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September 5, 2013

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RE: Shamrock Bar & Grill Alcohol License Application

Dear Attorneys:

As everyone is aware, an application for a liquor license for the Shamrock Bar and Grill has been submitted to the City of Madison. That license was considered by the City's Alcohol License Review Committee (ALRC) on August 21, 2013. The ALRC recommended that the Common Council grant the license if "proof be provided to the City Attorney's satisfaction that the applicant has the legal right to occupy the premises before the Sept. 3, 2013 Common Council meeting."

The Common Council met on September 3, 2013 and the license application was before them. Attorney Sage, in the hours immediately preceding that meeting, attempted to satisfy the condition by way of an affidavit of Attorney Larry Lichte. I understand that each of you have been copied with that document and its attachments.

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The City Attorney concluded that satisfactory proof of the ALRC's condition had not been provided due to the last minute nature of this submission. This office simply did not have the time to perform its due diligence. The Common Council therefore referred this matter to its next meeting on September 17, 2013. This matter will not go back before the ALRC.

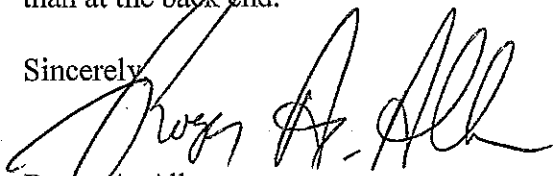
Since then, an email from an anonymous source has raised serious allegations regarding the applicant's fitness for an alcohol license. Those allegations are not a subject of this letter and do not inform the decision of the City Attorney as to the issue of who has the legal right to occupy the premise and conduct a business therefrom.

Attorney Sage has contacted this office and has argued that the holding in *Admanco, Inc. vs. 700 Stanton Drive, LLC, et. al*, 2010 WI 76, 786 N.W. 2d 759, ¶ 59-61, supports the conclusion that the Receiver has no viable lease for the Shamrock Bar. However, the City Attorney does not intend to act as a court of law and decide who has the legal right to occupy the Shamrock Bar & Grill. The Office of the City Attorney does not pretend that it has the authority to issue a judgment concerning a matter that is pending in the Dane County Circuit Court. Whether the Receiver has a viable interest in a previous lease or whether the alcohol license applicant has a valid lease is a matter for the Court that appointed the Receiver to decide or for the parties to resolve amongst themselves. This applicant, like every other alcohol licensee before him, must prove that he has a legal right to the premise for which he has applied for a license. Whenever a colorable legal claim exists and is properly before a court of competent jurisdiction, the City Attorney will respectfully await that court's determination of the dispute.

Therefore, the City Attorney looks for the applicant to provide the following proof of his legal right to occupy the Shamrock Bar & Grill: 1. A court order establishing the validity of the applicant's lease, or; 2. A written agreement of all of the parties to this dispute that the applicant's lease is valid.

The applicant may pursue this license without such proof. However, he will do so without the City Attorney's advice to the City Council that the applicant has the legal right to occupy the premise. The ALRC and the Common Council may even issue such a license. Any party that is opposed to the issuance of such a license is free to pursue whatever remedies they deem fit. Please note, that a license issued in violation of the statutes is void. Therefore, the City would greatly appreciate the willingness of the parties to resolve this matter at the front end of the application process rather than at the back end.

Sincerely,



Roger A. Allen
Assistant City Attorney

cc: Mark Woulf, Alcohol Policy Coordinator
Maribeth Witzel-Behl, City Clerk
Cpt. Carl Gloede, MPD
Jennifer Zilavy, Assistant City Attorney