

From: [Bough, Andrea](#)
To: [Public Testimony](#)
Subject: Fwd: Liquor Ordinance Revisions Tavern v Restaurant-Bar
Date: Tuesday, November 2, 2021 8:20:45 AM

Can you please add this to the testimony for Ordinance No 210961? Thank you.



Andrea Bough
Councilwoman, 6th District at Large
City of Kansas City, MO
414 E. 12th St., 22nd Floor
Kansas City, MO 64106
Phone: [816-513-6523](tel:816-513-6523)
www.kcmo.gov

Sent from my iPhone

Begin forwarded message:

From: The Well <chris@lewellen.net>
Date: October 28, 2021 at 8:42:10 PM CDT
To: "Bough, Andrea" <Andrea.Bough@kcmo.org>
Subject: **Re: Liquor Ordinance Revisions Tavern v Restaurant-Bar**

EXTERNAL: This email originated from outside the kcmo.org organization. Use caution and examine the sender address before replying or clicking links.

yes

On Oct 28, 2021, at 8:49 AM, Bough, Andrea
<Andrea.Bough@kcmo.org> wrote:

Chris -

Can I forward this to the City Clerk's office to add to public testimony?



<image0.jpeg>

Andrea Bough
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On Oct 28, 2021, at 7:22 AM, Bough, Andrea
<Andrea.Bough@kcmo.org> wrote:

Thanks, Chris. This is helpful in providing actual examples of how provision could create issues.



<image0.jpeg>

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On Oct 27, 2021, at 10:42 PM, The Well
<chris@lewellen.net> wrote:

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Michael,

This ordinance officially eliminates any new neighborhood grill and bar or any type of sports bar from opening with a credible investment in the non exempt areas. I would never have invested the money into our businesses as they stand if this was in place 20 years ago. All three of our places, Charlie Hooper's Bar & Grille, Lew's Grill & Bar and The Well Bar Grill and Rooftop could

on a good year with a Superbowl win force us to fall below 50% food ratio since we offer reasonable food prices for our neighbors like \$1.50 Hotdogs on Saturdays and Burger nights. I would hate a time where I am rooting against the Royals or Chiefs to "win it all" since I will most likely sell more alcohol during that time and fall below the 50%.

My **RESTAURANTS** serve food the entire time our places are open including late night. We serve a great service for the neighborhoods as we are the only sit down restaurant open after 10pm 7 days a week. Food softens a concept in the neighborhoods and you don't have the problems like a tavern or club in a neighborhood setting. I don't understand why there is not a minimum amount of food sold per location that would exempt from the 50/50 tavern clause. Two of my three places sell more than a million dollars per year. It takes a-lot of hard work and expense to offer food and I suggest a \$500,000 food minimum clause or 50/50.

Also the right of an owner to sell their business even to a relative is very common and this tavern clause would cause more problems selling.

Chris Lewellen
President

Charlie Hooper's Grill & Bar
Lew's Grill & Bar
The Well Bar Grill & Rooftop

On Oct 27, 2021, at 12:54 PM,
Mike Nigro
<mike@manigrolaw.com>
wrote:

Andrea,

Please share this email with the appropriate folks.

I think there is a problem with no new licenses to be issued (this includes when a business is sold or when a tenant vacates one of our shopping centers) if the location is within 300 feet of a school or church or adjacent to a residential zoning or if the business is now defined as a "tavern." If the location falls under the "tavern license" definition (now defined as <51% food) it is presumed to be a nuisance and it seems we have to rebut that presumption. The way I understand it, Jim has to weigh in, using a variety of factors in the new ordinance, and if 51% of the neighbors complain I don't see how that presumption is going to be rebutted. It is not fair to limit an owners ability to sell the business if 51% of the neighbors disapprove a "new" license and then Jim is going to have to over-ride the neighborhood I suppose. That is a tough spot to put him in. This doesn't apply if the location is within an exception area. As a lawyer, who does a fair amount of liquor work, it seems rash to presume a nuisance and then have to rebut the presumption purely based on a 50-50 food to liquor ratio. What happens if I have a client that is 50-50 one year but the prior year they were 51-49 food to liquor? What type of license do they have? Does it change from year to year?

As a member of a family that

has real estate holdings in KC (Waldo Mart at 75th and Wornall and Third Street Social, Minsky's, Egg TC and Osteria il Centro on Main, to name a few), since the 1960s, that I actively manage every day, I find it frustrating that certain areas are excepted from the new ordinance, and that those areas do not include Waldo or South Plaza. They include other areas of the City, why not those? Reference Sect 10-212 and 10-215. It is just as important our tenants, and us as building owners, to be able to sell those businesses, and release our spaces, without being presumed a nuisance. These areas are also entertainment areas and have been for years.

They may not have the same political clout as Zona, 18th and Vine, the Plaza or P&L, but they are entertainment areas nonetheless and we have been contributing to the tax base of the City from those locations for decades with good, quality, long term tenants. All but 2 of our tenants are locally owned as well.

This concern is legitimate since liquor control had to write in an exception to allow Jim to even renew licenses in any area, other than an exception area, if the licensed locations are only 50% food and issued prior to an arbitrary date. Reference Sect 10-261. Without this exception several licenses would be presumed a nuisance upon renewal whether they had actually ever been a true nuisance or not.

So Jim can renew the existing

license under the exception, but if I have a client, or a tenant, that has historically had a restaurant-bar license based on the old definition, suddenly they are now a tavern and we can't get another license without defending the operation to rebut the presumption? Is that the goal, to blanket every current location in the event of a change of ownership or a new tenant if the operation is on the 50-50 cusp, even if they have an existing restaurant-bar license?

I could see doing that to existing taverns, if the goal is to reduce taverns. Maybe only taverns should be subject to the limitations on new licenses and sales of businesses with a rebuttable presumption of nuisance. Apply the same guidelines to un-prove a nuisance for taverns, not restaurants and bars. The sudden tavern classification is not fair to restaurants and bars that do 49% food, or even 50%, food. They are not a tavern, they likely just have expensive alcohol. Funky Town, for example, is not the same as Lew's Bar and Grill, for example. Under this ordinance they both are Taverns if Lew's has 50% food, even with an open kitchen during all hours of operation. That is not a fair comparison. They should not be in the same group of licenses locations. You need to put a dollar amount food sales threshold back in the definition of "restaurant-bar." I believe it was \$250,000 before, but was removed entirely. Maybe it should now be \$400,000 in food sales, for example, regardless of the ratio of food to alcohol.

There are places all over the city that likely do 50-50 food to alcohol (or bounce around that ratio from year to year), especially now that high end drinks and wine are the norm in these spots, but still serve plenty of food from full menus. For example, I believe Osteria il Centro may be close to 50-50, at times, given their drink and wine prices. Lew's may also be close given their food prices are very reasonable, and folks buy more high-end liquor now.

Neither of these places, for example, should have a tavern designation (like a Funky Town or a place that does not have an actual menu available during all hour of operation), much less be deemed a nuisance, and they suddenly may get both monikers if this ordinance is adopted without a dollar amount food threshold in the definition of restaurant and bar.

I think the easiest way to alleviate the concern is to place a dollar amount food threshold back in the definition of restaurant and bar or to expand the exception areas to include all entertainment areas in the City. I believe the former would be preferred by staff.

I am happy to discuss,

Mike

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