



City of Grand Island

Tuesday, June 23, 2009

Council Session

Item E2

**Public Hearing on Request from Mama Ines, Inc. dba Mama Ines,
384 N. Walnut Street for a Class "I" Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: June 23, 2009

Subject: Public Hearing on Request from Mama Ines, Inc. dba
Mama Ines, 384 N. Walnut Street for a Class "I" 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

Mama Ines, Inc. dba Mama Ines, 384 N. Walnut Street has submitted an application for a Class "I" Liquor License. A Class "I" Liquor License allows for the sale of spirits, wine and 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.

Also submitted was a Liquor Manager Designation for Iliana Garcia, 517 North Ruby Avenue.

The original application was received by the City Clerk's office on May 20, 2009 and was scheduled for the June 9, 2009 City Council meeting. John Cunningham, Attorney for the applicant asked that the item be pulled after reviewing the Police and Building Department reports. (See attached). This item was then rescheduled for the June 23rd City Council meeting.

There has been and still are issues related to this application. The original application did not have birth certificates, spouse's information, or a signed lease included, which makes this a false application. On June 18th I contacted the Liquor Control Commission and visited with Kristina Radicia about this application. She faxed me the additional information she had received from Mr. Cunningham, however I did not receive a signed copy of the lease.

There is also a concern that there is a church within 150 feet.

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 make no recommendation with stipulations for this application.

Sample Motion

Move to make no recommendation with stipulations for the application of Mama Ines, Inc. dba Mama Ines, 384 N. Walnut Street for a Class 'I' Liquor License. Stipulations included: 1) final inspections by the Building and Health Departments, and 2) complete a state approved alcohol server/seller training program for Liquor Manager designation requested by Iliana Garcia, 517 North Ruby Avenue.

The liquor license application lists Yisnel Gonzalez as the Vice President, Emilio Padron as the Secretary-Treasurer, and Jorge Azola as the President. The application also shows that all three subjects have lived in Miami, Florida From 1999 until 2009.

I checked Spillman for all three subjects. I was only able to find Azola. He was cited for driving during suspension on 3/11/09. I checked NCJIS and found that he plead guilty to driving without a license. I could not locate the other two subjects in Spillman or NCJIS.

On the application, it clearly 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 "No" box was checked. Jorge's failure to disclose his conviction for driving without a license technically makes the application false according to the Nebraska Liquor Control Act (Part II Chapter 2 Section 010.01).

I wanted to contact all three subjects and speak with them about their application. However, I can't find a phone number for any of them in the application. Under Premise Information, there is no phone number. Under Corporation Phone Number, it is blank. Under the Officers/Stockholders section, addresses and phone numbers are not required. Under the section that deals with the president of the corporation, there are blanks for home address and home phone. However, the home address for the president (Jorge Azola) is listed as the same address as the business, and there isn't a home phone number listed.

On 6/1/09, I stopped by 384 N. Walnut. The application states that the business was going to open on this date. However, the front doors were locked, and there were no lights on inside. When I peered in the front doors, I saw a table that had four Heineken beer bottles sitting on it. The front doors also had a sign on it that said the place is a restaurant and a nightclub. It listed its weekend hours as 9 PM until 5 AM. The sign was in Spanish and English. The English word "Street" for the address was spelled "Steerts."

At this time, the Grand Island Police Department can't recommend that this application be approved. The president of the corporation failed to disclose a traffic conviction. The application only lists one "home" address which is actually the business address. The application doesn't have any phone numbers listed for any of the applicants. Two out of the three people listed on the application couldn't be found in Spillman or NCJIS. All three also have lived in Florida for the past ten years and just moved to Grand Island in 2009. I am unable to run criminal history checks on liquor license investigations. I also have to wonder with two other bars in the immediate vicinity if there is enough parking. Also, there could be an issue with having a residence

somewhere in the business. More contact and background information is needed on the applicants.

Date, Time: Thu Jun 04 14:39:46 CDT 2009

Reporting Officer: Vitera

CONTINUATION

On 6/15/09, I received some paperwork from City Clerk RaNae Edwards which included addresses for the applicants. There was also a phone number of a contact person ("Daris") who would act as a translator. I called Daris, and she said she would bring the applicants to the police department on 6/17/09.

On 6/17/09, I spoke to all three applicants individually with Daris translating. The first person I spoke to was Jorge Azola. Jorge is Daris' stepfather. Jorge advised that he was born in Cuba. He spent one year in jail in Cuba for selling fans on the street. Other than that, Jorge said he didn't spend time in jail or prison for anything else. Jorge moved to Florida in 2000. He said that he didn't spend any time in jail or prison in Florida. For the last two years, Jorge owned a company called "DJ Spray Corp." His company cleaned damage to walls and ceilings. If the damage was so great that cleaning wasn't an option, he would demolish the damaged area and rebuild it. His company was struggling, so he moved to Grand Island in February of 2009 to work at Swift.

I asked about the name "Mama Ines." Daris advised that Mama Ines is a real person who is very well known in Cuba. Mama Ines was a black woman who worked for Cuban families. She might not have been treated well, but she always had a positive attitude and kept working to make a better life for her children.

Mama Ines (the business) is mostly a restaurant. However, on weekends at 2100 hours, they will only serve a light menu (appetizers) and play music. They have no plans for live bands. Their employees will include the three applicants, the liquor manager (Iilana-Jorge's brother's girlfriend), Daris, and Daris' mother. Daris' mother has owned a bakery and restaurant in Florida. The three applicants plan on keeping their jobs at Swift.

I made it very clear to Jorge that cooperation with law enforcement is critical to him obtaining and keeping a liquor license. I also advised him of some of the most common complaints against liquor license holders and then referred him to the Nebraska Liquor Control Commission's (NLCC) website for a complete list of liquor laws.

After speaking with Jorge, I spoke to Emilio Padron. Emilio advised he was born in Cuba and came to the United States on 4/5/05. He moved to Grand Island in December of 2008. Emilio said he didn't spend time in jail or prison in Cuba. He said that he was arrested for theft in Florida but was never charged because it was all a misunderstanding. He worked as an interstate trucker while he lived in Florida.

After speaking with Emilio, I spoke to Yisnel Garcia-Gonzalez. Yisnel was born in Cuba and moved to Florida in 2006. He moved to Grand Island on 2/9/09. He advised that he has never spent time in jail or prison in Cuba or the United States. He has worked as a trucker and also helped Jorge with his restoration business.

Since the majority of my conversation was with Jorge, I asked Daris to relay that conversation to Emilio and Yisnel. I also told Daris that I didn't have any problems with Mama Ines obtaining a liquor license. However, the applicants have spent most of their life in Cuba. They moved here from Florida and have only been in Nebraska for a few months. I ran nationwide criminal histories on all three applicants. They didn't have any criminal history with the exception of the theft arrest that Emilio mentioned. I also checked all three applicants and the liquor manager through ICE. They are all in the Country legally. I checked all the applicants and liquor manager for warrants. None of them had a warrant for their arrest.

It sounds like there are some other issues with the application such as not providing a complete application on two different occasions. On 6/18/09, I called Investigator Lorri Rogers. She advised that she has not completed her investigation into Mama Ines' application. However, she did tell me that she noticed right away that their application was lacking birth certificates and/or Naturalization paperwork. RaNae Edwards advised that they were missing a signature on a lease agreement. RaNae called the NLCC and was told that they received a birth certificate but not on all the applicants. The incomplete application technically makes the application false. However, it sounds to me that there was a breakdown in communication between the NLCC and the City of Grand Island.

From a law enforcement perspective only based mainly on background checks, I don't see any reason why an approval of the license shouldn't be recommended. However, if there are still problems with the application being complete after adding information on two different occasions, the Council will have to decide whether that coupled with other reports from different departments is reason to not recommend an approval.



Working Together for a
Better Tomorrow. Today.

June 4, 2009

Mama Ines
Attn: Jorge Azola
384 N. Walnut Street
Grand Island, NE 68801

RE: Liquor License Inspection at 384 N. Walnut St. Grand Island, NE

Mr. Azola,

A walk-thru inspection was conducted on June 3, 2009, at the above referenced property in preparation for your application for a liquor license to be presented before the City Council on June 9, 2009.

In reviewing the Building Department file for this property it is not apparent as to how the space became a restaurant facility. No permits to construct or make any improvements for a restaurant were issued. The recent installation of a counter and sink does not comply with the plumbing codes adopted by the city and there appears to be only one restroom, a restroom for each sex would be required for a restaurant with a possible occupant load or occupancy of 32 customers. Additional repairs need to be made to the ceiling in the kitchen area as the space above was visible from the floor below.

A plan of the proposed use needs to be presented, approved, and a certificate of occupancy issued for the creation of a restaurant facility.

If you have any questions, comments, or need any additional information please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig A. Lewis".

Craig A. Lewis
Building Department Director

CC. John Cunningham, PO Box 2280, Grand Island, NE 68802