

BUSINESS LICENSE REVIEW BOARD

OCTOBER 17, 1985

WEST HOLLYWOOD PARK

CALL TO ORDER:

The meeting of the Business License Review Board was called to order at 8:05 P.M., for the purpose of reaching a decision in the business license application for Glitter.

Present: Albert, Terrigno,
Viterbi, Schulte,
Mayor Heilman

Also
Present: City Manager -
Brotzman
City Attorney -
Jenkins
Director of Community Development, Mark
Winogron

Mayor Heilman opened the hearing by stating that the Business License Review Board had previously held a public hearing on the application and the public hearing portion was closed. He then went on to state that additional information had been received both from the applicant and some of the residents. Mayor Heilman requested that this material be introduced into the record.

Mark Winogron gave the staff report regarding the ABC license. He stated that the Sheriff's Department informed him that the temporary license was denied by ABC.

At this time Geraldine Green, consul to DAA inc., the applicant, reported to the City Council that it was true that the temporary license had been denied. However, Ms. Green stated that a hearing had been scheduled for a license on a permanent basis.

Councilmember Viterbi stated that his previous concern for issuing the license centered on a very clear link between the present applicant and the previous holder of the business license. And that in fact the present applicant was operating and in many ways had control over the situation and that during that period there were violations of both municipal and state mandated requirements. In addition, there was the use of a liquor license in probable violation of state law.

Councilmember Viterbi then referred to Attachment 1, the general partnership agreement, between Mr. Johnson and Jay Daniels, noting that in sections 3, 5, 6 there were clear statements that Mr. Johnson was responsible for the operations of the club. In addition, any net profits from the partnership would be evenly divided between the two partners. Also, Mr. Johnson was responsible for meeting the legal requirements of each of the licenses supplied by J. Daniels for the operations of the club. And finally, Councilmember Viterbi said that he was struck by Article 4, paragraph 1, of the same document, (which was an agreement pending the approval of an ABC license for Mr. Daniels to purchase the liquor license from the bankruptcy trustee for J. Daniels), and stated that the document clearly shows that as part of the agreement that Mr. Daniels agrees to compromise the debtors claims against the buyer,

i.e. Mr. Daniels, for the buyers prior use of the liquor license. In addition, the agreement stated that Mr. Johnson had previously used the liquor license that J. Daniels had, in violation of ABC law. In conclusion, Councilmember Viterbi stated that the document only reinforced his position that it would be inappropriate to grant a business license at this time.

Councilmember Schulte then requested that Ms. Green respond to several questions. His first question was regarding the use of the license. The second referring to general partnership agreement, Section 6, (dated November 19, 1984), where it states that Mr. Johnson would be responsible for all the day to day operations of the club excluding those responsibilities directly associated with ownership duties and responsibilities of the liquor license held by J. Daniels. Councilmember Schulte went on to state that he believed that the Council was trying to consider the question of where was the responsibility of the management prior to July 1, 1985.

Geraldine Green responded to Councilmember Schulte's questions. She stated ABC had not considered the agreement in violation and that they poses a copy of the agreement in their files. She also stated that as she had indicated previously,

Mr. Johnson was the man responsible for the day to day operations. However, his defense was that he was not aware of the conditions on the license because there was no indication on the face of the license that there were conditions attached. Ms. Green went on to state that the Sheriff's department confirmed that there were no conditions attached to the license found on the premises. Thus, Mr. Johnson was operating on the assumption that these conditions did not exist.

Councilmember Schulte asked who should the Council hold responsible for the complaints and the conditions that arose out of the club as it was operated prior to July 1, 1985.

Ms. Green responded by stating that there was no question that Mr. Johnson was in charge of the club and the violations occurred under his management. However, what she was saying was that Mr. Johnson was not aware of what the violations were. In addition she stated that the license was, at that time, J. Daniels'. Finally, Ms. Green pointed out that her client was DAA inc. and DAA inc. was not in control at that time. She also clarified that Mr. Johnson is only one of the share holders of DAA inc..

Councilmember Viterbi pointed out that Mr. Johnson was one third share holder of DAA inc. and that the intention of DAA inc. was to have Mr. Johnson manage the club.

Councilmember Terrigno stated that as she understood previous testimony, that if necessary the corporation would get another manager to obtain a license. Councilmember Terrigno wondered if that could be an enforceable provision for Council to ask. In addition, she directed questions to Ms. Green concerning confusion in dates on attachment 1, page 1.

Ms. Green stated that the agreement was entered into November of 1984, however, Mr. Johnson did not commence management until January, 1985. In addition, this agreement was with Mr. Johnson and not with DAA inc. Also, the document states Mr. Johnson shall be responsible for the operations of the club, however it also states J. Daniels shall have the right to control over all operations.

ACTION: To deny license. Motion Heilman seconded Viterbi. (At this time the City Attorney made one clarification in the motion to deny the license. He stated that there were three separate aspects to this application. One dealing with Dance, another with Eating and the third with Entertainment. The latter one on Entertainment had a different criteria for approval. He asked Council at this time if it was their intention to deny the Eating and the Dance or all three.

Mayor Heilman stated their motion was restricted to the Eating and the Dance. The City Attorney also stated that the Entertainment license would be limited to a piano bar.)

AYES: Albert, Viterbi,
Schulte, Mayor
Heilman

NOES: None

ABSTAINED: Terrigno
Motion carried.

ACTION: To approve Entertainment license with conditions set forth by Community Development Director, Mark Winogron, with the addition of valet parking with site approval by the department. In addition the license would be granted for one year with a six month review.

At this point Councilmember Terringo asked for a point of clarification. She directed the Council's attention to the memo initiated by the Department of Community Development which stated, "The applicant has applied for Entertainment, Dance and Public Eating licenses for the Glitter establishment located at 9000 Sunset Boulevard, West Hollywood. The Public Eating license does not require a public hearing; the only license up for review at the public hearing is the General Entertainment license and the Dance license." She went on to ask if the intent of the Council was to deny Eating.

Mark Winogron respond "no" to her question.

Mayor Heilman stated that he "misstated it" (the motion to deny Eating and Dance), and "that it was dance only."

Councilmember Terrigno then asked if the intent was just to deny the Dance license.

Mayor Heilman replied "yes". At this time the Council returned to their original motion concerning the Entertainment license with its conditions. Motion Viterbi seconded Terrigno.

AYES: Terringo,
Viterbi, Schulte,
Mayor Heilman

NOES: Albert
Motion carried.

ADJOURNMENT:

The meeting of the Business License Review Board was adjourned at 8:35.