

# **Bond Case Briefs**

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## **LICENSES - WISCONSIN**

### **Nowell v. City of Wausau**

**Supreme Court of Wisconsin - November 6, 2013 - N.W.2d - 2013 WI 88**

Bar sought judicial review of a decision by the city not to renew its combined intoxicating liquor and fermented malt beverage license. The Circuit Court concluded that certiorari review was appropriate, and, applying this standard, affirmed the city's decision. Bar appealed. The Court of Appeals reversed and remanded. City sought review which was granted.

The Supreme Court of Wisconsin held that:

- Certiorari review, rather than de novo review, was appropriate, and
- City acted within its jurisdiction and followed statute in deciding not to renew bar's license.

Statutory certiorari review accords a presumption of correctness and validity to the prior decision; thus, the scope of certiorari review is limited to whether: (1) municipality kept within its jurisdiction, (2) municipality acted according to law, (3) municipality's action was arbitrary, oppressive, or unreasonable, and represented its will, and not its judgment, and (4) the evidence was such that it might reasonably make the order or determination in question.

Certiorari review of city's decision not to renew bar's combined intoxicating liquor and fermented malt beverage license, rather than de novo review, was appropriate. Lack of restriction on municipality decisions to grant or deny licenses was consistent with the historic view that the granting of a liquor license is a legislative function, certiorari review served to keep alcohol licensing decisions within the control of the municipality by according deference to its decisions, and permitting a circuit court to determine de novo whether a liquor license should be granted would, in essence, improperly transfer that legislative function from the municipality to the court.