

LICENSE APPEAL COMMISSION  
CITY OF CHICAGO

Yaz & Cam, Inc.	)	
d/b/a Suite 25	)	
Applicant (COP-IA)	)	
for the premises located at	)	Case No. 11 LA 33
2529 North Milwaukee Avenue	)	
	)	
v.	)	
	)	
Department of Business Affairs and Consumer Protection	)	
Local Liquor Control Commission	)	
Gregory Steadman, Commissioner	)	

ORDER

DECISION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER O'CONNELL

The applicant filed a timely appeal of the decision of the Local Liquor Control Commissioner denying its application for a Consumption on Premises – Incidental Activity liquor license for the premises located at 2529 North Milwaukee Avenue.

The denial letter of August 4, 2011, sets out the reasons for this denial. In substance, these are:

1. Members of Raul D. Perez’s immediate family, who are ineligible to hold a liquor license based on previous liquor license violations, hold a beneficial interest in the operation of this business.
2. The issuance of this license under the facts of this particular case would tend to create a law enforcement problem for the local community and the city of Chicago.

The denial letter explained this decision by stating the following facts:

1. The applicant Raul D. Perez (aka Dino Perez) stated in his liquor license application that he had received a \$28,000.00 gift from his mother Elizabeth Perez.
2. The property at 2529 N. Milwaukee was previously owned jointly by Dino Perez, his mother Elizabeth, and his brother Percy Perez. Shortly before the application, Elizabeth and Percy transferred their interest in the property to Dino for \$10.00. The Commission considers this transaction a gift from Elizabeth and Percy to Dino since the \$10.00 listed does not reflect the fair market value of the property.
3. Raul Perez Sr., the applicant's father, Elizabeth Perez, the applicant's mother, and brother Percy Perez were owners of a previous liquor license Rinconcito Sudamericano, Inc. All these are ineligible to hold a liquor license themselves or have a beneficial interest in a liquor license in the city of Chicago since their license at this location was revoked.
4. The applicant Dino Perez with Raul Perez Sr., Elizabeth Perez, and Percy Perez were respondents in an agreed order of abatement in their role as landlords for Chromium, Inc., located at 817-819 W. Lake Street. The Perez family managed the business which resulted in a history of violations leading to the license revocation. The named owner of Chromium, Inc. was the spouse of Percy Perez.
5. The fact that the applicant and his family's direct and indirect connections to two other liquor license establishments that were revoked for numerous violations and the family's history of listing another family member as a licensee, but continuing to maintain and operate a business, raises an unacceptable risk such problems would re-occur if a new license was issued to the applicant and would tend to create a law enforcement problem.
6. That the original configuration of the premises revealed conditions that raised concern that the business may operate as a tavern, as opposed to a restaurant which was the basis of the revocation against Rinconcito Sudamericano, Inc.
7. That the previous licensees Paul Perez Sr., Elizabeth Perez, and/or Percy Perez still have a beneficial interest in the operation of this establishment and will have influence or control of the operation of the business the applicant intends to operate.

Since this case deals with a denial of a liquor license the issue before this Commission is to determine de novo the propriety of the denial of this liquor license application. A synopsis of the evidence in the record will help understand the reasoning of this decision.

Sophia Carey has worked for the City of Chicago's Department of Business Affairs and Consumer Protection for six years and is currently a Business Consultant Supervisor assisting customers with license applications. She identified City's Exhibit 3, in evidence, as the application filed by Yaz & Cam, Inc. for the location at 2529 N. Milwaukee. It lists Raul D. Perez as the President and the licensee applied for a retail food license and a consumption on premises – incidental activity license. That license was denied because the Local Liquor Control Commission felt there were individuals that had a financial interest in this liquor license that were determined to be ineligible based on their own liquor license history. There was also a law enforcement basis for denial. The father, mother, and brother of the applicant are ineligible to hold a liquor license or have a beneficial interest in a liquor license.

The mother, Elizabeth Perez, has a beneficial interest in this license because she gave a gift of \$28,000.00 to her son Raul and also conveyed her interest in the property to her son Raul. While she was an owner of this property and owner of a prior liquor license operation at this location, that license was revoked for operating a restaurant as a tavern. Based on that revocation, the liquor license at this address and for another location operated by the same legal entity was revoked. Based on that revocation, Elizabeth Perez is ineligible to hold a liquor license. The other location that was revealed was at 1954 W. Armitage. These establishments were operated by the same corporation, Rinconcito Sudamericano. The Armitage address was

revoked because of the revocation at the Milwaukee Avenue location. Armitage continued to operate with a restaurant license. The applicant's brother and father were also members of this corporation and, as such, are ineligible to hold a liquor license or have a beneficial interest in a liquor license.

Raul Perez, the applicant, also was involved with his family with respect to the Chromium Club on Lake Street. The applicant, his brother, father and mother were the landlords and his sister-in-law was the licensee. Ms. Carey identified City's Exhibit 6, in evidence, which reflects a voluntary revocation of the liquor license.

Ms. Carey stated that one of the law enforcement concerns with this application was that the initial configuration of the site looked more like a bar than a restaurant. That was the reason the license at this location was revoked. The site was reconfigured to look more like a restaurant. There were also concerns that the family members were landlords and managers at Chromium where there were substantial complaints of gang activity and drugs. The Local feels this license application is a family business such as Chromium was a family business. Since the applicant had a landlord interest in Chromium there is a history of disciplinary or criminal activity occurring at a location he had personal responsibility for.

Ms. Carey acknowledged this applicant has a liquor license at 2010 W. Armitage. She related the original application for that license was denied because of financial support from ineligible family members. He reapplied with a new legal entity without financial support related to his family members. City's Exhibits 7 and 8 were allowed in evidence without

objection. Exhibit 7 relates to a health violation and Exhibit 8 is another code violation. Both were adjudicated at Administrative Hearings with pleas of liable and \$250.00 fines.

Sophia Carey admitted she had never been to the premises at 2529 N. Milwaukee, but feels she has personal knowledge of what the premises looks like by her review of the pictures taken by the investigators.

The witness denied that the City's case rests totally on the fact that the applicant is related to his mother, father and brother. She denied that the applicant is ineligible because his mother, father and brother are ineligible. She did say there was no information in City's Exhibit 3, showing that the applicant had anything to do with Rinconcito Sudamericano at 2529 N. Milwaukee. She asserted that does not mean he was not involved in that business. He was part owner of that property at some time, but she did not know when he was part owner. Carey had no knowledge as to whether the applicant worked at that establishment before it was revoked or if he was ever in that establishment before it was revoked in 1996.

Carey added that there was nothing in the City's file that showed the applicant was part of the corporation that held the license at Chromium or that he was an employee at Chromium. There was no evidence the applicant made hiring decisions at Chromium or was involved in making financial decisions at Chromium. The licensee at Chromium was applicant's sister-in-law.

Carey admitted that there was nothing in City's Exhibit 3 showing there were any allegations of liquor violations at the Rios establishment on Armitage. There is nothing in City's Exhibit 3, indicating anyone other than Dino Perez owned and operated Rios. There was nothing in writing to suggest there's any involvement with other family members in the application of Rios. Dino Perez included on his application that he received a \$28,000.00 gift from his mother.

With respect to the Second Amended Complaint filed against Chromium in Case 07 BN 419A, the witness admitted the complaint is an allegation. The resolution agreement in this case was signed by Raul Perez and not by Raul Dino Perez. There is nothing in that resolution agreement in which the applicant admitted or was found to have been responsible for any of the activities surrounding the building.

Carey stated the City did no investigation to determine if the \$28,000.00 received by the applicant from his mother was anything other than a gift. Carey admitted she mistakenly assumed Elizabeth Perez was an owner of the building where Chromium was located. She agreed she had no direct facts that Elizabeth Perez has any direct or indirect beneficial interest in Suite 25. There are no documents in City's Exhibit 3, indicating Raul Perez Sr. or Percy Perez has anything to do with Suite 25.

Elizabeth Perez testified she lent her son \$28,000.00 for the construction of the restaurant at 2529 N. Milwaukee. He does not need to pay her back and she has no interest in Suite 25. She is retired. She last worked at Restaurant Rinconcito which does not exist. That was located at 1954 W. Armitage. She has not worked for her son at 2010 W. Armitage. She never worked

at the 2529 N. Milwaukee location. Her husband Raul ran that business. She did have an ownership interest in 2529 N. Milwaukee, but she and her ex-husband decided to give the property to her son Dino Perez as an inheritance. She is aware she and other members of her family cannot have a liquor license.

Joaquin Gonzalez is a self-employed certified public accountant who does tax returns and bank dealings for the applicant and his business known as Rios. Only Dino Perez gives him information for those returns. He will be the accountant for Suite 25. No one other than Dino Perez has consulted with him about the business. The transfer of the 2529 N. Milwaukee property to Dino was accounted for in 2006. He is not aware of later legal recordings.

The witness did accounting work for 817 W. Lake and the owner Jahad Jahad (phonetic). She is the wife of the applicant's brother Percy. He did accounting work for Rinconcito Sudamericano which was owned by Raul Perez who is the applicant's father. He does individual tax returns for Mr. Perez and Raul Perez, but has not done any returns for Percy or Jahad for four or five years. He last did Elizabeth's tax return several years ago.

Raul Dino Perez is 38 years old and has been married for four years to Isabel Gonzalez. His parents are Raul and Elizabeth and he has one brother Percy. He has never been a partner with his brother in any business and has never owned any business with his brother. Both his parents are retired. They were in the restaurant business at 1954 W. Armitage. The restaurant was called Rinconcito Sudamericano which was a Peruvian traditional restaurant. It started in the 80's and closed in 2007. He worked as a waiter there as a teenager. He opened a restaurant

at 2010 W. Armitage named Rios Americana in 2000. It is a Peruvian restaurant that has a liquor license issued by the City of Chicago. This restaurant has never been cited for violating liquor laws and no neighborhood community group has ever complained about the operation of the restaurant. He has never been issued a citation for operating a nightclub rather than a restaurant. He was a part owner of 817 W. Lake where Chromium was located but had no interest, direct or otherwise, in Chromium. While Chromium was open, he was involved in his music career. He never worked at 2529 N. Milwaukee in any capacity and had no interest in that business. Suite 25 will be a restaurant gas grill pub with South American influences. There was a problem with the layout of Suite 25 at the time of the original inspection. He revised the layout and it was approved by the inspector. He has no intention of operating Suite 25 as a nightclub. He intends to run a restaurant. He does not plan to pay his mother back the money she gave him because it was a gift. He received his interest in the property in 2005 or 2006 when his parents were divorcing but that deed was not recorded. The deed was filed in 2010 at the time of the application.

The applicant has a food license for 2529 N. Milwaukee, but has chosen not to open. He does not know if he will open the restaurant if this license is denied. The quit claim deed from 2010 conveys the property from himself, his mother and brother to himself alone. No documents relating to title from 2006 were submitted to the City in the application. He does not recall the original application for the liquor license at 2010 W. Armitage being denied. His mother has never worked for him at his restaurant. He knows his father, mother, brother and sister-in-law cannot be involved with any liquor license.



The applicant was in the music business after being signed by an independent record producer. He worked full-time in the music business since 2000, and performed all over the country and internationally. He was medium successful and put out three cd's. He was in the music business from 1996 until 2005, but his career accelerated after 2000.

It has been the position of this Commissioner that the City of Chicago can establish that the issuance of a liquor license would tend to cause a law enforcement problem in at least two ways. One way is to present evidence of law enforcement problems that currently exist in the area of an applicant that could be exacerbated by the issuance of a liquor license. This approval would follow the argument accepted by the Illinois Appellate Court in M.J. Ontario v. Daley. While this case dealt with a denial based on deleterious impact, the cause of the deleterious impact was that the issuance of that license would tend to create a law enforcement problem. The theory relied on by the Appellate Court can be used in cases denying a license on a law enforcement basis. As there was no such testimony in this case this theory cannot be relied upon the City.

The second approach to law enforcement denials is for the City to show the issuance of this license, at this location, to this applicant, would cause a law enforcement problem. This theory was approved and defined in the case of Vino Fino Liquors, Inc. v. License Appeal Commission of the City of Chicago. In that case, the Illinois Appellate Court defined the terms "tend to create a law enforcement problem" as it applied to the facts of that case. The relevant facts of that case were that the existing licensee corporation and its owner had a history of sales of alcohol to minors. The same owners sought a license under a new corporation for the same

address. If granted this would have given the applicant a blank slate with respect to a history of sales to minors or other violations of liquor laws. The Appellate Court gave this definition of the term “tend to create a law enforcement problem”:

Is to deny a license to an applicant who would not obey liquor control laws and the law generally or who would impede enforcement of the laws.

Under the facts of this case, the City of Chicago was required to prove this applicant at this location would not obey liquor control laws and the law generally or would impede enforcement of the laws.

The proof presented by the City on this issue was based in great part on the undisputed facts that the applicant’s mother, father, brother and sister-in-law are all ineligible to hold liquor licenses in the City of Chicago.

The mother, father and brother are ineligible based on revocation of a liquor license at this location that occurred in 2003. That revocation caused the revocation of the liquor license at 1934 W. Armitage. The sister-in-law and possibly the brother are ineligible for the “voluntary revocation” of the license issued to Chromium at 817 W. Lake. If the evidence showed that any of these individuals held a beneficial interest or a direct interest in the applicant corporation a denial on that basis and a law enforcement basis would be appropriate.

The record does not address how the father and sister-in-law have any direct or beneficial interest in this applicant corporation. The mother gifted \$28,000.00 and her interest in the property to the applicant. The brother gifted his interest in the property to the applicant. While

the timing of the quit claim deed is suspicious, the \$28,000.00 gift was listed on the application and there was no direct evidence that this was not a gift from a mother to a son. The possibly well-founded suspicions that an ineligible person may have a beneficial interest in the applicant corporation is insufficient to show the ineligible parties are involved in the applicant corporation sufficiently so as to deny this license, at this location, to this applicant.

The next point is whether this individual applicant has a history of violating liquor laws or the laws in general. Dino Perez has had a consumption on premises – incidental activity license for a restaurant at 2010 W. Armitage since 2006. That licensee has never been found in violation of any liquor law. Its disciplinary history in the record consists of two violations of the Municipal Code relating to health. There was a plea of liable with a \$250.00 fine imposed on April 9, 2009, for violating 7-28-030, which is a general nuisance ordinance and a plea of liable with a \$250.00 fine imposed on September 10, 2009, for violating 7-42-090, which is a penalty provision for violating provisions of the Municipal Code relating to health and sanitation in a food establishment. No specifics as to these violations are in the record. These two ordinance violations for non-liquor related Municipal Code violations is not sufficient to establish the applicant would not follow the law generally in the operation of the applicant business.

The denial letter also set out that the location seemed to be more like a nightclub than a restaurant. Since the revocation at this location was for operating a nightclub as opposed to a restaurant, the Local Liquor Control Commission was concerned that this applicant would do the same if issued a license. The testimony from Ms. Carey was that the layout of the location has been reconfigured to look more like a restaurant. The concerned remained that the location

might be operated as a nightclub. Concerns over what might occur in the future are insufficient to deny this license at this time to this applicant.

For the reasons stated above, the decision of the Local Liquor Control Commission denying the Consumption on Premises – Incidental Activity license is reversed.

THEREFORE, IT IS HEREBY ORDERED That the said order or action of the Local  
Liquor Control Commissioner of the City of Chicago be and the same hereby is REVERSED.

Pursuant to Section 154 of the Illinois Liquor Control Act, a petition for rehearing may be filed with this Commission within TWENTY (20) days after service of this order. The date of the mailing of this order is deemed to be the date of service. If any party wishes to pursue an administrative review action in the Circuit Court, the petition for rehearing must be filed with this Commission within TWENTY (20) days after service of this order as such petition is a jurisdictional prerequisite to the administrative review.

Dated: May 10, 2012

Dennis M. Fleming  
Chairman

Donald O'Connell  
Member