

**DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL COUNCIL CHAMBERS
801 BURLINGTON AVENUE**

Thursday, June 7, 2018

I. CALL TO ORDER

Chairman Strelau called the June 7, 2018 Liquor Commission meeting to order at 6:30 p.m.

II. ROLL CALL

PRESENT: Ms. Flanagan, Mr. Krusenoski, Ms. Pietrucha (7:00 p.m.), Ms. Toerpe, Chairman Strelau

ABSENT: Mr. Clary, Mr. Jacobson

STAFF: Carol Kuchynka, Liaison to the Liquor Commission, Assistant Village Attorney Dawn Didier, Village Attorney Enza Petrarca

OTHERS: Basileos Megremis, Tracy Sinnott, Nicole Levesque, Esq., Eric Schmidt, Court Reporter

III. APPROVAL OF MINUTES

Chairman Strelau asked for approval of the minutes for the May 3, 2018 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

Hearing no changes, corrections or additions, the May 3, 2018 minutes of the Liquor Commission meeting were approved as written.

Chairman Strelau reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record and a court reporter was present taking the minutes verbatim.

IV. DISCIPLINARY HEARING FOR ALLEGED VIOLATIONS

Chairman Strelau made the following statements:

"Section 3-40 of the Downers Grove Municipal Code provides that the Local Liquor Commissioner may revoke or suspend any license issued if the Commissioner determines that the licensee has violated any of the provisions of this chapter or any State law pertaining to the sale of alcohol. Both under the Section cited above, and under Chapter 235, Section 5/7-5, Illinois Compiled Statutes, the Local Liquor Commissioner is required to hold a public hearing after notice to the licensee, in which the licensee is afforded an opportunity to appear and defend. Pursuant to Section 3-5 of the Downers Grove Municipal Code, this hearing is being conducted by the Local Liquor Commission at the request of the Local Liquor Commissioner."

"The Commissioner has the power to temporarily suspend a license without a hearing if there is reason to believe that continued operation of the licensed business would immediately threaten the welfare of this

community. Such was not done in these cases. The licensee may be represented by counsel, although he need not be for the purposes of this hearing."

Chairman Strelau asked if there was a signed stipulation in this case. Ms. Didier replied yes.

Chairman Strelau made the following statements:

"In view of the stipulation the order of this hearing will be substantially as follows:"

- A. Prosecution will read the signed stipulation into the record with the opportunity for the licensee to register its concurrence or non concurrence for the record.
- B. Prosecution may present any additional evidence in this case with the right of the licensee to cross-examine.
- C. Licensee may present any defense or mitigating evidence with right of prosecution to cross-examine.
- D. Summary of case by prosecution and defense."

"The prosecution should establish that timely notice of this hearing has been provided to the licensee."

"Witnesses shall be sworn."

"Strict rules of evidence will need not be adhered to although the Commission expects to exercise control over the hearing to ensure that irrelevant or repetitive testimony does not unduly prolong the hearing."

"A court reporter is present and will take the proceedings verbatim. Staff is also present for the purpose of summarizing the proceedings."

"The Commission will submit the findings and recommendations to the Local Liquor Commissioner regarding the existence and nature of any violation."

"Upon receipt of the recommendation of the Commission, the Commissioner will render a decision and the licensee will be notified in writing."

Familia Fresh - 2065 W. 63rd Street

Chairman Strelau stated that the next order of business was to conduct a disciplinary hearing for Familia Fresh Market No. 2, Inc. d/b/a Familia Fresh Market located at 2065 W. 63rd Street. She stated that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Basileos (Billy) Megremis introduced himself as the owner and liquor manager for Familia Fresh Market. Mr. Megremis was sworn in by the court reporter.

Chairman Strelau asked the prosecuting attorney to present her case.

Ms. Didier stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Familia Fresh Market No. 2, Inc. d/b/a Familia Fresh Market, 2065 W. 63rd Street, Downers Grove, Illinois, is the holder of a Class P-1 Liquor License #LQ-000169, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since September 5, 2013.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 6:15 p.m. on Tuesday, May 1, 2018, Downers Grove Police Officer Chapin and Downers Grove Police Officer Lylerly observed M.D., a special agent of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is October 16, 2000 (making her 17 years old), enter Familia Fresh Market located at 2065 W. 63rd Street, Downers Grove.
4. The special agent retrieved a six-pack of Bud Light beer and proceeded to the checkout counter where Ashley Gracia-Matos was working as a cashier.
5. That cashier Ashley Gracia-Matos, whose date of birth is March 14, 1994, then asked the special agent for her identification.
6. That the special agent produced her valid Illinois driver's license indicating her date of birth as October 16, 2000, and reading "Under 21 until 10-16-21" on the face of the license.
7. That cashier Ashley Gracia-Matos viewed the special agent's driver's license and returned it to her.
8. That cashier Ashley Gracia-Matos rang up the sale charging the special agent \$5.99.
9. That the special agent gave the cashier Ashley Gracia-Matos a \$20.00 bill and received \$14.01 in change.
10. Officers Chapin and Lylerly who witnessed the events in the foregoing paragraphs, identified themselves and advised that the delivery of an alcoholic beverage had been made to a minor.
11. Ashley Gracia-Matos was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
12. The Officers advised that notice of further action would be forthcoming from the Downers Grove Liquor Commission.
13. That the Village was made aware that at the time of the sale, cashier Ashley Gracia-Matos did not possess a valid mandatory training certificate in violation of State and local ordinances.

Ms. Didier asked that the signed stipulation be entered into the record as Village's Exhibit #1.

Chairman Strelau accepted the signed stipulation as Village Exhibit #1.

Chairman Strelau asked the licensee to present its case.

Billy Megremis apologized for the violation. He stated that Ashley had only been employed for about 5-6 weeks and advised that management did not tell her that she was not to scan liquor without having a valid BASSETT or TIPS certification. He stated it was a bad mistake by both management and the employee.

Chairman Strelau requested questions from the Commission.

Ms. Flanagan asked how new employees are trained. Mr. Megremis replied they are trained over the course of a few weeks. He noted that the person who trained Ashley mistakenly gave her the ok to scan liquor, although she did not have a valid BASSETT or TIPS certification.

Ms. Flanagan asked how long certified training courses take. Mr. Megremis replied that it can be taken quickly as an on-line course.

Ms. Flanagan asked if Ashley was trained using their procedural manual. Mr. Megremis stated that management was supposed to properly train the employee.

Mr. Megremis noted that it is their policy to check id's of anyone appearing under the age of 40. He stated that they currently have 6-7 employees who scan alcohol and have their valid BASSETT certifications. He stated that they have not had any violations in the past five years in operation. He stated that Ashley fell through the cracks with training. He stated that he operates a few market locations and was not at the Downers Grove store during her training or the violation. He stated that he has stressed the importance of proper training and to make sure management follows their training policies.

Mr. Krusenoski stated that five years without a violation is not impressive as there are licensees with decades without violations. He asked Mr. Megremis if he had a chance to speak with Ashley about the violation and if she gave any reason for selling to the minor. Mr. Megremis replied that Ashley stated her mind went blank when reading the license. He advised that she is from Puerto Rico and did not have the BASSETT training.

Mr. Krusenoski stated that the vertical nature of the license and it reading "under 21 until XX-XX-XXXX" should have been very clear.

Mr. Krusenoski asked if Ashley was still employed at the store. Mr. Megremis replied yes. He stated that she is a good employee and decided to give her a second chance.

Mr. Krusenoski was disappointed and embarrassed that the licensee allowed this violation to occur. He stated that the law requires training and the sale of alcohol is serious business. He stated that managers must create an atmosphere of concern for liquor sales and have a zero tolerance policy when it comes to violations. He stated that it was absurd that this happened.

Ms. Toerpe was concerned about the violation. She asked Mr. Megremis about his certification. Mr. Megremis replied he is BASSETT certified.

Ms. Toerpe asked Mr. Megremis to explain his hiring procedure. Mr. Megremis stated that employees are trained over the course of a month. He stated that all employees must be 21 to scan liquor. He stated that there was no follow through by management in getting Ashley's certification.

Ms. Toerpe hoped that changes will be made to training policies as this is a serious violation and that they now aware that anyone without a valid certification cannot scan alcohol without the proper certification.

Chairman Strelau asked Mr. Megremis if they had other violations in any of their other stores. Mr. Megremis replied no.

Chairman Strelau asked Mr. Megremis how many hours a week he works at the Downers Grove location. Mr. Megremis replied fifty. She asked if he ever noticed that Ashley did not have a valid certificate and was scanning liquor. Mr. Megremis replied no.

Chairman Strelau noted a lack of management concern and noted it was a miracle that this was the first violation. She stated that they have a "too casual attitude" about the importance of training and the seriousness of liquor sales. She stated that there must be consequences for the sale of liquor to a minor.

Ms. Didier summarized by stating that Familia Fresh Market No. 2, Inc. d/b/a Familia Fresh Market located at 2065 W. 63rd Street, has stipulated to a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. She recommended that the licensee be found guilty of a violation.

Upon hearing the evidence presented in this case, Chairman Strelau requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MR. KRUSENOSKI MOVED TO FIND FAMILIA FRESH MARKET NO. 2, INC. D/B/A FAMILIA FRESH MARKET LOCATED AT 2065 W. 63RD STREET GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MS. TOERPE SECONDED.

VOTE:

Aye: Mr. Krusenoski, Ms. Toerpe, Ms. Flanagan, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 4:0:0

The Motion carried.

V. APPLICATION FOR LIQUOR LICENSE

Chairman Strelau made the following statements:

"The next order of business is to conduct a public hearing for liquor license applications. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial

of the issuance of any license. We may at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information."

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner."

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available liquor licenses within 60 days."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) discussion by the Commission, 4) comments from staff, 5) comments from the public, and 6) motion and finding by the Commission."

MOD Pizza - 1022 Ogden Avenue

Chairman Strelau stated that the next order of business was an application hearing for MOD Superfast Pizza, LLC d/b/a MOD Pizza located at 1022 Ogden Avenue. She stated that the applicant was seeking a Class "R-2", beer and wine only, on-premise consumption liquor license.

Chairman Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Nicole Levesque, Esq. of Webster Powell and Tracy Sinnott were sworn in by the court reporter. Ms. Levesque introduced herself as the attorney representing MOD Pizza. Ms. Sinnott introduced herself as the district manager for MOD Pizza and acting liquor manager for the Downers Grove location.

Chairman Strelau asked the applicant to present its case.

Ms. Levesque stated that MOD Pizza operates 370 restaurants across the United States, with 18 operating in Illinois. She stated that they serve beer and wine at all of their locations. She advised that the Downers Grove location has under 50 dining seats. She stated that the restaurant is a build-your-own pizza fast/casual dining concept.

Ms. Toerpe asked where the MOD Pizza will be located. Ms. Sinnott replied at the northwest corner of Main and Ogden in a new strip mall development.

Ms. Toerpe asked what percentage of alcohol sales they projected. Ms. Sinnott replied about 5%. She stated that a customer will typically have one drink, as it is primarily fast casual.

Ms. Toerpe advised the applicant of the vertical under 21 identification and warned them of their proximity to the high school. Ms. Sinnott replied that the Naperville location was similar and they do not get many attempted liquor purchase from anyone who is underage.

Ms. Sinnott stated that they walk through procedures with cashiers daily. She stated that cashiers are required to be certified and re-tested every three years. She stated that district managers audit employee certifications every month to ensure they are valid.

Mr. Krusenoski stated that it is always good for an applicant to hear a disciplinary matter. He stated that a violation is not only hurtful to the business, but costly with such a low amount of projected liquor sales. He stated that management should set the culture, tone and tenor of the importance of proper liquor sales. He was glad that there was daily reinforcement of liquor policies.

Mr. Krusenoski asked if they have software that scans driver's licenses. Ms. Sinnott replied no.

Ms. Flanagan asked Ms. Sinnott about her experience. Ms. Sinnott stated that she serves as the district manager and will oversee six stores in the area. She will be responsible for overseeing managers, record keeping, auditing and training.

Chairman Strelau stated that training is only as good as the effort management puts behind it. She stated that every day employees have to know the importance of proper liquor sales. She stated a violation can be costly for a store such as theirs with only 5% in alcohol revenue.

Mr. Krusenoski asked when they are scheduled to open. Ms. Sinnott replied there will be a soft opening on or about July 28th with friends and family events and then a formal ribbon cutting.

Chairman Strelau asked staff for recommendations or comments pertinent to this application. Ms. Kuchynka replied that issuance of the license is contingent upon receipt of satisfactory background checks, Certificate of Occupancy and employee certifications.

Chairman Strelau asked for comments from the public. There were none.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "R-2" liquor license application.

MS. TOERPE MOVED TO FIND MOD SUPERFAST PIZZA, LLC D/B/A MOD PIZZA LOCATED AT 1022 OGDEN AVENUE QUALIFIED FOR A CLASS "R-2", BEER AND WINE ONLY, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MR. KRUSENOSKI SECONDED.

VOTE:	Aye:	Ms. Toerpe, Mr. Krusenoski, Ms. Flanagan, Chairman Strelau
	Nay:	None
	Abstain:	None

MOTION CARRIED: 4:0:0

Motion carried.

Orange & Brew - 1027 Burlington Avenue

Chairman Strelau stated that the next order of business was an application hearing for Orange & Brew, LLC d/b/a/ Orange & Brew located at 1027 Burlington Avenue. She stated that the applicant was seeking a Class "WB", beer and wine only, on- and off-premise consumption liquor license.

Chairman Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Eric Schmidt was sworn in by the court reporter. Mr. Schmidt introduced himself as the president and liquor manager of Orange & Brew.

Chairman Strelau asked the applicant to present its case.

Mr. Schmidt stated that his liquor sales percentages will be about 95%. He stated that Orange & Brew concept is similar to a wine boutique but will feature craft beer in lieu of wine for on-and off-premise consumption site. He stated that they will offer a few wines as well. He stated that he will have eight lines of tapped craft beer which will be available to sample along with offering bottles and cans both for on-premise and off-premise consumption. He stated that they will supply food prepared off premises from The Pinecone Cottage Tea Room and local restaurants.

Chairman Strelau asked staff if there was language for the license classification. Ms. Kuchynka replied that information is on the 2nd page of the staff report. Ms. Kuchynka advised that the Council voted that pre-packaged food items shall be available, but such items do not have to be prepared on the premises.

Chairman Strelau asked if the Cellar Door has the same classification. Ms. Kuchynka replied yes. She stated that Cellar 406 also holds the boutique license. She stated that she has an application on file for Downers Grove Wine Shop.

Ms. Toerpe was excited about the new concept. She asked how the product will be provided. Mr. Schmidt stated that he will be contacting local distilleries and breweries to offer their product in one convenient location.

Ms. Toerpe asked about the training policy. Mr. Schmidt stated that he will train employees in recognizing signs of intoxication, over service, carding procedures and require BASSETT training for all employees. He stated that typically a customer will have 1-2 drinks and take packaged product home.

Ms. Toerpe asked Mr. Schmidt about his liquor handling experience. Mr. Schmidt replied he has been employed in the industry since college, working in fine dining and has knowledge in the craft brewing industry.

Mr. Krusenoski stated that on the application he indicated his present experience and asked if he will cease working at his current job and be present full time at Orange Brew. Mr. Schmidt replied yes.

Mr. Krusenoski asked Mr. Schmidt how many employees he plans to hire. Mr. Schmidt said he will be on premises mostly himself and planned to have three employees.

Mr. Krusenoski asked what the atmosphere of Orange Brew will be promoted. Mr. Schmidt stated that the atmosphere will be like a coffee shop with craft beer.

Mr. Krusenoski asked about the floor plan. Ms. Kuchynka pulled the floor plan up on the large screen. Mr. Schmidt stated that the main entrance will be near the packaged product which are the shelving units located on the west wall.

Mr. Krusenoski asked about the projected opening date. Mr. Schmidt replied August 1st. He stated that he has building plans and permits submitted to the Community Development Department.

Ms. Flanagan had no questions, but was impressed on the continuing training he will have in place to reinforce policy.

Ms. Flanagan asked Mr. Schmidt if he was planning to hire older, experienced workers. Mr. Schmidt replied yes and that they have some craft beer knowledge.

Ms. Pietrucha noticed that Mr. Schmidt lived in Lemont and asked him why he decided to locate the store in Downers Grove. Mr. Schmidt stated that Downers Grove is centrally located and there are no similar business in the area. He stated that he also liked the proximity to the train, the downtown building location and the building's character. He anticipated customers that will be in walking distance from the store.

Ms. Pietrucha asked Mr. Schmidt if he was familiar with the control buy process or had any experience with them. Mr. Schmidt replied that he had seen them done while working in college bars.

Ms. Pietrucha asked if they have concerns with minors trying to purchase liquor. He stated that he does not believe so. He added this will be a family business and they cannot afford any mistakes and will be very cautious.

Chairman Strelau asked if they plan on having beer tastings on site. Mr. Schmidt replied yes and anticipated having some educational pieces as a part of their business.

Chairman Strelau wished Mr. Schmidt luck.

Chairman Strelau asked staff for recommendations or comments pertinent to this application. Ms. Kuchynka replied that issuance of the license is contingent upon receipt of satisfactory background checks, Certificate of Occupancy, annual fee, insurance and employee certifications.

Chairman Strelau asked for comments from the public. There were none.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "WB" liquor license application.

MR. KRUSENOSKI MOVED TO FIND ORANGE & BREW, LLC D/B/A/ ORANGE & BREW LOCATED AT 1027 BURLINGTON AVENUE QUALIFIED FOR A CLASS "WB", BEER AND WINE ONLY, ON-PREMISE AND OFF-PREMISE CONSUMPTION LIQUOR LICENSE. MS. TOERPE SECONDED.

VOTE: **Aye:** Mr. Krusenoski, Ms. Toerpe, Ms. Flanagan, Ms. Pietrucha, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

Motion carried.

VI. OLD BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka discussed the month end reports. She stated she is currently processing renewals.

Ms. Kuchynka advised of the Mayor's intent to issue the license for Pierce's Tavern Class O outdoor liquor license.

Ms. Kuchynka advised that Downers Grove Wine Shop located at 1202 F- 75th Street currently holds a Class P-2 off-premise consumption license and has applied for the remaining Class WB license. She stated that the Mayor agreed to an expedited process, as the licensee has held a wine and beer on- and off-premise classification in the past and was seeking to upgrade again. She stated barring any objection, after being placed on file in the Village Clerk's office for a minimum of two weeks, the Mayor may grant the license.

VII. NEW BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any new business.

Ms. Kuchynka stated that there will not be a July Liquor Commission meeting due to the holiday and lack of quorum. She did advise that there will be an August meeting as she has applications on file.

VIII. COMMENTS FROM THE PUBLIC

There were none.

IX. ADJOURNMENT

Concluding business for the evening, Chairman Strelau called for a motion to adjourn.

Mr. Krusenoski moved to adjourn the June 7, 2018 meeting. The meeting was adjourned by acclamation at 7:25 p.m.