

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

|  |   |                   |
|--|---|-------------------|
| VLB Bye Chance, Inc.                       | ) |                   |
| Vickie Bethel, President                   | ) |                   |
| Applicant (COP-IA)                         | ) |                   |
| for the premises located at                | ) | Case No. 06 LA 12 |
| 10001 South Commercial Avenue              | ) |                   |
|  | ) |                   |
| vs.  | ) |                   |
|  | ) |                   |
| Local Liquor Control Commission            | ) |                   |
| Department of Business Affairs & Licensing | ) |                   |
| Scott V. Bruner, Director                  | ) |                   |
|  | ) |                   |

ORDER

OPINION OF CHAIRMAN CALABRESE JOINED BY COMMISSIONER ADAMS

The applicant seeks a Consumption on Premises - Incidental Activity liquor license at the above captioned location. The license was denied for law enforcement and deleterious impact reasons. The applicant denies that the issuance of the license would have a deleterious impact or law enforcement problem on the community and appeals.

A lengthy and contentious hearing was then held on the City's denial. There is no question that a previous liquor establishment, unrelated to the applicant caused great problems for the community and was a center for lawlessness. Eventually, that problem license was revoked. As a result, the local business community is vigilant regarding the issuance of liquor licenses in the community. Many local businessmen and residents testified against the license. For almost every witness the direct examination and the cross-examination were replayed. On

direct, the witnesses testified to the abusive conduct and extraordinary activity of all the past licenses located at that address, they testified in addition to what they believed was the geographic and physical problems inherent in that particular address. The cross-examination stressed the race of the applicant as a factor in the witnesses opposition and pointed out that the witnesses had not stood in opposition to the issuance of licenses granted in the same area to non-black business people. The witnesses countered that they did not object to the other licenses because either they were not aware of the other applications or the applicants approved by the City without objection were well known to the community and trusted to run an operation without problem. They also denied that the motivation for their position in opposition was race related and some denied even knowing the race of the applicant when they opposed the license. Some credible witnesses, Mr. William Galvin, in particular, opposed the issuance of the license because of an undue concentration of licenses in the area and spelled out the problems created for the community.

A police officer testified for the City in regards to the issue of law enforcement problems. That testimony was unconvincing.

The applicant called witnesses to testify on behalf of her position. A retired police officer and a retired CTA employee, testified that the applicant had worked at a liquor establishment they had frequented in the past and that she ran a good establishment that operated without problem. The applicant testified that she would run a law abiding establishment.

The City did not meet its burden in demonstrating a law enforcement problem. We reject the denial on that ground.

The City also denied the license on the grounds of deleterious impact. We believe that there was sufficient evidence presented by the City to meet the preponderance standard. We do not believe that the Local Liquor Control Commission denied the license based on race. There were credible City witnesses like William Galvin presented that support the Local Liquor Control Commission's action in denying the application. We therefore, affirm the City's denial.

#### COMMISSIONER KOPPEL'S OPINION IN DISSENT

The Mayor's License Commission denied the applicant a liquor license stating it would be a deleterious impact upon the community to issue this license. The denial was predicated upon the facts pertaining to the previous licensee who had been revoked in 2004. This place has been vacant since the present applicant wishes to have an incidental liquor license in conjunction with the service of food in a restaurant she now has at this location.

Just recently a tavern license was issued to a location seven doors away. There are other places close to this applicant holding both packaged goods and incidental liquor licenses. There is a packaged goods liquor license across the street.

This place is zoned properly. The applicant is qualified to hold a license. The denial in this case is a back doorway of revoking a license. Due process, which was ignored in this

decision, is the issue.

The Alderman was against the issuance of this license, but he could have passed a moratorium law which could prevent a license. What took place before is not relevant. How can an incident that took place by the previous licensee be attributed to this applicant. The law is quite clear on how to legally revoke a license. If a licensee causes a nuisance then citizens can complain and charges can be brought against the licensee. This is due process. This is a case of arbitrary discrimination.

The business of dealing liquor is recognized by the Constitution as a legitimate business and a license to keep a place to sell liquor is placed in the same category with licenses to carry on any other lawful business and it must be dealt with according to law (due process) and special privileges are not to be granted to particular parties, as was done in this case.

To deny this applicant from obtaining a license is prejudicial. With a record of a denial it would be a part of her record and prevent her from obtaining another liquor license. This is truly prejudicial. Due process should prevail.

The record is devoid of evidence that this licensee would cause a deleterious impact on the community. The City contends that the license would contribute to traffic congestion, loitering and criminal activity that plagues the area. Yet other licenses were issued close by. If these problems do exist it is the responsibility of local law enforcement agencies to address these issues.

The deliberated and coordinated effort to deny the application by any means possible, despite the exemplary conduct of the applicant cannot be permitted. The City should have been 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 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: April 10, 2007

Anthony J. Calabrese  
Chairman

Don W. Adams  
Commissioner

Irving J. Koppel  
Commissioner – IN DISSENT

