

FILED
01-13-2023
Anna Maria Hodges
Clerk of Circuit Court
2023CV000300
Honorable Thomas J.
McAdams-07
Branch 7

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

CRG INVESTMENTS LLC
D/B/A LIMANSKI'S PUB,
8900 W Greenfield Ave,
West Allis, WI 53214

and

KATHY L. GOEDDE,
8900 W Greenfield Ave,
West Allis, WI 53214

Plaintiffs/Petitioners,

Case No.:

v.

CITY OF WEST ALLIS, A MUNICIPAL
CORPORATION, AND,
CITY OF WEST ALLIS COMMON COUNCIL
7525 W Greenfield Ave,
West Allis, WI 53214

Defendants/Respondents.

SUMMONS

THE STATE OF WISCONSIN

TO THE ABOVE-NAMED DEFENDANTS/PETITIONERS:

YOU ARE HEREBY NOTIFIED that the plaintiffs/petitioners named above have filed a lawsuit or other legal action against you. The Complaint, which is served upon you, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written Answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an Answer that does not follow the requirements of the statutes. The Answer must be sent or delivered to the above Court, whose address is Clerk of the Circuit

Court, Milwaukee County Courthouse, 901 N 9th St., Milwaukee, WI 53233, and to AMUNDSEN DAVIS LLC, plaintiffs/petitioner's attorneys, whose address is 111 East Kilbourn Avenue, Suite 1400, Milwaukee, WI 53202. You may have an attorney help or represent you.

If you do not provide a proper Answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 13th day of January, 2023.

AMUNDSEN DAVIS, LLC.
Charles E. Polk, III
State Bar No. 1113739

By:  _____

Attorney for Plaintiffs/Petitioners CRG
Investments, LLC, D/B/A Limanski's Pub
and Kathy L. Goedde

111 East Kilbourn Avenue
Suite 1400
Milwaukee, WI 53202
Phone: (414) 847-6162
E-mail: cpolk@amundsendavislaw.com

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COMPLAINT

Plaintiffs/Petitioners, CRG Investments, LLC, D/B/A Limanski’s Pub (“Limanski’s”) and
Kathy L/ Goedde, by their attorneys, Amundsen Davis, LLC, hereby allege the following as a
Complaint against the Defendants/Respondents:

1. Plaintiffs/Petitioners bring this action pursuant to Wis. Stat. Ch. 801, Wis. Stat. §
813.02, and Wis. Stat. Ch. 125.

PARTIES

2. Plaintiff/Petitioner, Limanski’s, is a restaurant and pub, located at 8900 W.
Greenfield Ave, West Allis, WI 53214.

3. Plaintiff/Petitioner, Kathy L. Goedde, is the agent for Limanski's pub, located at 8900 W. Greenfield Ave, West Allis, WI 53214.

4. Upon information and belief, Defendant/Respondent, City of West Allis, Wisconsin, is a municipal corporation duly constituted under the Laws of the State of Wisconsin with its principal place of business located at 7525 W. Greenfield Avenue, West Allis, Milwaukee County, Wisconsin 53214, in the Eastern District of Wisconsin.

5. Upon information and belief, Defendant/Respondent City of West Allis Common Council, is a municipal/political body with its offices and principal place of business located at 7525 W Greenfield Ave, West Allis, WI 53214.

JURISDICTION AND VENUE

6. This Court has original jurisdiction over this matter pursuant to Wis. Stat. § 753.03 and Wis. Stat. Ch. 801.

FACTUAL ALLEGATIONS

7. Limanski's was issued the Class B Tavern License for the premises located at 8900 W. Greenfield Avenue in the City of West Allis, for the period running July 1, 2022 to June 30, 2023.

8. Kathy Goedde is the agent appointed for the Class B Tavern License pursuant to Wis. Stat. § 125.04(6)(a).

9. On or about November 9, 2022, Goedde was served with a copy of the Summons and Complaint. The Summons commanded her to appear before the Committee to admit or deny the Complaint's allegations.

10. On November 15, 2022, Goedde appeared before the Committee, denied the material allegations in the Complaint and the matter was set for an evidentiary hearing. On the

date of the hearing, December 19, 2022, attorney Brian Randall, argued on behalf of Limanski's, while the Health Committee also heard from Goedde, Jones, Officer Schrandt, Officer Christianson, Officer Behnke, Officer Laquinta, and Officer Kossow of the West Allis Police Department.

11. On December 28, 2022, the Committee reconvened with the following committee members: Acting Chair Grisham, Alderperson Reinke, Alderperson Roadt, and Alderperson Stefanski, for the purposes of hearing closing arguments. Following a lengthy closed session deliberation and further deliberation in open session, the Committee voted to recommend that Limanski's be fully closed for business for 30 days. A week later, on January 5, 2023, the Committee issued a written Recommendation, Findings of Fact, and Conclusions of Law ("Findings"), which was signed by Ald. Grisham, the Acting Chair of the Committee.

12. On January 9, 2023, counsel for Limanski's submitted to the Common Council its written objections to the Findings, raising many of the same issues addressed in this case. The following day, January 10, 2023, the Common Council held a hearing to consider the 30-day suspension recommended by the Committee. Ald. Grisham immediately made a motion to deviate from the Committee's recommendation and double the license suspension to 60 days. Ald. Grisham explained that her motion was due to the Committee not realizing it had no control over Limanski's food license, which was never within the Committee's purview to begin with and was never part of the city's Complaint. Despite the objections to the motion for a 60 day suspension and the 30 day suspension recommended by the Committee, the Common Council voted unanimously to suspend Limanski's license for 60 days beginning at 12 midnight on January 16, 2023.

CAUSES OF ACTION

COUNT ONE – EQUAL PROTECTION VIOLATIONS

13. Plaintiffs/Petitioners reallege all previous paragraphs as if written herein.

14. Pursuant to WI Const art I § 1, Defendants/Respondents were required to base their recommendation on legal precedent or sample comparisons of penalties imposed on other establishments within their jurisdiction.

15. At both the West Allis Common Council License and Health Committee (“Committee”) hearings and the Common Council hearing, Defendants/Respondents failed to incorporate the penalties imposed on other establishments with service to underage patron violations, excessive need for or use of West Allis Police Department resources, shootings, large scale fights, drug dealing, harboring of criminals, and obstruction of law enforcement into their reasoning and/or recommendation.

16. As a direct result of the Defendant’s/Respondent’s actions, Limanski’s was given a much stiffer penalty/recommendation for much less severe infractions as compared to other license holders.

17. The recommendation by Defendants/Respondents leaves Limanski’s with no adequate remedy at law, which forces the Plaintiffs/Petitioners to suffer irreparable harm if injunctive relief is not entered.

COUNT TWO – VIOLATIONS OF PROCEDURAL DUE PROCESS

18. Plaintiffs/Petitioners reallege all previous paragraphs as if written herein.

19. Pursuant to Wis. Stat. Ch. 125 and WI Const art I § 1, Defendants/Respondents violated Plaintiff’s/Petitioner’s right to due process when they failed to follow procedural safeguards.

20. Defendants/Respondents failed to take notice of the arbitrary recommendation upon which suspension of the tavern license is predicated.

21. Defendants/Respondents failed to provide Plaintiffs/Petitioners an opportunity to respond to and challenge such a recommendation.

22. Defendants/Respondents failed to allow Plaintiffs/Petitioners an opportunity to present witnesses under oath pertaining to the arbitrary nature of the recommendation and the recommendation itself.

23. Defendants/Respondents failed to allow Plaintiffs/Petitioners an opportunity to confront and cross-examine opposing witnesses pertaining to the arbitrary nature of the recommendation and the recommendation itself.

24. Defendants/Respondents failed to make conclusions based on the testimony and evidence adduced from all parties at the hearing(s).

25. Defendant's/Respondent's failure to account for various procedural due process rights of Plaintiffs/Petitioners left Plaintiffs/Petitioners with no adequate remedy at law, forcing them to suffer irreparable harm if injunctive relief is not entered.

COUNT THREE - VIOLATIONS OF WIS. STATS. § 125.12(2)(B)(3)

26. Plaintiffs/Petitioners reallege all previous paragraphs as if written herein.

27. Defendant's/Respondent's failure to properly account for and adopt the Findings pursuant to Wis. Stat. § 125.12(2)(b)(3), violated the rights of Plaintiff/Petitioner.

28. Because of Defendant's/Respondents failure to comply with Wis. Stat. § 125.12(2)(b)(3), the totality of the record and its findings is compromised, arbitrary, and/or invalid.

29. Defendants/Respondents allowed the City Attorney's Office to prepare its findings.

30. Defendant's/Respondent's failure to adhere to Wis. Stat. § 125.12(2)(b)(3) left Plaintiffs/Petitioners with no adequate remedy at law, forcing them to suffer irreparable harm if injunctive relief is not entered.

COUNT FOUR – CERTIORARI REVIEW

31. Plaintiffs/Petitioners reallege all previous paragraphs as if written herein.

32. Defendants/Respondents failed to act according to the law and made a decision that was arbitrary, oppressive and/or unreasonable, and that the evidence did not support its recommendation. Specifically, Defendant's/Respondent's decision must be reversed for the following reasons:

- a. its decision was based in part on the incidents described in the summary of the police reports that were unreliable;
- b. it placed the burden of proof on Limanski's to disprove that the incidents recounted in the summary of the West Allis Police Department reports were true, or not related to Limanski's, while the City was allowed to put its case to the Committee first in the form of the summary of the West Allis Police Department reports;
- c. it based its decision in part on testimony that was shown to be unreliable by cross-examination and a conclusion without rational basis that the testimony from Ed Jones and Kathy Goedde was not credible;
- d. it failed to adopt the Findings pursuant to Wis. Stat. § 125.12(2)(b)(3), and instead had the City Attorney's Office prepare them;
- e. it provided insufficient notice to Limanski's for the possible reasons for suspension;
- f. it failed to follow the required principles of progressive discipline; and

- g. it failed to conduct a hearing on the severity of the penalty imposed on Limanski's separate from the hearing addressing whether Limanski's should be penalized in the first instance, and failed to provide Limanski's an adequate opportunity to be heard on the issue of the severity of the penalty.

33. Defendant's/Respondent's failure to adhere to Wisconsin legal precedent and statute(s) left Plaintiffs/Petitioners with no adequate remedy at law, forcing them to suffer irreparable harm if injunctive relief is not entered.

For all the reasons stated above, there is a high likelihood that Plaintiffs/Petitioners will prevail on their claims such that the decision of the Common Council must be reversed.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs/Petitioners respectfully request that this court:

1. Grant judgment in favor of plaintiffs/petitioners;
2. Declare that defendants/respondents violated plaintiff's/petitioner's right to equal protection;
3. Declare that defendants/respondents violated plaintiff's/petitioner's right to procedural due process;
4. Declare that defendants/respondents violated Wis. Stat. § 125.12(2)(b)(3);
5. Reverse the decision of Defendants/Respondents pertaining to the suspension of Limanski's;
6. Stay the suspension of Plaintiff's/Petitioner's license until a hearing before the court;
7. Grant costs, disbursements, and attorney's fees incurred in this action; and
8. For whatever further relief the court deems appropriate.

Dated this 13th day of January, 2023.

AMUNDSEN DAVIS, LLC.
Charles E. Polk, III
State Bar No. 1113739



By: _____

Attorney for Plaintiffs/Petitioners CRG
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