

BEVERLY HARBIN
215 N. King Street #2201
Honolulu, Hawaii 96817
Telephone Nr: 591-0000

2006 SEP 11 AM 10:25
FILED

Plaintiff Pro Se

E. ALAGAO
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

BEVERLY HARBIN, individually and)
on behalf of the residents of District 28)
SHERIDAN, KEEAUMOKU, KAKAAKO)
DOWNTOWN/CHINATOWN, IWILEI)
KALIHI/PALAMA,)

CIVIL NO. **06-1-1556-09 R K O L**
(Injunction)

COMPLAINT; SUMMONS

Plaintiff,

vs.

LIQUOR COMMISSION, CITY &)
COUNTY OF HONOLULU,)
and ALFUJI, INC. dba Club Business,)
and DOE Defendants 1-10,)

Defendants.)

COMPLAINT

Comes now Plaintiff Beverly Harbin (Harbin), individually and in her capacity as the duly appointed Representative of the residents of District 28, which includes the Sheridan, Keeaumoku, Kakaako, Downtown/Chinatown, Iwilei, and Kalihi/Palama areas and for Complaint against Defendants above-named, alleges and avers as follows:

COUNT I:

1. Harbin is the incumbent Representative of District 28, which includes the

I do hereby certify that this is a full, true, and correct copy of the original on file in this office.

E. Alagao
Clerk, Circuit Court, First Circuit

area where the subject business is located, and is a resident of the City and County of Honolulu, State of Hawaii.

2. Defendant Liquor Commission, City and County of Honolulu (Liquor Commission), is an agency of the City and County of Honolulu, a municipal corporation.

3. ALFUJI, INC. dba Club Business ("Club Business") operates a hostess bar located at 1346 and or 1347 Kapiolani Boulevard, Honolulu, Hawaii.

4. DOE Defendants 1-10 are on information and belief individuals or entities who are in some manner interested in the proceedings and without whom complete relief cannot be entered in this case, and Plaintiff prays leave of Court to identify said Doe Defendants when their true identities become known.

5. Club Business has operated at its present location at 1346 and or 1347 Kapiolani Boulevard for several years.

6. In the Spring of 2006, Club Business sought to expand its business premises.

7. The original premises at 1346 and or 1347 Kapiolani Boulevard consisted of approximately 2,200 square feet.

8. The Hostess liquor license issued for Club Business covered only the original space.

9. In or about March, 2006, Club Business sought to increase its licensed premises and sell liquor by adding 2,080 square feet.

10. The additional 2,080 square feet was the adjoining space within the same building structure.

11. The adjoining space was formerly licensed as another hostess bar several

years ago.

12. The hostess liquor license for the adjoining space was lost and the hostess liquor license cancelled.

13. Hawaii Liquor Law provides that no premises located within 500 feet of another hostess bar can be licensed as a hostess bar.

14. Hostess bar licenses in the City & County of Honolulu, like all liquor licenses, are issued and administered by the Liquor Commission.

15. The adjoining space is located within a few feet of another established, licensed Hostess Bar and hence, within the 500 foot radius, such that no new hostess liquor license can be issued for the adjoining space.

16. To get around the law, Club Business sought to extend its existing hostess liquor license for the original space into the adjoining space.

17. To get around the law, Club Business sought to extend its existing license into the space abutting another Hostess Bar.

18. Club Business filed an application before the Honolulu Liquor Commission in or about late April, 2006 for permission to extend the hostess liquor license into the adjoining space.

19. Club Business did not provide notice to any residents, registered voters, businesses or property owners, or the Ala Moana/Kakaako Neighborhood Board of a hearing on its application or the Request for an Extension of its premises.

20. The hearing on the application was held on May 25, 2006.

21. In the application and at the hearing Club Business's representatives stated and represented to the Liquor Commission, that Club Business had complied

with all required statutes, ordinances and rules, so that the application could be granted.

22. The Liquor Commission granted the application and permitted the extension of the hostess liquor license to the adjoining space.

23. In truth, Club Business, however, had been operating the adjoining space as part of its bar and serving liquor since approximately mid-May, 2006.

24. At the time the adjoining space opened for business, Club Business did not have appropriate building permits.

25. Club Business's representatives misrepresented to the Liquor Commission that all laws were complied with, in that at the time the adjoining space opened for business, Club Business did not have appropriate building permits.

26. At subsequent hearings, Club Business's representative admitted that it did not have appropriate building permits when it represented in its application that all laws were complied with.

27. Plaintiff learned of the Liquor Commission's action a few days after the approval.

28. Plaintiff contacted the Liquor Commission and met with administrators and investigators of the Liquor Commission.

29. The Liquor Commission personnel agreed that Club Business did not follow Liquor Commission Rules, and hence, the approval was not proper, and not in keeping with law.

30. Plaintiff filed a formal Motion for Reconsideration of the approval of the use of the adjoining space with the Liquor Commission on or about June 8, 2006.

31. Since that time, the Liquor Commission has granted extensions of time to

allow notice to be given to the Ala Moana/Kakaako Neighborhood Board as required by Rule 83-62 (c).

32. The Ala Moana /Kakaako Neighborhood Board was in lawful adjournment in June, 2006.

33. The Ala Moana/Kakaako Neighborhood Board had a full agenda on other pressing matters in July, 2006.

34. The Ala Moana/Kakaako Neighborhood did not have a quorum in August, 2006 and hence no action was taken.

35. Defendant ALFUJI, INC., has never formally given notice to the Ala Moana/Kakaako Neighborhood Board of its intention to more than double its premises or that the premises would be within the 500 foot radius of another Hostess Bar.

36. The Ala Moana/Kakaako Neighborhood Board, however, has not taken action on the matter as yet, but intends to take up the matter at the Board's September, 2006 meeting.

37. That the Ala Moana/Kakaako Neighborhood Board has a standing Resolution and formal position that it opposes any further Hostess Bars or Cabaret liquor Licenses in the Sheridan, Keeaumoku, Kakaako area.

38. The Liquor Commission has prior knowledge of the standing resolution.

39. Plaintiff requested that the Liquor Commission rescind the approval due to failure to follow Liquor Commission Rules, but the Liquor Commission has not done so contrary to its own Rules.

40. Rule 3-83-62(c) requires that whenever a licensee seeks to enlarge its licensed premises by more than 50% that the Neighborhood Board be given written

notice by certified return receipt mail addressed to the Chairman.

41. The law seeks to provide the community, through its Neighborhood Board, the ability and opportunity to comment and take a position on the proposed action.

42. In this case, the Liquor Commission did not give the community or the Neighborhood Board the opportunity to have such comment and right to be heard.

43. Plaintiff and the public have a right to demand that the Liquor Commission follow the law, and rescind an approval that was given in violation of law.

44. Club Business can continue to maintain its application, but will have to await proper Liquor Commission approval for doing business.

45. Plaintiff is entitled to a Temporary Restraining Order and Preliminary and Permanent Injunction enjoining and restraining Defendants from permitting Club Business to operate until it receives proper Liquor Commission approval.

46. Plaintiff is entitled to a Temporary Restraining Order and Preliminary and permanent Injunction enjoining and restraining Defendants from permitting Club Business to operate until it receives proper Liquor Commission approval.

COUNT II:

47. Plaintiff repeats and realleges the allegations in paragraphs 1 through 46, above.

48. Plaintiff is entitled to reasonable attorneys' fees and costs.

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. That Defendants be enjoined and restrained from permitting Club Business to operate the adjoining space, as defined above, as a hostess bar unless and until the same is properly licensed by the Liquor Commission.

2. That the Liquor Commission be required to follow the law and rescind its approval of the extension of the licensed premises until Club Business provides a proper application which follows all applicable law.

2. That the Court award Plaintiff her reasonable attorneys fees and costs.

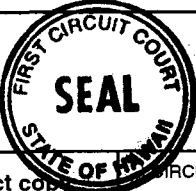
3. For such other relief as the Court deems just and equitable in the premises.

DATED: Honolulu, Hawaii,

September 11, 2008

Beverly Harbin

BEVERLY HARBIN
Plaintiff Pro Se

STATE OF HAWAII CIRCUIT COURT OF THE FIRST CIRCUIT	SUMMONS TO ANSWER CIVIL COMPLAINT	CASE NUMBER
PLAINTIFF BEVERLY HARBIN, individually and on behalf of the residents of District 28, SHERIDAN, KEEAUMOKU, KAKAAKO, DOWNTOWN/CHINATOWN, IWILEI, KALIHI/ PALAMA	vs.	DEFENDANT LIQUOR COMMISSION, CITY & COUNTY OF HONOLULU and ALFUJI, INC., dba Club Business, and DOE Defendants 1-10
PLAINTIFF'S ADDRESS (NAME, ADDRESS, TEL. NO.) BEVERLY HARBIN 215 N. King Street # 2201 Honolulu, Hawaii 96817 Telephone Nr. 591-0000		
<p>TO THE DEFENDANT(S):</p> <p>You are hereby summoned and required to serve upon plaintiff's attorney, whose address is stated above, and answer to the complaint which is attached. This action must be taken within twenty days after service of this summons upon you, exclusive of the day of service.</p> <p>If you fail to make your answer within the twenty day time limit, judgment by default will be taken against you for the relief demanded in the complaint.</p> <p>This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.</p> <p>A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.</p>		
DATE ISSUED SEP 11 2006	CLERK E. ALAGAO 	
I do hereby certify that this is a full, true, and correct copy of the original on file in this office.	CIRCUIT COURT CLERK	