

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

Porky's Sports Bar & Grill, Inc. )  
d/b/a Porky's Restaurant and Grill )  
Applicant (COP-IA) )  
for the premises located at ) Case No. 10 LA 06  
4556 West Roosevelt Road )  
)  
v. )  
)  
Department of Business Affairs and Consumer Protection )  
Local Liquor Control Commission )  
Norma I. Reyes, Commissioner )

ORDER

OPINION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER SCHNORF

Porky's Restaurant and Grill, Inc., applied for a Consumption on Premises - Incidental Activity liquor license for the premises located at 4556 W. Roosevelt Road. This application was denied by Norma Reyes in her position as the Local Liquor Control Commissioner. The January 29, 2010, denial letter sets out two bases for the denial. The first basis is that the issuance of this license at this location would create law enforcement problems and the second basis for denial was that the application did not pass document review by the Department of Business Affairs and Consumer Protection since the address should be 1201 S. Kolmar as opposed to 4556 W. Roosevelt Road. The applicant filed a timely Notice of Appeal with this Commission.

Since this case deals with an appeal of an order from the Local Liquor Control Commissioner the issue before this Commission was to decide this matter of the propriety of said

order de novo. 235 ILCS 5/7-9

Section 4-60-040(h) of the Chicago Municipal Code in pertinent part states that “The local liquor control commissioner...may deny an application for a city liquor dealer’s license if the issuance of such license would tend to create a law enforcement problem.” No section of the Chicago Municipal Code was cited as a basis for denial for not passing document review but the Assistant Corporation Counsel referenced Section 4-60-040(3) which requires the applicant to give “the location or description of the premises or place of business which is to be operated under such license.”

Bryan Knipper works for the Department of Business Affairs and Consumer Protection as a Business Consultant Supervisor. In that role he processes liquor license applications for review by the Local Liquor Control Commission. He identified City’s Exhibit 1 as the documents reviewed by the City as part of the application process. These were admitted in evidence but not as substantive evidence. The licensed premises at 4556 W. Roosevelt would be in a freestanding building at the corner of Roosevelt and Kolmar. City’s Exhibit 2, in evidence, is a site plan submitted by the applicant with an address of 4556 W. Roosevelt. Knipper described concerns with this site plan because the front door and the parking lot entrance are on Kolmar and not on Roosevelt. This could cause a problem with responses to emergency calls and could be a way of an applicant trying to avoid a moratorium. The moratorium concern does not apply to this applicant since a consumption on premises - incidental activity license at this location would be an exception to the moratorium. Knipper admitted that the Department of

Zoning approved the site plan in evidence as City's Exhibit 2.

Penelope Trahanas was the Commander of the 11<sup>th</sup> Police District on the date of her testimony at this hearing and had been the Commander for seven months. She is familiar with the intersection of Kolmar and Roosevelt since it is in the 11<sup>th</sup> District and is currently the site of Porky's Sports Bar and Grill which is open as a restaurant.

Commander Trahanas described the 11<sup>th</sup> District as the most violent district in the city. It led in the city in homicides and is a very high crime violent district. It is her opinion that a liquor license should not be issued at the intersection of Kolmar and Roosevelt. That opinion is based on the crime activity and violence associated with her district. This site is located two blocks away from a major gang conflict area that has been consistently considered the most violent area in Area 4 of the Chicago Police Department. The conflict area from Harrison to Roosevelt and from Harrison to Kildare is referred to as a Level 2 DOC. That is the area where it is most likely that a shooting or homicide would occur. It is an area of intense gang conflict and is only a few blocks from the license site. As the Commander she has found a connection between liquor licenses and violence in the 11<sup>th</sup> District. Shootings and homicides have been associated with liquor license establishments such as bars, social clubs, and supper clubs.

The Commander identified City's Exhibit 3, in evidence, as a list of call for service from January 1, 2009, through December 11, 2009, for the location on the 4000 through 4800 blocks of Roosevelt. It lists 1,123 calls for service. Commander Trahanas stated this document played

a part in her opinion opposing the license and felt it confirmed her opinion since the report shows calls for service for a man with a gun, prostitution and narcotics selling.

On cross-examination the Commander stated that City's Exhibit 3 lists every calls for service to 911 and that it can reflect that more than one person called on the same incident. It does not reflect convictions or even a crime at all. The Commander admitted she did not break down the 1,123 calls for service based on the area between 4400 to 4800 Roosevelt. She was not aware that 30% of the calls come from the area between 4400 and 4800 Roosevelt and was not aware 70% of the calls came from the area east of 4400 Roosevelt. She did not know that there were 70 calls for service for the 4500 to 4600 block of Roosevelt Road. She did not know the report reflected 137 calls for prostitution from 4400 to 4800 Roosevelt. The Commander was also not aware of unduplicated calls for prostitution in the 4500-4600 block of Roosevelt and that the report does not reflect calls for service with respect to a gun on that block. She did not know the report did not list a single sale of narcotics on the 4500 or 4600 block of Roosevelt. The Commander did feel that operating this restaurant would bring in more customers for prostitutes and that a liquor establishment at this location would attract the citizens who live two or three blocks away and these customers would increase the prostitution problems. There is presently an adult book store across the street in Cicero whose customers patronize the prostitutions in the area.

On questioning from Chairman Fleming Commander Trahanas admitted she would be opposed to the issuance of any new liquor licenses in the 11<sup>th</sup> District. She also acknowledged the location is open and operating as a restaurant and that she is not aware of any problems with operations of the restaurant that have required calls for service.

Bulmaro Rayas is the owner of Porky's Restaurant and Grill, Inc. He applied for and has received a restaurant license for 4556 W. Roosevelt. He replaced a vacant lot with a restaurant building. The cost of the land was \$500,000 and the building of the restaurant with improvements cost \$250,000. This particular location is a quiet street with no crime and criminals do not hang around Porky's.

The following applicant exhibits were allowed in evidence:

1. Applicant's 1a: Cook County Assessor's office document for the property with an address of 4556 W. Roosevelt.
2. Applicant's 2: Tax bill with an address of 4556 W. Roosevelt.
3. Applicant's 3: A Hold Notice from the City of Chicago's Department of Business Affairs and Consumer Protection addressed to Bulmaro Rayas and Porky's sports Bar and Grill, Inc., with an address of 4556 W. Roosevelt.
4. Applicant's 5: A site plan for the property approved by the City of Chicago's Zoning Department with an address of 4556 W. Roosevelt.

Section 4-60-040(3) requires the liquor license application include "the location and description of the premises or place of business which is to be operated under such license." It appears to be the City's position that the use of the Roosevelt Road address as opposed to a

Kolmar address violates this provision. As set out in the testimony of Bryan Knipper there are concerns the Roosevelt Road address could cause a problem with vehicles responding to emergency calls and could be a way for an applicant to avoid a moratorium. It was also inferred that the correct address for the property should be a Kolmar address and not 4556 W. Roosevelt. There was no evidence presented to substantiate these positions. There were numerous documents in evidence reflecting the Roosevelt Road address is being used for the property in general and for the restaurant. Since the premises are open with a restaurant license for 4556 W. Roosevelt the concern for emergency vehicle responses seems unsupported. Why would vehicles not have a problem responding to an emergency at a restaurant at 4556 W. Roosevelt but would have a problem responding to this same address because it now has an incidental liquor license. Mr. Knipper admitted that the possible concern that the Roosevelt Road address was used to avoid a moratorium issue is not applicable since there is no moratorium issue with this license.

The City has failed to proof to meet its burden of proof on the issue of an improper address and the denial of this application on that issue was not proper.

The next issue is whether the City has met its burden of proof that the issuance of an incidental activity license to this applicant at this location would tend to create a law enforcement problem. Decisions on denials based on law enforcement problems deal with the facts of the specific case and should not be considered as precedent for a case at a different address. Some of the factors considered by this Commissioner are the type of license applied

for, the location of the premises and any past law enforcement problem with the actual location and with the applicant. The evidence presented on these issues in this case establishes that while the location of the restaurant is in a high-crime police district, its actual location is not the site of extensive criminal activity. The applicant is applying for an incidental activity license as opposed to a license that would allow the sale of half pints, low cost high alcohol wines and 40 ounce beers. The applicant has no history of criminal background and there are no reports of activity requiring a police response since the restaurant is opened. The fact the Commander feels, quite correctly, that there is a link between crime and sale of alcohol, in general, is insufficient for the City to deny this application. The City failed to meet its burden of proof on the issue of whether the issuance of this incidental activity license to this restaurant at this location would cause a law enforcement problem. The denial of this license on that basis was improper.

The decision of the Local Liquor Control Commissioner denying 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: June 1, 2010

Dennis M. Fleming  
Chairman

Stephen B. Schnorf  
Member