



City of Grand Island

Tuesday, November 25, 2014

Council Session

Item E-1

**Public Hearing on Request from El Castillo LLC dba El Castillo,
123 East South Front Street for a Class “I” Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: November 25, 2014

Subject: Public Hearing on Request from El Castillo LLC dba El Castillo, 123 East South Front Street for a Class "I" 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

El Castillo LLC dba El Castillo, 123 East South Front Street has submitted an application for a Class "I" Liquor License. A Class "I" Liquor License allows for the sale of alcohol on sale 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.

Also submitted with the application was a request from Horacio Rodriguez, 551 East 18th Street for a Liquor Manager Designation.

After reviewing the Police Department investigation report (see attached) and the Fire and Building Departments reports, it is recommended that the Council deny this application and Liquor Manager request due to a false application and Building and Life Safety issues.

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 El Castillo LLC dba El Castillo, 123 East South Front Street for a Class "I" Liquor License and Manager Designation for Horacio Rodriguez, 551 East 18th Street due to a false application and Building and Life Safety issues.

11/17/14
14:17

Grand Island Police Department
LAW INCIDENT TABLE

450
Page: 1

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City : Grand Island
Occurred after : 08:00:00 10/21/2014
Occurred before : 08:00:00 10/21/2014
When reported : 08:00:00 10/21/2014
Date disposition declared : 10/22/2014
Incident number : L14102046
Primary incident number :
Incident nature : Liquor Lic Inv Liquor Lic Inv
Incident address : 123 South Front St E
State abbreviation : NE
ZIP Code : 68801
Contact or caller :
Complainant name number :
Area location code : PCID Police - CID
Received by : Vitera D
How received :
Agency code : GIPD GIPD Grand Island Police Dept
Responsible officer : Vitera D
Offense as Taken :
Offense as Observed :
Disposition : ACT Active
Misc. number : RaNae
Geobase address ID : 11235
Long-term call ID :
Clearance Code : CL CL Case Closed
Judicial Status : NCI Non-criminal Incident

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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
LW	L11101464	11/03/14	Liquor Lic Inv	Related
NM	62011	11/06/14	Bandasack, Chanh C	Mentioned
NM	196251	10/30/14	Sanchez, Rubi	Pedro's spouse
NM	67168	10/21/14	Rodriguez, Horacio	Manager
NM	79558	10/21/14	Rodriguez, Simara Y	Manager's
Spouse				
NM	195877	10/21/14	Serrano Castillo, Pedro	Owner

LAW INCIDENT CIRCUMSTANCES:

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Se Circu Circumstance code      Miscellaneous
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1  LT03  LT03 Bar/Night Club

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IMAGE CODES FOR INCIDENT:

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Seq Imag Image code for a users description field
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1  DOC  DOCUMENT      mobile report

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LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application from Pedro Serrano for a Bar called El Castillo. I Also Received a Liquor Manager Application from Horacio Rodriguez.

LAW INCIDENT OFFENSES DETAIL:

Se	Offe	Offense code	Arson	Dama
1	AOFF	AOFF Alcohol Offense		0.00

LAW INCIDENT RESPONDERS DETAIL:

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

LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	14:32:45 10/30/2014

Grand Island Police Department
Supplemental Report

Date, Time: Thu Oct 30 14:32:55 CDT 2014
Reporting Officer: Vitera
Unit- CID

I received a copy of a Class I (beer, wine, distilled spirits, on sale only) LLC liquor license from Pedro Serrano for a bar called "El Castillo" which will be located at 123 E. South Front Street. Within that application, I received a copy of a liquor manager application from Horacio Rodriguez for El Castillo. The only other people listed on the applications are Rubi Sanchez and Simara Rodriguez. Rubi is Pedro's wife, and Simara is Horacio's wife. They each signed a Spousal Affidavit of Non Participation.

While perusing the applications, I noticed that Pedro has never had a liquor license before, but he was a bartender in Dodge City, Kansas in 2007. Pedro and Rubi lived in Dodge City from 2001 until 2011. They moved to Grand Island in 2011. I contacted the Dodge City Police Department and requested a records check on Pedro and Rubi. Horacio and Simara have lived in Grand Island since at least 1997. None of the applicants disclosed any criminal convictions with the exception of Pedro who disclosed a DUI in Dodge City in 2000.

I checked all of the applicants through Spillman and NCJIS. Rubi isn't listed in Spillman or NCJIS. Pedro has a recent entry in Spillman for "lost property" and an entry in NCJIS from the Department of Labor. Since Pedro and Ruby just moved to Nebraska in 2011, it should be expected that

they don't have much history here. Simara doesn't have any potential criminal acts listed in Spillman or any convictions listed in NCJIS. Horacio, however, is a slightly different story. Horacio has a couple of entries in Spillman which show he was cited for DDS on one occasion and arrested for DDS on a separate occasion. I was able to confirm through NCJIS that he was convicted of DDS once in Hall County. He also has a speeding conviction in Garfield County. None of the applicants have any outstanding arrests warrants, and they all have a valid Nebraska driver's license with the exception of Rubi (couldn't find a license for her).

Horacio not only didn't disclose any criminal convictions on this application, he didn't disclose any criminal convictions on a prior application when his wife applied for a liquor license for "El Trancaso" in October of 2011. According to my investigation in 2011, Horacio had some convictions and was listed in NCJIS as a "Multi-State Offender." To take it a step further, there is a question on Horacio's manager application (this one) which asks if he or his spouse have ever applied for a liquor license before. He checked the "No" box. In addition, there were several problems with Simara's 2011 application which included Horacio's background and the way he answered questions. The following is an excerpt from my investigation into Simara's 2011 application:

According to Spillman, Horacio has a speeding conviction and possibly a DDS conviction. He has a jail photo in Spillman for being arrested on a warrant for failing to pay on a DDS conviction. I confirmed through NCJIS that Horacio has a speeding conviction in Garfield County in 2007 and a DDS Conviction in Hall County in 2003.

I didn't find any new convictions for Horacio since I researched him for Simara's application in 2011. Also, he is no longer listed as a "Multi-State Offender" in NCJIS. I don't know the reason for that. I used a paid law enforcement-only database to check on the applicants as well. Pedro had nothing that would be detrimental to his application. I could find absolutely nothing on Rubi which is extremely unusual. It appears that Horacio has seven civil judgments against him, and he's been released from liability on two of the seven. Simara has eight judgments listed against her. Five of those are the same as Horacio's. Of the three additional judgments she had, she has been released on two out of the three.

All of the Rodriguez's judgments are out of Hall County except one which is out of Adams County. I did not verify any of the judgments through the courts. However, during my previous investigation with Simara, NSP Investigator Lorri Rogers (now retired) spoke to Simara about the judgments against her. Simara confirmed the fact that she had judgments against her but told Investigator Rogers they were for medical bills. Without calling the collections agencies involved and requesting a file, it's difficult to tell what the original bills were for with the exception of Ford Motor Credit.

On 11/3/14, NSP Investigator Dan Fiala and I met with Pedro Serrano at 123 E. South Front Street. Investigator Fiala went over his checklist of questions with Pedro, and then I asked him some questions as well. I asked Pedro how he became acquainted with Chanh Bandasack, the owner of the

building located at 123 E. South Front. Pedro said he was just driving by the building and saw Chanh working on it. Pedro stopped and introduced himself, and a business agreement was later reached. I also asked Pedro how he knows Horacio and Simara Rodriguez. He said that their sons are friends, and the parents have become friends.

I asked Pedro about Rubi and told him that I can't find any record of Rubi's existence. He said that Rubi is the mother of his three children, yet they just recently got married; and she hasn't taken his name yet. Pedro advised that since he came to the U.S., he has only lived in Kansas and Nebraska. He said that Rubi came from Mexico, and they met in Kansas. He said that she is in the country illegally. Pedro disclosed a DUI conviction from Dodge City on his application. I asked him if he had any other contacts with law enforcement. He advised that he was also jailed in Dodge City for not having an operator's license sometime after 1994.

Pedro's application states that El Castillo will be a "bar & reception hall." Pedro advised that if he isn't holding special events, the bar will be open on Friday nights and the weekend. It doesn't sound like he has much of a plan for security. He said that he would hire someone to check ID's and hire someone to roam the bar area. Other than that, he plans on he and Horacio handling the rest of the bar duties.

I told Pedro that I had some issues with his application, most of which came from the liquor manager application. Simara Rodriguez applied for a liquor license in 2011. There were problems with her application which included Horacio not disclosing any of his convictions and not being a United States Citizen at the time, numerous financial judgments against them, and Simara technically owning the bar and being responsible (through ownership of the bar) for selling alcohol without a license and serving an intoxicated man.

Horacio is now a United States Citizen, but he still didn't disclose his convictions on this application, nor did he acknowledge that Simara had applied for a liquor license before. The Manager's Application (Form 103, question 2) clearly asks, "Have you or your spouse ever been approved or made application for a liquor license in Nebraska or any other state?" Horacio checked the "No" box. At this time, I told Pedro that is likely that the police department will make a request to the council to not approve his application.

On 11/5/14, I received a phone call from the police department in Dodge City regarding the request I made with them to check their records for Pedro Serrano and Rubi Sanchez. I was advised that they had a DUI arrest during the timeframe that Pedro provided on the application. Pedro Serrano was listed as an alias, but the booking name was different. The DUI was listed under the name "Tereso Tovar." Dodge City is supposed to be mailing me some information. When we interviewed Pedro, he said that he didn't disclose being jailed on a no operator's license charge. It sounds like he was illegal at the time and didn't have any form of I.D. I am waiting on the information from Dodge City.

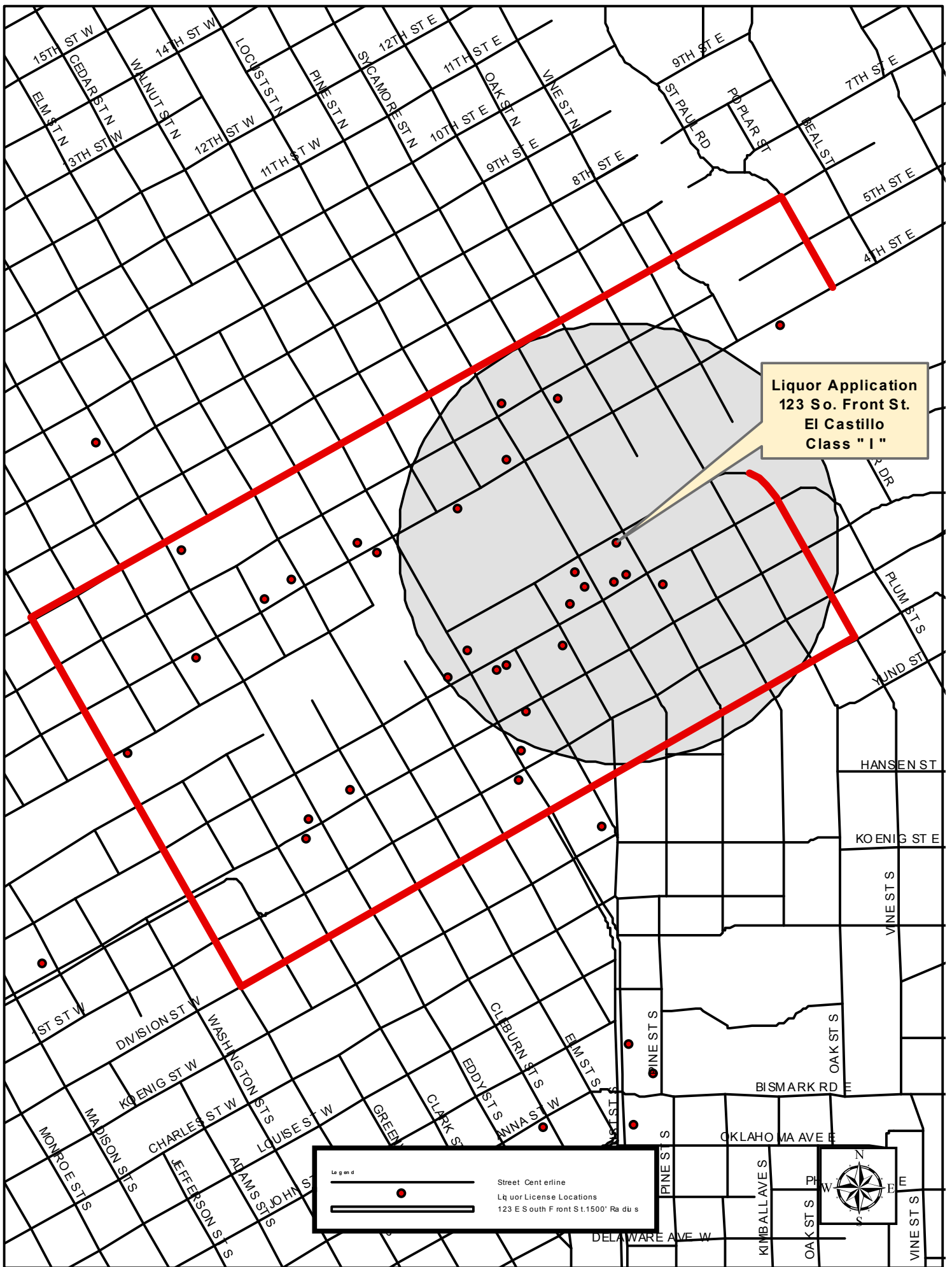
On 11/10/14, I received a packet in the mail from Dodge City PD. First of all, they had a record of "RUBY Sanchez-Pidraza" with a DOB of 10-8-72.

She has a conviction for no operator's license in September of 2010. Like I was told over the phone by Dodge City authorities, they also found a DUI arrest in 2000, where the arrested person had an alias of Pedro Serrano. The name given at the time of the arrest was Tereso Tovar (9/17/72). Tovar also had a no operator's conviction in '97 along with separate convictions in '97 for no insurance, expired driver's license, and obstruction of legal process. The last record for Tovar was a no operator's license warrant under the name of Pedro Serrano which was served on Tovar. A couple of arrest photographs were included in the packet along with the detailed DUI arrest report. I will attempt to meet with Pedro Serrano again and confront him with this new information.

On 11/14/14, NSP Investigator Fiala and I met with Pedro Serrano at his place of employment in Aurora. I told Pedro there were a couple of things I needed to clarify on his application. I asked him when he was arrested for no operator's license in Dodge City (he previously said sometime after '94), what name did he provide to law enforcement? Pedro stopped and thought for a while and said he told them he was Tereso Tovar. I had a copy of Pedro's booking photograph for his DUI arrest and his arrest for not having an operator's license. He confirmed that he was the person in each photograph that was known as Tereso Tovar. I then asked him if he had identification with that name, or did he just verbally identify himself as Tereso Tovar. He advised that he just told them that name. I confronted him a couple of times about having identification with that name, and he said that he did not. However, Dodge City PD provided me with a copy of the DUI arrest report involving "Tereso Tovar." There was a Kansas driver's license number included in the report and the arresting officer said that Tovar identified himself with a Kansas driver's license.

In summary, the Grand Island Police Department recommends that the council not give local approval to this application because it's a false application according to the Nebraska Liquor Control Act (Part II Chapter 2 Section 010.01) which reads, "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."

Rubi Sanchez is in the country illegally and appears to have a no operator's license conviction that she didn't disclose. Simara Rodriguez attempted to get a liquor license three years ago and was denied by the council and the NLCC. At that time, Horacio Rodriguez didn't disclose any of his convictions, Simara bought El Trancaso and served alcohol without a license and was ultimately responsible for serving an intoxicated customer, and the Rodriguez's had financial problems. On this current application, Horacio still didn't disclose any of his convictions, he didn't acknowledge that Simara had applied for a liquor license in the past, and they still have financial problems. Pedro Serrano disclosed a DUI conviction but didn't advise that the conviction was listed under a false name which included other convictions that he didn't disclose.



Liquor Application
 123 So. Front St.
 El Castillo
 Class "I"

Legend	Street Centerline
	Liquor License Locations
	123 E South Front St. 1500' Radius