

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

|  |   |                   |
|--|---|-------------------|
| GT Development Group, Inc.                             | ) |                   |
| Karl Spector, President                                | ) |                   |
| Licensee/Revocation and Fine                           | ) |                   |
| for the premises located at                            | ) | Case No. 15 LA 16 |
| 343 West Erie Street                                   | ) |                   |
|  | ) |                   |
| v.   | ) |                   |
|  | ) |                   |
| Department of Business Affairs and Consumer Protection | ) |                   |
| Local Liquor Control Commission                        | ) |                   |
| Gregory Steadman, Commissioner                         | ) |                   |

ORDER

DECISION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER O'CONNELL

Respondent received notice that pursuant to 235 ILCS 5/7-5 and Title 4, Chapter 4, Section 280 of the Municipal Code of Chicago that a hearing was to be held in connection with disciplinary proceedings regarding the City of Chicago retail liquor license and all other City of Chicago licenses issued to it for the premises located at 343 West Erie, Chicago, Illinois. The original notice alleged 18 charges, but Charges 6 and 18 were withdrawn. The allegations dealt with activities on five separate dates.

With respect to May 26, 2014, it was alleged in Charges 1 through 4 that the licensee, by and through its agents:

- Allowed the number of persons in the licensed establishment to exceed the occupancy limit certified by the buildings commissioner, in violation of Municipal Code of Chicago 13-36-020.

- Failed to have posted in a conspicuous place a sign which clearly reads: “Warning: According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems” in violation of Municipal Code of Chicago 4-60-100 (b).
- Failed to adequately implement or maintain an exterior safety plan, in violation of Municipal Code of Chicago 4-60-130(f).
- Failed to have posted in a visible location a sign measuring 14 inches by 14 inches stating: “A person exiting this establishment must depart in a quiet and courteous fashion, and must not cause disturbances to nearby residents, litter, or damage private property,” in violation of Municipal Code of 4-60-100(d).

With respect to June 2, 2014, it was alleged in Charge 5 that the licensee, by and through its agent, failed to adequately implement or maintain an adequate exterior safety plan, in violation of Municipal Code of Chicago 4-60-130 (f).

With respect to August 8, 2014, it was alleged in Charges 7 through 12 that the licensee, by and through its agent:

- Failed to cease activity after the City of Chicago Department of Buildings ordered the premises closed and forbid entry, in violation of Municipal Code of Chicago 4-4-283.
- Permitted persons to enter the licensed premises after the City of Chicago ordered the premises closed and forbid entry in violation of Municipal Code of Chicago 13-12-120 (a).
- Removed, covered or obliterated a notice lawfully posted the written permission of the City of Chicago Department of Buildings, in violation of Municipal Code of Chicago 13-12-120 (b).
- Failed to keep proof of the required liquor license liability (dram shop) insurance on the licensed premises or failed to produce such for inspection by an authorized city official, in violation of Municipal Code of Chicago 4-60-040 (c)(2).

- Failed to post, in the licensed establishment, in a conspicuous location, directly next to the liquor license certificate, its exterior safety plan, in violation of Rule 10 of the Local Liquor Control Commission's Rules and Regulations for Late Hour Liquor Licenses as promulgated under Municipal Code of Chicago 4-60-205.
- Failed to post diagrams, drawn to scale, showing the locations of the exits in the same locations as the occupancy signs, in violation of Municipal Code of Chicago, 4-156-380.

With respect to August 9, 2014, it was alleged in Counts 13, 14 and 15, the licensee, by and through its agent:

- Failed to cease activity after the City of Chicago Department of Buildings ordered the premises closed and forbid entry in violation of Municipal Code of Chicago 4-4-283.
- Permitted persons to enter the licensed premises after the City of Chicago Department of Buildings ordered the premises closed and forbid entry, in violation of Municipal Code of Chicago 13-12-120 (a).
- Removed, covered or obliterated a notice lawfully posted without the written permission of the City of Chicago Department of Buildings, in violation of Municipal Code of Chicago 13-12-120 (b).

With respect to August 13, 2014, it was alleged in Charge 16 and 17 that the licensee, by and through its agent:

- Permitted a person to enter the licensed premises after the City of Chicago Department of Buildings ordered the premises closed and forbid entry in violation of Municipal Code of Chicago 13-12-120 (a).
- Failed to cease activity after the City of Chicago Department of Buildings ordered the premises closed and forbid entry, in violation of Municipal Code of Chicago 4-4-283.

Counts 6 and 18 were withdrawn.

This matter proceeded to hearing before Deputy Hearing Commissioner Robert Emmett Nolan. The City was represented by Assistant Corporation Counsel Shannon Trotter and the licensee was represented by attorney Daniel Rubinow. Deputy Hearing Commissioner Nolan entered Findings of Fact that the City met its burden of proof on all of the charges. He further found the appropriate punishment for the violations on Charges 2, 4, 10, 11 and 12 was a concurrent \$500 fine, and that the appropriate penalty for individual charges 1, 3, 5, 7, 8, 9, 13, 14, 15, 16 and 17 was revocation. Gregory Steadman as the Local Liquor Control Commissioner of the City of Chicago adopted these Findings of Fact. The licensee respondent filed a timely appeal of this decision with the License Appeal Commission.

#### SUMMARY OF PROCEEDINGS

Marlene Hopkins has been the Managing Deputy Commissioner for the City of Chicago Department of Buildings for seven years. That department maintains occupancy records and records of emergency vacate orders issued by the building commissioner. On August 8, 2014, the Building Commissioner issued an emergency vacate order for the Board Room at 343 W. Erie, a vacate order is issued at any point in time when there are dangerous and hazardous conditions found at a site and/or conditions that are not compliant with the building code. The witness identified City's Exhibit 3, in evidence, as the notice of the emergency vacate order that was posted to the door of the Board Room on August 8, 2014. City's Exhibit 4, in evidence, is the letter documenting the conditions found that warranted the Commissioner's closure. This order was posted at the premises; next to or underneath the closure order. This emergency vacate order was issued by the Building Commissioner pursuant to Municipal Code of Chicago Section 13-12-120. The emergency vacate order was in effect on August 8, 2014. Ms. Hopkins

was present at the Board Room between 11:00 am and 1:00 pm on August 8, 2014. She reviewed the records relative to occupancy and the occupancy limit was 221 as of 2012.

The witness was at the Board Room with an electrician, a plumber, and a carpenter on August 8, 2014, to conduct an inspection. There was a gentleman from the Board Room present.

The parties then did stipulate that on May 26, 2014, the occupancy limit certified by the Building Commissioner was 221 persons for the entire premises.

Thomas Cody has been with the Chicago Fire Department for a little over 26 years and is currently a Battalion Chief EMT. One of his duties is conducting overcrowding investigations. On May 6, 2014 at about 1:00 am, he was at the Board Room nightclub at 343 West Erie. When he arrived he saw about a dozen marked and unmarked squad cars and one hundred some people in the street waiting to get inside the establishment. He spoke with a police officer to look for the occupancy placard. The establishment was open and there was a lot of people shoulder to shoulder. He could not see through the crowd at eye level but could see over their heads. The posted occupancy sign he found on the right side of the bar had a limit of 260. That placard was issued on December 23, 2005, and is in evidence as City's Exhibit 5. The witness and the police officer went to the center of the room. Cody started counting into 8-10 sections and was at 300 at the time he had count three quarters of the bar. He stopped when he was over 300. He ensured the count was accurate by starting at the door. The people were so packed they were not moving. It was not like someone could have gotten across the room. He has no doubt there were

at least 300 patrons in the establishment during his count. Cody then told the police officer they were over the allotted limited and to shut the place down.

John Gammal has been an investigator with the Department of Revenue about eight a half years with the responsibility of making sure businesses are compliant with City of Chicago orders. On August 8, 2014, at about 11:40 am he was at the Board Room at 343 West Erie because the premises were on a task force list. The corporate name for Board Room is GT Development Group, Inc. A man named Giuseppe Incandela was present during the inspection on behalf of Board Room.

The result of his inspection was that he noticed the business could not produce their liquor license dram shop certificate and they did not have posted any exit diagrams or the liquor license. The late hour placard was not available. Mr. Incandela was given the opportunity to have the dram shop faxed or emailed but it was not produced during the course of the inspection. Mr. Incandela could not find the late hour exterior safety plan which was to be kept by the liquor license. He asked to see diagrams showing the location of the exits and none were produced.

The premise was not open and operating during the inspection and there were no patrons. Giuseppe was the only person that was from the business.

Without objection City's Exhibit 6, which is a copy of the rules and regulations for late hour licenses which the licensee is to have available on request, was admitted into evidence.

David Case has been a Chicago Police Officer over twenty-eight and a half years and is currently assigned to be in charge of the 18<sup>th</sup> District entertainment venue team. In that capacity, his team is responsible for the oversight of the over 1,100 liquor licenses in the 18<sup>th</sup> District.

He was working on August 8, 2014, and had occasion to be at the Board Room at 343 W. Erie about 11:30 pm. When he drove by the business was operating. There were doormen standing outside and patrons were inside. At that time he was not aware the Department of Buildings had issued an emergency order to vacate the premises earlier that day. He did not see City's Exhibit 3, the notice of closure, posted visibly on the door to the Board Room on August 8. He was also at the Board Room at about 11:30 pm on August 9, 2014. The Board Room was open and operating with doormen posted and stanchions out front from which patrons were entering the bar. He did not see City's Exhibit 3 posted on the door. On August 13, 2014, Lieutenant Case and Sergeant Vanek stopped by the Board Room. He was aware of the closure order then. They arrived about 3:15 pm and could see an orange sticker on the door. That sticker has not been on the door on August 8<sup>th</sup> or 9<sup>th</sup>. When the Lieutenant and Sergeant entered the building, they met a man named Mr. Hiles who identified himself as the person in charge of doing alcohol inventory. He said he was aware of the emergency vacate order, but was told to ignore it by Karl Spector who is the owner of the Board Room.

Lieutenant Case and Sergeant Vanek then went to a hospitality meeting where they encountered Giuseppe Incandela. Mr. Incandela is one of the operations managers for the Board Room. They had a conversation about the closure order and notice. Mr. Incandela said he had

been present and saw it posted on August 8. He was told by Mr. Spector, the owner, to take it down and open the bar on Friday night and Saturday night, August 8 and 9 of 2014.

Nora Barry has been a Chicago Police Officer for fourteen years and is assigned to Lieutenant Case's Event Venue Team patrolling and responding to calls at bars and nightclubs within the district. She and her partner Tom O'Shaughnessy were in plain clothes on June 2, 2014, when they were at 343 West Erie about 2:53 am. That is the location of the Board Room which is a tavern or night club with a late hour license.

The Municipal Code requires all late hour licenses to have a late hour exterior safety plan. City's Exhibit 7, in evidence, is the late hour exterior safety plan for Board Room. As they were approaching the location of the bar, she noticed a group of about 20-ish people in the middle of the street close to Sedgwick. Some of the groups were staff from Board Room and some were patrons being escorted out the night club. The staff was trying to get them out of the area and the group was arguing and yelling. A member of the staff told the witness the group had been escorted out of Board Room and the staff was trying to get them to leave the area. This group of ten to twelve Board Room Night Club patrons were causing excessive noise, were loitering outside the premise and were unreasonably impeding traffic flow and were fighting. Security was trying to disperse the crowd but were unsuccessful as additional fights broke out and there were additional problems with the crowd. The vehicle traffic when the police arrived was minimal and initially not many cars were blocked by activity on the street. It became a bigger nuisance as the club was letting out.

Tim Brigges has been a Chicago Police Officer for twenty-one years and has been a Sergeant for eight years. For the last three years he has been assigned to the 18<sup>th</sup> District entertainment team conducting investigations of liquor establishments. On May 26, 2014, he was working in civilian dress when he went to the Board Room Night Club at 343 W. Erie in response to a call for a disturbance. He arrived between 12:30 am and 1:00 am and observed a large crowd in front of the bar and inside. The crowd was at least 100 and they were on the sidewalk and impeding traffic on the street. The crowd was loitering and causing excessive noise. It was a large noisy crowd. The Board Room was open and operating and the people in front were loitering and there was a line to get into the bar. This line was located at the front door and moved westward down Erie on the sidewalk.

Sergeant Brigges entered the premises and conducted a license premise check which included checking for required signage. He looked for the surgeon general alcohol warning sign but did not see it posted. He also looked for the friendly neighbor sign and did not see one posted. The crowd in front of the Board Room was there about an hour; the time he was on the scene.

City's Exhibit 8, the prior order of disposition, was allowed in evidence.

The City rested its case.

Jasmin Brackett started working with GT Development as a cocktail waitress and was promoted first to a manager and then to general manager. She worked for them about three years. She was working as a general manager at Board Room on May 26, 2014. The bar opened at 11:00 pm and she anticipated a crowd since it was Memorial Day weekend. Her staff would have included five waitresses and 3 or 4 bartenders. There was 20 to 22 security in and out, 2 other hosts, and a manager. She kept in contact with the staff by a radio hookup.

Security included point guys for each exit and entrance and these guys were assigned on the block to make sure people are parking or driving through without stopping. Four were stationed outside and inside the ropes to control people trying to come to the club and two right at the entrance. There would be eight to ten security working inside the club. There were ropes in front of the door but eventually there was not enough rope to cover the crowd. On the night in question, entrance to Board Room was by reservation only. That meant it would be by pre-booked table. The door staff had clickers to check the occupancy. There was one clicker for entrance and two for people leaving. The numbers were checked frequently probably at 20 minute intervals. At no time were they over the limit for their capacity. The fire marshall arrived and entered to check capacity. He did not have a clicker. He told her the capacity was out of control and that they were being shut down.

On May 26, in addition to staff, there was a promotor that had two people at the door checking guest lists to ensure people were part of the reservation system. They had a list of names of people who were allowed in the club and the promotor's staff would check the names off. When the rush of people came at 12:30 am, two of the people on the street would come to

the front but there was always at least one person on the street. She was outside when the rush arrived and there was a lot of people. She could not give a specific number. They were on the sidewalk and in the parking spots on the street.

Throughout the night the club's clickers established it was never over capacity. She personally checked the clicks every twenty minutes. One of the exit clickers is at the same door as the entrance clicker. She believes capacity was 280 people but could not exactly remember.

The witness currently works for Karl Spector's construction company as well as working one other job.

Ms. Brackett indicated that admission that night was by reservation only and they would know the number of people going into the club if the whole party came. An announcement was made several times to the crowd from the rush that unless you had a reservation you are not coming in. People were told to turn around and leave. No cars were impeded by the crowd.

Giuseppe Incandela worked for GT Development from January through the late summer of 2014. He has worked in the bar business his entire life since his family had a restaurant. He is now 28 years old. On August 13, 2014, he received a call from an employee of a company that does inventory for the Board Room. That company is called BEVINCO. The BEVINCO employee related that the police had told him he was not allowed to be in the building. They had asked him to leave and told him he could be arrested if he entered the building again. This call

was made between 12 and 3 in the afternoon. The Board Room was not open during those hours and the only person in the Board Room was the person taking inventory.

The witness was working the night of August 8, 2014. The city investigators came to the establishment and asked for his license and the dram shop insurance. He gave them the licenses but could not produce the dram shop insurance certificate. He called Karl Spector, the owner, and a Cher Woodman. Cher Woodman had a copy but could not send it because there was no fax machine at the Board Room.

Karl Spector informed the witness the investigators were coming on August 8, 2014, but he thought the fire marshal was to do a walk through. He was not expecting what happened. The city inspectors told him to fix what was wrong and it could open. The notice was affixed to the door when the city personnel left.

#### APPLICABLE ORDINANCES – RELEVANT PORTIONS

4-60-100(b) – All persons licensed to sell alcoholic liquor shall have posted, in a conspicuous place, a sign which clearly states:

“Warning: According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of risk of birth defects. Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery and may cause health problems.”

4-60-100(d) – A sign that measures 14 inches by 14 inches shall be posted in a visible location in every tavern stating: “A person exiting this establishment must depart in a quiet and courteous fashion and must not cause disturbances to nearby residents, litter or damage private property.” Any person who violates the provisions of this subsection shall be subject to a fine of \$500.00 plus \$10.00 per each day.

4-60-040(c)(2) - ...The licensee shall keep proof of the required insurance on its licensed premises at all times and shall, upon demand, produce such proof for inspection by an authorized city official...

4-60-205 – The director of business affairs and licensing and the local liquor control commissioner shall have the authority to promulgate rules and regulations necessary to implement the requirements of this chapter.

4-4-283(a) – Whenever any authorized officer issues an order pursuant to Section 13-8-100 or Section 13-12-120 of this Code to vacate and close any building, structure or portion thereof used to conduct any activity requiring a license under this Code, all such activity within any closed portion shall cease immediately...

4-156-380 – The licensee of every public place of amusement shall post diagrams, drawn to scale, showing the locations of the exits. For every public place of amusement that is located in a building or part of a building, the diagrams shall be posted in the same locations as the occupancy signs required under Section 13-84-410.

4-60-130(f)(1) – Every application for a late hour privilege must be accompanied by an exterior safety plan meeting the requirements of this subsection (f)...

4-60-130(f)(2) – The exterior safety plan must prevent the following conditions:

- (A) excessive noise caused by patrons leaving or entering the premises;
- (B) loitering or littering by such patrons;
- (C) fighting or other criminal activity by such patrons; and
- (D) the congregation of departing patrons in such numbers as to unreasonably impede traffic flow.

4-60-130(f)(3)...The failure to adequately implement or maintain an adequate exterior safety plan under this subsection (f) shall be grounds for suspension or revocation of the late- hour privilege under this subsection (i), or for the suspension or revocation of the license for the premises. The existence of the conditions specified in paragraph (2) of this subsection (f) shall be prima facie proof that the plan has not been adequately implemented or maintained...

13-36-020 – The buildings commissioner shall determine the number of persons which every building or room used for public purposes may accommodate according to the provisions of Chapter 13-56 of this Code, and shall certify the same to the bureau of fire prevention and city clerk. No more than the number so certified shall be allowed in such room at any one time, in any building used for a hospital, business unit, theater, open air assembly unit, public assembly unit, church or school.

13-12-120(b) – It is unlawful of any person to remove, cover or obliterate, any notice or notices lawfully posted pursuant to subsection (a) of this section, without the written permission of the head of the department or agency responsible for posting the notice.

13-12-120 (a) – The building commissioner, the president of the board of health, the fire commissioner, or anyone of them, and their respective designees, shall have the power, and it shall be their joint and several duty, to order any building or premises closed...where it is discovered that there is any violations of the provisions of this Code enumerate in Section 13-12-010 which imperils life, safety or health, and to keep same closed, removed, or shut down until such provisions are complied with.

The official who orders a building or a portion closed, removed or shut down shall cause a notice no less than 17 inches by 22 inches at each entrance. The notice shall state substantially as follows:

This building has been ordered closed by the City of Chicago due to code violations that threaten life, health or safety. Entry is forbidden except for necessary repairs and government inspection...

Since this case deals with the revocation of a liquor license and the imposition of fines, the jurisdiction of this Commission is limited to the these issues:

- a. Did the local liquor control commissioner proceed in the manner provided by law;
- b. Whether the order is supported by the findings;
- c. Whether the findings are supported by substantial evidence in light of the record as a whole.

Counsel for licensee made arguments relating to the constitutionality of the city's late hour ordinance. The argument made is that said ordinance is unconstitutionally vague in that it does not define terms such as "excessive" and "unreasonable impediment to traffic." This Commission does not have the authority to rule on such constitutional issues. All this

Commission can do is note in the decision that such constitutional arguments were made and are in the record, and in the mind of this Commission have been preserved for purposes of appeal.

The general argument made with reference to the question of whether Local Liquor Control Commissioner acted in the manner provided by law deals with whether the local followed proper procedure during the hearing process. Counsel for respondent raised a different argument at oral argument. The licensee asserted that the local did not proceed in the manner provided by law since you cannot revoke based on actions of patrons. This argument is based on the licensee's interpretation of the case of Childers v. Illinois Liquor Commission. In Childers, the revocation of the liquor license was reversed since the reasons for the revocation were incidents that occurred in the general vicinity of the licensee's business but none of the incidents were related to the conduct of the licensee.

The licensee argued that the bad actions of the patrons of the bar outside in the vicinity of the bar cannot be used to revoke the liquor license.

The Childers opinion does not refer to any City of Rock Island ordinance comparable to the City of Chicago's late hour license in issue in this case. The ordinance at issue in this case specifically states a prima facie case of violation of the late hour ordinance is allowed based on actions of patrons that cause things like excessive noise and loitering. It is not within the jurisdiction of this Commission to determine if such an ordinance violates due process. The late hour ordinance was the law of the City of Chicago and the Local Liquor Control Commissioner was within his right to prosecute a disciplinary case against a liquor license holder for a violation

of said ordinance. In doing so, the Local Liquor Control Commissioner proceed in a manner proscribed by law.

The next issue is whether the findings of the Deputy Hearing Commissioner are supported by substantial evidence in the record as a whole. The substantial evidence standard has a low threshold and any evidence that supports the findings of the Deputy Hearing Commissioner is sufficient to uphold those findings.

With respect to Charge 1 dealing with the issue of over occupancy, there is conflicting testimony. Battalion Chief Cody testified to his observations and rendered his opinion that occupancy was over 300. The manager of the bar, Jasmin Brackett, testified the club was not over occupancy. The Deputy Hearing Commissioner made a specific finding that Chief Cody was credible and Jasmin Brackett was not credible. It is not the function of this reviewing Commission to reweigh issues of credibility. There is substantial evidence in the record as a whole to affirm the findings of the Deputy Hearing Commissioner as to Charge 1.

The record contains no evidence presented by the licensee to contradict the city's witnesses as to Charges 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17. The evidence presented by the city on those charges meets the substantial evidence requirement and the findings of the Deputy Hearing Commissioner on these charges are affirmed.

The primary argument raised by the licensee addressed the findings of the Deputy Hearing Commissioner with respect to Charges 3 and 5, which both alleged a failure to

implement and maintain an adequate exterior safety plan in violation of Municipal Code of Chicago 4-60-130 (f). The relevant portion of that ordinance is set out in detail in this decision and the Rules and Regulations for Late Hour Liquor Licenses issued by the Department of Business Affairs and Consumer Protection are in evidence. In summary, the ordinance requires late hour licenses to present an exterior safety plan to prevent problems from patrons entering or leaving late hour license establishments. The ordinance specifically states that there is a prima facie case that a licensee failed to implement and maintain its exterior safety plan if the evidence establishes the matters set out in 4-60-130(f)(2).

The first argument raised on these charges is that the licensee did file the required exterior safety plan and it was approved by the Department of Business Affairs and Consumer Protection. Those facts are not in dispute. Counsel for licensee then argues that since there is no specific evidence that the licensee did not follow that approved plan, it cannot be found to not have it implemented. Further argument was that the evidence actually showed that the licensee did implement and maintain the plan. It was not the actions of the licensee that caused any problem but the action of the people in the street.

The Deputy Hearing Commissioner made specific Findings of Fact with respect to Charges 3 and 5. He found that with respect to both charges that “there was competent evidence of excessive noise leaving the premises, evidence that patrons were loitering in and around the premises and evidence of congregation of patrons in such numbers so as to unreasonably impede traffic on May 26, 2014 and June 2, 2014.” Those findings were sufficient to establish a prima

facie case that the exterior safety plan was not adequately implemented and maintained. The further finding was that the licensee failed to overcome that prima facie case.

The standard of proof on this type of factual issue is substantial evidence. The testimony in this record contains sufficient evidence to affirm the Deputy Hearing Commissioner's Findings on this issue with respect to Charges 3 and 5.

The licensee also argued that the evidence presented by the city was insufficient to support the above-referenced findings of the Deputy Hearing Commissioner with respect to the actions of the patrons. Within that argument, the licensee referenced that the ordinance does not define terms such as patrons, excessive noise, or unreasonably impeding traffic. There is also a factual issue that is supported by substantial evidence in the record. The issue of whether the ordinance contains such vague terms as to make it unenforceable is within the preview of the constitutional issues addressed earlier in this decision. Briefly, this Commissioner does not have the jurisdiction to rule on those issues.

The findings of the Deputy Hearing Commissioner with respect to Charges 3 and 5 are affirmed and upheld.

The final issue to be addressed is whether the order is supported by the findings. In this case, the Deputy Hearing Commissioner did make specific findings as to appropriate discipline on each of the sustained charges. With respect to the Charges 2, 4, 10, 11, and 12 the Deputy

Hearing Commissioner found a \$500 fine concurrent to be appropriate discipline. These orders are supported by the findings and are affirmed.

The Deputy Hearing Commissioner found that revocation was the appropriate discipline on Charges 1, 3, and 5 which alleged violation of the occupancy ordinance and two violations of the Exterior Safety Plan. The Deputy Hearing Commissioner did not set forth any basis for this punishment. The record does contain the licensee's past disciplinary history which includes a voluntary fine of \$3,750 in case 14 LR 0025 which included a violation of the late hour safety plan.

That disciplinary history does not reflect any previous history of occupancy violations. While it would be helpful in reviewing this discipline to have some insight into the Deputy Hearing Commissioner's decision making process, it is not necessary. The decision to revoke on these charges is not so arbitrary and capricious as to require reversal. The fact this Commission may not have imposed revocation is not relevant to this case.

The Deputy Hearing Commissioner also recommended revocation as discipline on Charges 7, 8, 9, 13, 14, 15, and 16. There was no evidence presented by the defense on these charges and specifically no evidence to rebut the testimony in the record that Karl Spector ordered the removal of the closure notice and allowed the club to open despite said closure notice. Without shifting the burden of proof, one can infer the reason no evidence was presented on these matters is that there was no evidence that could have been presented in defense of these

actions. Revocation was appropriate discipline for these violations separate from any of the other charges.

The revocation of the liquor licenses issued to GT Development Group, Inc. for the premises located at 343 West Erie is sustained.

IT IS THEREFORE ORDERED AND ADJUDGED that the Order Revoking the liquor license of the APPELLANT is AFFIRMED **and** the Order to Fine the APPELLANT the sum of \$500.00 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: December 1, 2015

Dennis M. Fleming  
Chairman

Donald O'Connell  
Member