



City of Grand Island

Tuesday, September 11, 2012

Council Session

Item E1

**Public Hearing on Request from Alferes, LLC dba El Diamante
Bar & Grill, 1600 South Eddy Street, Suite 104 for a Class “C”
Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: September 11, 2012

Subject: Public Hearing on Request from Alferes, LLC dba El Diamante Bar & Grill, 1600 South Eddy Street, Suite 104 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

Alferes, LLC dba El Diamante Bar & Grill, 1600 South Eddy Street, Suite 104 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.

Also submitted with the application was a request from Gustavo Camacho, Sr., 6021 South 35th Street, Omaha, NE for a Liquor Manager Designation.

Based on the Police Department report (see attached) regarding a false application, the recommendation is to deny this liquor license.

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 Alferes, LLC dba El Diamante Bar & Grill, 1600 South Eddy Street, Suite 104 for a Class "C" Liquor License based on the Police Department report of a false application

09/05/12
15:31

Grand Island Police Department
LAW INCIDENT TABLE

450
Page: 1

City : Grand Island
Occurred after : 15:47:01 08/24/2012
Occurred before : 15:47:01 08/24/2012
When reported : 15:47:01 08/24/2012
Date disposition declared : 08/24/2012
Incident number : L12083455
Primary incident number :
Incident nature : Liquor Lic Inv Liquor License
Investigation
Incident address : 1600 Eddy St S
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 : 18419
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	179145	08/30/12	El Diamante Alferes Bar/Grill,	Business
NM	179146	08/30/12	Camacho, Gustavo	Liquor Manager
NM	179147	08/30/12	Camacho, Maria G	Gustavo's Wife
NM	179148	08/30/12	Alferes, Manuel	Owner

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT03	Bar/Night Club	

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application for El Diamante Bar & Grill and a Copy of a Liquor Manager Application from Gustavo Camacho.

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
1	Vitera D	318	Vitera D

LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	10:51:07 08/30/2012

Grand Island Police Department
Supplemental Report

Date, Time: Thu Aug 30 10:51:19 CDT 2012
Reporting Officer: Vitera
Unit- CID

El Diamante Alferes Bar & Grill is applying for a Class C (beer, wine, & distilled spirits, on and off sale) LLC liquor license. Gustavo Camacho is applying to be the liquor manager. Gustavo has a wife named Maria who signed a Spousal Affidavit of Non-Participation. Manuel Alferes is the owner of the company. All of the applicants have lived in Omaha for at least the last ten years. An attorney from Omaha by the name of Timothy McReynolds assisted with the application.

I made some initial observations while reviewing the application. No one listed on the application disclosed any convictions. They correctly stated that the premise where they are seeking a license, has been a licensed premise within the last two years. However, the application also asks for the name and the license number which was not provided. Manuel Alferes is not borrowing any money to establish and/or operate the business, and none of the furniture, fixtures, or equipment will be owned by someone else.

Later on in the application packet, there is an "Exhibit A" attached that says, "80 circular tables, 250 chairs." Exhibit A is not referenced anywhere else in the application that I could find. I assume that this is furniture owned by Rafael Orozco or someone else which contradicts the earlier statement made in the application. Rafael Orozco is the owner of the building who used to own/operate El Diamante but chose not to attempt a renewal of his liquor license after several violations.

I also noticed that the information in the liquor license and liquor manager application is a combination of typed information and handwritten information. I also observed what could be some typographical errors and

more accurately some spelling errors in some places I wouldn't expect to find them, especially since an attorney helped with the application. For instance, in the Manager's Application, Gustavo Camacho states that he was born in "Porta" Rico. I also found a glaring error in the application where it asks the main nature of the business. The listed answer is "Rasturant and bar."

I checked all of the applicants through Spillman and could not find an entry for any of them. I also checked them for warrants and license status. None of them have any arrest warrants. The Camacho's each have a valid license, and Manuel Alferes doesn't have a Nebraska license on file. All of the applicants appear to be in the Country legally.

After checking Spillman, I looked up all the applicants in NCJIS. I couldn't find anything on Manuel Alferes which is odd. He stated on the application that he has lived in Nebraska for at least the last ten years, but I can't even find a Nebraska driver's license or driving history on him. Gustavo Camacho has one undisclosed speeding conviction from 2001. Maria Camacho has an entry for a driver's license and nothing else.

After searching NCJIS, I checked on Manual Alferes through a paid law enforcement-only online database. By running the name Manuel Alferes (as it is listed on the application) with the date of birth and Social Security number provided, I found Jose Manuel Alferes. All throughout the application packet, the applicant's first name is listed as Manuel. There is not a middle initial or name listed, and the last name is listed as Alferes.

I went back to NCJIS and ran Alferes with the same date of birth but used Jose as the first name. I found that he has fourteen undisclosed convictions which include: speeding (16-20 over) in October '97, speeding (6-10 over) in April '98, registration violation in September '98, speeding (11-15 over) in September 2000, speeding (11-15 over) in March '02, speeding (21+ over) in March '02, fail to yield ROW (left turn) in October '02, no valid registration in December 02, speeding (16-20 over) in December '04, no valid registration in May '06, speeding (6-10 over) in May '09, following too closely in August '09, operate or park an unregistered vehicle in January '10 which resulted in a warrant being issued for his arrest and then withdrawn one month later, and speeding (16-35 over) in April '11. Even after all of the traffic convictions, Alferes has a valid license.

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." It further asks that the applicant, "List the nature of the charge, where the charge occurred and the year and the month of the conviction or plea. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name."

Alferes' failure to disclose his convictions technically makes the applications false according to the Nebraska Liquor Control Act (Part II Chapter 2 Section 010.01) which states:

"No applicant for a liquor license, or partner, principal, agent or employee of any applicant for a liquor license shall provide false or misleading information to the Nebraska Liquor Control Commission, its executive director, or employees. Any violation of this provision may result in denial of application for a liquor license or, in the event that a license has already been issued, suspension, cancellation or revocation of such license."

It should also be noted that the location for this proposed bar is on the NLCC's "hot list." While Rafael Orozco was running the El Diamante bar, a shooting occurred there in December of 2010 where one person was hit by gunfire, and bullet holes were found in the business, Goodwill Industries, and a home across the street. Under Orozco, the bar also had lots of law enforcement intervention which isn't good for the residential neighborhoods surrounding the bar to the north and west. Among the law enforcement contacts at El Diamante, Orozco had violations for allowing unaccompanied minors in the bar after 9:00 P.M. and having customers in the bar after closing time.

With his history of violations, Orozco didn't renew his liquor license. Instead, he chose to max out his 12 SDL's. It appeared that Orozco was using the SDL's to operate his bar on a less frequent basis without the oversight of having a liquor license. On 4/21/12, Orozco was caught and referred to the County Attorney for having a "fundraiser" at the El Diamante where he was allowing alcohol consumption at the gathering that was open to the public, and he admitted to selling alcohol without a license or SDL. After that incident, City Clerk RaNae Edwards sent Orozco a letter telling him that all future SDL requests would be denied.

Orozco still owns the building and likely couldn't get his own liquor license. If this license is approved, Orozco will ultimately be profiting from a business that sells alcohol and will have successfully circumvented the application process. I am suspicious that this application is Rafael's way of resuming business by having someone else get a license for him.

With fourteen undisclosed convictions that had to be found by discovering the applicant was using his middle name as his first name and not completely filling out the application, the Grand Island Police Department recommends that the Council not give local approval to this application based upon the fact that it's a false application.

