



City of Grand Island

Tuesday, July 13, 2010

Council Session

Item E2

**Public Hearing on Request from Lily, Inc. dba Conoco One Stop,
2105 West 2nd Street for a Class "D" Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: July 13, 2010

Subject: Public Hearing on Request from Lily, Inc. dba Conoco One Stop, 2105 West 2nd 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

Lily, Inc. dba Conoco One Stop, 2105 West 2nd Street has submitted an application for a Class “C” 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.

Also submitted with this application was a Liquor Manger Designation request from Mohammad Kalam, 2307 West 1st Street.

The Police Departments recommendation is to deny the applications for both the liquor license and Liquor Manager Designation due to past offenses while holding a similar license and the fact that the letter sent by the City Clerk to the applicant at his home address was returned.

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 Lily, Inc. dba Conoco One Stop, 2105 West 2nd Street for a Class "D" Liquor License and Liquor Manager designation for Mohammad Kalam, 2307 West 1st Street.

06/30/10
16:28

Grand Island Police Department
LAW INCIDENT TABLE

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City : Grand Island
Occurred after : 13:16:00 06/23/2010
Occurred before : 13:16:00 06/23/2010
When reported : 13:16:00 06/23/2010
Date disposition declared : 06/23/2010
Incident number : L10063770
Primary incident number :
Incident nature : Liquor Lic Inv Liquor License Investigation
Incident address : 2105 2nd St W
State abbreviation : NE
ZIP Code : 68803
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
Geobase address ID : 3212
Long-term call ID :
Clearance Code : CL Case Closed
Judicial Status : NCI Non-criminal Incident
=====

INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	75050	06/28/10	Kalam, Mohammad A	Owner/Manager
NM	117330	06/28/10	Nasrin, Hasatun	Mohammad's Spouse

LAW INCIDENT CIRCUMSTANCES:

Se Circu Circumstance code : Miscellaneous

1 LT07 Convenience Store

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application from the Conoco One Stop and a Copy of a Liquor Manager Application from Mohammad Kalam

LAW INCIDENT RESPONDERS DETAIL:

Se Responding offi Unit n Unit number

1 Vitera D 318 Vitera D

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16:28 LAW INCIDENT TABLE

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LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	14:24:24 06/28/2010

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Grand Island Police Department
LAW INCIDENT TABLE

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Grand Island Police Department
Supplemental Report

Date, Time: Mon Jun 28 14:24:42 CDT 2010
Reporting Officer: Vitera
Unit- CID

I received a copy of a liquor license application from Mohammad Kalam who owns Lily Inc. and wishes to have a liquor license at the Conoco One Stop. I also received a copy of a liquor manager application from Mohammad Kalam. Mohammad's wife, Nasrin Hasatun is also listed on the application. She filled out a Spousal Affidavit of Non-Participation form.

According to the application, Mohammad and Nasrin have lived in Grand Island since 2002. On the spot on the application where it asks for convictions, the "no" box was checked.

I looked in Spillman and NCJIS for Mohammad and Nasrin. I found them both. Mohammed has a violation for selling alcohol to a minor. Nasrin has no violations listed in Spillman. When checking NCJIS, I confirmed that Mohammad was convicted of selling alcohol to a minor. Nasrin has no convictions in 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."

Mohammad's failure to disclose his conviction for selling to a minor technically makes the application false according to the Nebraska Liquor Control Act (Part II Chapter 2 Section 010.01). The undisclosed conviction would fall under state law. However, the conviction is a misdemeanor that does not rise to the level of a Class I Misdemeanor in a specified crime under Nebraska State Statute Chapter 28 that would automatically nullify the liquor license.

The application also included a letter to the NLCC from the applicant's attorney indicating that there was a "liquor license at the address that was voluntarily surrendered to the commission for violations that happened in the past." The letter goes on to say that the attorney's client has created a new corporation that has no employees from his old corporation. The letter closes with, "We have resolved our problems over the past four years and would like the opportunity again to have a Class D Liquor License."

I checked the NLCC's web-site and couldn't find any information on the old license that would give me a history of violations. On 6/29/10, I called the

NLCC and spoke to Holly Erickson regarding this application. Holly advised that Mohammad Kalam had a liquor license from approximately June of 2002 until about May of 2006. During that time, the business was cited for selling to a minor six times. One of the citations was dismissed because of what appears to be a plea agreement. The NLCC was set to cancel his license, but Mohammad voluntarily surrendered it a few weeks before it could be cancelled.

Under Nebraska Revised Statute 53-132, the NLCC shall consider several factors and circumstances before granting a license. One such consideration deals with
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the applicant's demonstrated ability to manage and control the premises. Under 2 (C) it reads, "... the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act [Nebraska Liquor Control Act]..."

The letter from the applicant's attorney to the NLCC which I referenced earlier says that they have resolved their problems over the last four years. It doesn't say how the problems were resolved. While Mohammad was only cited once for selling to a minor, the liquor license was under his name; and he was responsible for the management and control of the premises. New employees in Mohammad's corporation does very little or nothing to change the problem of his demonstrated lack of management. With Mohammad's track record regardless of an old or new corporation, the Grand Island Police Department can not recommend that a license be issued to him.