

BEFORE THE LIQUOR CONTROL COMMISSION
OF THE STATE OF OREGON

In the Matter of the
Retail Malt Beverage (RMB)
License held by:

GHT, Inc.
dba SATYRICON
125 NW Sixth Street
Portland, Oregon 97209

Multnomah County

) FINAL
) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) AND ORDER
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) OLCC-85-L-032
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A hearing in this matter was held on September 30, 1985, in Portland, Oregon, before Hearings Examiner Douglas Crumme'. The Licensee appeared and was not represented by legal counsel. The Commission was not represented by legal counsel.

George Touhouliotis requested party status at the hearing. Mr. Touhouliotis is the president of GHT, Inc., and owns 100 percent of the stock in the corporation. The Commission's staff did not object to Mr. Touhouliotis' request. Mr. Touhouliotis was made a party to the proceeding.

The Hearings Examiner issued a Proposed Order on January 22, 1986. The Commission then filed Exceptions and requested that the hearing be reopened. The Licensee's objection to the Commission's request was denied.

The hearing was reopened on March 19, 1986, in Portland, Oregon, before Hearings Examiner Crumme'.

The Commission, the Licensee, and Mr. Touhouliotis were not represented by legal counsel either on September 30, 1985, or on March 19, 1986.

The Hearings Examiner considered the record of the hearing and the applicable law, and issued an Amended Proposed Order mailed May 1, 1986.

No Exceptions to the Amended Proposed Order were filed within the 15 day period specified in OAR 845-03-050.

The Commission adopts the Amended Proposed Order of the Hearings Examiner as the Final Order of the Commission, and enters the following:

ISSUES

I. The Commission's staff argues that the Licensee's request for temporary relaxations of its minor posting in a portion of the premises should be denied because the bandstand area for which the temporary posting changes are sought is not conducive to family dining. OAR 845-06-040(6)(g).

II. The staff argues that the Licensee's request should be denied because the primary activity at Satyricon is the consumption of alcoholic beverages. OAR 845-06-040(6)(d).

III. The staff argues that the Licensee's request should be denied because the area for which the posting relaxations are sought is not visually separated from an area where the consumption of alcohol is the primary activity. OAR 845-06-040(1)(a); OAR 845-06-040(6)(a); and OAR 845-06-040(6)(e).

IV. The staff argues that the Licensee's request should be denied because the Licensee has failed to comply with Oregon liquor laws relating to minors. OAR 845-06-040(6)(h).

V. The staff argues that the Licensee's request should be denied because the Licensee has not operated the premises in a manner suitable for increased access by minors. OAR 845-06-040(6)(i).

VI. The staff argues that the Licensee's request should be denied because the Licensee has not demonstrated a substantial public demand for the request. OAR 845-06-040(6)(f).

VII. The staff finally argues that the Licensee's request should be denied because minor postings are intended to be permanent, and the Licensee has not shown good cause for temporary relaxations of its posting. OAR 845-06-040(2).

VIII. The Licensee argued that the Commission should approve its minor posting relaxation requests because the Commission allows similar posting arrangements at other premises and there is no reasonable explanation for allowing the postings at these premises while denying the relaxations of the posting at Satyricon. ORS 183.482(8)(b)(B).

BACKGROUND

Findings of Fact

1. GHT, Inc., has held a Retail Malt Beverage (RMB) license at Satyricon, 125 NW Sixth Street, Portland, Oregon, since January 1984.

2. The Licensee holds a No. I minor posting under OAR 845-06-040(3)(a). A No. I minor posting prohibits minors from the premises.

3. Beginning in March 1984, the Licensee began requesting relaxations of its No. I minor posting in order to allow

minors in the bandstand area on specific dates for live music shows that the Licensee believed would appeal to those 18 to 20 years old. During the shows, minors were still restricted from the bar area.

4. The Commission approved relaxations of Satyricon's No. 1 minor posting in the bandstand area on approximately 54 occasions between March 1984 and July 1985.

5. The Licensee requested that the Commission relax the minor posting in the bandstand area on August 2, 6, 10, 15 and 24, 1985. The staff proposed that the request be refused for the reasons set forth in the "Issues" section above.

6. The Licensee intends to request the relaxation of its minor posting on future dates for events similar to those for which the Licensee requested posting relaxations on August 2, 6, 10, 15 and 24, 1985.

I. NOT CONDUCTIVE TO FAMILY DINING

The following criteria may be grounds for denying a less restrictive or may be reasons for requiring a more restrictive minor posting:

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(g) The licensee does not provide an atmosphere which is conducive to family dining in the area for which a less restrictive posting is requested. OAR 845-06-040(6).

Findings of Fact

7. Satyricon opens at 8:00 p.m. and offers live music and dancing from about 10:00 p.m. until about 2:30 a.m. each evening. Satyricon has also featured other forms of entertainment such as poetry reading and art shows.

8. Satyricon is not designed to be conducive to family dining, as evidenced by the testimony of George Touhouliotis, President, GHT, Inc.

Conclusions of Law

OAR 845-06-040(6)(g) provides that a less restrictive minor posting may be denied if the area for which the change is requested does not provide an atmosphere that is conducive to family dining.

The Licensee seeks relaxed minor postings in order to allow minors into the bandstand area to watch live music and to dance. Satyricon is not conducive to family dining. This weighs against the Licensee's request to relax its minor posting under OAR 845-06-040(6)(g).

II. EMPHASIS ON DRINKING

The following criteria may be grounds for denying a less restrictive or may be reasons for requiring a more restrictive minor posting:

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(d) The primary activity on the premises is the sale and consumption of alcoholic beverages, and there is a limited or no food service. OAR 845-06-040(6).

Findings of Fact

9. The Licensee would not sell or allow the consumption of any alcoholic beverages in the bandstand area when the minor posting is relaxed. Alcoholic beverages would continue to be sold and consumed in the bar area.

10. The bandstand area comprises about 62 percent of the floor space of the business. The bar area comprises about 38 percent of the floor space.

11. Satyricon began a food menu on about September 20, 1985. The menu includes the following items: souvlaki, vegetarian souvlaki, cheeseburger, hamburger, mushroom burger, bacon burger, double burger, Greek salad, onion rings, French fries, and deep-fried zucchini. Licensee's Exhibit 14.

12. The food menu at Satyricon is available in all portions of the premises.

13. Satyricon sells about \$7,000 a month in alcoholic beverages and \$3,000 a month in food. About 20 percent of food sales occur through a take-out window.

14. Satyricon's patrons are mainly attracted to the premises to hear the musical entertainment. There are frequently cover charges to get in because of the music. Food and alcohol are secondary attractions.

Conclusions of Law

OAR 845-06-040(6)(d) provides that requests for less restrictive minor postings may be denied where the primary activity on the premises is the sale and consumption of alcoholic beverages and there is limited or no food service.

The primary activity at Satyricon as a whole during the relaxed minor postings would be listening to the musical entertainment rather than the consumption of alcoholic beverages. Alcoholic beverages would be prohibited in the bandstand area, which comprises about 62 percent of the floor space. Drinking

would be confined to the bar area, which comprises only about 38 percent of the floor space. The food service is not limited. There is a food menu. The menu would be available throughout the premises during the relaxed postings. Consequently, OAR 845-06-040(6)(d) does not provide a basis for denying the Licensee's request for posting relaxations.

III. VISUAL SEPARATION FROM DRINKING AREA

Purposes for minor postings are to:

(a) Maximize opportunities for minors to dine in licensed premises while minimizing exposure of minors to environments where the primary activity is the consumption of alcoholic beverages. OAR 845-06-040(1).

* * * * *

The following criteria may be grounds for denying a less restrictive or may be reasons for requiring a more restrictive minor posting:

(a) The minor posting could create a situation that is inconsistent with one of the purposes of minor postings as set forth in section (1) of this rule.

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(e) The premises does not have a dining area which is visually separated from those areas in which the consumption of alcoholic beverages is the primary activity.
OAR 845-06-040(6).

Findings of Fact

15. The Commission notes Findings of Fact 9 through 14 in connection with whether the area for minors would be visually separated from areas in which the consumption of alcoholic beverages is the primary activity.

16. The view is open between the bandstand portion of Satyricon, where the minor posting would be relaxed, and the bar area, where the posting would not be relaxed. The Licensee does not want to cut off the view between the two areas because that would prevent persons in the bar area from seeing the bandstand.

Conclusions of Law

a. OAR 845-06-040(6)(a) provides that a request for a less restrictive minor posting may be denied where the request will create a situation that is inconsistent with the purposes of minor postings set forth in OAR 845-06-040(1). One of the purposes of minor postings under OAR 845-06-040(1) is to minimize exposure of minors to environments where the primary activity is the consumption of alcoholic beverages. OAR 845-06-040(1)(a).

The primary activity in Satyricon as a whole during the relaxed postings is listening to the musical entertainment on the stage, rather than the consumption of alcoholic beverages. However, minors in the bandstand area would have relatively substantial exposure to the bar area. The view is open between the bandstand area and the bar area. It can be inferred that the primary activity in the bar area is the consumption of alcoholic beverages. The Satyricon sells substantially more beer and wine than food. Beer and wine sales are about \$7,000 a month while sales of food consumed inside the premises are about \$2,400 a month. Thus, the relaxed postings in the bandstand area would expose minors to an area (the bar) where the

primary activity is the consumption of alcohol. Consequently, OAR 845-06-040(6)(a) provides a basis for denying the Licensee's request.

b. OAR 845-06-040(6)(e) provides that a minor posting relaxation may be denied if the premises does not have a dining area that is visually separated from those areas where the consumption of alcohol is the primary activity. Satyricon does not have such a visually-separated dining area. Minors in the bandstand area would have a ready view of the area where alcohol would be consumed. Consequently, OAR 845-06-040(6)(e) provides a basis for denial of the Licensee's request.

IV. FAILURE TO COMPLY WITH LIQUOR LAWS

The following criteria may be grounds for denying a less restrictive or may be reasons for requiring a more restrictive posting:

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(h) The Commission has reasonable grounds to believe that the licensee has failed to comply with the liquor laws and rules of this state, especially those relating to minors. OAR 845-06-040(6).

Findings of Fact

17. Matt Loomis, a minor, has been convicted of possession of a controlled substance as a result of being in the possession of marijuana in Satyricon on June 14, 1985. Mr. Loomis was working, helping the band playing that evening to set up their equipment. He went into the restroom. A person in the restroom offered him a smoke from a marijuana cigarette. He accepted. He was apprehended by the police.

18. The Commission issued the Licensee a warning for the incident involving Mr. Loomis on June 14, 1985. The Commission did not charge the Licensee with a violation for this incident.

19. On October 3, 1985, the Licensee permitted a minor to enter Satyricon and drink alcohol on the licensed premises without verifying the minor's age. As a result, the Commission found the Licensee in violation of OAR 845-05-035(2)(a), OAR 845-05-035(2)(b), and OAR 845-05-035(5).

20. The Portland Police Bureau removed three minors from Satyricon in October 1985. This incident did not lead to any criminal or administrative charges against the Licensee.

21. The Commission has had no complaints and there have been no violations regarding minors at Satyricon on evenings when minors have been allowed in the bandstand area under a relaxed minor posting.

22. The Portland Police Bureau opposes the Licensee's request for relaxations of its minor postings because of incidents where minors were illegally on the Satyricon licensed premises. The Bureau specifically cited the incidents described in Findings of Fact 17, 19 and 20 in its recommendation against the Licensee's request. The Bureau has had problems where minors are allowed on premises where alcohol is served. Commission's Exhibit I.

Conclusions of Law

OAR 845-06-040(6)(h) provides that the Commission may deny a request for relaxation of a minor posting if there are reasonable grounds to believe that the Licensee has failed to

comply with Oregon's liquor laws and rules, especially those relating to minors.

In the present matter, the Licensee failed to comply with Oregon's liquor laws and rules on October 3, 1985. On this date, the Licensee was found to have committed a violation for permitting a minor to enter the premises and consume alcoholic beverages. See Finding of Fact 19.

The evidence suggests that the Licensee may have also failed to comply with Oregon's liquor laws and rules on two other occasions. On the first occasion, Matt Loomis, a minor, was convicted of being in possession of marijuana at Satyricon on June 14, 1985. OAR 845-06-045(4) prohibits a licensee from permitting criminal conduct on the licensed premises. On the second occasion, the Portland Police removed three minors from Satyricon in October 1985. OAR 845-06-035(2)(b) prohibits a licensee from permitting a minor to enter or remain on a licensed premises that is posted prohibited to minors.

The evidence is not sufficient to show that the Licensee failed to comply with the liquor laws on these other two occasions. OAR 845-06-045(4) and OAR 845-06-035(2)(b) are not strict liability offenses. Both require, to establish a violation, that the licensee "permitted" the proscribed activity. The Licensee has not been found guilty of criminal or administrative charges in these two incidents. There is no evidence to show whether the Licensee permitted the proscribed activity in these two incidents.

Nevertheless, the violation on October 3, 1985, was a failure by the Licensee to comply with Oregon's liquor laws relating to minors. This violation provides a basis for denying the Licensee's request for minor posting relaxations under OAR 845-06-040(6)(h), despite the Licensee's lack of violations on the 54 occasions when its minor posting was relaxed. The violation on October 3, 1985, reflects on the Licensee's likely efforts and ability to control minors on the premises during posting relaxations.

V. UNSUITABLE OPERATION FOR MINORS

The following criteria may be grounds for denying a less restrictive or may be reasons for requiring a more restrictive minor posting:

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(i) The Commission has reasonable grounds to believe that the premises has been operated in a manner not suitable for increased access by minors, including disorderly premises, prevalence of controlled substances or other illegal activities. OAR 845-06-040(6).

Findings of Fact

23. The Commission notes Findings of Fact 17 through 22 in connection with whether the Licensee has operated Satyricon in a manner suitable for increased access by minors.

24. When Satyricon has minor posting relaxations, the bandstand area and the portion for adults are separated by a side of the bar and by a table, with the exception of a three-foot passageway between the two areas. Two Satyricon employees stand at the passageway to ensure that no alcoholic beverages

are taken into the area for minors and to ensure that no minors enter the area where alcoholic beverages may be sold. The restrooms are located in the area for minors.

25. In addition to the two employees that stand at the passageway between the area for minors and the area for adults during minor posting relaxations, the Licensee has two employees stationed at the outside door to the adult area, two employees stationed at the outside door to the bandstand area, an employee who patrols the bandstand area, and one or two bartenders.

Conclusions of Law

ORAR 845-06-040(6)(i) provides that the Commission may deny a request for relaxation of minor posting if there are reasonable grounds to believe the premises has not been operated in a manner suitable for increased access by minors. The rule indicates that disorderly premises, prevalence of controlled substances, or other illegal activities may show a manner of operation not suitable for minors.

There have been several recent illegal activities at Satyricon. The violation on October 3, 1985, concerning a minor entering, remaining and consuming on the premises, was illegal. The presence of three minors discovered at the premises by the Portland Police on another occasion on October 1985 was illegal on the part of the minors, whether or not this matter was a violation by the Licensee. ORS 471.430(3). Mr. Loomis' possession of marijuana was an illegal activity on Mr. Loomis' part.

These three incidents of illegal activity show that minors have succeeded in violating the law at the premises despite the Licensee's efforts. These three incidents show that the premises is not suitable for increased access by minors under OAR 845-06-040(6)(i), despite the lack of evidence of illegal activities at the premises on the 54 occasions when its minor posting was relaxed. The three incidents reflect on the Licensee's likely efforts and ability to control such activity during relaxed postings.

VI. PUBLIC DEMAND

The following criteria may be grounds for denying a less restrictive or may be reasons for requiring a more restrictive minor posting:

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(f) The licensee has not adequately demonstrated a substantial public demand for the requested minor posting. OAR 845-06-040(6).

Findings of Fact

26. Satyricon features "underground," original and other kinds of music not generally offered by other licensees of the Commission in Portland, with the exception of two premises. These premises are the Pine Street Theater and the Starry Night. The Pine Street Theater has an RMB license. The Starry Night has a Restaurant license. ORS 471.250. The Pine Street Theater has a capacity for about 700 persons. The Starry Night has a capacity for about 1,000 persons. Pine Street Theater and Starry Night feature acts that are more prominent than Satyricon due to their capacity for larger audiences.

27. Satyricon desires minor posting relaxations for bands that particularly appeal to persons 18 to 20 years old. The premises features such bands between two and six times a month.

28. There is a core of approximately several hundred persons in Portland between 18 and 20 years old who desire to hear the bands for which the Licensee seeks posting relaxations, as evidenced by the testimony of a number of the Licensee's witnesses.

29. With many of the bands for which the Licensee seeks posting relaxations, there would not be enough attendance and enough revenue for the Licensee to make a profit if only persons under 21 years old or only persons over 21 years old were allowed inside.

Conclusions of Law

OAR 845-06-040(6)(f) provides a basis for denial of a minor posting relaxation if a licensee has not demonstrated a substantial public demand for the requested posting.

The evidence shows substantial demand for the posting relaxations sought by the Licensee because of the unique entertainment at Satyricon. There are several hundred persons between 18 and 20 years of age in Portland who desire to hear the type of music that the Licensee features on the nights when it requests posting relaxations. The Satyricon is one of only three premises in Portland that serve this audience. Further, the Satyricon is the only one of the three premises that presents less well-known bands, because of Satyricon's smaller

size. The Licensee would presumably not seek a posting relaxation to designate a large portion of the premises for minors if there was not a demand by minors to hear such music.

Consequently, OAR 845-06-040(6)(f) does not provide a basis for denying the posting relaxation request.

VII. GOOD CAUSE FOR TEMPORARY CHANGE IN MINOR POSTING

All licensed premises where alcoholic beverages are allowed to be consumed will be assigned one or more minor postings by the Commission at the time of licensing. If a licensee desires a change in minor postings at a later date, the licensee must request the change in writing. The Commission may also require changes in minor postings if existing postings are determined to be inappropriate or are being abused. Minor postings are intended to be permanent; however, requests by the licensee for temporary changes in minor postings may be approved for good cause
OAR 845-06-040(2).

Findings of Fact

30. When the Licensee requested minor posting relaxations in the past, the Licensee sent the Commission a letter listing all the dates it desired relaxations during the upcoming month.

31. The Licensee's minor posting relaxation requests were routinely granted between March 1984 and July 1985. However, after further consideration, the Commission's staff concluded that the requests should not be allowed.

32. The Commission notes Findings of Fact 3, 4, and 21 with respect to whether good cause is shown for temporary changes in the Licensee's minor postings.

33. Other than Satyricon, the Commission has limited temporary minor posting relaxations to special events such as weddings, where there was no other licensee in the area that could handle the event. Other than Satyricon, the Commission has required that no alcohol be sold during temporary minor posting relaxations.

34. When the Commission allows a temporary posting relaxation, it issues the licensee a letter indicating when and where minors are authorized. The licensee then has the letter to show the police if they ask about the presence of minors during the relaxation.

Conclusions of Law

OAR 845-06-040(2) provides that minor postings are intended to be permanent, but allows temporary changes in minor postings for good cause.

The Licensee's request for temporary posting relaxations is not for the type of events such as weddings that the Commission has normally granted. However, the fact that the Commission has found good cause for posting relaxations for weddings does not establish that no other type of temporary posting relaxation should be allowed.

The Licensee's posting relaxation should not be denied simply because they would be temporary rather than permanent posting changes. Good cause is shown under OAR 845-06-040(2) because the Licensee has an extensive history of temporary posting changes, and the temporary nature of the posting

changes has not caused any special administrative or enforcement burdens.

The Licensee received 54 temporary posting relaxations between March 1984 and July 1985. The Licensee requested relaxations for all the dates it desired them during the upcoming month. The requests were routinely granted. No particular administrative burdens occurred.

The Commission issues licensees a letter authorizing the relaxed postings. This gives the police a reliable means of determining when minors are permitted on the premises. The record does not show how enforcement of the liquor laws would be made more difficult simply because Satyricon's posting relaxations would be temporary rather than permanent.

VIII. INCONSISTENT PRIOR COMMISSION PRACTICE

(1) Jurisdiction for judicial review of contested cases is conferred upon the Court of Appeals.

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(8)(a) The court may affirm, reverse or remand the order.

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(b) The court shall remand the order to the agency if it finds the agency's exercise of discretion to be:

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(B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency practice, if the inconsistency is not explained by the agency.

ORS 183.482.

Findings of Fact

35. The Starry Night is about one-half block from Satyricon. The Starry Night has a balcony and a main floor that are separate. One of the areas has a minor posting that allows minors. Alcoholic beverages are not sold there. The other area has a minor posting for adults only. Beer and wine are sold there.

36. The Pine Street Theater has a section posted for adults only, where alcohol is served, and a section posted for minors only, where alcohol is not served. A row of tables separates the two sections, with the exception of a passageway where people go back and forth. The visual exposure between the two areas and the opportunity to pass alcohol over the tables is greater at the Pine Street Theater than at Satyricon.

37. The Pine Street Theater does not have a visible bar. Beer and wine are provided through a service bar.

38. Neither the Starry Night nor the Pine Street Theater normally sell food, although they had proposed to sell food when they originally applied for their licenses. The Starry Night sometimes sells hot dogs and cold sandwiches during special events. The Pine Street Theater sells candy.

39. In approving the minor postings allowing both minors and adults at the Starry Night and the Pine Street Theater, the Commission took into account that they were primarily for entertainment and were not open on a daily basis. Commission's Exhibit H, page 4.

40. The Commission has posted a number of Dispenser Class A outlets so that minors are prohibited from the lounge areas but are permitted in the restaurant areas for the purpose of consuming food. In some of these outlets, there is no physical or visual separation between the lounge and restaurant areas.

Conclusions of Law

ORS 183.482(8)(b)(B) provides that the Commission's orders shall be remanded if they are inconsistent with prior Commission practice and there is no explanation for the inconsistency. Moki, Inc. v. OLCC, 68 Or App 800, 683 P2d 159 (1984).

The Licensee argued that the Commission should allow its posting relaxations because the Commission allows the same postings at other premises with comparable physical layouts.

It should be noted that the Enforcement Division has based its proposed refusal of the Licensee's request on more reasons than simply the physical layout of Satyricon. The Enforcement Division has also based its recommendation on illegal activities involving minors at the premises. The evidence does not show that the Commission has allowed posting relaxations at other outlets in the face of a similar record of illegal activities. Consequently, the record would not show that the Commission's denial of the Licensee's request would be inconsistent with other posting actions, even if the physical layout at Satyricon was exactly the same as other premises that the Commission posts to allow both minors and adults.

With respect to the merits of the Licensee's "physical layout" argument itself, the evidence shows three situations

where the Commission has allowed postings for physical layouts that may be comparable to Satyricon. First, the Commission allows the Starry Night to have sections for minors and for adults. Second, the Commission allows the Pine Street Theater to have sections for minors and for adults. Third, the Commission sometimes allows minors in the restaurant portions of DA outlets for dining under a No. IV Minor Posting¹ where there is no physical separation between the restaurant and bar areas.

Although there are similarities between Satyricon and these three posting situations, there are also important differences.

The Starry Night has much better visual and physical separation than Satyricon between the areas for minors and adults. The two areas at the Starry Night are on two separate levels of the building. The two areas at Satyricon, on the other hand, are on the same floor level and are separated simply by a table and by a side of the bar.

¹The No. IV Minor Posting is authorized under OAR 845-06-040(3)(d). This regulation provides, in pertinent part, as follows:

(d) No. IV or IV-A Minor Posting, which reads "No Minors Permitted Except During Meal Hours," are posted at premises where food service is available during meal hours. . . . Minors may enter areas posted IV and IV-A during the specified hours only for the purpose of obtaining food service, and may remain only as long as reasonably necessary to order and consume food. During that time, minors may participate in suitable entertainment activities offered within the No. IV or IV-A posted areas. . . .

The physical separation at the Pine Street Theater is more similar to Satyricon. In both cases, tables separate the area for adults from the area for minors. In both cases, persons in the area for minors can easily look into the area for adults and see people drinking.

The view of the drinking area at the Pine Street Theater is qualitatively different, however, because the Pine Street Theater has a service bar rather than a public bar. Satyricon, on the other hand, has a public bar that can be readily seen from the area for minors. One side of the bar at Satyricon helps separate the area for minors from the area for adults. This creates more of an atmosphere where drinking is the primary activity in Satyricon's area for adults. Satyricon's public bar, therefore, causes Satyricon to be more in conflict with OAR 845-06-040(1) than the Pine Street Theater.

No. IV Minor Postings allowing minors to dine in the restaurant areas of some DA outlets where the lounge can be seen from the restaurant are different in an important respect from the posting relaxations sought by the Licensee. No. IV postings allow a minor in such areas only long enough to dine. See Footnote 1. Such a posting promotes the purpose of the minor posting rules to maximize the opportunity for minors to dine in licensed premises. OAR 845-06-040(1)(a).

In contrast to such DA outlets, the Licensee does not seek to allow minors in Satyricon only to dine. Although food is available at Satyricon, the Licensee seeks to allow minors in solely to watch the entertainment and to stay as long as they

like. This does not fall within the scope of the purposes of the minor posting rules. There is no minor posting purpose to maximize the opportunities for minors to see entertainment in licensed premises where there is exposure to the bar and drinking. OAR 845-06-040.

In light of the above, denial of Satyricon's request for posting relaxation has not been shown to be inconsistent with prior Commission practice and should not subject a Commission order denying the Licensee's request to remand under ORS 183.482(8)(b)(B).

ULTIMATE CONCLUSIONS OF LAW

The Licensee's posting relaxation request should be denied because of the following: Satyricon is not conducive to family dining (OAR 845-06-040(6)(g)); the postings would expose minors to the bar area, where the primary activity is the consumption of alcoholic beverages (OAR 845-06-040(1)(a) and OAR 845-06-040(6)(a)); the premises does not have a dining area that is visually separated from the areas where alcohol consumption is the primary activity (OAR 845-06-040(6)(e)); the Licensee has failed to follow the liquor laws concerning minors (OAR 845-06-040(6)(h)); and illegal activities inside the premises indicate Satyricon is not suitable for increased access by minors. OAR 845-06-040(6)(i).

The record does not show that denial of the Licensee's request would be inconsistent with other Commission posting actions. ORS 183.482(8)(b)(B).

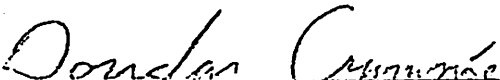
The staff failed to prove the following denial grounds: that the primary activity at the premises as a whole during the relaxed postings would be the consumption of alcoholic liquor (OAR 845-06-040(6)(d)); that there is not a substantial demand for the posting relaxation (OAR 845-06-040(6)(f)); that the posting relaxations should be denied because they would be temporary rather than permanent. OAR 845-06-040(2).

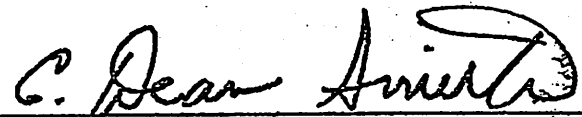
FINAL ORDER

The Commission orders that the Licensee's request for minor posting relaxations to allow minors in the bandstand portion of the Satyricon, 125 NW Sixth Street, Portland, Oregon, be DENIED.

It is further ordered that notice of this action, including the reasons for it, be given as provided by law.

Dated this 30th day of May, 1986.


Douglas Crumme
Hearings Examiner
Hearings Division


C. Dean Smith
Administrator
OREGON LIQUOR CONTROL COMMISSION

Mailed this 3rd day of June, 1986.


Processing Assistant
Hearings Division

NOTICE: You are entitled to Judicial Review of this Order. Judicial Review may be obtained by filing a Petition for Review within 60 days from the service of this Order. Judicial Review is pursuant to the Provisions of ORS Chapter 183.