

**LICENSE APPEAL COMMISSION  
CITY OF CHICAGO**

Taste, Inc.	)	
Lawrence E. Simmons, President	)	
Licensee/Suspension	)	
for the premises located at	)	
6331 South Lowe	)	Case No. 07 LA 17
	)	
v.	)	
	)	
Department of Business Affairs & Licensing	)	
Local Liquor Control Commission	)	
Scott V. Bruner, Director	)	
	)	
	)	

**ORDER**

This matter coming before the License Appeal Commission of the City of Chicago subsequent to a granting of the Licensee's Petition for Rehearing, the parties having had the opportunity to make additional oral argument on rehearing and this Commission having had the chance to review again the record of proceedings before the Local Liquor Control Commission makes the following findings :

- A. The gist of the Petition for Rehearing is the Licensee's argument that newly obtained evidence in the form of a Memorandum from the Illinois Department of Revenue which allegedly supports the Licensee's defense that there was an illegal and improper hold on his license which prevented the issuance of a license by the City of Chicago should be allowed in evidence. The Licensee argues that the entire matter be remanded to the Local Liquor Control Commission to rescind the thirty day suspension based on this error.
  
- B. The City has argued that since the License Appeal Commission is created by statute it can only exercise the specific powers set out in that statute. Since the power to remand is not set out in the statute this Commission cannot remand this or any other case to the Local Liquor Control Commission. Since this matter is not being remanded the Commission need not make a determination on this issue but feels it should state it does not necessarily agree with the position and reserves the right to ask for case law on this point if the matter is raised in a future

hearing.

- C. The Illinois Department of Revenue Board of Appeals Memorandum dated August 31, 2007, is not newly discovered evidence that would be sufficient for this Commission to consider remand to the Local Liquor Control Commission. While there were holds on this license as of January 7, 2006, those holds were removed by March 16, 2006, when the sale to a minor occurred. The testimony in the transcript is that the officers were shown licenses on that date. The charges regarding January 7, 2006, which were previously upheld by this Commission dealt with posting and displaying expired licenses. The fact that a hold may have been improperly placed on this Licensee's account during a time period including January 7, 2006, would not have been a defense to these charges.
- D. Remanding the case to the Local Liquor Control Commission for purposes of allowing or not allowing the introduction of the Memo from the Department of Revenue would be a meaningless order. This Commission has previously found that in light of the past disciplinary history, with the finding of the sale to a minor there was sufficient basis to support a thirty day suspension.

Based on the following findings the License Appeal Commission enters the following rulings:

- A. The Local Liquor Control Commission proceeded in a manner provided by law.
- B. That the Local Liquor Control Commissioner's Findings of Fact 1, 4, 7, 10, 13, 16, 17 and 18 are supported by substantial evidence in light of the record as a whole.

That the Local Liquor Control Commissioner's Finding of Fact 2, 3, 5, 6, 8, 9, 11, 12, 14 and 15 are not supported by substantial evidence in light of the record as a whole. The two police officers that were the City's witnesses to the events of January 7, 2006, did not testify that they observed drinking of or the sale of alcohol. While there was testimony that patrons were dancing there was no evidence an amusement was being conducted for profit.

- C. The order of the Local Liquor Control Commissioner is supported by the findings. Despite the fact that various allegations were not proven, the proven charge of a sale to a minor combined with the past disciplinary history of this Licensee is sufficient to support a thirty (30) day suspension.

IT IS THEREFORE ORDERED AND ADJUDGED That the order suspending the

liquor license of the appellant for THIRTY (30) days 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 19, 2007

Dennis Michael Fleming  
Chairman

Irving J. Koppel  
Commissioner

Stephen B. Schnorf  
Commissioner