

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

In the Matter of

Pandora's Cabaret
Lionel B. Gouveia, Applicant
LT Unlimited LLC
Liquor Permit No. LIR.18949

Docket No. 14-190
Case No. 2014-49
April 8, 2014

MEMORANDUM OF DECISION

This matter involves an application for a restaurant liquor permit for Pandora's Cabaret, 141 Washington Avenue, Waterbury, A formal administrative hearing was held before the Department of Consumer Protection on March 13, 2014. Lionel B. Gouveia, applicant and member of the backer limited liability company, and Tammy L. Gomes, member of the backer limited liability company, appeared. The hearing was held in accordance with Section 30-39(c), Connecticut General Statutes, as a result of a legally sufficient remonstrance questioning the suitability of applicant and the proposed place of business. Resident remonstrants appeared to oppose the granting of this permit. Following the conclusion of the hearing, the record was reopened to allow for the submission of additional documents until April 4, 2014. Counsel for the respondents provided a written submission dated April 3, 2014, outlining changes to their security protocol; they have hired a new company to provide security, are purchasing walk-through metal detectors and are upgrading their security cameras.

The following facts are found based upon evidence adduced at the hearing. Liquor Control Agent Wilson reviewed the pending application for a restaurant permit and found it to be in order. The proposed location is in a freestanding building with a dining room and a bar room located on a heavily traveled street in an industrial park area. It meets the statutory requirements for a restaurant permit. In its application, the applicant seeks to offer live entertainment in the form of disc jockeys and exotic dancers.

A valid remonstrance opposing the granting of this application was filed. Remonstrants questioned adequacy of parking, whether city officials signed the application in error, the suitability of backer and permittee, and the suitability of the location as a venue offering adult entertainment.

Agent Wilson discussed the parking concerns with zoning officials and learned that additional parking spaces had been rented from a neighboring business. Zoning officials confirmed that they approved the liquor permit application and that the location was properly zoned for restaurant use.

As part of her investigation, Agent Wilson conducted personal background checks, and neither member of the backer limited liability company had been convicted or arrested.

Agent Wilson visited the neighborhood and noted the presence of nine churches within less than three-quarters of a mile. Two schools lay within four-tenths of a mile. Four cafes or restaurants with liquor permits lay within one mile as well as eleven stores offering alcohol for sale.

Sec. 30-46(a), Conn. General Statutes, states, in relevant part:

The Department of Consumer Protection may, except as to a store engaged chiefly in the sale of groceries, in its discretion, suspend, revoke or refuse to grant or renew a permit for the sale of alcoholic liquor if it has reasonable cause to believe: (1) That the proximity of the permit premises will have a detrimental effect upon any church, public or parochial school, convent, charitable institution, whether supported by private or public funds, hospital or veterans' home or any camp, barracks or flying field of the armed forces; ... (4) that the place has been conducted as a lewd or disorderly establishment; ...

Remonstrants expressed heartfelt, articulate and impassioned testimony concerning the negative effect of an adult entertainment establishment on the Waterbury community.

The agent for the remonstrants offered as evidence color photographs taken inside the premises while it was operating under a provisional liquor permit which has since lapsed. The photographs were taken by one of his parishioners and depict violations of the Regulations of Connecticut State Agencies which govern the conduct of permit premises offering adult entertainment. Both Mr. Gouveia and Ms. Gomes were present during this incident. Ms. Gomes testified that female entertainers perform topless in a shower enclosure within the bar as part of the entertainment offered.

In a written submission, Waterbury Mayor Neil M. O'Leary stated his opposition to the granting of this permit, citing numerous violations of the criminal statutes and which he feels demonstrates that, "the owners and management of Pandora's Cabaret have no regard for public safety or the laws

that govern us.” (Letter dated March 31, 2014 to DCP Liquor Control Division from Neil M. O’Leary, Mayor, City of Waterbury.)

Waterbury’s Chief of Police, Vernon L. Riddick Jr., also opposes the granting of this permit, stating, that he has “observed a pattern of criminal activity at Pandora’s which causes me great concern for public safety in our City. This pattern of criminal activity includes an assault with a knife, a robbery at gunpoint and two shooting incident. The most recent and most serious incident was a shooting in which twenty-nine shots were fired and three people were injured.” (Letter dated April 1, 2014 to the Honorable Members of the Connecticut Liquor Control Commission from Vernon L. Riddick, Jr., Chief of Police.)

The Liquor Control Act grants the Liquor Control Commission a liberal discretionary power to determine factual matters with regard to liquor permits and to suspend or revoke the permit after a hearing. *Balog v. Liquor Control Commission*, 150 Conn. 473, 191 A.2d 20 (1963). This power to suspend or revoke a liquor permit is exercised conservatively, but mindful that dispensing liquor is a privilege, not a right. *Beckanstein v. Liquor Control Commission*, 140 Conn. 185, 99 A.2d 119 (1953).

In view of the danger to public health and welfare inherent in liquor traffic, the police power to regulate the liquor trade runs broad and deep, more so than comparable regulatory powers over other activities. *Williams v. Liquor Control Commission*, 175 Conn. 409, 411, 399 A.2d 834 (1978).

A liquor permit is a privilege and not a right. Based upon the foregoing, this is not a right which we believe should be conferred upon the applicant. The determination of factual matters with regard to the suitability of an applicant or the location of proposed liquor permit premises is vested with the Liquor Control Commission. *Crescimanni v. Department of Liquor Control*, 41 Conn. App. 83, 674 A.2d 851 (1996). Therefore, we hereby grant the remonstrance and deny the pending application of Lionel B. Gouveia and Pandora's Cabaret.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION**

Angelo Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Lionel B. Gouveia
Pandora's Cabaret,
141 Washington Avenue
Waterbury, CT 06708-3937
(Via US Mail and Certified Mail # 7010 0290 0000 0308 5865)

Lionel B. Gouveia
c/o Joseph Tramuta, Jr., Esq.
Minnella, Tramuta and Edwards LLC
350 Middlebury Road, Suite 103B
Middlebury, CT 06762

Pastor James Lilley, Agent for Remonstrants
1263 Thomaston Avenue
Waterbury, CT 06704
(Via US Mail and Certified Mail # 7010 0290 0000 03080 5872)

Nonparties:

John Suchy, Director, Liquor Control Division

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