

O'REILLY LAW GROUP, LLC

A NEVADA LIMITED LIABILITY COMPANY INCLUDING CORPORATIONS

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November 3, 2011

HAND DELIVERED

Department of Planning
City of Las Vegas
333 North Rancho Drive
First Floor
Las Vegas, Nevada 89101

**Attention: Jim Marshall, AICP
Senior Planner**

Re: 3540 W. Sahara – Request for Extension of Time for Legal Non-conforming Use (Tavern)
Liquor License L16-00046 SPOAKS, LLC
Our File No.: 30146-00004

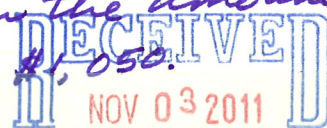
Ladies and Gentlemen:

This letter and the enclosures will serve as the application of SPOAKS, LLC, a Nevada limited liability company ("SPOAKS"), for an extension of time with respect to the existing legal non-conforming use (tavern) for 3540 W. Sahara Avenue (the "Permitted Use"). We understand that the City's records reflect this Permitted Use will expire on November 10, 2011 because the associated business, known as the Bounty Hunter, was officially closed and has not been in operation since November 10, 2010.

SPOAKS is the owner of the subject parcel (APN 162-05-402-006), which is depicted on the enclosed Site Plan. The specific parcel is highlighted on the Site Plan for your convenient reference. The subject parcel is referenced as "Parcel II" on the Legal Description attached to the enclosed Grant, Bargain and Sale Deed (Recorder's document number 20001214:01340, recorded on December 14, 2000), which establishes SPOAKS' ownership.

Also enclosed is the City Application/Petition and Statement of Financial Interest, which have been executed by the applicant before a Notary Public, and SPOAKS' check number 4541 in the amount of \$800 for the related filing fees.*

** also enclosed is our firm check in the amount of \$250, making total filing fees \$1,050.*



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With respect to the hardship relative to this request, we submit the following:

Summary Background of the Property

The property is located in a commercial shopping center situated on the North side of Sahara Avenue between Sahara Avenue and El Camino Avenue, with Valley View Boulevard on the West and Spanish Oaks Drive on the East, as shown on the enclosed Site Plan. The property involved in this application was leased for approximately 15 years and was operated as a tavern with restricted gaming, first as Doc Holiday's Saloon and then as Bounty Hunter. A copy of the Lease, as amended and assigned, is enclosed.

The tenant defaulted under the Lease and eventually was evicted after having abandoned the premises. Because the parties were unable to resolve their differences, SPOAKS filed a lawsuit in State District Court on February 4, 2011. That case was subsequently dismissed on September 12, 2011 as part of a mutually agreed upon settlement. A copy of the Notice of Entry of Stipulation and Order for Dismissal with Prejudice is enclosed.

SPOAKS' Efforts to Lease or Sell the Property

The subject property has been and is now unoccupied. SPOAKS has been working to identify a new tenant and/or sell the property since the time when the tenant vacated the premises and stopped operating the business. To date, those efforts have not been successful.

Hardship

The state of the economy and specifically, the Las Vegas real estate market are not conducive to a sale of the property and/or the business. This is particularly true for taverns in the greater Las Vegas community. Those economic conditions clearly work a hardship on SPOAKS in its efforts to revive the property as an operating tavern business. We believe the City has information readily available about the economy and the Las Vegas real estate market that supports SPOAKS' contentions. However, we will provide that information in whatever detail the City requests if the City believes further information concerning the economic situation would be helpful in connection with this application.

SPOAKS believes the property can be leased or sold to a new tavern operator, but not by November 10, 2011, when the Permitted Use will expire. Unquestionably, the Permitted Use is a material enhancement to the value of the property to prospective tenants and/or purchasers. It also is necessary to the liquor license and the operation of the property as a tavern. As shown by

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the enclosed Floor Plan, the premises were built specifically for a tavern/saloon business. Any other type of business will require remodeling, which will only drive up the costs for any prospective tenant or buyer. In effect, a *disincentive* to lease or buy the property will be created that does not now exist if the Permitted Use is not extended.

SPOAKS recognizes that any new operator (tenant or buyer) will be required to undergo suitability findings in connection with a transfer of the liquor license, and could not obtain the liquor license approval without the Permitted Use. If the Permitted Use is not extended and expires, then the possibility of selling the property or leasing it to a new tenant will require a new application for a use approval, which also will drive up costs for any prospective tenant or buyer. Again, a *disincentive* to lease or buy the property will be created.

The additional costs that would be incurred by a new tenant or purchaser of the property as outlined above would be material and substantial and effectively make the property less attractive to prospective tenants or buyers.

Respectfully, the November 10, 2011 expiration date for the Permitted Use does not afford a reasonable period of time to re-lease or sell the business in today's economy and in light of the existing character and design of the property as a tavern/saloon. Accordingly, SPOAKS asks the Council to extend the Permitted Use to allow SPOAKS more time to identify a tenant or purchaser for the property and change what is now an empty building into an operating business. If the Permitted Use is not extended, SPOAKS will be faced with an even more difficult challenge of selling a "tavern" without the requisite entitlements and government approvals. This is like trying to sell a car without the engine.

The Liquor License – Associated Application

With respect to the liquor license, a copy of which is enclosed, SPOAKS intends to maintain the liquor license as inactive until a new tenant/operator is found or the property is sold. In a separate application, filed with the City on October 27, 2011, SPOAKS has applied for a waiver of the suitability requirements relating to the transfer of the license to SPOAKS. SPOAKS understands that the new tenant/operator or the buyer, as the case may be, must submit for suitability in connection with the operation of a tavern at the location. Hopefully, the Council will facilitate that process by extending the existing Permitted Use, and by granting SPOAKS' request for a waiver.

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Summary Conclusion

Respectfully, the November 10, 2011 expiration date of the Permitted Use is not a reasonable length of time to re-lease or sell the business in light of the economy, the Las Vegas real estate market, the difficulties of the tavern business in greater Las Vegas, and the facts and circumstances surrounding the operating history and physical characteristics of this property. SPOAKS has been actively working to sell or lease the property for approximately the last year, and has not yet succeeded. The property is built to operate as a tavern, and any other use will require remodeling and additional costs for any prospective tenant or buyer. Losing the Permitted Use would substantially devalue the property and also add to the costs for any prospective tenant or buyer who would need to apply for a new use permit in order to submit for suitability for the transfer of the liquor license.

For the foregoing reasons and because of the hardship described above, SPOAKS asks the Council to extend the Permitted Use to allow SPOAKS more time to identify a tenant or purchaser for the property and change what is now an empty building into an operating business. If the Permitted Use is not extended, SPOAKS will be faced with an even more difficult challenge of selling a "tavern" without the requisite entitlements and government approvals.

Please contact us if you would like any additional information regarding this request, including data relative to the economy and/or the Las Vegas real estate market. Also, please notify us of the date and time of the hearing when this matter will be considered by the City Council.

Thank you for your consideration in this matter.

Sincerely yours,

O'REILLY LAW GROUP, LLC

By 

John F. O'Reilly, Esq.

cc: Alan Merrell II, Manager
SPOAKS, LLC (w/o encls.)

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Enclosures:

City of Las Vegas Application/Petition
City of Las Vegas Statement of Financial Interest
SPOAKS LLC Check number 4541, Filing Fees of \$800
Site Plan
Floor Plan
Deed and Legal Description
Lease
Stipulation and Order for Dismissal of Lawsuit
City of Las Vegas Business License – Alcoholic Beverage

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