

STATE OF ILLINOIS
LIQUOR CONTROL COMMISSION

SAMUEL SLEDGE
D/B/A SOCIALITE
1745 N. 25TH AVENUE
MELROSE PARK, IL

Appellant,

vs.

MELROSE PARK LIQUOR CONTROL
COMMISSION

Appellee.

Case No.: 21 APP 07

License Number: N/A

ORDER

THIS MATTER having come to be heard before the Liquor Control Commission of the State of Illinois (hereinafter “State Commission”) upon the appeal of Samuel Sledge, Appellant, (hereinafter “Sledge”) the Commission being otherwise fully informed and a majority of its members do hereby state the following:

Procedural History

On or about April 18, 2021, Sledge filed an “Application for Business License,” “Application for Occupancy,” and a Private Club & Association retail liquor license for the business “Socialite” at 1745 N. 25th Avenue, Melrose Park, Illinois. On May 24, 2021, the Melrose Park Board of Trustees held a meeting and voted unanimously to deny Sledge a Business License at 1745 N. 25th Avenue. On or about June 7, 2021, the Melrose Park Liquor Control Commission (hereinafter “Melrose Park Commission”) sent Sledge a letter denying a Melrose Park liquor license to Socialite at 1745 N. 25th Avenue. On June 21, 2021, Sledge filed a Notice of Appeal with the State Commission appealing the denial of the liquor license. On December 8, 2021, the State Commission represented by Chair Cynthia Berg heard on the record arguments on the matter.

The State Commission as a whole reviewed the entire record and deliberated on the matter at the January 19, 2022, State Commission meeting.

Decision

Upon review of the entire certified record, the State Commission AFFIRMS the order of the Melrose Park Commission to deny a liquor license to Sledge.

Discussion

Section 7-9 of the Liquor Control Act of 1934 places the statutory responsibility to hear appeals from final orders entered by local liquor commissioners on the State Commission. 235 ILCS 5/7-9. If the county board, city council, or board of trustees of the associated jurisdiction has adopted a resolution requiring the review of an order to be conducted on the record, the Commission will conduct an “On the Record” review of the official record of proceedings before the Local Liquor Commission. *Id.* The State Commission may only review the evidence found in the official record. *Id.* Melrose Park has adopted a local ordinance requiring any appeal from an order of the Melrose Park Commission to be a review of the official record. *Melrose Park Municipal Code, Ordinance 2350 Amending Chapter 5.12.* Accordingly, the Commission will only review the evidence as found in the official record.

In reviewing the propriety of the order or action of the local liquor control commissioner, the State Commission shall consider the following questions:

- (a) Whether the local liquor control commissioner has proceeded in the manner provided by law;
- (b) Whether the order is supported by the findings;
- (c) Whether the findings are supported by substantial evidence in the light of the whole record.

235 ILCS 5/7-9.

The Illinois Appellate Court has provided guidance that this Commission's duty is to determine whether the local agency abused its discretion. *Koehler v. Illinois Liquor Control Comm'n*, 405 Ill. App. 3d 1071, 1080, (2nd Dist. 2010). The Court held that “[s]uch review mandated assessment of the discretion used by the local authority, stating that ‘[t]he function of the State commission, then, in conducting a review on the record of license suspension proceedings before a local liquor control commissioner is to consider whether the local commissioner committed an abuse of discretion.’” *Koehler*, 405 Ill. App. 3d at 1080 (2nd Dist. 2010).

A. Whether the local liquor control commissioner has proceeded in a manner provided by law.

The Melrose Park Commission has proceeded in a manner provided by law. The Illinois Liquor Control Act (“Act”) vests with the local commissioner the authority “[t]o grant ... all local licenses issued to persons for premises within his jurisdiction.” 235 *ILCS* 5/4-4. “The power to grant licenses also includes the power to refuse licenses.” *Ace Produce Inc. v. Illinois Liquor Control Commission*, 93 Ill. App. 3d 381, 385 (5th Dist. 1981). “In granting or denying applications for liquor licenses, the local liquor control commissioner is vested with considerable discretionary power; however, such power must not be abused, and good cause must be shown for the denial of an application.” *McCray v. Daley*, 133 Ill. App. 2d 67, 69 (1st Dist. 1971). In determining whether or not to issue a license, local commissioners have broad discretionary powers to regulate “peculiarly local problems pertaining to the public health, safety and morals of the community.” *Stevens v. County of Lake*, 24 Ill. App. 3d 51, 55 (2nd Dist. 1974). The issue to be reviewed is “whether or not the local commissioner abused his discretionary power, and whether he acted arbitrarily and without good cause.” *Daley v. License Appeal Comm'n*, Ill. App. 2d 421, 425–26 (1st Dist. 1956).

Sledge contends that the Melrose Park Commissioner was required to give him a hearing prior to the denial of the license. To the contrary, however, the Act requires that the local commissioner hold a hearing prior to *revocation or suspension* but not prior to denial of an original (non-renewal) license application.¹ While the local commissioner’s decision to deny a retail license shall not be arbitrary or an abuse of discretion, there is no requirement in law that the local commission grant a hearing prior to denial of the license. Likewise, there is no requirement for the State Commission to grant Sledge an evidentiary hearing since Melrose Park has adopted an ordinance requiring that all State Commission appeals be heard on the record. *Melrose Park Municipal Code, Ordinance 2350 Amending Chapter 5.12*. Thus, the State Commission is obligated to review the official record of proceedings. *235 ILCS 5/7-9*.

A liquor license needs to be attached to a validly licensed premise location. The local record is clear that Melrose Park requires liquor license applicants to occupy a licensable premise prior the issuance of a liquor license. Melrose Park Municipal Code states:

“Applicants for any local license, or renewal thereof, shall make available to the local liquor control commissioner the following: The location and description of the premises or place of business which is to be operated under such license.”

Melrose Park Municipal Code, 5-12-060) (C)(5). As a rule, liquor license applications are location-specific to ensure retail liquor licenses are not issued in prohibited areas (*See 235 ILCS 5/6-11*-license prohibited within 100 feet of a church/school; *235 ILCS 5/6-15*-licenses prohibited within a public building; *235 ILCS 5/9*-licenses prohibited to a location voted dry). Local municipalities (especially home rule municipalities) regularly have additional

¹ The Melrose Park Commission did not offer a hearing to Sledge prior to the liquor license denial but Sledge was present on May 24, 2021, at the Village Board Meeting and was permitted to speak related to his general business license application. *Minutes of the Meeting of the President and Board of Trustees of the Village of Melrose Park, p. 11*.

restrictions related to zoning or public safety. The issuance of a liquor license in a densely residential area or an area that may impact other businesses is a justifiable concern for local officials.

In this case, the Melrose Park Commission had just cause to deny Sledge's liquor license application because the Melrose Park Village Board already had denied Sledge a business license due to inadequate parking. The Circuit Courts have stated: "The traffic conditions in an area are a factor which may properly be considered by a local commissioner in refusing to issue a liquor license." *Ace Produce Inc. v. Illinois Liquor Control*, 93 Ill. App. 3d 381, 384 (5th Dist. 1981). Without a business license and without adequate parking, Melrose Park had just cause to deny Sledge's retail liquor license and has acted according to law.

B. Whether the order is supported by the findings.

The Melrose Park order is supported by the findings. The Illinois Appellate Court has ruled that, as a reviewing body, "[t]he issue is not whether the reviewing court would decide upon a more lenient penalty were it initially to determine the appropriate discipline, but rather, in view of the circumstances, whether this court can say that the commission, in opting for a particular penalty, acted unreasonably or arbitrarily or selected a type of discipline unrelated to the needs of the commission or statute." *Jacquelyn's Lounge, Inc. v. License Appeal Comm'n of City of Chicago*, 277 Ill. App. 3d 959, 966, (1st Dist. 1996).

In this case, the Melrose Park Commission order to deny Sledge's license application is supported by the findings because the Melrose Park Commission had a justifiable reason to deny the liquor license and the alternative order would have been to issue the license. Presuming Melrose Park's basis for license denial is legally justified and the decision is supported by substantial evidence, the decision to deny Sledge's license application is an appropriate order.

C. Whether the findings are supported by substantial evidence in the light of the whole record.

The Melrose Park Commission issued findings supported by substantial evidence in light of the whole record. Upon review, an agency's findings of fact are held to be prima facie true and correct, and they must be affirmed unless the court concludes that they are against the manifest weight of the evidence.” *Daley v. El Flanboyan Corp.*, 321 Ill. App. 3d 68, 71, (1st Dist. 2001). A finding is “against the manifest weight of the evidence only if an opposite conclusion is clearly evident from the record.” *Vino Fino Liquors, Inc v. License Appeal Com’n of the City of Chicago*, 394 Ill. App. 3d 516, 522 (1st Dist. 2009).

The sole basis in the Melrose Park Commission June 7, 2021, letter to deny Sledge’s license was that Sledge and his business “Socialite” did not hold a Melrose Park business license. The record indicates that the underlying reason for the denial of Sledge’s business license was due to inadequate parking. Per the Minutes of the May 24, 2021, Village Board Meeting, Building Commissioner Ralph Sorce recommended the denial of the Sledge’s business license application “due to zero off street parking based upon Village of Melrose Park Code Regulations.” *Minutes of the Meeting of the President and Board of Trustees of the Village of Melrose Park*, p. 4. Supported by the recommendation of the Building Commissioner, the Village Board voted unanimously to deny the Sledge’s business license for Socialite at 1745 N. 25th Avenue, Melrose Park. Moreover, the June 7, 2021, liquor license denial letter ties the liquor license decision to the business license denial as follows:

“Please be advised that your application for a Village of Melrose Park business license to be issued to “Socialite” at the location of 1745 N. 25th Avenue, Melrose Park, IL was denied on May 24, 2021 by the Board of Trustees of the Village of Melrose Park. Accordingly, a Melrose Park liquor license is also denied by the local liquor control commissioner, Mayor Ronald M. Serpico.”

Village of Melrose Park Liquor License Denial Letter, p. 1. The record is clear, therefore, the basis for the denial of Sledge's retail liquor license was the denial of the general business license. For this reason, there is substantial evidence in the record to support the decision to deny the license.

IT IS HEREBY ORDERED:

For the reasons stated herein, the Melrose Park Liquor Control Commission decision denying Samuel Sledge d/b/a Socialite at 1745 N. 25th Ave. Melrose Park a liquor license is AFFIRMED.

Pursuant to 235 ILCS 5/7-10 of the Illinois Liquor Control Act, a Petition for Rehearing may be filed with this Commission within twenty (20) days from the service of this Order. The date of mailing is deemed to be the date of service. If no Petition for Rehearing is filed, this order will be considered the final order in this matter. If the parties wish to pursue an Administrative Review action in the Circuit Court, the Petition for Rehearing must be filed within twenty (20) days after service of this Order as such the Petition for Rehearing is a jurisdictional prerequisite to filing an Administrative Review action.

ENTERED before the Illinois Liquor Control Commission at Chicago, Illinois, on January 19, 2022.



Cynthia Berg, Chairman



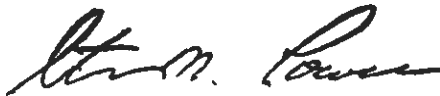
Melody Spann Cooper, Commissioner



Thomas Gibbons, Commissioner



Julieta LaMalfa, Commissioner



Steven Powell, Commissioner



Donald O'Connell, Commissioner



Patricia Pulido Sanchez, Commissioner

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UNDER PENALTY OF PERJURY, as provided by law, section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that I caused copies of the foregoing ORDER to be e-mailed by agreement of the parties prior to 5:00 p.m. on the following date: February 7, 2022.

/s/ Richard R. Haymaker

Richard R. Haymaker

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Melrose Park Liquor Control Commission
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