

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

Thursday, July 7, 2016

I. CALL TO ORDER

Chairman Strelau called the July 7, 2016 Liquor Commission meeting to order at 6:30 p.m.

II. ROLL CALL

PRESENT: Mr. Clary, Ms. Fregeau, Mr. Jacobson, Mr. Krusenoski, Chairman Strelau

ABSENT: Mr. Austin, Ms. King

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

OTHERS: Emilia Pereira, Trevor Pereira, Srikrishan Dabral, Jon Scoggin, Court Reporter

III. APPROVAL OF MINUTES

Chairman Strelau asked for approval of the minutes for the June 2, 2016 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

Hearing no changes, corrections or additions, the June 2, 2016 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. Petrarca 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."

Taste Indian Chinese Cuisine - 2117 W. 63rd Street

Chairman Strelau stated that the next order of business was to conduct a disciplinary hearing for Taste Group, Inc. d/b/a Taste Indian Chinese Cuisine located at 2117 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.

Mr. Trevor Pereira was sworn in by the court reporter.

Chairman Strelau asked the prosecuting attorney to present her case.

Ms. Petrarca 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. Taste Group, Inc. d/b/a Taste Indian Chinese Cuisine, 2117 W. 63rd Street, Downers Grove, Illinois, is the holder of a Class R-2 Liquor License #LQ-000159, 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 October 23, 2012.
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 7:38 p.m. on Wednesday, May 25, 2016, Downers Grove Police Officer Buzucky and Downers Grove Police Officer Lylerly observed B.G., a special agent of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is September 9, 1998 (making him 17 years old), enter Taste Indian Chinese Cuisine located at 2117 W. 63rd Street, Downers Grove.
4. The special agent was seated at a table in the restaurant and Alfredo Cardozo, asked him for his order.
5. The special agent ordered a bottle of Miller Lite beer while Officers Buzucky and Lylerly observed him.
6. That Alfredo Cardozo, whose date of birth is May 19, 1978, then asked the special agent for identification.
7. That the special agent produced his valid Illinois driver's license indicating his date of birth as 09-09-98, and reading "Under 21 until 09-09-19" on the face of the license.
8. That Alfredo Cardozo viewed the special agent's driver's license and then returned the driver's license to the special agent.
9. That Alfredo Cardozo then served the special agent a Miller Lite beer.
10. That Alfredo Cardozo had a conversation with the special agent and stepped away from the special agent.
11. That Officer Buzucky approached the special agent to question him about his conversation with Alfredo Cardozo.
12. That the special agent advised Officer Buzucky that Alfredo Cardozo asked him how old he was to which the special agent replied 17, that Alfredo Cardozo acknowledged that the special agent was 17 and said that it was "ok" to be served the beer, but just this time.
13. Officers Buzucky 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.
14. That Alfredo Cardozo acknowledged to the Officers his statements, that he would allow the special agent to drink this time and knew that the legal age of alcohol consumption is 21 years of age.
15. That Alfredo Cardozo 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.

16. That owner/manager Trevor Pereira was not at the scene at the time of the incident.
17. That Officer Buzacky contacted Mr. Pereira over the telephone to advise that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Petrarca 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.

Mr. Trevor Pereira introduced himself as the owner and manager of Taste Indian Chinese Cuisine. He apologized for the violation. He stated that they were waiting for the outcome of this hearing to determine if they should terminate Mr. Cardozo. He stated Ms. Kuchynka was very helpful in personally meeting with and re-educating staff and for her help with updating the liquor handling manual. He stated that Mr. Cardozo claimed he "went blank". He stated that they would try their best to prevent future violations.

Ms. Fregeau asked how long Mr. Hernandez had been employed as liquor manager. Mr. Pereira replied that he had been employed since they opened the restaurant in October, 2012. Ms. Fregeau asked if Mr. Hernandez was on duty at the time of the violation. Mr. Pereira replied no.

Ms. Fregeau stated that it was disturbing that Mr. Cardozo served a 17 year old that he would allow him to drink "just this time". She wondered how many other minors he has served. She asked Mr. Pereira if Mr. Cardozo gave any excuse for the violation. Mr. Pereira stated that the power was off prior to the incident. He stated that 2-3 tables entered the restaurant and only Mr. Cardozo and one other employee were working the floor. He stated that Mr. Cardozo went blank when he requested the identification. He stated that he asked Mr. Cardozo if he had ever done this before and Mr. Cardozo replied no.

Ms. Fregeau stated that the agent advised Mr. Cardozo that he was 17 years old and Mr. Cardozo replied he would serve him just this time.

Ms. Fregeau asked at what age their employees are instructed to ask for identification. Mr. Pereira replied prior to the violation the policy was to ask for id from anyone appearing under 30, but now it is 40. Ms. Kuchynka stated that she emailed a copy of their new manual to the Commission this morning and apologized for its delay as she had just received the updated version.

Ms. Fregeau asked how long Mr. Cardozo has been employed. Mr. Pereira replied 18 months.

Ms. Fregeau asked how many employees are typically on staff. Mr. Pereira replied there are two servers and one busboy on staff during the week. He stated that they have five servers on weekends. Ms. Fregeau asked if they were busy at the time of the violation. Mr. Pereira replied no.

Ms. Fregeau asked why they did not terminate Mr. Cardozo. Mr. Pereira replied that before this incident they did not have a termination policy. He stated that they have since revised their manual to contain a termination policy.

Ms. Fregeau asked the percentage of food versus alcohol sales. Mr. Pereira replied food is 95% and alcohols is about 2%. Ms. Fregeau asked how often he speaks with staff about serving liquor. Mr.

Pereira replied every month. Mr. Pereira noted that they only sell a small amount of beer and wine. Ms. Fregeau stated that a violation is a high price to pay for such a small amount of alcohol sales.

Ms. Fregeau asked what the protocol for carding was in the prior manual and if they accepted the vertical license. Mr. Pereira replied vertical licenses were never accepted.

Ms. Fregeau stated that the special agent was asked for identification, showed the vertical id and wondered why Mr. Cardozo accepted it. Mr. Pereira replied he did not know. He stated that he has seen Mr. Cardozo requesting id's regularly and he is a good server.

Mr. Jacobson had no questions but it stated it appears that the server acknowledged the agent was under 21, yet intentionally served him. He did not believe this was the first time Mr. Cardozo served a minor

Mr. Jacobson stated that he did not know why they would keep Mr. Cardozo employed when he clearly admits serving the minor and noted that this is one of the worst control buy violation cases he had heard. He stated that typically employees say it was a mistake but this employee admits he knew the minor was under 21. Mr. Pereira stated they will terminate him should the Commission say so. Mr. Jacobson replied that the owners need to make a decision about what is wrong and right in order for the Commission to know that it is safe for them to continue serving liquor in Downers Grove. He stated that the violation is now the owners' responsibility and there are serious consequences as a result of this violation. He questioned if it was safe for them to even continue serving liquor. Mr. Pereira stated that Mr. Cardozo has not been allowed to take orders.

Mr. Clary agreed with the previous comments. He stated that it was very bad judgment on behalf of the server. He stated that the agent is four years from being 21, the license read "under 21", the agent was asked his age. Mr. Clary stated he struggled with the reason why management would wait to decide the fate of the server's future employment. He stated that it is a privilege to hold a liquor license. He feared that a violation will happen again.

Mr. Clary asked if any other staff were present at the time of the violation. Ms. Pereira replied that there was one busboy and the cook beside Mr. Cardozo at the restaurant. Mr. Clary asked if any were BASSET certified. Mr. Pereira replied yes, Mr. Cardozo.

Mr. Krusenowski stated that in the seven years he has been on the Commission he has never heard a server admit he intentionally served a minor. He stated that most deny it and he was astounded on how Mr. Cardozo openly broke the law. He stated that the penalties will take them a long time to make up and will be costly. He stated that they must be diligent and adhere to liquor laws and stress the importance of serving liquor to their employees. He stated that management's ambivalence to its importance set the tone and it seems that the culture has been set that it is ok to serve minors. He stated that this 38 year old server should know that serving a minor is wrong. He stated that the lackadaisical attitude of the server makes him doubt that this was the only time Mr. Cardozo served someone under 21.

Chairman Strelau asked Mr. Pereira how many hours he worked per week. Mr. Pereira replied 50, mostly in the afternoons and evenings. Chairman Strelau asked if he was off on the day of the violation. Mr. Pereira replied yes.

Chairman Strelau asked how many hours a week is the liquor manager Victor Fernandes at the establishment. Mr. Pereira replied that Victor is now in California, and, for the time being, he is not working there. Chairman Strelau asked how long he was in California. Mr. Pereira replied two months.

Chairman Strelau asked who operates the restaurant in his and Victor's absence. Mr. Pereira replied his wife Emelia is on duty.

Chairman Strelau stated that she was surprised that the Liquor Commissioner did not order liquor sales to stop. She stated that they have an employee who willfully sold alcohol to a minor. She added that their liquor manager is not in the state and there is nobody running the restaurant. She asked if he may wonder why he is having problems with liquor sales. She stated that they have to take care of the business or they will not have the privilege of holding a license.

Ms. Petrarca summarized by stating that Taste Group, Inc. d/b/a Taste Indian Chinese Cuisine located at 2117 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.

Chairman Strelau asked Mr. Pereira if he had any final comments for the record. Mr. Pereira replied no.

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. JACOBSON MOVED TO FIND TASTE GROUP, INC. D/B/A TASTE INDIAN CHINESE CUISINE LOCATED AT 2117 W. 63RD STREET GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MS. FREGEAU SECONDED.

VOTE:

Aye: Mr. Jacobson, Ms. Fregeau, Mr. Clary Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

V. APPLICATION FOR LIQUOR LICENSE

Chairman Strelau made the following statements:

"The first order of business is to conduct a public hearing for a liquor license application. 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) comments from the public, 4) discussion by the Commission, and 5) motion and finding by the Commission."

Mojo's East Coast Eats - 2758 Maple Avenue

Chairman Strelau stated that the next order of business was an application hearing for CBW Crew, LLC d/b/a Mojo's East Coast Eats located at 2758 Maple 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.

Mr. Jon Scoggin was sworn in by the court reporter. Mr. Scoggin introduced himself as the liquor manager and majority owner of Mojo's East Coast Eats.

Chairman Strelau asked the applicant to present its case.

Mr. Scoggin stated that Mojo's is a fast casual sandwich shop located in a strip mall at the intersection of Maple & I-355. He stated that they offer authentic Philly cheese steaks, hot and cold sandwiches, hand cut fries, soup and salads. He stated they are currently in operation and noted their hours of Monday-Saturday from 10:30 a.m. to 7:30 p.m. He stated they are seeking a beer and wine license to accommodate customer requests.

Mr. Krusenoski stated that he was pleased that Mr. Scoggin sat through the prior agenda item as it was beneficial for new applicants to hear disciplinary proceedings. He stated that no matter how many safeguards and manuals that are in place, employees may still serve minors. He stated that most work in an atmosphere with no accountability. He stated that Mojo's manual was good but advised Mr. Scoggin not to use only that training but instill accountability upon employees.

Mr. Scoggin stated that he has been in business for two years and originally did not desire to offer liquor as he knows it carries a lot of responsibility. He stated that their operation will not result in a bar-type atmosphere and noted there will be a very small amount of beer and wine only sales with a vast majority of food sales.

Mr. Krusenoski stated that serving alcohol is a huge responsibility and noted that most licensees are very responsible when serving liquor. He suggested that management be certain that employees are held accountable and they do not have a lackadaisical attitude toward liquor service.

Mr. Krusenoski asked what kind of craft beer they plan to carry. Mr. Scoggin replied that he has spoken with Alter Brewing and hoped to offer their canned product. Mr. Krusenoski stated that could be a good reciprocal operation if they provided beer and food to each other respectively.

Mr. Clary stated that management sets the standards for proper liquor service and noted that it is not ok to serve minors. He stated that the Village is not out to catch licensees, but ensure compliance and make sure licensees are not serving minors.

Mr. Jacobson stated that Mr. Scoggin was certainly aware of the control buy program and that the Village tests its licensees. Mr. Scoggin replied yes.

Mr. Jacobson asked Mr. Scoggin about his liquor handling experience. Mr. Scoggin replied that he worked 5 years as a bar security manager. He stated that the facility was known for being strict which sends a message to employees and the community. He stated that it is up to management to drive that culture.

Ms. Fregeau asked staff about Form 4 that was provided with the application materials. Ms. Kuchynka replied that the form is utilized for limited liability corporations or partnerships. She stated that partners are disclosed along with the percentage of stock each partner owns.

Ms. Fregeau stated that she was familiar with the restaurant but asked Mr. Scoggin to explain the ordering and monitoring process. Mr. Scoggin replied that customers will place food and alcohol orders at the front counter. He stated that they will receive beer or wine at that time. He stated that there is a clear view of the entire restaurant from the counter from which staff can monitor. He stated that staff will also roam to clear off tables and will be instructed to monitor as well.

Ms. Fregeau stated that the tone and tenor about the importance of liquor service is set by management and that training goes far beyond the contents of the manual.

Ms. Fregeau asked Mr. Scoggin to elaborate on his liquor handling experience. Mr. Scoggin replied that he worked from 1995-2001 at a Charleston, South Carolina college town bar. He stated that he knows what to look for during the carding procedure and how to recognize signs of intoxication.

Ms. Fregeau asked about certifications. Mr. Scoggin stated that he is BASSET certified. Ms. Kuchynka noted that employee certifications will be required prior to obtaining the license. Ms. Fregeau asked how many employees he has. Mr. Scoggin replied seven and noted two are under 21.

Ms. Fregeau asked Mr. Scoggin what he thought would be his biggest challenge. Mr. Scoggin replied holding employees accountable and driving a culture that serving liquor is serious. He stated that the current manager is his nephew who has a vested interest in the business. He stated that he will be helping with operations. He stated that orders taken at the counter will result in more control of the alcohol by he and his manager.

Mr. Scoggin stated that all liquor will be controlled at the counter. He stated that employees who ring up the sales will be 21+. Mr. Scoggin noted that he has a low employee turn over rate, has long term employees and some are vested in the business.

Ms. Fregeau stated that they have a good manual, but the manual is only as good as management enforces it.

Mr. Jacobson noted that Mr. Scoggin recently obtained his BASSET certification. He noted that the IL driver's licenses have changed and that the Secretary of State will be issuing paper renewals. Mr. Scoggin thanked him for the information and added that they will not accept vertical identification even if they are valid.

Chairman Strelau asked why paper licenses were being issued by the State. Mr. Jacobson replied that they do not have the technology to format the licenses at any of the facilities. He stated that people will get a temporary license paper license and the current license will be hole punched. He stated that the

new ones will be mailed after background checks and photo recognition processes are done. Ms. Fregeau noted that IL was one of the only states that does not have technology embedded in their identification cards that the FAA and airline security wants to require.

Chairman Strelau asked how many partners there are and why the stock ownership did not total 100% . Mr. Scoggin stated that there are seven partners and he only disclosed those holding 5% or more of stock as Form 4 indicates.

Chairman Strelau asked Mr. Scoggin if he had any bartending experience at his South Carolina job. Mr. Scoggin replied no. He stated he was on security detail where he checked id's, wristbands, made sure minors were not consuming alcohol and monitored patrons' behavior for signs of intoxication.

Chairman Strelau asked Mr. Scoggin who will operate in his place when he is not at the restaurant. Mr. Scoggin replied his nephew who is the current manager.

Chairman Strelau noted the prior disciplinary hearing and noted their lack and disregard for what it takes to run a business. She stated that management has to be present and aware of what is going on. She suggested they make liquor serving a priority, set good examples and be diligent.

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, the annual fee, dram shop insurance and receipt of 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. FREGEAU MOVED TO FIND CBW CREW, LLC D/B/A MOJO'S EAST COAST EATS LOCATED AT 2758 MAPLE AVENUE QUALIFIED FOR A CLASS "R-2", BEER AND WINE, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MR. CLARY SECONDED.

VOTE: **Aye:** Ms. Fregeau, Mr, Clary, Mr. Jacobson, Mr. Krusenoski, 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 report. She stated that the Mayor approved the Doubletree liquor licenses and issued a findings and order for the Giordano's disciplinary.

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 she and Mr. Jacobson attended the Illinois Liquor Control Commission's licensee meeting on Monday, June 6th. She stated that a number of Downers Grove licensees were in attendance.

Ms. Kuchynka stated that she planned an upcoming liquor newsletter to advise licensee of happy hour provisions and the new driver's license formats.

Ms. Kuchynka asked the commission's availability for the August 4th meeting but was uncertain if there would be a meeting.

Chairman Strelau commented about tonight's disciplinary hearing. She stated that she was surprised that nothing had been done to the licensee when the employee admitted serving a minor. Ms. Kuchynka stated that she contacted the owner immediately upon receipt of the police report. Mr. Jacobson asked if the Village could add aggravating circumstances to the case. Ms. Kuchynka stated that on the Taste liquor report the aggravating circumstances are listed which would warrant additional suspension or fines. Ms. Kuchynka stated that she also withheld their renewal.

Mr. Jacobson asked if the new BASSET State law affect license holders. Ms. Kuchynka replied yes. She stated that the State will now require the training *every* three years for on-premise license holders. Ms. Kuchynka stated that she asked for licensees current employees certifications and if they were three years or older, they were asked to have the employee re-take the course. She stated that there are on-line courses that can be completed in a short period of time. She added that the Village only required certified training, not that it be done every three years.

Ms. Fregeau asked if licensees are checked for their certification during a controlled buy or during other compliance testing. Ms. Kuchynka replied that licensees are asked to provide the employee's proof of certification only if there is a failure. She stated she requests copies of the certifications every year at renewal but asked to keep a copy in the employee's personnel 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. Jacobson moved to adjourn the July 7, 2016 meeting. The meeting was adjourned by acclimation at 7:33 p.m.