



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

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In the matter of the request of)) 513 W. PONTALUNA, LLC) 513 Pontaluna) Norton Shores, Michigan 49444)) Muskegon County) _____)	Request ID No. 758356
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At the June 23, 2015 hearing of the Michigan Liquor Control Commission (Commission) in Lansing, Michigan.

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

LICENSING APPEAL ORDER

On May 22 2014, 513 W. Pontaluna, LLC (applicant) filed a request to transfer ownership of escrowed Class C and Specially Designated Merchant licenses with Sunday Sales Permit (P.M.), Specific Purpose Permits (Food & Golf), Dance Permit, Outdoor Service (1 area), two (2) Direct Connections to unlicensed premises, Catering Permit and three (3) Bars from Lake Michigan Hospitality LLC, at the above-noted address.

At a meeting held on February 13, 2015, the Commission denied this request under administrative rule R 436.1103(2) because the applicant failed to provide all of the purchase information and financial documents required to complete the investigation and processing of the application.

William Meier, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the June 23, 2015 hearing, held at the Commission’s Lansing office.

After hearing arguments, reviewing the MLCC file and documents presented, and discussion of the issue on the record, the Commission finds that the applicant sufficiently demonstrated through testimony and submission of updated documents that the previous questions concerning this application have been satisfactorily addressed.

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 only.

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 February 13, 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 Lake Michigan Hospitality LLC is APPROVED, subject to the following:

1. Consummation of the request to transfer membership interest in Lake Michigan Hospitality LLC by dropping Jeff Lambert as a member through the transfer of 50% interest to existing member, Brian H. Edwards (RID# 394134). Card issue shows existing stockholder as Brian
2. The licensee shall submit to the Commission a corrected Operating Agreement for 513 W. Pontaluna, LLC with page 5, section 5.6 "Power of Attorney" reflecting "Teddy Spaghettis, LLC" instead of "Bella Maria's Event Center, LLC".
3. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners" for 513 W. Pontaluna, LLC.
4. The licensee shall submit to the Commission form LCC-3010 "Report

of Stockholders/Members/Partners” for Teddy Spaghetitis, LLC.

5. The licensee shall submit to the Commission form LCC-3010 “Report of Stockholders/Members/Partners” for G.R.O.S., Inc.
6. The licensee shall submit to the Commission Form LC-3012 “Closing Form for License Sale”.
7. The licensee shall maintain 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.
8. The licensee shall comply with the server training requirements as required under MCL 436.1501(1) and administrative rule R 436.1060 as outlined in the Commission's Conditional License Approval Order dated August 27, 2014.

B. 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.

C. The applicant’s request to transfer the existing Specific Purpose Permit (Food and Golf) is APPROVED, subject to the following:

1. Under administrative rule R 436.1437(2), the licensee shall not allow customers on the licensed premises during the time period provided by the Specific Purpose Permit unless the activity, and only that activity, allowed by the Specific Purpose Permit, is occurring.

D. The applicant’s request to transfer the existing Dance 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. The applicant's request to transfer the existing two (2) Direct Connections to unlicensed premises is APPROVED.

G. The applicant's request to transfer the existing Catering Permit is APPROVED subject to the following:

1. Receipt of a copy of the applicant's food service establishment license or retail food establishment license issued under the Food Law of 2000 (MCL 289.1101 to 289.8111).

H. The applicant's request to transfer the existing three (3) Bars is APPROVED.

I. **The Conditional License shall cancel within 20 business days from the issuance date of this order.**

J. The licensee shall pay all license fees by April 30th each year pursuant to administrative rule R 436.1107.

K. 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

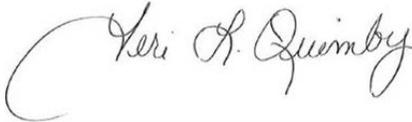
does not waive any of these requirements. The licensee shall obtain all other required state and local licenses, permits, and approvals before selling or serving alcoholic liquor.

L. 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



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner



Dennis Olshove, Commissioner

Date Mailed:

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