



City of Grand Island

Tuesday, June 12, 2012

Council Session

Item E1

Public Hearing on Request from The Wine Bar LLC dba The Wine Bar, 313 West 3rd Street for a Class “CK” Liquor License

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: June 12, 2012

Subject: Public Hearing on Request from The Wine Bar LLC dba
The Wine Bar, 313 West 3rd Street for a Class “CK”
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

The Wine Bar LLC dba The Wine Bar, 313 West 3rd Street has submitted an application for a Class “CK” Liquor License. A Class “C” Liquor License allows for the sale of alcohol on and off sale inside the corporate limits of the city. A Class “K” Liquor License allows for catering.

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 Robert Aki, 628 East memorial Drive 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 approve this application.

Sample Motion

Move to approve the application for The Wine Bar LLC dba The Wine Bar, 313 West 3rd Street for a Class "CK" Liquor License contingent upon final inspections and Liquor Manager Designation for Robert Aki, 628 East Memorial Drive contingent upon completion of a state approved alcohol server/seller training program.

05/29/12

Grand Island Police Department

450

14:56

LAW INCIDENT TABLE

Page: 1

City : Grand Island

Occurred after : 12:28:29 05/21/2012

Occurred before : 12:28:29 05/21/2012

When reported : 12:28:29 05/21/2012

Date disposition declared : 05/21/2012

Incident number : L12052821

Primary incident number :

Incident nature : Liquor Lic Inv Liquor License
Investigation

Incident address : 313 3rd St W

State abbreviation : NE

ZIP Code : 68801

Contact or caller :

Complainant name number :

Area location code : PCID Police - CID

Received by : Viterra D

How received : T Telephone

Agency code : GIPD Grand Island Police Department

Responsible officer : Viterra D

Offense as Taken :

Offense as Observed :

Disposition : ACT Active

Misc. number : RaNae

Geobase address ID : 11402

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	91703	05/24/12	Aki, Robert M	Owner/Manager
NM	95803	05/24/12	Aki, Shelley L	Owner
NM	176225	05/24/12	The Wine Bar,	Business
Involved				

LAW INCIDENT CIRCUMSTANCES:

Se Circu	Circumstance code	Miscellaneous
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1	LT03	Bar/Night Club

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application for The Wine Bar and a Copy of

a Liquor Manager Application from Robert Aki.

LAW INCIDENT OFFENSES DETAIL:

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

LAW INCIDENT RESPONDERS DETAIL:

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

LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	14:19:17 05/24/2012

318

Grand Island Police Department

Supplemental Report

Date, Time: Thu May 24 14:19:34 CDT 2012

Reporting Officer: Vitera

Unit- CID

I reviewed the application and learned that Robert Aki and his wife Shelley want

to open up a business at 313 W. 3rd called The Wine Bar. They are applying for

a Class CK (beer, wine, & distilled spirits on and off sale combined with a

catering license) LLC retail liquor license. Along with several varieties of

wine, a couple of imported beers, and some premium liquors; they are going to

have a dessert and appetizer menu. Their business plan calls for a "quiet,

cozy, and relaxed atmosphere."

The Aki's have lived in Kearney and Grand Island for at least the last ten

years. No one else is listed on the application, and Shelley did not sign a

Spousal Affidavit of Non Participation. Where the application asks about

criminal convictions, Shelley listed four traffic infractions. Robert listed two traffic infractions and two DUI's.

I checked the Aki's through Spillman and NCJIS. I did not find any potential

undisclosed convictions in Spillman or NCJIS. I also checked the Aki's through

a law enforcement-only Internet database which contains personal, business, and

other civil information. I didn't find anything detrimental to Robert. Shelley

potentially has a couple of old judgments against her. I found Robert and

Shelley on face book and didn't find anything disturbing. Neither of them have

any warrants for their arrest, and they each have a valid driver's license.

The only potential issue I can find with this application is that there is a

church across the street from the proposed location of The Wine Bar. Robert

correctly filled out the application and checked the "Yes" box when asked if

there is a church within 150 feet of the licensed premise. He also provided the

name and address of the church. Nebraska State Statute 53-177 says:

(1) Except as otherwise provided in subsection (2) of this section, no

license shall be issued for the sale at retail of any alcoholic liquor within

one hundred fifty feet of any church, school, hospital, or home for aged or

indigent persons or for veterans, their wives or children. This prohibition does

not apply (a) to any location within such distance of one hundred fifty feet for

which a license to sell alcoholic liquor at retail has been granted by the

commission for two years continuously prior to making of application for

license, (b) to hotels offering restaurant service, to regularly organized

clubs, or to restaurants, food shops, or other places where sale of alcoholic

liquor is not the principal business carried on, if such place of business so

exempted was established for such purposes prior to May 24, 1935, or (c) to a

college or university in the state which is subject to section 53-177.01.

(2) If a proposed location for the sale at retail of any alcoholic liquor is

within one hundred fifty feet of any church, a license may be issued if the

commission gives notice to the affected church and holds a hearing as prescribed

in section 53-133 which states:

(1) The commission shall set for hearing before it any application for a

retail license, craft brewery license, or microdistillery license relative to which it has received:

(a) Within forty-five days after the date of receipt of such application by the

city, village, or county clerk, a recommendation of denial from the city, village, or county;

(b) Within ten days after the receipt of a recommendation from the city, village, or county, or, if no recommendation is received, within forty-five days

after the date of receipt of such application by the city, village, or county

clerk, objections in writing by not less than three persons residing within such

city, village, or county, protesting the issuance of the license. Withdrawal of

the protest does not prohibit the commission from conducting a hearing based

upon the protest as originally filed and making an independent finding as to

whether the license should or should not be issued;

(c) Within forty-five days after the date of receipt of such application by the

city, village, or county clerk, objections by the commission or any duly appointed employee of the commission, protesting the issuance of the license; or

(d) An indication on the application that the location of a proposed retail

establishment is within one hundred fifty feet of a church as described in

subsection (2) of section 53-177.

(2) Hearings upon such applications shall be in the following manner: Notice

indicating the time and place of such hearing shall be mailed or electronically

delivered to the applicant, the local governing body, each individual protesting

a license pursuant to subdivision (1)(b) of this section, and any church

affected as described in subdivision (1)(d) of this section, at least fifteen

days prior to such hearing. The notice shall state that the commission will

receive evidence for the purpose of determining whether to approve or deny the

application. Mailing or electronic delivery to the attorney of record of a party

shall be deemed to fulfill the purposes of this section. The commission may

receive evidence, including testimony and documentary evidence, and may hear and

question witnesses concerning the application. The commission shall not use

electronic delivery with respect to an applicant, a protestor, or a church under

this section without the consent of the recipient to electronic delivery.

I called Robert Aki on 5/25/12 and arranged to meet with him on 5/29/12 at 1130

at the proposed location for the license. We met at the designated time and

place. I went over the application with Robert. I told Robert that the only

issue I see with the license is the church being within 150'. Robert said he

hadn't contacted the church. From reading the statutes that I listed previously

in this report, it appears that the NLCC will hold a hearing and make a final

determination as to whether Robert should have a liquor license within 150' from

a church. In the mean time, the City of Grand Island can make a recommendation to the NLCC as usual.

Since the church and any other potential protesters will have an opportunity to

speak against the issuance of a license during a special hearing called by the

NLCC, the Grand Island Police Department has no objection to The Wine Bar receiving a liquor license or to Robert Aki being the liquor manager.

