

BEFORE THE
CITY OF SOUTH MILWAUKEE
LEGISLATION AND PERMITS COMMITTEE

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
RECOMMENDATION TO THE COMMON COUNCIL

The Legislation and Permits Committee met on June 13, 2011 at 11:45 a.m. for the purpose of conducting a hearing on the complaint of Robert and Victoria Thibedeau of 918 Minnesota Ave., South Milwaukee against the establishment known as The Frozen Rope.

The City records show that the liquor license has been issued to M& B Enterprises, LLC, William Foerman agent, and that William Foerman has applied for a license for the next year for the same premises, 1815 10th Ave. under the name of DBF Enterprises, LLC, William Foerman agent.

The affidavit of service on file shows that the Summons and Complaint in this case were served on Daveine Jopek, on June 7, 2011 at 9:30 p.m. In the hearing conducted regarding the same license which this Committee held on April 26, 2011, Mr. William Foerman identified Daveine Jopek as his fiancée with whom he lives and she has been identified as the bartender of the premises who was in charge of the premises at the time of service as well as on June 4, 2011 at the time of the incident which gave rise to the complaint of Mr. & Mrs. Thibedeau.

The Committee has reviewed its Findings and Conclusions of the hearing held on April 26, 2011 and notes particularly from those Findings and Conclusions which were not objected to by the licensee that on March 26, 2011 as a result of a fight between patrons of the tavern, a patron of the tavern fired a gun two times outside the tavern near the home of Frank Van Dusen. The findings reflect that the neighbors who testified at that earlier hearing stated that there are often fights of patrons of the bar outside the bar at closing time and that they are concerned for their safety. The Committee recommended the license be suspended for two weeks based on Mr. Foerman's representation that he was changing the clientele of the bar and that this type of incident would not happen again.

The Committee finds that on June 4, 2011 at about 2:25 a.m. patrons of the tavern including the D.J. hired to play music at the bar became involved in a fight and the D.J. fired 5 shots from a .45 caliber pistol near the east end of the tavern and immediately adjacent to the residential properties which abut the property on the east. The neighborhood to the east of the tavern is all residential. The Committee found the following testimony credible and reliable.

Ms. Thibedeau testified that on June 4, 2011 she was awoken by the sound of rapid gunshots out on the street near her home.

Mr. Frank Van Dusen testified that at 2:25 a.m. on June 4, 2011 he heard 5 clear gunshots; that he called the police and went outside to see the police breaking up a fight which was going on immediately outside the tavern.

Mr. Carl Lederhaus testified that he and his wife were watching television and he heard 5 gunshots. He lives across the street and 3 lots east of the tavern.

Sharon Blume was called to testify by the licensee. She testified that on June 4, 2011 she had been a patron at the bar; she went outside to have a cigarette and saw other patrons of the bar involved in a fight. She saw 4 patrons beating another patron against a car and then heard 5 gunshots. There were 15-20 people outside the tavern. She ducked and kept going to her car.

Andrew Orethun testified that there have been changes in the bar which have improved the clientele of the bar. He has seen the bartender and Mr. Foerman refuse admittance to prior patrons.

Donald Schermer testified that he had stopped going to the bar because of the clientele but now has started going there again. He was not present for the shooting.

The Committee reviewed a video which Police Officer Edward Hallett testified was given to him by Mr. Foerman. In the video, Officer Hallett identified himself and the bartender Daveine Jopek. The Committee believes the video to be reliable. The video clearly shows people who were identified as patrons of the bar fighting in the street, running from the area and the police arrival at the scene. One flash observed on the video may have been a muzzle flash. Officer Hallett testified that Mr. Foerman identified the shooter as the man he had hired to be a D.J. playing music in the bar that evening. Officer Hallett testified that the police recovered three .45 casings from a handgun in the area where it appears on the video the shots were fired. Officer Hallett testified that the bartender, Daveine Jopek, had to be ordered three times to not remove the casings.

Atty. Michael Maistelman, representing the licensee, has recommended that the Committee not revoke the license but impose conditions such as requiring security personnel, changing the dress code and changing the music.

The Committee finds that these are all changes which Mr. Foerman could and should have made after the last hearing and suspension.


CONCLUSIONS OF LAW

The Committee concludes that the licensee has kept a disorderly house. The neighbors' safety has been compromised by the failure of the licensee to change the clientele of the tavern and to insure that his patrons do not engage in behavior which is disturbing and dangerous to the neighborhood.

RECOMMENDATION

Based on the foregoing, the Legislation and Permits Committee recommends that the Liquor License issued to M& B Enterprises, LLC be revoked and that the license application of DBF Enterprises, LLC be denied.

These Findings of Fact, Conclusions of Law and Recommended Action were adopted by the Committee on June 13, 2011 by a vote of 4 in favor and 0 against.


Alderman Lisa Pieper, Chairman