



7STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

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In the matter of the request of)
RICHARD DEAN PALMER)
844 W. Michigan) Business ID No: 5299
Marshall, Michigan 49068)
)
Calhoun County)
_____)

At the June 26, 2012 Show Cause hearing of the Michigan Liquor Control Commission (Commission) in Lansing, Michigan.

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

SHOW CAUSE ORDER

On April 4, 2008, Richard Dean Palmer (licensee), holder of escrowed 2012 Class C and SDM licenses with Sunday Sales Permit (P.M.), Dance Permit, Entertainment Permit (without dressing rooms), and Specific Purpose Permit (Food) at the above-noted location, was cited for selling the subject licenses and permits to Eric Winnie without prior approval of the MLCC, contrary to MCL 436.1529(1). On September 10, 2008, the licensee was found responsible and the licenses and permits were ordered to remain in escrow until the proper licensee assumes full proprietary control of the licensed business or if the licenses and permits or transferred to a person approved by the Commission. Failure to comply with that order by March 1, 2009 would result in revocation of those licenses. The Commission has granted several extensions of that revocation date since the order was entered, and most recently the revocation date was extended to April 30, 2012.

On June 30, 2010, the Commission approved the request of The Family Tree

Garden Center, Inc. (sole stockholder Eric Winnie) to transfer ownership of the licenses and permits and that transfer has not yet been completed.

On April 4, 2012, the Commission received a request to extend the revocation date of the licenses, and at a meeting held on April 30, 2012 the Commission ordered that a Show Cause Hearing be scheduled for both Richard Dean Palmer and The Family Tree Garden Center, Inc. to demonstrate why each has failed to successfully adhere to the conditions of the licensing and violation orders issued in this matter.

A Show Cause Hearing was held on June 5, 2012 in the Lansing office of the Commission. Richard Dean Palmer represented himself and Attorney Jason Bomia represented The Family Tree Garden Center, Inc.

After hearing arguments, reviewing the MLCC file, and discussion of the issue on the record, the Commission tabled the matter on June 5, 2012 and placed it on its June 26, 2012 meeting agenda. Attorney Ivan Egnatuk represented Richard Dean Palmer and Attorney Jason Bomia represented The Family Tree Garden Center, Inc. at the hearing held on June 26, 2012.

After further discussion of the issue at the hearing held on June 26, 2012, the Commission finds that the licensee and the applicant sufficiently demonstrated why the conditions of the licensing approval order and violation order issued in this matter have not been adhered to. There is sufficient reason to allow the 2012 Class C and SDM licenses and permits held by Richard Dean Palmer to remain in escrow under the provisions of administrative rule R 436.1107 until such time that the licensee assumes full proprietary control of the licensed business, transfers ownership of the licenses and permits to a person approved by the MLCC, or the licenses and permits terminate while in escrow. Accordingly, the licensee must submit all license fees to the Commission by April 30th of each year.

THEREFORE, IT IS ORDERED that:

A. The revocation date for the subject licenses and permits held in escrow by Richard Dean Palmer for Complaint No. 8-127298 is extended to April 30, 2013, with the licenses and permits to remain in escrow under the provisions of administrative rule R 436.1107.

B. The Licensing Approval Order of June 30, 2010 pertaining to Request ID No. 466588 for the The Family Tree Garden Center, Inc. stands as written, and the file is to be returned to the Licensing Division for further processing.

Andrew J. Deloney, Chairman

Teri L. Quimby, Commissioner

Dennis Olshove, Commissioner

Prepared by:
Terri Chase, Commission Aide

Date Mailed: _____



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

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In the matter of the request of)
SOUTH HAVEN YACHT CLUB)
401 Williams) Request ID No. 632763
South Haven, Michigan 49090)
Van Buren County)
_____)

At the June 26, 2012 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 January 31, 2012, South Haven Yacht Club (applicant) filed a request to enlarge the existing two (2) areas authorized for the outdoor sale, service and consumption of alcoholic liquor, to be one (1) combined area measuring up to 125' x 597', which is 74,625 square feet or 1.82 acres, located directly adjacent to the licensed premises, which is defined by water and docks on the side measuring 125' long; the Black River and docks on the side measuring 597' long; a 10' high berm with 48" high metal fencing along Williams Street; and 6' high wooden fencing at the end of the sidewalk, to be held in conjunction with 2012 Club and SDM licenses with Sunday Sales Permit (P.M.), Sunday Sales Permit (A.M.), Dance Permit and Outdoor Service (2 Areas), held at the above-noted location.

At a meeting held on May 30, 2012, the Commission denied this request under administrative rule R 436.1105(2)(j) and administrative rule R 436.1419(2) because the area is not well-defined and clearly marked; therefore, the area may be difficult for the club

members and employees to sufficiently monitor the area, which could have a negative impact on the health, safety and welfare of the members of the club and the general public.

Michael Brown, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the June 26, 2012 hearing, at the Commission's Lansing office.

After hearing arguments, reviewing the exhibit presented, reviewing the MLCC file, and discussion of the issue on the record, the Commission finds that the photographs presented by the applicant at the hearing sufficiently demonstrated the existence of natural and physical barriers surrounding the proposed outdoor service area, answering the previous questions raised concerning the applicant's request.

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 May 31, 2012 issued in this matter is reversed and the applicant's request is APPROVED, subject to the following:

1. Under administrative rule R 436.1419(2), the licensee shall ensure that the outdoor service area is well-defined and clearly marked.
2. The licensee shall not sell, or allow the consumption of, alcoholic liquor outdoors, except in the defined area.
3. The licensee shall ensure that all alcoholic beverages remain on the property.
4. The licensee shall ensure that no alcoholic beverages are transported onto the property by way of boat.
5. The licensee shall ensure that alcoholic beverages are not transported onto a boat.
6. The licensee shall ensure that alcoholic beverages are purchased at the club by club members only.
7. The licensee shall take all necessary actions to ensure the health, safety and welfare of all members and guests.

B. The licensee shall maintain proof of financial responsibility providing security for liability and failure to do so 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.

C. Under administrative rule R 436.1003, the licensee must 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 this permit by the Michigan Liquor Control Commission does not waive any of these requirements. The licensee must obtain all other required state and local licenses, permits, and approvals before serving or selling alcoholic liquor.

D. 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, MLCC Administrative Rules, and Commission order, which may result in fines, suspension, and/or revocation of the licenses and permits.

Andrew J. Deloney, Chairman

Teri L. Quimby, Commissioner

Dennis Olshove, Commissioner

Prepared by:
Terri Chase, Commission Aide

Date Mailed: _____