



City of Grand Island

Tuesday, March 07, 2006

Special/Council Session

Item E6

**Public Hearing on Request of Perez, Inc. dba Tucanaso, 410 East
4th Street for a Class "C" Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: March 7, 2006

Subject: Public Hearing on Request of Perez, Inc. dba Tucanaso, 410 East 4th Street for a Class “C” Liquor License

Item #'s: E-6 & I-6

Presenter(s): RaNae Edwards, City Clerk

Background

Silvia Perez, owner of Perez, Inc. dba Tucanaso, 410 East 4th Street 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.

Discussion

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. Attached is the Police Department’s background investigation and recommendation.

Concerns have arisen with Anastacio Jacobo, spouse of the applicant as to his character and reputation with past liquor licenses. Mr. Jacobo has filed an affidavit of non-participation. (See attached.)

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 either:

- 1) deny this request based on the character and reputation of Anastacio Jacobo, spouse of the applicant; or
- 2) approve the application with the stipulations that Anastacio Jacobo, spouse of the applicant have no interest in the operation or profit of the business, to include tending bar, making sales, serving patrons, stocking shelves, writing checks, signing invoices, paying distributors, working in the establishment in any capacity, or to patronize the business.

Sample Motion

Move to either:

- 1) deny this request based on the character and reputation of Anastacio Jacobo, spouse of the applicant; or
- 2) approve the application with the stipulations that Anastacio Jacobo, spouse of the applicant have no interest in the operation or profit of the business, to include tending bar, making sales, serving patrons, stocking shelves, writing checks, signing invoices, paying distributors, working in the establishment in any capacity, or to patronize the business.

for the Class "C" Liquor License of Perez, Inc. dba Tucanaso, 410 East 4th Street.

BUTLER, GALTER,
O'BRIEN & BOEHM
LAW FIRM

Paul E. Galter
Patrick T. O'Brien (pto@neb.rr.com)
John M. Boehm (jboehm9460@aol.com)

811 South 13th Street
Lincoln, Nebraska 68508
(402) 475-0811
Fax (402) 475-6416

Hal W. Bauer (1927-1993)
Richard J. Butler (1951-2000)

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JAN 26 2006

**NEBRASKA LIQUOR
CONTROL COMMISSION**

Hobart Rupe, Executive Director
Nebraska Liquor Control Commission
P O Box 95046
Lincoln, NE 68509-5046

RE: Application by Perez, Inc. for Tucanaso

Dear Mr. Rupe:

Attached is the application by Perez, Inc. for the Tucanaso grocery store and restaurant. Since this is the second application for this location by Perez, Inc., it is important to note some substantial differences between this application and the last application.

The last application by Perez, Inc. for this location was denied because of the spouse's record, who was also listed as the manager applicant for the Tucanaso location. The first application was submitted in that way because Silvia Perez, the owner of Perez, Inc., was already the full time manager for El Rodeo, the initial location for this corporation. Since that application, Perez, Inc. has lost its El Rodeo location because the landlord for that location chose not to renew the lease and submitted an application for a liquor license at that allocation on his own behalf.

Perez, Inc. has in the meantime continued to operate at the Tucanaso location as a grocery store and restaurant without a liquor license. Silvia Perez now devotes her full time to this location. The Tucanaso premises have also been completely remodeled from the original layout as a bar, to reconfigure it as a grocery store and restaurant. That is how the operation is being run and how it will continue to be run with the addition of a liquor license for sale of packaged beverages to the grocery store customers and on-sale to the restaurant patrons. It will therefore no longer be a bar, which was the source of the attendant problems associated with the operation at the location under the prior operator and holder of the liquor license, Ramos, Inc. The operation of a grocery store and restaurant at this location should thus lower the potential threshold for the types of problems experienced at this location in the past under the previous operator.

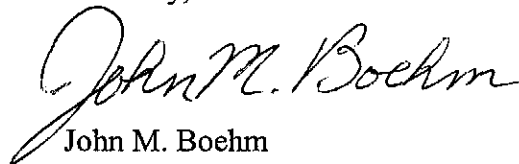
Perhaps more importantly for purposes of this application, Ms. Perez who was the manager at El Rodeo, will now be the manager at this location. Additionally, her husband, with whom the Commission had some concerns in the last application, is submitting an affidavit of nonparticipation, as he will be employed full time elsewhere.

January 26, 2006

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I would ask that the Commission keep these substantial changes and differences in mind when processing this application. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "John M. Boehm". The signature is written in black ink and is positioned above the printed name.

John M. Boehm

JMB/nw
Enclosure



**INTEROFFICE
MEMORANDUM**
Police Department

*Working Together for a
Better Tomorrow. Today.*

DATE: March 1, 2006

TO: RaNae Edwards, City Clerk

FROM: Robert Falldorf, Captain, Police Department *Robert Falldorf*

RE: Application for Liquor License – Tucanaso – 410 E 4th St,
Grand Island, Nebraska

The Grand Island Police Department has received an application for a Liquor License for Tucanaso, 410 East 4th Street, Grand Island, Nebraska.

I recommend that this application be denied or stipulations as to spouse's non-participation in the business as listed in my investigative report.

RLP/rkk

**CITY OF GRAND ISLAND
LIQUOR APPLICATION CHECKLIST**

 Retail: Individual **

OK Applicant is Nebraska Resident.

NOT
SPOUSE Applicant is of good character and reputation in the community in which he or she resides.

OK Applicant is citizen of the United States.

OK Applicant has no Felony or Class I Misdemeanor convictions or guilty pleas.

OK Applicant has had no prior liquor licenses issued under the Nebraska Liquor Control Act revoked.

NO Applicant's spouse must qualify the same as applicant.

OK Applicant owns premise or has a lease of premise for the full period for which the license is issued.

 Premise meets State Fire Marshal codes.

OK Applicant is not a law enforcement officer.

OK Applicant is at least 21 years of age.

 Retail: Partnership **

 One partner must be a resident of Nebraska.

 All partners and spouses must be citizens of the United States.

 All partners must be of good character and reputation in the community.

 All partners must not have been convicted or plead guilty to a Felony or Class I Misdemeanor.

 All partners must not have had a liquor license issued under the Nebraska Liquor Control Act revoked.

Retail: Limited Liability Company **

 One of the members must be a resident of Nebraska.

 All members of such company must qualify to above individual restrictions.

 Retail: Corporation **

Denial or Restrict. Any officer, manager, or director of the corporation or any stockholder owning more than 25% of the stock must qualify to above individual restrictions.

O.K. The manager and spouse of the corporation must be a resident of Nebraska and qualify to above individual restrictions.

O.K. Corporation must be registered with the Secretary of State.

O.K. Corporation owned by a corporation, the owning corporation must register with the Secretary of State.

 Manufacturer, Wholesaler, Railroad, Airline, Boat, Nonbeverage

 Application filed in duplicate.

 Beer Wholesaler must file sales territory of their brands.

 Must file a bond.

 Must pay registration fee and license fee.

 No Manufacturer or Wholesaler may have interest as owner, part owner, lessee, or lessor in any retail establishment.

****All Retail Licenses:**

O.K. Premise is not within 150' from any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children.

O.K. Premise is not within 300' from any college campus.

Other Comments or Concerns:

03/01/06
11:21

Grand Island Police Dept.
LAW INCIDENT TABLE

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City : Grand Island
 Occurred after : 15:28:21 02/28/2006
 Occurred before : 15:28:21 02/28/2006
 When reported : 15:28:21 02/28/2006
 Date disposition declared : 02/28/2006
 Incident number : L06023500
 Primary incident number :
 Incident nature : Liquor Lic Inv Liquor License Investigation
 Incident address : 410 E 4th St
 State abbreviation : NE
 ZIP Code : 68801
 Contact or caller :
 Complainant name number :
 Area location code : PAO Police - Within limits of GI
 Received by : Falldorf R
 How received : T Telephone
 Agency code : GIPD Grand Island Police Department
 Responsible officer : Falldorf R
 Offense as Taken :
 Offense as Observed :
 Disposition : ACT Active
 Misc. number :
 Geobase address ID :
 Long-term call ID :
 Clearance Code :
 Judicial Status :

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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	13235		Jacobo, Anastacio	Spouse of owner
NM	27822		Perez, Silvia	Owner
NM	111094		Tucanaso,	Business

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1			

LAW INCIDENT NARRATIVE:

Liquor License Investigation for Tucanaso, 410 E. 4th Street.

LAW INCIDENT OFFENSES DETAIL:

Se	Offe	Offense code	Arson Dama
1			0.00

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Grand Island Police Dept.
LAW INCIDENT TABLE

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LAW INCIDENT RESPONDERS DETAIL:

Se Responding offi Unit n Unit number

1 Falldorf R 104 Falldorf R

LAW SUPPLEMENTAL NARRATIVE:

Seq Name Date

1 Falldorf R 15:30:03 02/28/2006

Grand Island Police Department
Supplemental Report

On the date of 2-16-06 I received a liquor license application from Grand Island City Clerk RaNae Edwards for Perez Inc. dba Tucanaso, 410 E. 4th Street, Grand Island, to do a background investigation on.

The application was for a corporation and listed Silvia Perez Cervantes as the manager and Chief Executive Officer for the corporation. I did a background check on Silvia Perez and was unable to locate any violations of law.

The main concern for the Police Department is Silvia's husband, Anastacio Jacobo, who is listed in the application. Jacobo did submit an affidavit of non-participation that he signed and was dated 1-25-06. This affidavit states that Jacobo will have no interest, directly or indirectly, in the operation or profit of the business. Jacobo has applied as manager on two liquor establishments in the past, Derenger and Tucanaso, and has been denied for both because of his criminal record. I did have a recent conversation with City Clerk, RaNae Edwards, in reference to part of the application process. She advised that Craig Lewis with the building department did a recent inspection at Tucanaso and Jacobo was present and appeared to be involved in the daily operation of the business. She advised that he was sweeping and was the person that answered most of the questions during the inspection. This doesn't appear to be non-participation in the business. Even though the business is now going to be ran as a grocery and restaurant, there are concerns about Jacobo's involvement in the business with a liquor license because of his background.

The application does ask for criminal record for the spouse of the manager and the following was reported for Jacobo's criminal record convictions on the application:

10/88 Second Degree Assault, Grand Island (conviction set aside in 1998).
05/89 Child Restraint Violation, Grand Island.
05/90 No vehicle registration, Grand Island.
07/91 No vehicle registration, fictitious plates, child restraint violation, Grand Island.
09/91 Driving under the influence of alcohol, Grand Island.
08/92 No vehicle registration, Grand Island.

I did run a driving history check and checked criminal history on Jacobo through the Nebraska Criminal Justice Information System (NCJIS) and determined that he had been arrested on 5-18-05 for driving under the influence of alcohol, 2nd offense, however plead guilty to willful reckless driving pertaining to this arrest and also plead guilty to drinking in public,

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Grand Island Police Dept.
LAW INCIDENT TABLE

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misdemeanor, with an offense date of 4-17-99. These offenses wasn't listed, as required, on the liquor license application. I also viewed a Nebraska Liquor Control Commission Order dated 2-5-04 that mentioned that Jacobo had been cited two times in 2003 for selling alcohol off sale with an on sale only license, cited for selling after hours, for allowing open containers to leave the premise, and open containers after hours.

Recommendation from the police department would be either denial of the liquor license due to Jacobo's involvement with the business or add a restriction to the license that Anastacio Jacobo shall have no interest in the operation or profit of the business, to include tending bar, making sales, serving patrons, stocking shelves, writing checks, signing invoices, paying distributors, or working in the establishment in any capacity.

Date, Time: 3-1-06, 11:00 AM
Reporting Officer: Captain Robert Falldorf

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11:21

Grand Island Police Dept.
LAW INCIDENT TABLE

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INVOLVEMENT DETAIL: Main Names Table

Name Number : 13235
Last name : Jacobo
First name : Anastacio
Middle name :
Suffix name :
Street address : 411 E 4th St Apt 1
Birth Date : 07/17/1961
Weight : 165
City of residence : Grand Island
State abbreviation : NE
ZIP Code : 68801
Driver's license number : G08043912
Driver's license state : NE
Home phone number : (308)383-4866
Work telephone number : (308)382-3234
Soc sec number : 506-08-8444
State ID number : NB264758
FBI number : 316289AA1
Height : 5'05"
Sex : M
Race category : L White/Hispanic Latin
Hair color : BLK Black
Eye color : BRO Brown
Facial hair : F Full Beard
Glasses (corrective lenses) : N No Glasses/Cont
Physical build : MCLR Muscular
Skin complexion : DARK Dark
Teeth condition : DCLR Discolored
Ethnic group : HISP Hispanic
Hair style : SHRT Short
Speech type : HALT Halting
Death Date : **/**/****
Alias name number :
Geobase address ID :
Soundex name : ssf
Name Type : INDIVN Individual (Non-Resident)
Real Name (y/n): : N

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Grand Island Police Dept.
LAW INCIDENT TABLE

INVOLVEMENT DETAIL: Main Names Table

Name Number : 27822
Last name : Perez
First name : Silvia
Middle name :
Suffix name :
Street address : 411 E 4th St #1
Birth Date : 11/14/1961
Weight : 170
City of residence : Grand Island
State abbreviation : NE
ZIP Code : 68801
Driver's license number : V03359510
Driver's license state : NE
Home phone number : (308)389-4508
Work telephone number : () -
Soc sec number : 505-23-2547
State ID number :
FBI number :
Height : 5'02"
Sex : F
Race category : W White/Non Hispanic
Hair color : BLK Black
Eye color : BRO Brown
Facial hair :
Glasses (corrective lenses) :
Physical build :
Skin complexion :
Teeth condition :
Ethnic group :
Hair style :
Speech type :
Death Date : **/**/****
Alias name number :
Geobase address ID :
Soundex name : frs
Name Type : INDIVR Individual (Resident)
Real Name (y/n) : N
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Grand Island Police Dept.
LAW INCIDENT TABLE

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INVOLVEMENT DETAIL: Main Names Table

Name Number : 111094
Last name : Tucanaso
First name :
Middle name :
Suffix name :
Street address : 410 E 4th St
Birth Date : **/**/****
Weight : 0
City of residence : Grand Island
State abbreviation : NE
ZIP Code : 68801
Driver's license number :
Driver's license state :
Home phone number : () -
Work telephone number : () -
Soc sec number : - -
State ID number :
FBI number :
Height : ' "
Sex :
Race category :
Hair color :
Eye color :
Facial hair :
Glasses (corrective lenses) :
Physical build :
Skin complexion :
Teeth condition :
Ethnic group :
Hair style :
Speech type :
Death Date : **/**/****
Alias name number :
Geobase address ID :
Soundex name : tsns
Name Type :
Real Name (y/n): : N

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**NEBRASKA LIQUOR CONTROL COMMISSION
AFFIDAVIT OF NON PARTICIPATION**

JAN 26 2006

**NEBRASKA LIQUOR
CONTROL COMMISSION**

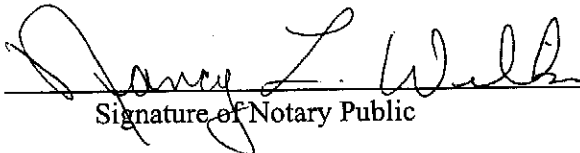
The undersigned individual acknowledges that he/she will have no interest, directly or indirectly, in the operation or profit of the business, as prescribed in Section §53-125(13) of the Liquor Control Act. Such individual shall not tend bar, make sales, serve patrons, stock shelves, write checks, sign invoices, represent themselves as owner or in any way participate in the day to day operations in any capacity. Undersigned will also be waived of filing fingerprint cards, however, has disclosed any violation(s) on application.



Signature of Spouse

SUBSCRIBED in my presence and sworn to before me this 25 day
of January, 2006.


GENERAL NOTARY - State of Nebraska
NANCY L. WILKEN
My Comm. Exp. April 15, 2006



Signature of Notary Public

The licensee/applicant understands that he/she is responsible for compliance with the conditions set out above, and that if such terms are violated, the Commission may cancel or revoke the license.

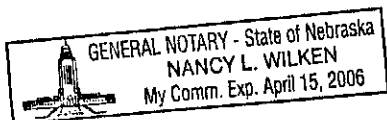


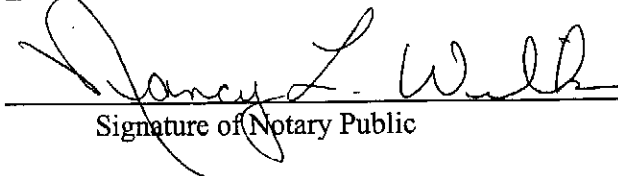
Signature of licensee/applicant

Silvia Perez Cervantes

Print name of licensee/applicant

SUBSCRIBED in my presence and sworn to before me this 25 day
of January, 2006.


GENERAL NOTARY - State of Nebraska
NANCY L. WILKEN
My Comm. Exp. April 15, 2006



Signature of Notary Public