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TO: Safety and Licensing Committee  
Common Council

FROM: Lt. Jeff Miller

DATE: 07/09/2020

RE: Police Department’s Recommendation for Denial of Nusara N. Yang’s Class “B”  
Beer License

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Committee Members:

The police department is requesting that the Safety and Licensing Committee recommend to the Common Council to deny Nusara N. Yang’s application for a Class “B” Beer License Applications because of the applicants prior criminal conduct.

Pursuant to Wis. Stat. §111.335, it is not employment discrimination for a licensing agency to deny an applicant based on pending criminal charge whose circumstances substantially relate to the circumstances of the particular licensed activity and the pending criminal charge is for an exempt offense or a violent crime against a child.

Pursuant to Wis. Stat. §111.335, it is not employment discrimination for a licensing agency to deny an applicant based on conviction record where the circumstances of the conviction substantially relate to the circumstances of the particular licensed activity. If the denial is based on a delinquency adjudication, then the adjudication must be for an exempt offense.

Pursuant to Wis. Stat. §125.04, no license or permit related to alcohol beverages may be issued to a habitual law offender where the circumstances of the habitual law offenses substantially relate to the circumstances of the particular licensed activity.

Also pursuant to Wis. Stat. §111.335, the applicant is allowed an opportunity to show evidence of rehabilitation and fitness to engage in the licensed activity, *unless the conviction(s) are for exempt offenses*. The applicant may produce the following to conclusively demonstrate their rehabilitation and fitness from a given conviction:

- A copy of the local, state, or federal release document; and either
- (1) a copy of the relevant department of corrections document showing completion of probation, extended supervision, or parole; or
- (2) other evidence that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime along with

evidence showing compliance with all terms and conditions of probation, extended supervision, or parole.

Additionally, the licensing agency must consider any of the following evidence if presented by the individual:

- (1) Evidence of the nature and seriousness of any offense of which he or she was convicted.
- (2) Evidence of all circumstances relative to the offense, including mitigating circumstances or social conditions surrounding the commission of the offense.
- (3) The age of the individual at the time the offense was committed.
- (4) The length of time that has elapsed since the offense was committed.
- (5) Letters of reference by persons who have been in contact with the individual since the applicant's release from any local, state, or federal correctional institution.
- (6) All other relevant evidence of rehabilitation and present fitness presented.

### **STATEMENT ON SUBSTANTIAL RELATIONSHIP**

As part of any denial of licensing, the police department must determine if crimes are substantially related to the sale of alcohol. Mrs. Yang was convicted of: MA-Fraud/Benefit Application, as a Party To A Crime (a felony in violation of Wis. Stat. §946.91(2)(a)), Misstate facts in food stamp application (>=\$5,000), as a Party To A Crime (a felony in violation of Wis. Stat. §946.92(2)(a)).

The following crimes were dismissed but "read in" to the applicant's case:

- Receive Commercial Gambling Bet, and PTAC,
- Failure to Disclose Events Affecting Eligibility in Outagamie County case # 2017CF000446

The convictions (and read in charges) for all of the above offenses in Outagamie County case # 2017CF000446 are substantially related to the sale of alcohol for the following reasons.

From the facts alleged in the criminal complaint, to which Mrs. Yang was eventually found guilty of, state that on 12/4/2014 APD officers were contacted by an agency in Minnesota. They told officers that they had information that Mrs. Yang and an associate were conducting an illegal gambling operation out of the Jai Sung Mah Pool Club at 122 W. Wisconsin Ave. A search warrant was executed on the business and Mrs. Yang's home. At those locations significant evidence was found of gambling activities. Additional charges of falsifying documents and underreporting income are the basis for the other felonies reported in this document relating to food stamp and EBT violations.

The relationship between alcohol and gambling is clear. As a person who wants to be responsible to serve alcohol, Mrs. Yang has not shown the ability to make good decisions related to her trustworthiness. The police department is not sure she has spent the amount of time necessary to rehabilitate herself and make the necessary life changes to take on the continued responsibility for alcohol service or, indeed, management of a business. The service of alcohol includes coming into contact with individuals in a very vulnerable state and the Police Department feels that through Mrs. Yang's prior convictions she has not demonstrated the necessary maturity and

decision-making capacity to be allowed an alcohol beverage license in the City of Appleton.

It is important to note that evidence of these crimes was recovered at the Jai Sung Mah Pool Club, the location where this applicant is requesting additional alcohol licensing and renewal

**OTHER CONSIDERATIONS RELATED TO REHABILITATION AND FITNESS**

- The applicant continues to have rules of probation/bond conditions that address gambling in any form.
- Nature and seriousness of convictions

Very Respectfully:

Lt. Jeff Miller  
Appleton Police Department