

For the Council Meeting of: March 17, 2008

Agenda Item No: 5 (b)

TO: Mayor and City Council

THROUGH: Councilor Bruce Rogers
Chair of the Board

FROM: Liquor Application Investigation Board

SUBJECT: OLCC Renewal Application - The Lucky Fortune

ISSUE:

Should the City Council provide an unfavorable recommendation to the Oregon Liquor Control Commission (OLCC) for the liquor license renewal submitted by the Lucky Fortune located at 1401 Lancaster Drive NE in Salem, Oregon?

RECOMMENDATION

City Council should provide an unfavorable recommendation to the OLCC for liquor license renewal application submitted by the Lucky Fortune.

BACKGROUND

The Lucky Fortune submitted a liquor license renewal application to OLCC on January 21, 2008, for renewal of their liquor license at 1401 Lancaster Drive NE. Subsequent to that application Councilor Bruce Rogers requested a Liquor Application Investigation Board convene to discuss the application. That board met on March 3, 2008. OLCC granted a 45-day extension to conduct further investigation, which expires on March 24, 2008.

FACTS AND FINDINGS

1. ORS 471.166(1) provides that the OLCC "may take into consideration" the written recommendation of a local governing body regarding the issuance or renewal of a liquor license.
2. Under Council Rule 17, the Liquor Application Investigation Board for a specific application is comprised of the councilor for the ward in which the applicant's premises is located, and the councilor for the adjacent ward nearest the location of the premises. Upon receipt of a report from the Board to issue an unfavorable recommendation, City Council shall set a public hearing to determine the application.

3. The Board for the Lucky Fortune renewal application comprised Councilor Rogers, as Chair, and Councilor Tarter. The Chief of Police and City Attorney serve as ex officio members. In the absence of the Chief of Police, Lieutenant Anglemier, Sergeant Chase, and Officer Seefeldt were present. The Board convened on March 3, 2008 and recommends that an unfavorable renewal recommendation for the Lucky Fortune should be made to the OLCC.
4. OAR 845-005-038(3) provides that "for an unfavorable recommendation of a local body to be valid, the grounds must be found in the license refusal basis of ORS 471.313(4), ORS 471.313(5), OAR 845-005-0302, oar 845-005-0325 or OAR 845-005-0326, or the license restriction basis of OAR 845-005-0355." Therefore, in reviewing an application for purposes of making an unfavorable recommendation, the same criteria must be used by the City Council that would be used by the OLCC to deny or restrict a license.
5. OAR 845-005-0308(3) requires that an unfavorable recommendation "must be supported by reliable factual information." For purposes of making an unfavorable recommendation, OAR 845-005-0308(4) provides that "reliable factual information" includes "personal observations or activities in or around the proposed liquor location, as opposed to opinion, hearsay, feelings, beliefs or speculation."
6. The Board recommends that Council should consider making an unfavorable recommendation on the basis of ORS 471.313(4)(b), (f),(i), 471.313(5) and OAR 845-005-0325 (4), (5) and (6) and 845-005-0355.
7. ORS 471.313 (5) provides that OLCC may deny an application for a license if:

"There is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege."

The Board determined there has been several calls for police service at the current business location within the past year are cause for concern. These calls for service include assault, liquor violations, lack of OLCC server permits, intoxicated persons, driving under the influence of intoxicants, gunshots fired, interfering with police, and one security officer at the location was arrested for two outstanding warrants and failing to register as a sex offender.

CONCLUSION

As a result of the foregoing, the Board recommends that a full hearing on the renewal application of the Lucky Fortune be conducted before Council and determine whether an unfavorable recommendation to the OLCC should be issued.