

**Liquor License Review Board
City Hall – City Council Chambers
401 Independence Street
August 31st, 2012**

Board Members Present:

Heather Brooks, Asst. City Manager
 Greg Young, Asst. City Attorney
 Charles “Speedy” Wagoner

City Staff Present:

Lt. Barry Hovis, Police Department
 Trisha Holloway, Customer Service Mgr.

Call to Order:

The meeting convened on Friday, August 31, 2012, at 4:00 p.m. with Mrs. Heather Brooks, Mr. Greg Young, and Mr. Charles “Speedy” Wagoner present.

Introduction and Opening Comments:

Mrs. Brooks introduced the members of the Liquor License Review Board and explained the rules of order for addressing the Board.

Public Comments:

Mrs. Brooks opened the meeting to hear public comments regarding the liquor license renewal application of Cape Mart, 238 North Fountain Street:

Mr. Brian Langlois, owner of the Bellevue Bed and Breakfast at 312 Bellevue Street, addressed the Board to appeal the license renewal. He said that Cape Mart denigrated the character of the neighborhood. He said that the store previously at that location had sold a minute quantity of specialty liquor and that Cape Mart has become a full-blown liquor store that sold cheap alcohol and trashed the neighborhood. Mr. Langlois complained of noise and trash associated with the store. He said that his Bed and Breakfast hosted guests from all over the Country, and from all over the world, and his guests are surprised to see a liquor store so close to his business.

Mr. Langlois said that Cape Mart opened under false pretenses and told untruths about the amount of alcohol that would be offered for sale. He said that the store greatly affects the psychology of the neighborhood. The liquor license renewal should be brought before the entire City Council, he said. Every Councilmember should look them in the eye and explain why this liquor license is not denied.

Mr. Larry Stroder, of 241 North Fountain Street, appeared to appeal the liquor license renewal of Cape Mart. He said that he picks up trash from his property every day. He said that he has lived there for 23 years and his property values have dropped.

Mr. Stroder said that he has lost everything he has worked for. He said that there are drug deals in the street. He said that he calls the police, and nothing is done. He said that he would appreciate the City’s help to get this straightened out.

Mrs. Becky Mocherman, of 220 North Lorimier, addressed the Board to appeal the renewal of Cape Mart’s liquor license. She said that she has a beautiful home and garden that has been featured on home



tours. She said that Cape Mart is denigrating the neighborhood. Mrs. Mocherman read an article from a St. Louis-area newspaper to the Board. She said that the article detailed a liquor license that was denied because it would not benefit the neighborhood, the only benefit would be to the business itself.

Mr. Dennis Seyer, of 320 Bellevue Street, addressed the Board to appeal the liquor license renewal. He said that he has lived there for 33 years and now he finds trash in his yard. He said that once he found a hypodermic needle. Mr. Seyer said that the neighborhood was built in 1900 and this store has changed the whole environment of the neighborhood.

Mr. Lyman Pitman, of 315 Bellevue Street, appeared to appeal the liquor license renewal. He said that it has been his lifetime dream to own an historic home and everything has changed since Cape Mart opened. He said that the City has invested a tremendous amount of money to improve the Broadway corridor, making the area user friendly for pedestrians, and user friendly as a downtown destination. Mr. Pitman said the City should create a consistent policy about the future direction of development for the Broadway corridor.

Mr. David White addressed the Board in support of Cape Mart's liquor license renewal. He said that he lived on the corner of Lorimier and Bellevue Streets and he has been a regular customer of Mr. Shah Faisal, owner of Cape Mart, since before his business moved to Fountain Street. He said that denying the liquor license renewal would be unfair to the business owner and place him at a competitive disadvantage. He said that Mr. Faisal would have his employees and customers pick up the trash around his business.

Mr. Rick Hetzel addressed the Board to appeal the renewal of Cape Mart's liquor license. He said that he owned property at 3107 Kage Road and 316 Bellevue Street. Mr. Hetzel said that he is familiar with the impact a liquor store has on a neighborhood and he said the Board should look closely at the number of incidents and criminal complaints in the area since the store opened.

Mr. Wagoner asked if Cape Mart customers stay around the area after the store closes. He suggested signs reading "no loud noise" and "no congregating" like those found outside a local McDonalds store. He asked if any of the neighbors appealing the liquor license renewal had addressed their complaints directly to the owner of the business.

Mr. Hetzel said that he had complained to Mr. Faisal about trash around the business and that the litter was picked up.

He asked if anyone had explained to the neighborhood what a liquor license holder's responsibilities were. He read several provisions of a liquor license holder's responsibilities from Sec. 5-34 of the Cape Girardeau Municipal Code.

Applicant Comments:

There being no further appearances, Mrs. Brooks opened the meeting to hear comments from the applicant regarding the liquor license renewal application of Cape Mart, 238 North Fountain Street:

Mr. Travis Statler, of the Statler Law Firm, L.C., and Mr. Shah Faisal, the owner of Cape Mart, addressed the Board. Mr. Statler said that he represented Mr. Faisal. He said that the liquor license was renewed on June 20, 2012.

Mr. Statler noted that Mr. Stroder does not live within 200 ft. of Cape Mart and cannot officially appeal the renewal of the liquor license.



Mr. Statler said that the liquor license renewal is a ministerial act and can only be denied if the license holder does not comply with the provisions and conditions of the license. He read aloud from the City Code regarding liquor licenses. Mr. Statler said that the applicant has complied with the requirements for the license renewal. He cited the inspection reports and approvals noted on the liquor license renewal application. He said that the Board cannot deny the renewal of Cape Mart's liquor license because of its patrons.

Mr. Statler said that the applicant has complied with the conditions and requirements of the license renewal and the City has complied with its responsibilities. He said that the applicant has done everything correct and the license should be renewed.

Board review, discussion, and possible action regarding renewal application and appeal letters for Cape Mart, 238 North Fountain Street, Cape Girardeau:

There being no further comments from the applicant, Mrs. Brooks opened the meeting for review and discussion by the members of the Liquor License Review Board:

Mrs. Brooks said that the Board asked Lt. Barry Hovis to represent the Cape Girardeau Police Department and answer questions about reports and calls associated with Cape Mart. Mrs. Trisha Holloway is present to offer historical perspective of the liquor license.

Lt. Hovis said that he had brought police reports of complaints and calls to the applicant's address, 238 North Fountain Street.

Mr. Young asked if the Board could be given copies of the reports. Mrs. Brooks said that she had not asked Lt. Hovis for copies of the police reports to be given to the Board members prior to the meeting because she did not want to prejudice the Board. Mr. Young asked if the Board could be given properly redacted copies of the reports Lt. Hovis was citing. Mr. Wagoner asked how many reports were associated with the address.

The meeting paused as it was noted that the severe weather sirens could be heard. Mrs. Brooks asked the Board, observers, and the applicant if everyone felt comfortable proceeding with the meeting. With their confirmation, the meeting continued.

Mr. Wagoner said that he felt sympathy for both sides of this issue, the business owner and the neighborhood residents, however, the Board must consider the law. He said that he saw no indication of a complaint made about Cape Mart since February. Mr. Wagoner asked if anyone present could offer proof of his or her complaints, like photographs or video.

Mrs. Brooks asked what criteria the Police Department used to approve the liquor license application. Lt. Hovis said that there were six cases and calls where a police report was not generated. When he and retired Police Chief Carl Kinnison had reviewed the complaints and calls associated with Cape Mart, he said that they saw nothing that they thought should disallow Cape Mart's liquor license renewal.

The Board considered whether they should delay further discussion until they have had an opportunity to review information regarding police reports and calls. Mr. Wagoner asked if the public would be given another opportunity to offer comments. Mrs. Brooks answered that public comment was not required. Mr. Young asked how many reports and calls would be included. Lt. Hovis said he had six or seven more to review. The Board decided to hear Lt. Hovis give a brief summary of each.



Lt. Hovis gave a short description of eight calls: public urination; newspaper theft; theft of alcohol; report of a fight; loud music; an open container violation; and two incidents where the store was a victim of robbery, both solved with arrests. Mr. Wagoner asked who could make a complaint to police. Lt. Hovis answered that anyone can call in a complaint and the police will respond. He said that he did not have information regarding additional calls from the surrounding area that did not result in a report.

Mrs. Brooks asked if Lt. Hovis reviews all liquor license applications and what he could offer in light of seeing so many applications. Lt. Hovis answered that he reviews all liquor license applications and said that he did not see a marked increase in calls to this location, as compared to other applicants.

Lt. Hovis said that the Police Department assigned personnel to cover the area and the neighborhood. Mrs. Brooks asked about compliance checks conducted. Lt. Hovis said that compliance checks had been conducted for sale of alcohol to minors and Sunday sales, with no sale on either count. Police had conducted 8 surveillances to look for violations. Of 8 surveillances, only 2 resulted in citations.

Mr. Wagoner asked if the federal tax stamp or County liquor license were checked on a liquor license application. Lt. Hovis said that he checks only for City Ordinance violations.

Lt. Hovis asked if the Board still wanted copies of the police reports and calls at Cape Mart. Board Members indicated that they did not need to see the copies. Mrs. Brooks asked the Board if they needed more time to consider their decision. Mr. Young said that whatever the Board's decision, he would recommend the business owner work with neighbors to address their concerns. He said the Police Department is doing their part to patrol the neighborhood and dedicated time and resources to control the area. Board Members indicated that they were ready to vote on the issue.

Roll Call Vote:

Mrs. Brooks noted that a "yes" vote will affirm the renewal of Cape Mart's liquor license, a "no" vote will deny the license renewal.

A Motion was made to affirm the renewal of the liquor license of Cape Mart, 238 North Fountain Street:

Aye	Nay	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mrs. Brooks
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mr. Wagoner
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mr. Young

The liquor license renewal is affirmed with a 3-0 vote by the Liquor License Review Board.

There being no further business, the meeting was adjourned at 4:54 p.m.

