



City of Grand Island

Tuesday, November 12, 2013

Council Session

Item E-1

**Public Hearing on Request from Jose Guerrero dba Mariscos
Villarreal, 811 West 2nd Street for a Class “A” Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: November 12, 2013

Subject: Public Hearing on Request from Jose Guerrero dba Mariscos Villarreal, 811 West 2nd Street for a Class “A” Liquor License

Item #'s: E-1 & I-1

Presenter(s): RaNae Edwards, City Clerk

Background

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

Declared Legislative Intent

- It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:
- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
 - (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
 - (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

Discussion

Jose Guerrero dba Mariscos Villarreal, 811 West 2nd Street has submitted an application for a Class “A” Liquor License. A Class “A” Liquor License allows for the sale of beer on sale only inside the corporate limits of the city.

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments.

Based upon the Police Department report (see attached) the applicant failed to disclose that he borrowed money from Eduardo Villarreal which makes this a false application under the Nebraska Liquor Control Act (Part II Chapter 2 Section 010.01). It has been recommended by the Police Department to deny the request for a liquor license.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

Recommendation

Based on the Nebraska Liquor Control Commission's criteria for the approval of Liquor Licenses, City Administration recommends that the Council **deny** this application.

Sample Motion

Move to **deny** the application for Jose Guerrero dba Mariscos Villarreal, 811 West 2nd Street for a Class "A" Liquor based upon a false application.

10/29/13
14:58

Grand Island Police Department
LAW INCIDENT TABLE

450
Page: 1

City : Grand Island
Occurred after : 15:50:00 10/17/2013
Occurred before : 08:00:00 10/21/2013
When reported : 12:34:12 10/21/2013
Date disposition declared : 10/21/2013
Incident number : L13102689
Primary incident number :
Incident nature : Liquor Lic Inv Liquor License
Investigation
Incident address : 811 2nd St W
State abbreviation : NE
ZIP Code : 68801
Contact or caller :
Complainant name number :
Area location code : PCID Police - CID
Received by : Vitera D
How received : T Telephone
Agency code : GIPD Grand Island Police Department
Responsible officer : Vitera D
Offense as Taken :
Offense as Observed :
Disposition : ACT Active
Misc. number : RaNae/Dan
Geobase address ID : 41439
Long-term call ID :
Clearance Code : CL Case Closed
Judicial Status : NCI Non-criminal Incident
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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	108604	10/29/13	Catalan, Imelda	Involved
NM	188132	10/29/13	Villarreal-Munoz, Eduardo	Employee
NM	188133	10/29/13	Mariscos Villarreal,	Business
NM	57479	10/22/13	Guerrero, Jose	

Applicant/Owner

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT21	Restaurant	

LAW INCIDENT NARRATIVE:

Jose Guerrero is Seeking a Liquor License for a Mexican Seafood Restaurant called "Mariscos Villarreal."

LAW INCIDENT OFFENSES DETAIL:

Se Offe	Offense code	Arson Dama
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1	AOFF Alcohol Offense	0.00

LAW INCIDENT RESPONDERS DETAIL:

Se Responding offi	Unit n	Unit number
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1	Vitera D	318 Vitera D

LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
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1	Vitera D	14:21:43 10/22/2013

Grand Island Police Department
Supplemental Report

Date, Time: Tue Oct 22 14:21:52 CDT 2013
Reporting Officer: Vitera
Unit- CID

Jose Guerrero is applying for a Class A (beer on sale only) Individual Retail liquor license for a business called "Mariscos Villarreal" Mexican seafood restaurant. Rafael Orozco owns the building and had been leasing it to Adolfo Flores who was running Rafa's Tacos.

While perusing the application, I noticed that Jose became a citizen of the United States in 2001, and he reported on the application that he has lived in Grand Island since 1999. He is not married, and he is the only person listed on the application. He disclosed that he has absolutely no criminal history, and he is borrowing money from the Rural Enterprise Assistance Project (REAP). The projected hours of operation for the restaurant are Monday through Thursday 10 Am until 8 PM and Friday through Sunday 10 AM until 10 PM.

I checked Jose through Spillman and NCJIS. He is in Spillman and NCJIS but not for anything where he could be held criminally accountable. He doesn't have any outstanding arrest warrants, and his license is valid. I sent a confirmation request to ICE to see if Jose's naturalization paperwork is legitimate, and I was informed that it is. I also checked Jose through an online law enforcement-only database and didn't find anything out of the ordinary. Jose's name is too common to narrow down information on the Internet.

I called Jose on 10/23/13 at about 1030 hours and left him a voicemail asking him to call me. After not receiving a return call, I called Jose again on 10/25/13. Jose agreed to meet me at his restaurant at 1230 hours. Investigator Fiala with NSP was also present for the interview. I told Jose that his application looked good. However, I wanted to clarify a couple of things. The first thing I asked Jose is why he just applied

for a license to sell beer. Jose said he wants a family atmosphere and didn't need anymore alcohol than that. Jose also mentioned that he is working full time at JBS and will continue to do so. I asked Jose the meaning of the name of his restaurant. Jose said that "Mariscos" means seafood in Spanish. Villarreal is the name of a family member.

I had noticed that Jose was originally going to have Eduardo Villarreal have access to the business account and then changed his mind. I asked Jose the connection between the name of his restaurant and Eduardo Villarreal. Jose said that Eduardo is his nephew and will be working for him. Eduardo has experience in the restaurant business. Jose also explained that Eduardo has a connection to Puerto Vallarta. I believe it has something to do with the restaurant business. Puerto Vallarta comes into play later after I spoke to Eduardo and did some research on him.

Jose went on to say that Eduardo lent him \$10,000 and will receive twenty percent of the business profits. I pointed out to Jose that there are two questions on the application that deal with identifying people who he received money from to establish and/or operate the business along with disclosing who all will share the profits from the business. Jose only listed that he borrowed money from the Rural Enterprise Assistance Project (REAP). He stated on the application that no one else will share in the business profits. Jose didn't have an explanation as to why the application was filled out incorrectly by omitting key pieces of information other than to say that he had help filling out the application.

Jose advised that a woman by the name of Imelda Catalan who works for REAP helped him fill out the application. Jose gave me Imelda's phone number, and I would speak with her later. In the meantime, I asked to speak to Eduardo. Eduardo was working at Jose's restaurant, so it just took a couple of minutes to find him and have him meet with Investigator Fiala and me.

Eduardo spoke very little English. Jose had to help translate. I asked Eduardo for identification. He provided me with a Mexican Consular card. I asked him if I could look through his wallet for other forms of identification and was granted consent. Eduardo didn't have a driver's license or state I.D. card from any state. He had no other forms of identification in his wallet other than a Mexican driver's license.

Eduardo advised that he has been in the U.S. for twelve years. He spent six years in the San Jose, CA area and six years in Chicago. Eduardo said he worked in a couple of body shops in San Jose and a Mexican seafood restaurant (was wearing that work shirt) in Chicago. Eduardo said that he does not have a Social Security number. He claimed to have some kind of tax identification number that he didn't have with him. Eduardo didn't deny that he had contributed \$10,000 towards Jose's business and that he was supposed to receive twenty percent of the profits.

After speaking with Jose and Eduardo, Investigator Fiala and I went to Imelda's house and spoke to her about helping Jose fill out the application. Imelda said that she met with Jose several times at a law office on 4th Street. She recalls being introduced to Eduardo at one of

the last meetings. Imelda acknowledged that she helped Jose fill out the application. They filled it out together. At the time they filled it out, they had determined that Jose would need about \$30,000 to get the restaurant going. Imelda said that REAP could only give him \$15,000. Imelda knew that Jose needed to borrow more money, but she didn't know where he was planning on getting it.

After speaking with Imelda, I contacted Agent Ben Miller with ICE. I gave him the information I had on Eduardo. Agent Miller couldn't positively identify Eduardo but did find someone using that name who took a flight from Chicago to Puerto Vallarta Mexico in 2008. Agent Miller could find no documentation of that person reentering the U.S. With Eduardo moving here from Chicago and having a connection to Puerto Vallarta, I think Agent Miller had the correct information. According to Agent Miller, he is fairly confident that Eduardo is not in the U.S. legally.

Jose's failure to disclose that he is borrowing money from Eduardo and sharing the business profits with Eduardo makes the applications false according to the Nebraska Liquor Control Act (Part II Chapter 2 Section 010.01) which states:

"No applicant for a liquor license, or partner, principal, agent or employee of any applicant for a liquor license shall provide false or misleading information to the Nebraska Liquor Control Commission, its executive director, or employees. Any violation of this provision may result in denial of application for a liquor license or, in the event that a license has already been issued, suspension, cancellation or revocation of such license."

All in all, Eduardo Villarreal is a big part of this business. His last name is the business name. He worked in a Mexican seafood restaurant prior to moving to Grand Island. He contributed \$10,000 towards the establishment and operation of the business, and he is supposed to receive 20% of the profits. With Jose continuing to work full time at JBS, it adds to the fact that Eduardo is a major part of the business.

This is a false application and should be denied because Jose failed to mention Eduardo's involvement. In addition, from my investigation and the information received from ICE, it doesn't appear that Eduardo could get his own liquor license based on his immigration status. The Grand Island Police Department recommends that the city council not give local approval to this application.

