

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

S.L.W. One Stop Mart, Inc.)
Shantanna M. Griffith, President)
Applicant (Packaged Goods))
for the premises located at) Case No. 07 LA 22
6360 South Kedzie Avenue)
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)
)
v.)
)
)
Department of Business Affairs & Licensing)
Local Liquor Control Commission)
Scott V. Bruner, Director)
)

ORDER

This matter comes before the License Appeal Commission for a hearing de novo on the denial of the Appellant’s request for a packaged goods license. It was denied because the store is located in a moratorium district and because the issuance of this license would cause a deleterious impact on the community.

With regard to the moratorium issue it was stipulated by the parties that the premises were and are located in a moratorium area. The moratorium bars any additional packaged goods licenses. In most cases that stipulation would be determinative of the case. In this case which the applicant stipulated to the moratorium she went forth with evidence on the argument that the legal theory of equitable estoppel should bar the Local Liquor Control Commission from denying the issuance of the license because of the moratorium.

Equitable estoppel is based on the principle that one may not act in a certain matter and

then take an inconsistent position which prejudices another who acted in reliance on the act. It arises when one party, by his or her words or conduct, intentionally and through culpable negligence, reasonably induces another to rely on his or her representations, and as a result of that reliance, the other changes his or her position to his or her injury.

The use of equitable estoppel against a municipality is not favored and will be allowed only in extraordinary or compelling circumstances. Village of Wadsworth v. Kerton 311 Ill. 3d 829, 726 N.E. 2d 150. To involve equitable estoppel against a municipality there must be an affirmative act on the part of the municipality such as a legislative enactment rather than the authorized acts of misinterpretation or ministerial misinterpretation. A municipality cannot be estopped by an act of its agent beyond the authority expressly conferred on that official Hamwi v. Zollar 299 Ill. App. 3d 1008, 702 N.E. 2d 593. Representations of an attorney are insufficient to bind a municipality under equitable estoppel. 264 Ill. App. 3d 887, 637 N.E. 2d 110.

The issue to be addressed first is whether the actions of then Alderman Thomas or the actions of the employees of the Department of Business Affairs & Licensing were such that they would estop the City of Chicago from denying the license. The answer is no as to both. Shantanna M. Griffith, the owner of the corporate applicant, testified she was aware that a moratorium was in effect prior to starting the application process. When she started the process in October 2006, that an agent of the Department of Business Affairs & Licensing told her to get the support of the alderman. Theodore Thomas was the Alderman and he originally opposed the application. After he met with community groups he withdrew his opposition and on march 19,

2007, he wrote a letter to Scott Bruner, Director of the Department of Business Affairs and Licensing, memorializing his support and withdrawing his objection to SLW One Stop mart, Inc., obtaining a liquor license. What Alderman Thomas did not do was to take any of the steps needed to lift the moratorium. Alderman Thomas was defeated in his bid for re-election in April 2007, and Alderman Foulkes testified she is opposed to lifting the moratorium on liquor stores applicable to this address. The actions of former Alderman Thomas were insufficient to impose equitable estoppel against the City. There were specific procedures that needed to be followed for the moratorium to be lifted and they were not done.

The actions of the employees of the Department of Business Affairs and Licensing did not provide a sufficient base on which to impose equitable estoppel. While Ms. Griffith suggests that the Department of Business Affairs and Licensing should not have taken the \$4,400 in application fees and should not have processed the application which led to building inspections that required spending thousands of dollars to bring the building into code, it does not change the fact that such actions are not sufficient to impose equitable estoppel. Ms. Griffith knew at all times that a moratorium was in effect. While the evidence is conflicting on this point, Ms. Griffith may also have been advised specifically by Business Affairs and Licensing that the letter from Alderman Thomas was not sufficient and the moratorium must be lifted prior to the issuance of the license. There is evidence that it was Ms. Griffith who made a knowing decision to file the application with the moratorium still in effect.

While this Commission understands Ms. Griffith's feelings that the process may have

been unfair to her the evidence presented at this hearing is not sufficient for the principle of equitable estoppel to be imposed and an order be entered granting the packaged goods license.

Since the moratorium is in effect and according to Alderman Foulkes will remain in effect it is not necessary to address the issue of whether the City proved by a preponderance of the evidence that the granting of the packaged goods license would cause a deleterious impact on the community.

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: December 21, 2007

Dennis M. Fleming
Chairman

Irving J. Koppel
Commissioner

Stephen B. Schnorf
Commissioner

