

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

The Two Lions Pub & Grill, Inc. )  
Applicant (COP-IA) )  
for the premises located at )  
2906 West Armitage Avenue ) Case No. 16 LA 3  
 )  
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 AND  
COMMISSIONER CAHILL

The Two Lions Pub and Grill, Inc. applied for a Consumption on Premises - Incidental Activity liquor license for the premises located at 2906 West Armitage. That application was denied by Local Liquor Control Commissioner Gregory Steadman based on a determination, after an on-site investigation by the City of Chicago's Department of Business Affairs and Consumer Protection, that the aforementioned premises is located 96 feet from Salem Christian School grounds (parking lot) at 2018 N. Richmond. Since the distance is less than 100 feet, the liquor license application was denied.

RELEVANT STATUTES AND ORDINANCES

**Illinois Liquor Control Act 235 ILCS 5/1-2**

This Act shall be liberally construed, to the end that the health, safety, and welfare of the People of the State of Illinois shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted by sound and careful control and regulation of the manufacture, sale, and distribution of alcoholic liquors.

**Illinois Liquor Control Act 235 ILCS 5/6-11**

(a) No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school other than an institution of higher learning... In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

**Chicago Municipal Code 4-60-020(d)**

In addition to the restrictions cited in Section 6-11 of the Illinois Liquor Control Act of 1934, as amended, no license shall be issued for the sale of retail alcoholic liquor within 100 feet of any Chicago Public Library...

SUMMARY OF PROCEEDINGS

Assistant Corporation Counsel Gabrielle Parker-Okojie represented the City and James Stola represented the respondent. The City called Antonio Torres and Hector Quintana as witnesses and the respondent called Manuel Galvez.

Antonio Torres has been employed as a Revenue Investigator for the City of Chicago for ten years. He inspects businesses, checks licenses, and does inspections on businesses that are opening. He is familiar with The Two Lions Pub and Grill, Incorporated from two inspections he did there. The first inspection was a preliminary measurement inspection to see there were no location restrictions. That was on May 11, 2015. The second inspection on August 27, 2015, was the full task force inspection which included an interior inspection and an exterior inspection for location restriction.

On May 11, 2015, he went to the location alone with his Hilti laser measurer which is used to measure distances. He has received a two or three hour course training him on how to use the measurer; it is a see and point device. You look through it like a sniper scope and tag the

laser wherever you are trying to measure. He has been using the Hilti laser to do inspections for about seven years. He does not calibrate the laser to know the measurements are accurate he just points and shoots.

On May 11, 2015, he started at The Two Lions Pub and started walking around the area to cover the 100 foot measurement. He observed the Salem Christian School across the street going west of The Two Lions Pub. He took a measurement from the Salem Christian School's parking lot at the southeast corner which would be close to the back property line of The Two Lions Pub and Grill. The pub is located at 2906 West Armitage. The measurement began at the parking lot because he had spoken with members of the Christian Salem School who confirmed that the parking lot was used by the school for employees and people that need to conduct business at the school.

The measurement began at the corner of the parking lot that was closest to The Two Lions Pub and Grill. The measurement was a little tricky because there was not a direct line for the building in the back of the alley. The pub is more inside the alley. The building next door west of The Two Lions Pub is a building that does extend to the alley. He tried to hit from the corner of the parking lot to the very last corner of that neighboring building. That measurement was within 100 feet. He then guesstimated how many more feet it would be from The Two Lions property line, like one more foot. He then came up with a distance of 96 feet which was confirmed by using the Google Maps application. Use of Google Maps is a practice usually done by the Department of Business Affairs and Consumer Protection as a tool to confirm measurement. This is done by zooming in on the corner most portion of the parking lot. You

then make a line to the point where you want to measure and the application will give you feet and distance.

The Google Maps application was probably done at the office the next day. He zoomed in on that corner most portion of the Salem Christian lot and made a straight line to where he proximated the back property line of where The Two Lions Pub is. It was confirmed it was approximately 96 feet--definitely under 100 feet.

On August 25, 2015, he first went to the Salem Christian School and then to The Two Lions Pub and Grill. That was the full task force inspection for the interior and exterior. He used the same procedure with the Hilti laser as he did on May 11. He went to the same corner spot and measured to that neighboring building, got as close as he could to Two Lions and believes he came up with some measurement. There was nothing to tell him his measurements were wrong the first time. He did not speak with anyone from Salem Christian that day but did so at the May 11 inspection. His conclusion is that the Salem Christian School is within 100 feet of The Two Lions Pub and Grill.

On cross, Mr. Torres stated he determined the property lines based on the edge of the alley. You kind of try to measure where all the garage lines are and where the building lines end. You can get a good indication of where the property line is and he was pretty confident where their property lines were in regard to The Two Lions Pub. He did not measure how far it was from the school building to the 2906 West Armitage property line. The school building would

be about 20 to 25 feet from the property line. It would be over 100 feet measured to the building. There were no interior violations observed at the inspection.

Hector Quintana has been principal of Salem Christian School for two years. The address of the school is 2018 N. Richmond and it opened in 1973. Salem Christian School is under the umbrella of the New Life Covenant Church. The church board governs the school and owns the school. The campus has a main building which houses the elementary grades. That building is connected to a chapel or church. In the back part of the building is a playground. There is another building which has administrative offices on the first floor and a second floor which is rented. All of which are owned by the church.

Salem Christian School serves Pre-K through 8 and it offers math, reading, writing, science, social studies, music, language, technology, and bible. There are after school activities and after-school care. The school year is 180 days and summer school is offered. It is certified by the Illinois State Board of Education and needs to comply with its requirements. City's Exhibit 4, in evidence, is a document from the State that certifies Salem Christian as a non-public school.

The school has a parking lot in front of the building and in the sides. It is used mainly for staff parking but also for visitors and parents. Parking is there for weekend activities.

On cross, the witness stated the parking lot is in front of the building and cars park vertically. The distance from the sidewalk to the school is more than ten feet. The building is a

distance back from the sidewalk. The school is connected to the church. Bible study is given every morning and religious services are conducted in the building on Tuesdays and at other activities the school deems necessary.

Mr. Quintana explained the church is owned by New Life Covenant but it allows the school to rent out the church building to another church not related to New Life Covenant. The school rents the church building and that money comes into the school. There are services in the church building on Wednesday and Saturday mornings. They can use the parking lot for church functions. The school has chapel on Tuesdays.

Manuel Galvez testified on behalf of the respondent. He is self employed as a licensed expeditor in the city of Chicago and has been so employed since 2011. He is familiar with obtaining liquor licenses and is familiar with doing measurements to determine where the property lines are with regards to buildings. He did measurements from the property at 2906 West Armitage to the complex at 2018 N. Richmond. He identified Applicant's Exhibit 1, as measurements he made. His measurement was that the distance was 96.7 feet property line to property line. The measurement was less than 100 feet. The measurement from the property line to the edge of the school was an additional 29 feet. He did the measurements with a Bosch laser measurer which he had been trained to use. The school has a big cross on the front of it which suggests it is a religious school. The exhibit was allowed in evidence by agreement.

The first issue to be determined is whether Salem Christian School is a "school" within the scope of the Illinois Liquor Control Act. The Illinois Liquor Control Act does not give a

definition of school. There does not seem to be case law defining what is encompassed by the term “school” under the Illinois Liquor Control Act. “In the absence of a statutory definition indicating a contrary legislative intent words are to be given their ordinary and commonly understood meaning. The dictionary can be used as a resource to ascertain the ordinary and popular meaning of words.” Cojeunaze Nursing Center v. Lumpkin, 260 Ill. App. 3d 1024 at 1029. Black’s Law Dictionary provides a “school” is an institution of learning and education, especially for children.

The evidence in the record is that Salem Christian School is a school within the common definition of a school. It provided instructions for children in grades Pre-K through 8 and will be providing instruction in grades Pre-K through 7 in the coming year. Its curriculum includes all the subjects generally taught in such grades and the school is certified by the State Board of Education. The fact that Salem Christian School is affiliated with a religious organization and the fact the school building is owned by a religious institution does not change the fact that it is a school. If this were true all catholic schools and other religious schools would be exempt from the 100 foot restriction. That interpretation of the statute would contradict the preamble of the Illinois Liquor Control Act which states:

This Act shall be liberally construed, to the end that the health, safety, and welfare of the People of the State of Illinois shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted by sound and careful control and regulation of the manufacture, sale, and distribution of alcoholic liquors.

Salem Christian School is a “school” under the Illinois Liquor Control Act. The next issue is whether this school is located within 100 feet of the applicant’s premises. The Illinois Liquor Control Act specifically states the meaning of measurement applicable to churches. It states:

In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Case law with respect to schools has construed the statute to measure the distance from lot line to lot line. Following these precedents, the measurements in this case both show that the distance from the applicant’s property to the school property is less than 100 feet.

Counsel for applicant asserts that the Salem building in which the Salem Christian School is a church. As a church, the measurement would be from the applicant’s property line to the part of the building used as a church. That distance in this case would be over 100 feet and the license would not be prohibited under the Illinois Liquor Control Act and the Municipal Code.

The Illinois Liquor Control Act does not define church. A dictionary definition as church is a building used for religious service. The record in this case establishes that religious services were carried out in the school building; there is bible session every morning. The record does not establish that the community organization that meets once a month does so for religious purposes. Services are conducted in the church by the lessee of the church on Wednesday nights and Sunday mornings and the school has chapel on Tuesdays.



Case law has interpreted what a church is broadly and the fact that bible studies take place at the school building might be sufficient evidence to establish the school building is also a church building. That does not mean that it is not still a school building.

The plain language of the Illinois Liquor Control Act suggests the legislature did not foresee a factual situation where a structure is both a school and a church. The legislature did say in 235 ILCS 5/1-2 that:

This Act shall be liberally construed, to the end that the health, safety, and welfare of the People of the State of Illinois shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted by sound and careful control and regulation of the manufacture, sale, and distribution of alcoholic liquors.

Case law supports the concept that the Liquor Control Act is to be liberally construed in cases dealing with measurements under this section.

Applying these principles to the facts in this case, the stricter measurement procedure applying to schools controls. Any religious institution or religious services held in the school building are ancillary to its primary purpose of being a school.

The evidence in the record with respect to measurements made by Investigator Torres and Manuel Galvez is that the distance between the applicant's premises and the school boundary line to boundary line is less than 100 feet. It may be only be 3.5 feet short of the required 100 feet, but this Commission must follow the requirements set out by the State Statute and the Municipal Code.

The denial of the application for a Consumption on Premises - Incidental Activity liquor license is affirmed.

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 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: August 25, 2016

Dennis M. Fleming  
Chairman

Donald O'Connell  
Member

Cynthia Cronin Cahill  
Member