the hostess, manager, and register, and that staff is trained with security and what to do in different situations – further that even though these measures and training are in place, they’ve never had to use them.

Additionally, the witness is familiar with The Park Supper Club neighborhood and spends much time there at the restaurant and that they are not blind to notion that there is some level of gang activity. He is trying to make The Park Supper Club an anchor for change in the community. He also thought it important to note that outdoor patio dining will close by 10 or 11 o’clock at night, and would be open for Sunday brunch. He also testified to having meetings with the commander and the alderman similar to what witness Barrett described. He understood the concerns to be driveby shootings, which he said could happen anywhere.

Upon questioning of the commissioners, the witness testified there will be no live music on the outdoor patio, but that there will be jazz music inside the restaurant.

Testimony of Maryann Marsh

The witness identified herself as married to co-Applicant witness Reginald Marsh, as co-owner of restaurants and bars with him, and as a real estate developer in Chicago. She described their other businesses as a downtown restaurant and the South Loop one as a bar/tavern jazz club. Her knowledge of the neighborhood is through co-Applicant Barrett, and she understands that there are trouble zones in that community. She described barriers will be placed on the patio to ensure drivers and passersby won’t see patrons dining. She testified that they’ve hired a security company and that there will be one concealed armed guard at the door mostly to keep the exterior safe in what she described as an upscale dining experience with a dress code. She, too, testified there will be valet for the protection of patrons, and that they plan to hire from within the community, which is part of the proposal for which they received a \$250,000 NOF

grant (she also mentioned a state investment of \$175,000). She also referenced the meetings with the district commander and alderman. She identified Applicant's Exhibit B as the Plan of Operation she worked on with the assistance of someone from the City's Department of Business Affairs and Consumer Protection that details the plans for the outdoor patio. She noted that 9:00 p.m. will be the last seating, with the patio closing at 10:00 p.m. and confirmed that there are plans to regularly monitor the exterior during business hours to address and abate noise, littering and loitering, which she testified, they have done at their other establishments. She also testified that they had always intended to hire security and that the security company that was hired has customers in surrounding areas, so that they are experienced in how to conduct operations for areas that are more troubled than their downtown location. She testified that she was advised that they would occasionally have an unmarked car parked outside, and that there would be panic buttons for security and staff, as well as earpiece communication devices. On cross-examination she testified there would also be an unarmed guard inside the restaurant, and that the armed guard for the exterior was done to ease the commanders concerns. The witness referenced the pandemic and the necessity and desire for outdoor dining.

Upon questioning of the commissioners, the witness testified that there are three owner-investor-managers who will operate The Park Supper Club, and so they are very motivated to make sure it runs well. She cited her husband as the General Manager, herself as the on-site manager, and another mature (65-year-old) manager who has been managing for them at one of the other locations and has experience running bars in South Side neighborhoods.

Applicant Exhibit B was admitted during her testimony.

Closing Arguments
City

City argued MCC 4-60-040(h) allows denial of an application if the issuance of such license would tend to create a law enforcement problem, and that the issuance of an outdoor patio liquor license would create an additional number of people in a very busy and dangerous area which the police do not have the resources to protect. It argued the no one was more qualified to testify than the commander, and the previous commander, about the danger in the area, and that the data shows a voluminous number of calls for service and crimes for which arrests were made, and that many of them were violent crimes.

Applicant

Applicant at times referenced those things that would apply to a deleterious impact denial, however, with respect to the law enforcement denial, Applicant argued that the commander said nothing short of a wall would provide protection. Applicant argued that they are putting up barriers in the form of huge, large planters to keep patrons apart from others, that they are providing security guards, one of whom will be armed and outside, and providing other security measures to keep their patrons safe. Applicant argued that just going in and out of a business could be a security risk and that there's already policing in the area there where there are other grocery stores, retail stores, and restaurants, and that perhaps by adding more businesses there may be a positive impact on crime. Applicant argued that there are already outdoor events that take place at the community center without incident, and that it seems like the neighborhood is changing.

City Rebuttal

City iterated it was a law enforcement concerns denial, not deleterious impact.

ANALYSIS

The standard of review is *de novo* in cases of denial of a liquor license application (235 ILCS 5/7-9).

City relied heavily upon the crime statistics for the Chicago Police Department (“CPD”) 2nd District, Beat 231 provided in City Exhibit 6A-D to support the denial due to law enforcement concerns.

The building housing The Park Supper Club is at the corner of Michigan Ave. and Garfield/55th St. which is in Beat 231. The commander testified that the locations of the incidents and service calls were within one-to-three blocks of The Supper Club building.

From the printout in City Exhibit 6A, it appears from January 1, 2020 through October 19, 2020 there were six (6) incidents on Michigan Avenue from 5517-5539 S. Michigan. Five (5) incidents appear to be property-related – two (2) retail thefts incidents, one (1) undisclosed property crime incident, one (1) non-criminal property incident, and one (1) “to vehicle” incident. Four (4) of those incidents were at the location 5539 S. Michigan and one at 5527 S. Michigan. The grid layout of the City of Chicago would put those locations across the traffic lanes of Michigan Ave. and up the street from the corner of Michigan Ave. and Garfield/55th St. There was one “aggravated: other dang[erous] weapon” incident at 5517 S. Michigan. None were on the same side of the street as the Art Residences. On Garfield Blvd./55th St., the printout in City Exhibit 6B shows 67 incidents during the same time period from 100 to 398 E. Garfield Boulevard/55th St. Forty-seven (47) of the 67 incidents occurred one-to-three blocks down from The Supper Club building and across the lanes of traffic and the boulevard. Of the 67 incidents, there appear to be 13 weapon-related and non-domestic battery/strong arm incidents. There was one (1) first degree murder incident, one (1) failure to register a firearm, one (1) unlawful use of a firearm, two (2) unlawful possessions of a firearm, one (1) reckless discharge of a firearm, two

(2) aggravated batteries with a dangerous weapon or knife/cutting instrument, and five (5) non-domestic batteries or strong arm incidents. Twenty (20) of the 67 arrests/incidents were one-to-three blocks down from The Supper Club on the same side of the boulevard. Of the 20 arrests/incidents that occurred on the same side of the boulevard as The Supper Club, the closest arrest/incident was at 123 E. Garfield, about a block away which was an “Aggravated – Other Dang[erous] Weapon” incident. The other incidents on the 100-to-199 “odd numbered” side of the block on Garfield was for an incident at 199 E. Garfield Blvd./55th St. for possession of a synthetic drug and unlawful possession of a weapon. The remaining incidents occurred two and three blocks away on the 201-399 blocks of E. Garfield on that side of the street. Of those, nine (9) occurred at two locations. They include unlawful use of a firearm, lost property, mental health transport, domestic battery and strong-arm no weapon incidents at 319 E. Garfield; three (3) license violations and a reckless firearm discharge at 215 E Garfield; 3 hit and runs, a reckless firearm discharge, delivery of heroin, damage to City property, and an unknown property incident.

As to the service calls for 5500-5600 S. Michigan Ave. for the same time period, the statistics showed that there were 285 calls for service in 9-1/2 or so months. Approximately 100 of those were misdials and hangups. There were approximately 16 calls either reporting persons with guns, shots fired/person shot (5 calls for the same incident), a stabbing, and non-domestic batteries and assaults. There was also a call to report a criminal sexual assault and one to report an armed robbery.

During this same time, there were 1,060 calls for service from 100-400 E. Garfield Blvd./55th St., one-to-four blocks away from the other side of the corner building. Some of the calls involved the same incidents. Many involved a few of the same addresses. Approximately

200 calls were misdials, hangups or traffic stops. There were approximately 47 incidents of non-domestic assaults and batteries with approximately two (2) of those reporting persons shot. There were approximately 24 calls regarding gunfire (there was some overlap with the incidents of assaults and batteries).

City Exhibit 3 contained within City Exhibit 1 (Bates Stamp 009) indicates the planned patio is 500 square feet (Bates Stamp 009) with six (6) four-top tables in a 220 square-foot area and two (2) sofas with tables in an 80 square-foot area, with planters surrounding the seating areas on three sides (Bates Stamp 042). It appears there is an alternative setup that shows a three (3) four-top table area, a two (2) four-top table area, and a three (3) sofas and tables area – again all areas surrounded by planters on three sides (Bates 043).

It does not appear there were any moratoriums on the licenses for which Applicant applied (Bates 054).

Municipal Code of Chicago §4-60-040(h) provides that a liquor license application may be denied if the issuance of such license would tend to create a law enforcement problem. While the ordinance does not define “would tend to create a law enforcement problem,” the Illinois Appellate Court has recognized at least two approaches to determining whether issuance of a license would tend to create a law enforcement problem. The first is the history of the applicant not obeying liquor control laws or the law generally. If such a history is present, then it would tend to create a law enforcement problem. There is no such history present in this case.

The second is whether the location would tend to create a law enforcement problem in the form of increased crime and the associated strain on limited police resources. (*Move N Pick Convenience, Inc. v. Emanuel*, 30 N.E.3d 661 (Ill. App. 1st Dist. 2015), *Vino Fino Liquors v.*

License Appeal Comm'n, 914 N.E.2d 724 (Ill. App. 1st Dist. 2009)). This analysis necessarily includes the nature of the neighborhood, business and type of liquor license requested.

The types of incidents and calls were not really broken down much further than the raw numbers and shorthand descriptors. The statistics were never really put into a meaningful context during the hearing. For example, there was no comparison to years before at the same time, nor did it show how it compared to other beats or districts. It did not show how it relates to the rest of the City and areas where there are establishments with existing or past outdoor patio liquor licenses. There was also little indication as to how many of the calls were for incidents that involved business patrons. It was a snapshot in time – a tumultuous time of civil unrest and a global pandemic. Be that as it may, the statistics were considered and weighed. It is common sense and common knowledge that the nature and security of an area can vary greatly one block to another in any neighborhood. The statistics provided showed that while there were blocks around the neighborhood where incidents occurred, it does not appear that any incidents occurred at the building itself, or the properties/public ways adjacent to it, or even on the same block on the same side of the street.

The service calls also were not really put into meaningful context. Again, there's not much more than raw numbers and shorthand descriptors. There were no comparisons to past years, other beats, other districts, other areas with past or existing outdoor patio liquor licenses or city-wide, generally. There were some instances in which several calls were made regarding the same incidents. Additionally, a service call is just that – a call for service. It does not necessarily mean there is a crime, or a crime in progress. There's also little indication as to how many of the calls were for incidents that involved business patrons.

Merriam-webster.com defines “tend” as it applies here as an intransitive verb meaning “to exhibit an inclination or tendency; (2) to move, direct or develop one’s course in a particular direction.” “Would” indicates some sort of probability, while “could” indicates possibility.

There was very little context to the statistics. No nexus was drawn as to how selling diners alcohol to consume on premises on a patio would tend to increase crime and an associated strain on limited police resources. There’s always the possibility of more calls or arrests in any area for any reason, but in order to deny the application, it is the LAC’s finding that it has not been shown that serving patrons alcoholic beverages while dining on an outdoor patio will lead to more criminal incidents or calls for service. This is not the case of a packaged goods store where people are coming in and buying liquor to drink off-premises. This is not the case where the establishment is a club or an outdoor patio where large groups of people congregate. This is a dining establishment. All due respect to law enforcement tasked with serving and protecting our communities, but the evidence presented did not present any information about how an outdoor patio would tend to create a law enforcement problem. There are no other outdoor patio liquor licenses in the Beat – and so there is nothing to compare there.

Additionally, the commander’s testimony regarding law enforcement concerns was not rebutted. There was testimony from the landlord who has a long history in the area and who has firsthand experience of death in the family due to gun violence. He and his family also have other business/organizational interests in that area that don’t appear to tend to create a law enforcement problem even with open air activities. Witness Barrett offered a different perspective on crime in the area base on his experience in the area – one that attested to a changing neighborhood and that attested to an increased feeling of safety over his lifetime in the area. Further, the Marsh co-Applicants are not new to running establishments with on-site liquor

consumption licenses. The hands-on owners/managers decided to pursue this outdoor patio liquor license with their current patrons and their safety in mind, as evidenced by their testimony. This is not the case of inexperienced owners or owners who are unfamiliar with the community. These experienced owners/managers have gone through additional efforts and expense to increase their own private security to alleviate fears of police resources being diverted to issues regarding patrons on the patio. They have pursued this license after having listened to the objections of law enforcement and meeting with law enforcement on more than one occasion. Their application and testimony show they intend to participate willingly and fully with law enforcement in matters of crime impacting the neighborhood. As owners of other establishments with liquor licenses at stake, and previous training in security matters as it relates to their liquor-licensed establishments, they entered this application process with eyes wide open, as did their partner, the building landlord who has intimate knowledge of the area in which this patio would operate. If the outdoor patio creates an immediate threat to the welfare of the community, the local liquor control commissioner has the ability to immediately close its operation (235 ILCS 5/7-5), in addition to other remedies of fines, suspension and revocation of the license afforded under state statute and municipal ordinance.

To sum up, as to the issuance of an outdoor patio liquor license, the district commander seems to favor a “wait and see” approach, while Applicants favor a “try and see” approach. The denial of the outdoor patio license in this case was for “law enforcement concerns of the 2nd district police commander.” While the commander may have questions as to how this patio may impact incidents or service calls, it has not been shown that the issuance of this outdoor patio license would tend to create a law enforcement problem.

Having fully considered and weighed the evidence summarized above, based upon the law, and for the reasons stated herein, the License Appeal Commission finds the basis for denial was not proven in the light of the whole record. The denial of the application for an outdoor patio license is reversed.

CONCLUSION

IT IS THEREFORE DECIDED AND ORDERED that the March 6th, 2020 denial of the application for an outdoor patio liquor license for KLEO's CORNER, LLC d/b/a THE PARK SUPPER CLUB, Maryann Marsh (Managing Member) for the premises located at 63-65 E. Garfield Blvd., City of Chicago, County of Cook, State of Illinois 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: February 17, 2021



Laura Parry
Chair



Thomas W. Gibbons
Member

Cynthia A. Berg
Member