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CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511

Date: September 8, 2009

MEMORANDUM

TO: Members of the Alcohol License Review Committee

FROM: Steve Brist, Assistant City Attorney

RE: Consideration of a Retail Alcohol License Application

I understand that at a recent meeting, there was some discussion about a license and its impact on the business of other licensees, along with the possibility of some sort of subcommittee of ALRC members and nearby licensees looking at conditions for a license.

The Alcohol License Review Committee often faces the situation where it may recommend to the Common Council to deny a retail alcohol beverage license application. When a license is denied, the ALRC should state the reasons for the denial. Valid reasons for denial are based on concerns for the public health, safety and welfare of the City of Madison. Possible valid reasons for denial include: concerns about the ability or inability of the Madison Police Department to provide adequate law enforcement services to the proposed establishment, the neighborhood around the establishment or the balance of the community; parking, crowd or traffic concerns; adverse impacts from noise or litter on the neighborhood; proximity of the proposed establishment to residential areas, schools, churches or hospitals; or the proximity of the proposed establishment to other licensed establishments. If the committee conducts a proper review of an application, considers public sentiment and local concerns, and has a rational and legal basis for denial, the courts will not likely interfere with the City's decision to deny.

It is not a valid reason to deny a license simply because of the impact of the proposed retail license on existing licensees. It is not a valid reason to deny a license because it may put existing licensees out of business.

It is a valid reason to deny a license because in the committee's judgment, a neighborhood has a concentration of licensees and the proposed establishment will have a negative impact on the health, safety and welfare of the community, as outlined above.

It is not appropriate for members of the ALRC to engage in negotiations between existing licensees and an applicant or for the committee to propose that an applicant negotiate with existing licensees as part of the licensing process. The ALRC members should make their decisions using their own best judgment, using their common sense and listening to the relevant information presented at the public hearing.

If you have questions regarding these matters, please contact me.