

From: joshua@optimisticpartners.com
Sent: Monday, March 14, 2016 4:00pm
To: ricardo.cervantes@ci.stpaul.mn.us
Cc: "Charles Carter" <mr.jazz1000@gmail.com>
Subject: 976 Concordia Statics

Ricardo

The numbers always tell the story. I put a call into records at the Western District and talked to April today and got a few reference points over the phone.

Since 2000 there have been 372 police calls to 976 Concordia. From 2012 to today there were 35 police calls, 8 of which were alarm calls, 2 traffic stops in front that were tied to the address and 6 of which originated from your department. If you net those out, we have had 19 calls in 1460 days or one call every 77 days. Before it was one call every two weeks (13 days to be exact), not to mention a lot of violent crime and drug dealing.

Since I have owned it and Charles has been the operator, the calls have dropped more 85% and there has been no violent crime. I have not crunched the data after I get the raw set from April tomorrow, but I am guessing the rolling 12 months shows an even more dramatic drop. I just thought these statistics would be of interest to you.

Thank you again for your consideration and I look forward to catching up.

Best

Josh

-----Original Message-----

From: joshua@optimisticpartners.com
Sent: Sunday, March 13, 2016 10:13pm
To: Ricardo.Cervantes@ci.stpaul.mn.us
Cc: "Charles Carter" <mr.jazz1000@gmail.com>
Subject: 976 Concordia - follow up and meeting request

Dear Mr. Cervantes

First off, sorry for the long email - I would have made it shorter but I didn't have enough time! Having three kids 5 and under makes for a busy personal and professional life.

Secondly, I wanted to write you is to address some of the concerns regarding your staff recommendation to the City Council and tell you why I think it misses the mark. Charles and I wanted to write you directly as the most senior leader at DSI to talk about our thoughts regarding 976 Concordia because we don't believe we are getting fair and impartial treatment at the Staff Level. We recognize that DSI has an enforcement role and for that we are thankful. The issue of impartial treatment is that Concordia has been treated like a nuisance property when in fact nothing could be further from the truth. We don't believe staff has been open to seeing the change after all the years of heartburn this address has caused them. We don't blame them for not wanting to ever revisit their experience of the 1990s and early 2000s - and frankly, we don't want to revisit that era either. No one does.

We do however want to ask you to look back at your long experience in Minneapolis with nuisance properties and use your judgment in regard to what's really happening at 976 Concordia. The consumption display permit application is a critical economic driver for the club- members will not want to rent lockers if they cannot use them to store their drinks. Putting ourselves in your shoes, we can see that if this was in fact a nuisance property, why you would not want to issue that permit. From a risk stand

point this become a little chicken and egg for DSI and by nature the default at DSI to exercise an abundance of caution - I mean seriously, Safety is literally your middle name!

A consumption display permit is allowed by state statute, and there are a number of successful examples statewide. It's uncommon in Saint Paul - mostly because most clubs have liquor licenses available to them. If we could wind back time, we would have stayed with the original application and kept the grandfathered on-sale liquor license - but that's water under the bridge.

We will be the first to admit that the American Legion's decline was not good for Saint Paul or the Neighborhood. However all the old timers will tell you that before it's decline, it was a place of pride for the community. It was a place for its elders and a place that supported baseball and legends like Dave Winfield. That place faded and what replaced it was a nuisance property that I purchased in 10/31/2011. The most important fact about the history is that the **American Legion has been gone for 3 1/2 years and what's replaced it does not look, feel and act anything like what was there.**

As you know Charles Carter has been my tenant since Fall 2012. For the last 1200 days he has been operating members-only club with no nuisance calls to the city. Since words matter, I wanted to make sure my understanding matches your understanding - as I pulled from your previous life managing the Minneapolis Problem Unit, these properties are defined as follows:

1. Drug dealing or illegal possession of drugs
2. Prostitution
3. Weapons violations
4. Conduct that unreasonably annoys, injures, or endangers the safety, health or comfort of members of the public

Every one of these things were happening at the American Legion before I bought it, however The Lex Club is proudly none of those things. I would encourage you to reach out to Paul Lovino , the Police Chief of the Western District and ask him what they think of us because we have had no police calls for any of this activity.

Our immediate neighbors are all happy there is no drug dealing, no loitering, etc. In fact, ALL of our Police visits have been at the request of DSI. Last time was a Superbowl party 2016 - probably one of the most celebrated events in the USA. No issues at the party, DSI was welcomed in for a walk around, and what was there was members getting together to watch the biggest football game. Kris can tell you there was no nuisance behavior of any kind. No warnings were issued, no citations were issued with the exception of a warning that we needed to remove the alcohol from the building, as noted in your March 1st letter. The Police visit before that was in FEB 2015 - when DSI sent in 16 officers in the club to "bust illegal activity". That party was a birthday party and canned food drive for black history month. I will send you the flyer if you like or you could call the Western District. Some of our neighbors who have moved in don't know what the fuss is all about because they moved in after we turned the place around.

We are committed operator with an eye toward unlocking the hidden potential in 976 Concordia. I personally think if we can work on this property together, we might be willing to take on another project like it. As you know it's solid public and private partnerships like that really help do good work in troubled areas. We believe that buildings change over time, and that re-booting can really ignite the positive change you are trying to cultivate at DSI. There has not been a single person who hasn't come into 976 who doesn't say "WOW - this is so nice - I want to be a member here."

I believe the Mayor himself said about your arrival to DSI that the mission is to keep resident's safe and infrastructure strong. Charles and I have made a significant investment of time and capital in an area that receives little or no positive attention - and the infrastructure for community is ready. We would like to draw on your 20 years of experience to help improve service to the residents of Saint Paul - to provide a local place for people to gather that is easy to get to and well managed / maintained. A place to offer employment in ward 1 through low cost weddings, adults to socializing together, and a place for

community events - a riff on the www.klubhaus.net is essentially what we are trying to create. If we have a situation where it is illegal for us to have liquor in the building - it makes it challenging to host celebrations like birthdays, and simple things like Superbowl parties - all of which that building was designed and built to do and has been doing for almost 50 years.

As part of this email, I wanted to address the specific points of the Staff Recommendation to the City - tell you about what extra precautions Charles has been taking to ensure a quiet club that's respectful to the neighborhood. The Lex always has always had a door man. The Lex offers complimentary escorts at night if people wanted company while they walk to their cars. Our security man always assess the sobriety of members as they leave, and has on more than one occasion recommended people take an Uber rather than drive. The supplemental night lighting around the club is very generous and we pick up trash weekly that gets generated from the pedestrian bridge traffic. For these reasons, our night time activity has always respected the neighborhood while at the same time, providing a fun social environment for our members to cut loose and enjoy themselves.

When the St. Paul City Council denied The Lex, Inc. an on-sale license last year, we accept that we missed the date. Part of argument Mr. Karl's (the City Attorney for Saint Paul) made for the rejection of an on-sale license was because The Lex, Inc. had other avenues available to it to have liquor at its location. At that time we were told by Mr. Karls, and City Council member that we could pursue those avenues after the hearing was over. The Lex Club accepted the City Council's decision and pursued what was recommended - a Consumption Display Permit. As you know well, this permit is expressly authorized by the State of Minnesota (Minn. Stat. §340A.414 Consumption and Display Permit). If you would like to listen to the recording, where Mr. Karls indicated this was a permit we should have, I can provide it to you in a separate email.

The other reason for our message is to offer some counter points the reasons DSI for recommending the denial, and I would like the opportunity to communicate why we do not think it makes sense for our situation.

DSI Point in Staff Recommendation- Increasing tendency to use in conjunction with food establishments not having licenses to sell intoxicating liquors situated in residential areas, and frequented by both adults and children.

THE LEX RESPONSE - This is a "club" not a "business-establishment." Only members and bona fide guests are allowed in. Analysis of this requires analysis of facts that are different from those that lead you to establish an on-sale liquor license scheme. Among the different policies:

The Lex Inc. is NOT connected to a food establishment where kids frequent.

1. No risk of sales to minors – kids are not allowed in unless they are accompanied by their guardians
2. No one under 21 can rent a locker

No risk of public sales – only private access

1. People must be members and must sign
2. They must bring their own alcohol from home and store it in a private locker
3. No alcohol is for sale at the site

DSI Point in Staff Recommendation- Unlicensed and unregulated consumption of liquor can lead to violations of law, and is detrimental to public health, welfare and morals, and may degenerate into a public nuisance.

THE LEX RESPONSE -

1. No evidence or showing of any risk of public nuisance at the Lex. DSI needs to recognize that this is new management from club's historical past as the American Legion. In the 1200+ days since they have been gone, there have been no nuisance calls, no police calls from neighbors, and we ask that you contact the Western District to solicit their opinion of the property during the 3 years we have operated there. Let our relationship and our actual history with the Police stand for itself. Please call Paul Iovino or Anthony Brown or any other officer at the Western District to see for yourself. Our record of compliance and cooperation with Saint Paul's City's finest is without reproach.
2. This argument is frozen in time with the unfortunate history of the American Legion Post 606 which has been gone for 3 1/2 years. A recent example of this biased enforcement – happened in Feb 2015 when DSI sent 16 officers to the Club for enforcement action during Black History Month while we were holding a can food drive for the poor.
3. All alcohol use/storage is regulated by the statute and can be monitored by authorities (who have statutory authority to enter) and The Lex Club has never denied access to DSI, the Saint Paul Police or any other authority like the Fire Department on their numerous visits. The City and DSI have full ability to regulate the Consumption and Display permit.
4. Commissioner/Police can enter at any reasonable time
5. Police can issue tickets, if ever needed
6. Permit must be renewed each year- so City can evaluate The Lex Club for compliance regularly.
7. To be clear, there is not the same as risks as a business open to the public – We don't believe that DSI and the City of Saint Paul shouldn't be putting these things together.
8. This is not unregulated and we are actively cooperative with the City.

DSI Point in Staff Recommendation- Permits can be used to circumvent the laws regulating the licensing and regulation of liquor establishments, placing liquor establishments in prohibited areas, and avoiding the payment of licensing fees.

THE LEX RESPONSE – 976 Concordia is grandfathered location for a Club that has been in place continuously since 1966. That is 50 YEARS of continuous operation.

1. No one disputes that The Lex, Inc. meets all the “club” requirements.
2. We have a limited food license - and have maintained this in good order. The Lex would like to add a commercial kitchen hood and make up air when we can economically afford to with consistent dues from members
3. All inspections from FIRE, DSI, the HEALTH DEPARTMENT and the POLICE have been open book, responded to in a timely manner, and things that were not in compliance were corrected expediently
4. This isn't a prohibited location and has not needed intervention during our ownership and tenancy of this property
5. Licensing fees have always been paid and paid promptly - the Lex has never been behind on its payments to the City of Saint Paul
6. DSI is effectively asking to take away its grandfathered status and the rights that go with it.
7. If you open this to a public hearing and a vote for this, City Council is taking away property rights from the owner of the building and the Club
8. We lose the right to market the property as a place where a club can get this lawful permit.
9. This is a valuable property right that should not be taken away

DSI Point in Staff Recommendation- Utilization of such permits may cause inconvenience and annoyance to the public and may be detrimental to the good order, health, morals and welfare of the community as a whole. As the City has no ability to regulate Consumption and Display permits once they have been issued by the state, the City has limited ability to mitigate these possible negative consequences.

THE LEX RESPONSE

1. We have not tolerated any nuisance behavior at the club and in fact, it's this club that stopped what **was** a nuisance property
2. You can review our security cameras anytime for any reason
3. When you say "no ability to regulate Consumption and Display permits once they have been issued by the state" - we disagree - you have a lot of tools at your disposal. Tells us what you are afraid you can't enforce, and let's work on solutions for making sure those situations do not arise.
4. If DSI applied the standard of "may cause" or "possible negative consequences" for every liquor related issue - there would be no drinking in Saint Paul!
5. The City is trying to stamp out a grandfathered club and it's using every means it has to get to a desired end, rather than evaluating The Lex, Inc.'s application on its merits and it's track record of compliance and safety
6. There is no code basis in this record to deny The Lex's application
7. A vote against a Consumption Display Permit - you are asking the City Council to simply exercising its will- instead of its judgment and duties to administrate the statues that govern the state of Minnesota and the City of Saint Paul

Ricardo - it's our feeling that the denial of consent and your staff recommendation under these circumstances and this record would be targeting our club. It's an arbitrary and capricious decision taken after we waited 4 months for DSI's response to our application. We learned about the permit from Saint Paul Assistant City Attorney Karls - and he said in his testimony that we needed to get it. For these reasons I am asking you to please reconsider DSI's position and if you think appropriate - meet with us again in person to talk though how we can satisfy your concerns, provide the community with a nice resource, be positive club in Saint Paul for the next 50 years. ***That's what we both want.***

Please consider our request with the same energy that Charles and I have channeled into turning this place around. We are willing to meet you anytime next week and to discuss this with you and the department. We are only asking for a fair shake based on our actions and based on who we have shown you we are.

Best Regards

Charles Carter and Joshua Howe