

CITIZENS LEAGUE REPORT

No. 129

**City of Minneapolis
Changes in issuing liquor licenses**

April 1961

Citizens League
545 Mobil Oil Building
Minneapolis 2, Minnesota

129

APPROVED
BOARD OF DIRECTORS
DATE APR 5 1961

TO: Board of Directors
FROM: Licensing Committee, Mel Orenstein, Chairman
SUBJECT: Proposed changes in the method of issuing liquor licenses in Minneapolis.

NATURE AND SCOPE OF ASSIGNMENT

In September, 1960, the Citizens League's Board of Directors asked its Licensing Committee to review the procedures and criteria used in granting liquor licenses in Minneapolis, and to report its findings and recommendations.

During the past several months, the Licensing Committee has met frequently to discuss weaknesses in the existing system of issuing licenses and to formulate specific recommendations to strengthen these procedures.

The fact that this report makes no recommendations in the area of revision of the liquor patrol limits boundaries, modification of referendum procedures, changes in the number of licenses authorized in Minneapolis, and procedural changes in issuing other than liquor licenses in no way implies satisfaction with the existing procedures. The Licensing Committee is in the process of reviewing these areas, and we expect to submit findings and recommendations in a subsequent report.

The findings contained in this report are limited to procedures in the issuing, transfer and revocation of licenses for the sale of intoxicating and non-intoxicating alcoholic beverages.

RECOMMENDATIONS

1. We recommend that the Minneapolis city charter be amended to provide that no liquor license shall be granted, denied, transferred or revoked by the Council without first having received the recommendation of the Mayor. At present, other than having the power to revoke a license, the Mayor plays no direct part in determining who the licensee shall be or in deciding whether a proposed location is suitable.

2. We urge that a proposed charter amendment providing for this change be submitted to the voters of Minneapolis at the general city election in June.

PRESENT PROCEDURES USED IN GRANTING LIQUOR LICENSES

Other than giving the Mayor authority to revoke a liquor license, the present city charter gives the City Council complete authority for the issuance of liquor licenses. The charter contains only this broad grant of power to the Council and does not spell out any of the procedures used by the Council in granting, revoking, transferring and denying liquor licenses.

The maximum number of liquor licenses which may be issued in Minneapolis is governed by state law. The law provides that Minneapolis may issue not to exceed 200 on-sale and 96 off-sale licenses. Although there is no requirement that all of the licenses authorized be issued at any given time, it is highly unusual for any license to remain unissued for any appreciable period of time.

Liquor licenses are issued for a period of one year and must come up for reissue annually. It is customary to reissue licenses almost automatically in the absence of circumstances which would seem to justify revocation of the license.

Because liquor licenses in Minneapolis are so limited in number (almost no major city in the nation has so few liquor establishments per capita), they are generally quite profitable financially. It is rare, indeed, when a licensee allows his license to lapse. Nearly always a change in ownership is accomplished through transfer of the license.

More often than not, when a licensee wishes to terminate his business, he follows somewhat this course of action: He first seeks a person willing to purchase his investment, including fixtures and "goodwill." Once such a purchaser is found and the terms of purchase informally agreed to, it is customary for the two to discuss the proposed transfer with the alderman of the ward in which the establishment is located. Should the preliminary reaction of the alderman be unsympathetic, the licensee very likely will discontinue further efforts and will attempt to find another prospective purchaser of his investment. The alderman of the affected ward can almost always block the issuance of any license to which he is strongly opposed.

If the alderman's attitude is not essentially unsympathetic, the next step is to file a formal application for transfer of the license. The application is assigned by the Council to its Licensing Committee. The committee then requests the Police Department to investigate the applicant. A negative report by the Police Department, particularly when the report shows that the applicant is ineligible to hold the license, terminates further action on the application. If the police report is not negative to this extent, then discretion as to whether the application is to be granted or denied rests almost exclusively with the alderman of the ward in which the establishment is located.

The practice, known as "aldermanic courtesy," under which the alderman of the affected ward, rather than the full City Council, determines the disposition of the application, is not provided for by ordinance. It is merely a custom which has been followed over the years and has no legal sanction whatsoever. Those who defend this custom argue that the issuance or denial of an application for a liquor license is principally of concern to the residents of the affected ward and is an issue that often provokes strong and controversial reactions. Because his constituents, it is argued, hold the alderman of the ward responsible, irrespective of whether he can control disposition of the application, it is natural that each alderman wishes to be able to control so politically explosive an issue. The best way to assure this type of control is to avoid interfering with licenses in other wards.

While the determination of who the licensee is to be is almost completely within the control of the alderman of the affected ward, he has considerably less control over the location of the establishment. The limitation on the alderman's discretion is provided for by the city charter. Locations within the boundaries of prescribed "patrol limits" are handled in the general manner described

earlier in this report. However, the charter provides that no license can be issued to any location outside these patrol limits without the consent of the residents of the affected area voting in a referendum. Before the license can be issued, three favorable actions are essential: (1) The Council must find the application "acceptable," which is accomplished by Council action recommending approval of the application. (2) A majority of those voting at an election in the ward must vote in favor of issuance of the license at the proposed location. (3) A majority of those voting at the election in the group of precincts which fall wholly or partially within a radius of 1500 feet measured in a straight line from the front door of the proposed location must vote in favor of issuance of the license. If all three of these actions are favorable, the Council may, but is not forced to, issue the license. The charter also provides that "a liquor license may be issued for a location which at the time of issuance is being used for, or the latest use of which was for, the sale of intoxicating liquor." This means that, once a license at a particular location has been approved by the voters, no further referendums are necessary in order to reissue or transfer the license.

WEAKNESSES IN THE PRESENT SYSTEM OF GRANTING LIQUOR LICENSES

Because the number of authorized liquor licenses is so limited in Minneapolis, most licenses are extremely profitable financially to the licensee. This is particularly true in the case of off-sale licenses where location of the establishment alone largely determines the degree of profit. Restrictions on location, such as those provided for by the patrol limits and the referendum procedures, add further to the lucrateness of certain licenses. Because the financial stake involved is considerable, a licensee has a strong incentive to assure protection of his investment. Since the alderman of the ward has decisive control over the license, there is a considerable temptation on the part of the licensees or applicants for licenses to actively participate in aldermanic election campaigns, with the result that the general welfare of the constituents of the ward and of the community as a whole may be subordinated to the interest of the license holders. It is unfair to the alderman, to the licensee and to the public to concentrate so much power and potential pressure in the hands of one individual or a single elected official.

The public policy considerations which should determine the distribution of 200 on-sale and 96 off-sale liquor establishments throughout the city involve important issues of citywide, as well as ward, implication. Yet, under the present system, ward considerations almost always predominate. On the contrary, we are aware of no detectable citywide policy or guiding principles which would provide assurance that the general distribution of liquor licenses throughout the city follows any long-range plan.

A further problem is that, despite the fact that the alderman of the affected ward determines who is to hold each liquor license, his constituents seem either unable or unwilling to pinpoint responsibility for this decision. Few voters hold the alderman responsible when a licensee fails to meet the minimum requirements. Almost always the controversy within a ward concerns the location of the license, and very seldom the caliber of the licensee.

The present system of resting exclusive control of the issuance of liquor licenses in the Council makes it extremely difficult to focus public attention on the issuance or transfer of licenses, since the procedure requires little in the way of advance publicity. Those persons who have interests which they feel

should be considered by the Council along with the interests of those directly involved in the issuance or transfer, therefore, have limited opportunity to present these matters to the Council.

UNDER THE PROPOSED AMENDMENT LIQUOR LICENSES WOULD BE GRANTED
UPON RECOMMENDATION OF THE MAYOR WITH THE
APPROVAL OF THE CITY COUNCIL

We are convinced that an important first step in strengthening procedures for issuing liquor licenses in Minneapolis is to place the Mayor in a more prominent role in the deliberative process. Carrying out this objective requires submission of a charter amendment to the voters. The amendment would place on the Mayor responsibility for recommending either approval or denial of each application for issuance or transfer of a liquor license. The Mayor's recommendation should then be transmitted to the City Council for its approval or disapproval by a majority vote of the Council's membership. The amendment should further provide that the Mayor must make his recommendation within 90 days of the date the application is filed and that failure of the Council to act within 90 days after submission of the Mayor's recommendation would constitute approval of the recommendation. It would also seem appropriate to provide in the proposed amendment for the appointment by the Mayor of a Director of Liquor Licenses, since under the present charter all appointments are made by the Council unless specified otherwise.

We would leave to Council ordinance such administrative details as requiring that liquor license applications be filed with an administrative official under the Mayor, instead of filing them with an administrative official under the City Council, as presently is the case. Although the role of the Police Department in investigating applications for licenses would continue essentially the same as at present, with the exception that the Police Department would report its findings to the Mayor rather than the Council, we believe the investigative procedures would in all probability be strengthened where the Mayor is directly responsible for each recommendation.

DISCUSSION OF RECOMMENDATIONS AND MAJOR CONCLUSIONS

As a practical matter, the only way to lessen the impact of the custom of "aldermanic courtesy" is to broaden the licensing procedures in such a way that they extend beyond the City Council. The Mayor, as chief executive and the city-wide elected official with control over the Police Department, seems the logical person to assume greater responsibility in the issuance of liquor licenses.

Providing that the Mayor become the recommending authority for the issuance of liquor licenses offers assurance that a minimum of two elected officials will concern themselves with and be held responsible for each decision. Doubtless, the custom of "aldermanic courtesy" will continue to govern the Council's actions in determining whether to approve or disapprove the Mayor's recommendation. Therefore, the Mayor's view could not prevail without the concurrence of the alderman of the affected ward. On the other hand, the alderman no longer could alone select the licensee and determine the location of the liquor establishment. It would be possible for the Council to grant a license over the Mayor's objection, but under circumstances where the controversy would be brought into the public view.

In essence, the procedure recommended would introduce the basic concept of checks and balances which forms the cornerstone of the traditional Mayor-

Council system of government. This recommendation is consistent with the concept of strengthening executive authority in Minneapolis city government, a concept which appears to have received widespread general acceptance.

Perhaps the most compelling argument in favor of the proposed amendment is that it would bring the entire liquor licensing process out into the open to a far greater extent than is the case today. Should an application prove controversial, greater protection would be afforded to all concerned. There would be less likelihood that licenses would be rushed through to avoid public scrutiny.

The residents of those areas outside the liquor patrol limits would continue to have a veto over any proposed license for a new location. The proposed amendment would in no way change the referendum procedures. However, with an improvement in the licensing procedures, it is conceivable that residents might be more willing than at present to permit the location of high class liquor establishments in their area.

We make no claim that the proposed amendment will resolve all, or even most, of the problems arising out of the sale of liquor. However, we submit that this proposal is a constructive and a substantial step in the direction of strengthening present procedures, and is worthy of submission to the voters of Minneapolis for their decision.

We submit that this proposed amendment can be submitted to the voters at the June election. Its intent and its provisions are simple and can be readily understood by the voter in a relatively short period of campaign time. Equally important, the June election represents the only opportunity to present this proposal to the voters for a period of more than two years.