

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

MBS Precision Management, Inc.)
Melvin Brooks, President)
Applicant (Tavern))
for the premises located at) Case No. 06 LA 53
653 East 75th Street)
vs.)
Department of Business Affairs & Licensing)
Local Liquor Control Commission)
Scott V. Bruner, Director)
)

ORDER

OPINION OF CHAIRMAN FLEMING

The applicant seeks a tavern license at the address of 653 East 75th Street. After the usual and customary investigations were conducted, the application was denied on the sole basis that the granting of a license to the applicant at this location would tend to have a deleterious impact on the health, safety and welfare of the surrounding community. The Local Liquor Control Commission is specifically allowed to deny an application on this basis pursuant to the City of Chicago Municipal Code 4-60-040 (h). Since our case comes to us from a denial, it is a de novo hearing.

Freddrenna M. Lyle testified she is a lifelong resident of the sixth ward and has been Alderman since 1998. She testified that for many years this ward was composed of homeowner - occupied middle class and lower-middle-class community. As the community aged and a

transition process began, there has been an increase in crime for the last three years. The Alderman described the situation right now as very destabilizing. Between Cottage Grove and St. Lawrence on 75th Street is a particular problem area. Last year there was extra police presence on 75th Street. A prior owner of a bar at this location had been in business for many years, but at the end of his ownership the bar began to cater to a younger crowd. The Alderman personally was driving down the street when the police went in and closed it down and she knew of fights and things that occurred in and around the premises. As an Alderman and a community member who lives five blocks away, she opposes the issuance of the license.

Ascia CeCe Edwards testified she is on the Board of Directors for Park Manor Neighbors and on the advisory council board and president of the park district for Grand Crossing. Her home for the last ten years has been 300 to 350 feet from the tavern. When the tavern was open she personally observed people coming from this bar and having sex in the alley. There were crack bags and condoms. Since the bar is closed it is totally changed. There is a great deal of peace and quiet because of it, no shootings, no drug dealing and no prostitution. She opposes the issuance of this license.

Darlene Tribune, testified she is President of Park Manor's Neighbors and has lived in this community for 38 years. This organization is dedicated to the human welfare and well being of the community as a whole. She is opposed to the issuance of the license as president of Park Manor's Neighbors and individually. Individually, she has noticed problems with speeding cars, auto thefts, vandalism, gangs and drugs as the community has public housing residents transition

into the neighborhood. When the tavern was open it created prostitution, drug sale, and litter problems as well as drug traffic at that location. Since the tavern closed it is quiet over there.

Several other witnesses testified in favor and in opposition to the application. The applicant's personal qualifications are not at issue. The record shows that he is a person of good character who has taken the time to learn the bar business and taken courses to aid him in properly running a bar. His character is not the issue to be decided and is not relevant to the question of whether the issuance of this license would tend to have a deleterious impact effect on the community.

The evidence in this case from Alderman Lyle, Ascia CeCe Edwards and Darlene Tribune is comparable to the evidence presented in the M. J. Ontario case recently decided by the Illinois Appellate Court, 1-04-2249. The City has met its burden of proof that the issuance of the license would tend to have a deleterious impact on the health, safety and welfare of the community in which the licensed premises is to be located. The denial of the license is affirmed.

OPINION OF COMMISSIONER ADAMS

The applicant seeks a tavern liquor license at the above captioned location. The license was denied by the Local Liquor Control Commission stating that the approval of this license would cause a deleterious impact on the health, safety and welfare of the community. There were multiple community objections, including those of the Alderman. The applicant denies there would be a deleterious impact, that the establishment is properly zoned and has met all City

inspections. In addition, the applicant is qualified to hold a liquor license. The applicant argued that the City must show the applicant being unqualified and should not rely on the good intentions of community objections.

The City's witnesses were credible and sincere. This is a neighborhood in transition with crime related problems. Alderman Lyle testified to gang problems, a Methadone Clinic on the same block, a nearby school and eight murders within six blocks which required special police activity. The alderman also testified that she has no recollection of ever meeting the applicant and had no knowledge of his character.

The City presented 22 secondary and 4 primary witnesses, including the president and several members of the Park Manor Association. This association represents 144 block clubs in the surrounding community and voted unanimously to oppose this application.

A previous liquor establishment at this address caused many problems for the community. There was specific testimony of witnessing loitering, solicitation for prostitution, drug sales, shootings, vandalism, illegal parking and other alcohol related problems. Commissioner Koppel sustained an applicant's motion that this testimony was irrelevant with which I disagree. The testimony was admitted.

Two of the applicant's witnesses were family friends and testified to his good character. Another witness was the applicant's future father-in-law and spoke highly of the applicant. This witness knew the previous bar owner and was not aware of any problems with that license. He

further testified that a well run tavern helps, not hurts, a neighborhood.

While the applicant was advised to seek community support for his liquor application, there was little evidence of any community support. The applicant further testified that he does not live in the community and would hire a day manager in order to keep his regular job until sufficient revenue is generated by the tavern.

The City presented sufficient evidence to meet the preponderance standard. The City's denial is hereby affirmed.

OPINION OF COMMISSIONER KOPPEL IN DISSENT

This case comes before the License Appeal Commission for a trial de novo on the question of whether the applicant has satisfied and met the requirements for obtaining a liquor license in the City of Chicago. The Local Liquor Control Commission issued an order disapproving the application in the belief that the premises would create a deleterious impact upon the community.

The facts in this case are as follows - this location had a liquor license for 30 years. In that period of time, there was one violation. That licensee retired. The new applicant purchased the building which included the now vacant tavern.

There were objections from people living in the area who testified that they do not want a tavern in this location because there are enough taverns. It should be noted that the area is zoned properly and that the police did not object to the issuance of the license. It is not uncommon for the police to object if they felt it would cause a deleterious impact.

It should be further noted that the applicant, a young man with a college degree seemed well qualified to hold a liquor license. He invested over \$200,000 in the purchase of the property and its remodeling. In the process of his application, he attended workshop lessons from the City's workshop program to the satisfaction of the City. The applicant proved to this Commissioner that he deserved the license and that his presence would be an asset to the community.

When a community group learned of the application they protested indicating they don't need anymore taverns. It would hurt the community.

The rule of law must apply. To say that the licensee or applicant without violations, cannot and should not have a license or deny a new applicant is not appropriate. If problems do exist, it is the responsibility of law enforcement agencies to monitor and control this problem (it should be noted that the police had no objection). This place is properly zoned. The Mayor's License Commission denying this license is a back doorway of revoking. There are due process procedures to close a bad place and there are methods to prevent openings and closings of bad places. The community can object and file a complaint if the place is bad. The community

through its Alderman can create a moratorium and the community has the right by local options to close a place. This is called due process. The denial of the license to this well qualified applicant will be an impediment from ever receiving a license.

The City did not prove its case. The applicant cannot be responsible for wrongful acts of others where he has no control, that is the law. 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: July 19, 2007

Dennis M. Fleming
Chairman

Don W. Adams
Commissioner

Irving J. Koppel
Commissioner – IN DISSENT

