



City of Grand Island

Tuesday, March 27, 2007

Council Session

Item E2

Public Hearing on Request of La Quscatleca Liquor, Inc. dba La Quscatleca Liquor, 411 North Vine Street for a Class "D" Liquor License

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: March 27, 2007

Subject: Public Hearing on Request of La Quscatleca Liquor, Inc.
dba La Quscatleca Liquor, 411 North Vine Street for a
Class “D” Liquor License

Item #'s: E-2 & I-2

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

La Quscatleca Liquor, Inc. dba La Quscatleca Liquor, 411 North Vine Street has submitted an application for a Class “D” Liquor License. A Class “D” Liquor License allows for the sale of alcohol off 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. Attached is the Police Department's background investigation and recommendation.

Also included with this application is a request from Jose C. Cruz Mejicano, 1726 Hanover Lane for a Liquor Manager Designation.

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 the application.

Sample Motion

Move to deny the application of La Quscatleca Liquor, Inc. dba La Quscatleca Liquor, 411 North Vine Street for a Class "D" Liquor License and Liquor Manager Designation for Jose C. Cruz Mejicano, 1726 Hanover Lane.



**INTEROFFICE
MEMORANDUM**
Police Department

*Working Together for a
Better Tomorrow. Today.*

DATE: March 21, 2007

TO: RaNae Edwards, City Clerk

FROM: Dave Vitera, Sergeant, Police Department

RE: Liquor License Application for Class "D" Liquor License
for La Quscatleca Liquor, Inc. dba La Quscatleca Liquor,
411 N Vine Street, Grand Island, Nebraska / Liquor Manager
Designation for Jose C Cruz Mejicano for La Quscatleca
Liquor, 411 N Vine, Grand Island, NE 68801

The Grand Island Police Department is in receipt of a Class "D" Liquor License Application for La Quscatleca Liquor, 411 N Vine Street. Grand Island, Nebraska and a Liquor Manager Designation in the name of Jose C. Cruz Mejicano for La La Quscatleca Liquor.

According to the Nebraska Liquor Control Act (Part I, Article I, (D) Licenses, Issuance and Revocation – 53 – 125 "Classes of persons to whom no license issued") Guillermo's conviction would cause La Quscatleca to be automatically disqualified from receiving a liquor license. The statute reads, "No license of any kind shall be issued to (5) a person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11 or 12, or any similar offense under a prior criminal statute or in another state..."

The failure of Jose Cruz Mejicano to disclose his multiple violations and offense makes the application false under the Nebraska Liquor Control Act Part II Chapter 2 "Falsification of Application" 010.01. As I stated before, Guillermo's criminal conviction would also automatically exclude them from receiving a liquor license. Further making the application false, is a response of no to the question of, "Are you borrowing any money from any source to establish and/or operate the business?" Attached to the application is a Promissory Note signed by Jose C Cruz Mejicano and Guillermo Claros indicating that they borrowed \$93,000 from Terry Walter Enterprises, Inc. for the property at 411 N Vine in Grand Island, NE.

It is the Police Department's recommendation to deny the liquor license application for La Quscatleca and the Liquor Manager Designation for Jose C. Cruz Mejicano.

DV/rk 

03/21/07
13:48

Grand Island Police Dept.
LAW INCIDENT TABLE

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City : Grand Island
Occurred after : 15:33:38 03/05/2007
Occurred before : 15:33:38 03/05/2007
When reported : 15:33:38 03/05/2007
Date disposition declared : 03/21/2007
Incident number : L07030654
Primary incident number :
Incident nature : Liquor Lic Inv Liquor License Investigation
Incident address : 411 Vine St N
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 : CLO Closed Case
Misc. number : printed
Geobase address ID : 10767
Long-term call ID :
Clearance Code :
Judicial Status : NCI Non-criminal Incident

INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	47109	03/13/07	Walter, Terry L	Criminal History
NM	121401	03/13/07	Claros, Guillermo	Criminal History
NM	121975	03/13/07	Cruz Mejicano, Jose C	Criminal History
NM	121978	03/13/07	Cruz, Catalina R	Criminal History
NM	121979	03/13/07	Claros, Rubidia	Criminal History
NM	47109	03/05/07	Walter, Terry L	Mentioned
NM	121401	03/05/07	Claros, Guillermo	Vice President
NM	121974	03/05/07	La Quscatleca Liquor Inc,	Business
NM	121975	03/05/07	Cruz Mejicano, Jose C	CEO/President
NM	121978	03/05/07	Cruz, Catalina R	President
NM	121979	03/05/07	Claros, Rubidia	Vice President

LAW INCIDENT NARRATIVE:

Liquor license investigation for La Quscatleca located at 411 N. Vine and
Liquor Manager Designation for Jose C. Cruz Mejicano

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Grand Island Police Dept.
LAW INCIDENT TABLE

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LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	17:32:22 03/05/2007

Grand Island Police Department
Supplemental Report

I received information on a Liquor License Application for La Quscatleca and a Liquor Manager Designation for Jose C. Cruz Mejicano. La Quscatleca lists four shareholders. They are: Jose C. Cruz Mejicano, Catalina Cruz, Guillermo Claros, and Rubidia Claros. On the application, it asks "Has anyone who is a party to this application, or their spouse, ever been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law, a violation of a local law, ordinance or resolution." The box is checked yes with a comment of a "1999 speeding ticket." It does not say whom of the four is disclosing the speeding ticket.

None of the applicants have any violations listed in Spillman. However, according to NCJIS, Jose Cruz Mejicano has been convicted of a child restraint violation on 12/12/06, a speeding violation on 1/18/06, and a DUI 1st on 8/8/2000. In addition, Catalina Cruz had her license suspended for an accident on 1/20/98. No other traffic violations or criminal offenses were found on any of the applicants using the NCJIS DMV records and the NCJIS "Patrol Criminal History." GIEC ran criminal histories on all of the subjects and found that Guillermo Claros and Jose Cruz each have criminal histories in California.

Guillermo's criminal history shows a "Disorderly Conduct: Prostitution" charge on 5/8/91. He was convicted of a "misdemeanor" and received 12 months probation and an undisclosed fine. A prostitution charge in Nebraska would be a Class I Misdemeanor. The charge in California appears to be similar in statute and classification to the Nebraska Prostitution charge.

On 3/13/07, I spoke to Guillermo at his home located at 112 W. 22nd St. I confronted him about the prostitution charge. He recalled the incident and said that he just gave this woman a ride, and she asked what she could do for him. She was an undercover police officer. The next thing he knew he was cited for prostitution. Guillermo said he plead guilty because his lawyer told him he wouldn't have to keep coming back to court. He said another lawyer later told him that he shouldn't have done that because it could haunt him in the future.

Guillermo said that he's been friends with Jose Cruz for a long time and that Jose also used to live in California. Guillermo's criminal history lists his place of birth as El Salvador.

As of 3/13/07, I haven't spoken to Jose C. Cruz Mejicano. On his application, he lists his DOB as 8/27/57 and his Social Security number as [REDACTED]. He lists his middle name as Christopher on his application as well as his copy of his Certificate of Naturalization. The Certificate of Naturalization lists his country of former origin as El Salvador.

It appears that Jose has a criminal history in California. The criminal history shows a Jose C. Cruz Mejicano with a DOB of 8/27/57. Two Social Security numbers are associated with this criminal history. One of the numbers

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is [REDACTED]. With the only discrepancy being the Social Security number on the criminal history is one number different than what Jose listed on his application, it appears that the criminal history belongs to the applicant. The name, DOB, physical description, birth place, and ties to California all match between the application information and the criminal history.

On 3/13/07 at about 1600 hours, I received a phone call from Catalina Cruz. I had tried to contact Jose at his house. She advised that he is in El Salvador and will contact me on 3/15/07. Jose called me on 3/15/07. I asked him about his criminal history in California, and he acknowledged his domestic violence charges and battery conviction.

The criminal history shows that Jose was charged with "Corporal Injury Spouse" in 1982, 1986, and 1991. The '82 charge looks like it was reduced to an infraction. The '86 charge was dismissed. The '91 charge shows a conviction for battery. The charge is a misdemeanor. In looking at California penal codes, battery to a spouse is punishable with up to one year in jail which would be equivalent to Nebraska's Third Degree Domestic Assault (28-323, CL I MO). However, the conviction is just for "Battery." California has several different types of battery with different classifications of misdemeanors. I contacted San Fernando, California PD to determine if Jose's conviction is the equivalent of a Nebraska Class I Misdemeanor. After four phone calls, I still haven't received the information.

According to the Nebraska Liquor Control Act (Part I, Article I, [D] Licenses, Issuance and Revocation- 53-125 "Classes of persons to whom no license issued") Guillermo's conviction would cause LA Quscatleca to be automatically disqualified from receiving a liquor license. The statute reads, "No license of any kind shall be issued to...(5) a person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11 or 12, or any similar offense under a prior criminal statute or in another state..."

The failure of Jose Cruz Mejicano to disclose his multiple violations and offense makes the application false under the Nebraska Liquor Control Act Part II Chapter 2 "Falsification of Application" 010.01. As I stated before, Guillermo's criminal conviction would also automatically exclude them from receiving a liquor license. Further making the application false, is a response of no to the question of, "Are you borrowing any money from any source to establish and/or operate the business?" Attached to the application is a Promissory Note signed by Jose C. Cruz Mejicano and Guillermo Claros indicating that they borrowed \$93,000 from Terry Walter Enterprises, Inc. for the property at 411 N. Vine in Grand Island, NE.

I checked Spillman for Terry Walter. He doesn't have any violations. Terry doesn't have any violations listed in NCJIS and doesn't show a criminal history through NCJIS. All applicants were checked through ICE and found to have legal status.

It's the Police Department's recommendation to deny the liquor license application for La Quscatleca and the liquor manager designation for Jose C. Cruz Mejicano.