



City of Grand Island

Tuesday, September 28, 2010

Council Session

Item E1

Public Hearing on Request from Rezac Enterprizes, Inc. dba Tiki Lounge, 3333 Ramada Road for a Class "C" Liquor License

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: September 28, 2010

Subject: Public Hearing on Request from Rezac Enterprizes, Inc. dba Tiki Lounge, 3333 Ramada Road for a Class "C" 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

Rezac Enterprizes, Inc. dba Tiki Lounge, 3333 Ramada Road has submitted an application for a Class "C" Liquor License. A Class "C" Liquor License allows for the sale of alcohol, on and off 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.

The Police Department report recommends that the Council not give local approval to this license based on the fact that the applicant's spouse, Richard Rezac listed a "Fed Felony" conviction which is ineligible under Nebraska State Statute Section 53-125 (13):

No license of any kind shall be issued to... (13) except as provided in this subdivision, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such applicant shall become eligible for a liquor license only if the commission finds from the evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if it is shown to the satisfaction of the commission (a) that the licensed business will be the sole property of the applicant and (b) that such licensed premises will be properly operated.

Also submitted with this application was a Liquor Manger Designation request from Jackie Rezac, 1512 E. Stolley Park Road.

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 denial of Liquor Licenses, City Administration recommends that the Council deny this application.

Sample Motion

Move to deny the application for Rezac Engerprizes, Inc. dba Tiki Lounge, 3333 Ramada Road for a Class "C" Liquor License based on the Police Department Report that the Council not give local approval to this license based on the fact that the applicant's spouse, Richard Rezac listed a "Fed Felony" conviction which is ineligible under Nebraska State Statute Section 53-125 (13):

No license of any kind shall be issued to... (13) except as provided in this subdivision, an applicant whose spouse is ineligible under this section to

receive and hold a liquor license. Such applicant shall become eligible for a liquor license only if the commission finds from the evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if it is shown to the satisfaction of the commission (a) that the licensed business will be the sole property of the applicant and (b) that such licensed premises will be properly operated.

09/20/10
09:15

Grand Island Police Department
LAW INCIDENT TABLE

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City : Grand Island
Occurred after : 11:43:36 08/31/2010
Occurred before : 11:43:36 08/31/2010
When reported : 11:43:36 08/31/2010
Date disposition declared : 08/31/2010
Incident number : L10084833
Primary incident number :
Incident nature : Liquor Lic Inv Liquor License Investigation
Incident address : 3333 Ramada Rd
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
Geobase address ID : 14250
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	39596	09/14/10	Rezac, Richard D	Owner's Spouse
NM	40199	09/14/10	Rezac, Jacqueline A	Owner
NM	143907	09/14/10	Tiki Lounge,	Business

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT03	Bar/Night Club	

LAW INCIDENT NARRATIVE:

I received a copy of a Class C Liquor License Application from the Tiki Lounge and a Liquor Manager Application from Jackie Rezac.

LAW INCIDENT RESPONDERS DETAIL:

Se Responding offi Unit n Unit number

1 Vitera D 318 Vitera D

09/20/10 Grand Island Police Department 450
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LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	15:48:24 09/14/2010

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Grand Island Police Department
Supplemental Report

Date, Time: Tue Sep 14 15:48:42 CDT 2010
Reporting Officer: Vitera
Unit- CID

The Tiki Lounge is located inside the Howard Johnson Riverside Inn. Stratford Plaza had a Class C liquor license for the Tiki Lounge since 11/16/04. According to the Nebraska Liquor Control Commission's (NLCC) website, it appears that Stratford Plaza's license was cancelled on 8/25/10 after having some alcohol violations (looks like it was reinstated because the applicant filed a Temporary Operating Permit which allows her to work off of the old license). Jackie Rezac's company, "Rezac Enterprizes," wants to operate the Tiki Lounge and have a Class C and Class K (catering) license.

According to her applications, Jackie is married to Richard Rezac, and they have lived in Grand Island since 1989. Part of the application asks about convictions. Jackie disclosed a couple of traffic convictions and a DUI. Richard disclosed a traffic conviction and a conviction for "taking football bets" in 1988. He listed this conviction as a "Fed Felony." I checked Richard and Jackie through Spillman (local GIPD files). Richard didn't have any convictions listed. Jackie had a citation for a traffic sign violation. I also checked the Rezac's through NCJIS (Nebraska State files). Richard had an undisclosed conviction for failing to vaccinate a pet. Jackie did not have any undisclosed violations.

At this time, I have not verified Richard's disclosure of a felony conviction as I am unable to run criminal history (national) checks on liquor license investigations. However, according to Nebraska State Statute 53-125 (13), Jackie is ineligible to receive a liquor license since Richard is ineligible. The NLCC can make Jackie eligible if they find that by granting her a license it wouldn't be contrary to the interest of the public. 53-125 (13) is copied below:

No license of any kind shall be issued to... (13) except as provided in this subdivision, an applicant whose spouse is ineligible under this section to

receive and hold a liquor license. Such applicant shall become eligible for a liquor license only if the commission finds from the evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if it is shown to the satisfaction of the commission (a) that the licensed business will be the sole property of the applicant and (b) that such licensed premises will be properly operated.

The Grand Island Police Department recommends that the Council not give local approval to this license because at this point of the application process, the applicant is not eligible to receive a license. In addition, even though Richard signed a Spousal Affidavit of Non-Participation, it is almost impossible to abide by and enforce. The spousal also doesn't automatically make Jackie eligible for a license. The terms of the non-participation agreement require that Richard not only have nothing to do with the day-to-day operation of the

bar, he is not supposed to directly or indirectly profit from the bar. If she buys anything or shares anything with Richard that has been purchased with money made from the bar business, the agreement is violated.

Richard's involvement with the bar also comes into question just by looking at Jackie's application. The lease agreement between Rezac Enterprises and the Howard Johnson Riverside Inn dictates the terms and conditions for Jackie to operate the Tiki Lounge. If Rezac Enterprises (Jackie) doesn't get a liquor license, she can back out of the lease agreement without penalty. However, if she gets the license and the lease agreement is in effect, "Dick Rezac and Jackie Rezac agree to execute a promissory note in favor of Landlord in the sum of Five Thousand Dollars (\$5,000.00) to operate as a security deposit." It appears that he has already declared his intention to have some sort of participation in the bar.

According to the Grand Island Independent, "Dick" Rezac spoke in front of the Grand Island City Council on 9/14/10. He argued that bars in Grand Island should have the opportunity to stay open until 2:00 AM. The article states that Dick works for a gaming business that works with bars. Richard's occupation and involvement with bars makes the non-participation agreement even more important, but it's still next to impossible to abide by and enforce even if Richard has the best intentions. Should the NLCC ultimately approve the license, we would recommend a restriction placed on the license that excludes Richard Rezac from the establishment.