



Law Department
1010 City-County Building
Detroit, Michigan 48226
(313) 224-4550

Coleman A. Young, Mayor
City of Detroit

December 21, 1979

File
Mayor agrees with
Hart that we will
not remove
officer Burkheiser
R. L. H.
1/4/80

CITY OF DETROIT
MAYOR'S OFFICE

DATE DUE: _____

JAN 03 1980

ASSIGNED TO: *Pat Simmons*
FILING INST: _____

Mr. William Hart
Chief of Police
1300 Beaubien
Detroit, Michigan 48226

RE: Ron's Last Chance vs. City of Detroit, et al
Case No. 971-970

Dear Chief Hart:

The purpose of this letter is to set forth the Law Department's position regarding the above-captioned lawsuit, pending in Federal Court, and police activities at the Last Chance Bar.

The Police Department, 11th Precinct, instituted beat patrols in the vicinity of the bar in March, 1979. Uniformed officers walk beats 52 and 52a on almost a daily basis. In addition, the bar has been the focus of undercover activity designed to combat vice activities in and around the bar. The Wayne County Organized Crime Task Force has been conducting an investigation of the bar. And, Prosecutor Cahalan's office has filed a padlock action under the public nuisance statute. That action is pending in Wayne County Circuit Court.

The subject lawsuit has been filed by Ronald Shara who is the apparent owner of the bar. The suit alleges harassment by the defendants in the form (allegedly) of selective and frivolous enforcement of minor traffic offenses; by threats against patrons; and by false arrest of patrons. (As they stand the allegations pertain only to the uniformed police presence. As noted infra, an anticipated amended complaint will include undercover activities). The defendants are three (3) beat officers (James Borland, Fred Burkheiser and Edgar Hale), the Mayor, the City, and yourself.

Plaintiff sought a preliminary injunction to restrain police activities at and around the bar. A hearing was held on June 25, 1979 before Judge Robert DeMascio. Judge DeMascio denied the injunction on a legal point but thought plaintiff would prevail on the substance of his lawsuit, i.e. that he and his patrons are being harassed. At that hearing patrons of the bar testified about incidents in which they claimed mistreatment by police.

1/3/80

Subsequent to the hearing, this office has had discussions with plaintiff's attorney, Anthony Carlesimo, on the subject of resolving the matter short of litigation. After many conversations, Mr. Carlesimo stated he would be willing to drop the lawsuit if but one change could be made. He asked that Officer Burkheiser be transferred and be replaced by another officer. The Law Department recommended this change be made in order to avoid further litigation of this lawsuit.

You have indicated this change would not be made.

The Law Department made its recommendation for the following reasons:

1. On of the officers who is a defendant, Edgar Hale, faces second degree murder charges stemming from a shooting occurring on August 13, 1979 while he was off duty. A conviction on that charge, or on any lesser included offense in the homicide category, is going to present very serious problems in the defense of the lawsuit.

Certain patrons have already testified (hearing of June 25, 1979 before Judge DeMascio) that Officer Hale, along with his partner Officer Burkheiser, brutalized them on a particular occasion. That kind of testimony, and it is anticipated that plaintiff will be able to secure other such testimony in view of the daily contacts between police and citizens at and around the bar, is going to be made more credible if Hale is convicted. And by implication and innuendo, a conviction of Hale would taint his partner Burkheiser (from approximately April through August, 1979) as well as the overall police activity going on around and in the bar.

2. A vehicle exists to put the bar out of business if vice activities are occurring in the bar. That vehicle is the padlock action. It is the most thorough way to deal with the bar if a vice problem exists. And in the long run, the nuisance action is more cost effective since by closing the bar, there apparently would be a lesser need to have uniformed beat patrols in the area.
3. Plaintiff has indicated that if no agreement could be worked out on the proposed change, he would amend his complaint, making it current as well as bringing in undercover activities at the bar. Since there is daily police contact with the bar, its customers, and since undercover activities (arrests and surveillance) have been frequent to say the least, this amendment is likely to give the lawsuit gigantic proportions. There will be additional defendants and their number will likely be many.