



STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LIQUOR CONTROL COMMISSION

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In the matter of the request of ) ) <b>12 MILE ORCHARD LAKE OPERATIONS,</b> ) <b>LLC</b> ) 31425 W Twelve Mile ) Farmington Hills, Michigan 48334 ) ) Oakland County ) _____ )	Request ID No. 807035
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At the November 19, 2015 hearing of the Michigan Liquor Control Commission (Commission) in Southfield, Michigan.

PRESENT: Andrew J. Deloney, Chairman  
Teri L. Quimby, Commissioner  
Dennis Olshove, Commissioner

**LICENSING APPEAL ORDER**

On June 24, 2015, 12 Mile Orchard Lake Operations, LLC (applicant) filed a request to transfer ownership of the 2015 Class C and Specially Designated Merchant licenses with Sunday Sales Permit (P.M), Dance-Entertainment Permit, and Outdoor Service (1 area) from Tribute, Inc., to be held in escrow at the above-noted address.

At a meeting held on September 23, 2015, the Commission denied this request under administrative rule R 436.1105(2)(a) after considering the operating record of sole applicant member, Faiz Simon, as a current licensee of the Commission having been cited and found responsible for numerous violations of the Michigan Liquor Control Code and Administrative Rules, including a total of eight (8) violations of the sale of alcoholic liquor to a person under 21 years of age; contrary to MCL 436.1801(2). In 2014, the violations at the licensed location of Simon Land Development Group, LLC resulted in penalty hearing proceedings required under MCL 436.1901(3), and a 15-day suspension was imposed.

The request was also denied under administrative rule R 436.1105(2)(j) after considering the effects that issuance of a license would have on the health, welfare, and

safety of the general public when determining whether an applicant should be issued a license or permit.

Randal Toma, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the November 19, 2015 hearing, held at the Commission's Southfield office.

After hearing arguments, reviewing the MLCC file and updated documents presented, and discussion of the issue on the record, the Commission finds that the applicant sufficiently demonstrated a course of action has been taken to assist in preventing further violations of the Michigan Liquor Control Code and Administrative Rules.

The Commission further finds that documentation provided at the hearing demonstrates that Faiz Simon transferred 100% membership interest in Simon Land Development Group, LLC to Fawzi Simon on December 31, 2010; and therefore, not responsible for violations having occurred at that location that resulted in penalty hearing proceedings.

Article IV, Section 40, of the Michigan Constitution (1963), permits the legislature to establish a Liquor Control Commission, which shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. MCL 436.1201(2) provides the Commission with the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the manufacture, importation, possession, transportation and sale thereof.

The applicant is authorized to do business in Michigan, as required under MCL 436.1535 for licensure. Under MCL 436.1537(1)(b), the licensee may sell beer, wine, mixed spirit drink and spirits for consumption on the premises. Under MCL 436.1537(1)(f), the licensee may sell beer and wine for consumption off the premises.

The Commission finds sufficient reasons to reverse its denial issued in this matter and to approve the applicant's request for the reasons stated on the record.

THEREFORE, IT IS ORDERED that:

A. The denial order of September 23, 2015 issued in this matter is reversed and the applicant's request to transfer ownership of the escrowed Class C and Specially Designated Merchant licenses from Tribute, Inc., with the licenses and permits to be held in escrow at the subject location, is APPROVED, subject to the following:

1. The licensee shall submit to the Commission verification that 12 Mile Orchard Lake Operations, LLC received a loan in the amount of \$25,000.00 from applicant member, Faiz Simon.
2. The licensee shall submit to the Commission form LCC-301 "Report of Stockholders/Members/Partners".
3. The licensee shall submit to the Commission form LCC-107 "Closing Form for License Sale".

B. The licensee shall pay all license fees by April 30<sup>th</sup> each year pursuant to administrative rule R 436.1107.

C. The applicant's request to transfer the existing Sunday Sales Permit (P.M.) is APPROVED, subject to the following:

1. A reference to the time of day includes daylight savings time, when observed.
2. This permit is subject to revocation by operation of law or otherwise if the Commission receives notice from a county, city, village, or township that it prohibits the sale of spirits, mixed spirit drink, or beer and wine during the time authorized by this permit.

D. The applicant's request to transfer the existing Dance-Entertainment Permit is APPROVED, subject to the following:

1. The licensee must have a well-defined and clearly marked dance floor that is 100 square feet or larger under administrative rule R 436.1415.
2. The licensee is prohibited from having tables, chairs, or other obstacles on the dance floor while customers are dancing.

E. The applicant's request to transfer the existing Outdoor Service (1 area) is APPROVED, subject to the following:

1. The outdoor service area shall remain well-defined and clearly

marked.

2. The licensee shall permit the sale, service and consumption of alcoholic liquor outdoors in the defined area only.
3. The licensee is prohibited from allowing the sale, service, possession or consumption of alcoholic beverages in any portion of the approved outdoor service area designated for the playing of sporting activities or for sporting events, including any break or intermission.

F. Activation of the Class C and Specially Designated Merchant licenses with Sunday Sales Permit (P.M.), Dance-Entertainment Permit and Outdoor Service (1 area) is APPROVED, subject to the following:

1. A final inspection to be conducted by the Enforcement Division to determine fixtures and equipment have been installed; to determine construction of the Outdoor Service Area has been completed; to determine the dimensions of the Outdoor Service Area and that it is clearly marked and well-defined; and to determine the licensed premises meets all requirements of the Michigan Liquor Control Code and Administrative Rules.
2. The licensee shall provide proof of financial responsibility providing security for liability as required under MCL 436.1803. Failure to maintain proof of financial responsibility providing security for liability will result in the immediate suspension of the subject licenses and permits until the licensee provides the Commission with proof of financial responsibility as required under MCL 436.1803.
3. The licensee shall provide documentary proof to the Commission to demonstrate that, at a minimum, supervisory personnel on each shift and during all hours in which alcoholic liquor is served have successfully completed a server training program approved by the Commission as required under MCL 436.1501(1), within 180 days from the issuance of the licenses and permits, as provided in administrative rule R 436.1060.

- a. The licensee shall maintain active certification of completion for server training on the licensed premises at all times as provided in administrative rule R 436.1060.
- b. Failure to provide this documentary proof to the Commission within 180 days of the issuance of the license shall result in the licensee being charged with failure to comply with this order, under administrative rule R 436.1029, which may result in fines, suspension and/or revocation of the licenses and permits.

G. Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcements officials who have jurisdiction over the licensee. Approval of the licenses and permits by the Michigan Liquor Control Commission does not waive any of these requirements. The licensee shall obtain all other required state and local licenses, permits, and approvals before selling or serving alcoholic liquor.

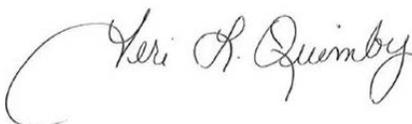
H. Failure to comply with all requirements of licensure in the State of Michigan will result in the licensee being charged with a violation of the Michigan Liquor Control Code, Administrative Rules, and Commission order, which may result in fines, suspension, and/or revocation of the licenses and permits.

MICHIGAN LIQUOR CONTROL COMMISSION



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Andrew J. Deloney, Chairman



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Teri L. Quimby, Commissioner

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Dennis Olshove, Commissioner

Date Mailed:

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