



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

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In the matter of the request of)
RESTAURANT 01-31-12, L.L.C.)
5710 Harvey) Request ID No. 655259
Muskegon, Michigan 49444)
Fruitport Township Muskegon County)
_____)

At the October 16, 2012 hearing of the Michigan Liquor Control Commission
(Commission) in Lansing, Michigan.

PRESENT: Teri L. Quimby, Commissioner
Dennis Olshove, Commissioner

LICENSING APPEAL ORDER

On March 28, 2012, Restaurant 01-31-12, L.L.C. (applicant) filed a request to transfer ownership, under MCL 436.1529(1), of an escrowed 2011 Resort Class C license, issued under MCL 436.1531(4), pursuant to the qualifications in administrative rule R 436.1123(1)(a), with Sunday Sales Permit (P.M.) and Outdoor Service (1 Area) from Team R N' B Wisconsin, LLC, (A Wisconsin Limited Liability Company), to be held at the above-noted location. The applicant also requested to cancel the existing escrowed SDM license and Specific Purpose Permit (Food). The license and permit have been renewed for the 2012-2013 licensing year.

At a meeting held on September 12, 2012, the Commission denied this request under administrative rule R 436.1103(2) as the applicant failed to provide all documentation necessary for investigation and processing of the application. This request was also denied under administrative rule R 436.1105(2)(b) as the applicant failed to provide documentation to verify the existence of adequate, legitimate and verifiable financial resources for the establishment. Further, this request was denied because good cause was not demonstrated to accept the multiple sources of financing for this transaction as required by administrative rule R 436.1121(2).

Attorney Michael Brower submitted a timely request for an appeal in this matter and represented the applicant at the October 2, 2012 hearing, held at the Commission's Lansing office. After hearing arguments, reviewing the MLCC file and Exhibit presented, and discussion of the issue on the record, the Commission tabled this matter to its October 16, 2012 meeting agenda held at the Commission's Lansing office.

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

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have 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 under MCL 436.1201(2).

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.

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 12, 2012 issued in this matter is reversed and the applicant's request to transfer ownership of an escrowed 2011 Resort Class C license, issued under MCL 436.1531(4), pursuant to the qualifications in administrative rule R 436.1123(1)(a), is APPROVED, subject to the following:

1. The licensee shall pay all license fees by April 30th each year pursuant to administrative rule R 436.1107.
2. The licensee shall submit to a Final Inspection by the Commission's Enforcement division to determine that all furniture, fixtures and equipment have been installed; to determine that all remodeling

has been completed as proposed; to determine the true cost and method of financing; to determine that the seating capacity has been verified to be at least 100 seats and is posted; to determine that the applicant will be open for a minimum of five (5) hours per day, five (5) days a week, and that a full-service kitchen serving full-course meals is operational as required under administrative rule R 436.1123(1)(a); and to determine that the establishment meets all requirements of the Michigan Liquor Control Code and Administrative Rules.

3. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners" for Restaurant 01-31-12, L.L.C.
4. The licensee shall submit to the Commission an acceptable and executed "Addendum #1 to Liquor License Purchase Agreement" correctly identifying the buyer as Restaurant 01-31-12, L.L.C. and not Restaurant 1-31-12 LLC.
5. The licensee shall submit to the Commission an acceptable and executed Operating Agreement with the correct organizational name of Restaurant 01-31-12, L.L.C. and not Restaurant 1-31-12 LLC.
6. The licensee shall submit to the Commission an acceptable and executed Lease Agreement with the correct tenant name of Restaurant 01-31-12, L.L.C. and not Restaurant 1-31-12 LLC.
7. The licensee shall submit to the Commission documentary evidence that Restaurant 01-31-12, L.L.C. received a loan in the amount of \$40,000.00 from member, Cheng Dong Lin.
8. The licensee shall submit to the Commission documentary evidence that Restaurant 01-31-12, L.L.C. received a loan in the amount of \$41,000.00 from member, Xue Hua Shi.

9. The licensee shall submit to the Commission documentary evidence that Restaurant 01-31-12, L.L.C. received a loan in the amount of \$45,000.00 from moneylender, Xiu Y. Wang.
10. The licensee shall submit to the Commission Promissory Notes between applicant member, Cheng Dong Lin, and the following entities for loans as follows:
 - a. \$4,000.00 loan from Jian Wei Qiu.
 - b. \$5,000.00 loan from Rong Ai Li.
 - c. \$6,000.00 loan from Xian Chen.
 - d. \$5,000.00 loan from Zhen Zheng Bao.
 - e. \$6,000.00 loan from Hui Chen.
 - f. \$8,000.00 loan from Yun Chen.
 - g. \$7,000.00 loan from Xin Li.
11. The licensee shall submit to the Commission Promissory Notes between applicant member, Xue Hua Shi, and the following entities for loans as follows:
 - a. \$3,000.00 loan from Hui Lin.
 - b. \$8,000.00 loan from Mei Hui Lin.
 - c. \$8,000.00 loan from Zhen Qun Lin.
 - d. \$5,000.00 loan from Fei Lin.
 - e. \$7,000.00 loan from Hai Lin.
 - f. \$5,000.00 loan from Ying Li.
 - g. \$6,000.00 loan from Xiao Lin Lin.
12. The licensee shall submit 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 license and permits until the licensee provides the Commission with proof of financial responsibility as required under MCL 436.1803.
13. 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 license 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 and permits 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 license and permits.

B. The applicant's request to transfer the existing Outdoor Service (1 Area) is APPROVED, and the licensee shall permit the sale, service and consumption of alcoholic liquor outdoors in the defined areas only.

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.

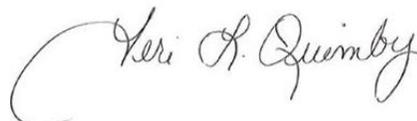
D. Under administrative rule R 436.1123(1), the licensed establishment shall be in compliance with all of the following provisions:

1. Be a full service restaurant that is open to the public and prepares food on the premises.
2. Have dining facilities to seat not less than 100 patrons unless exempted under section 531(3) of 1998 P.A. 58, MCL 436.1531(3).

3. Be open for food service not less than five (5) hours per day, five (5) days per week.
4. Not less than 50% of the gross receipts of the business are derived from the sale of food and beverages for consumption on the premises, not including the sale of alcoholic liquor.

E. 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 license 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.

F. 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 license and permits.



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

* * * * *

In the matter of the request of)	
OTTOMATIC, INC.)	
104 S. Main)	Request ID No. 633999
Wayland, Michigan 49348)	
)	
Allegan County)	
)	
)	

At the October 16, 2012 hearing of the Michigan Liquor Control Commission (Commission) in Lansing, Michigan.

PRESENT: Teri L. Quimby, Commissioner
Dennis Olshove, Commissioner

LICENSING APPEAL ORDER

On February 17, 2012, Ottomatic, Inc. (applicant) filed a request to transfer ownership, under MCL 436.1529(1), of 2011 B-Hotel and SDM licenses with Sunday Sales Permit (P.M.), Dance Permit and Specific Purpose Permit (Food) from Wayland Hotel, Inc. located at the above-noted address. The licenses and permits were renewed for the 2012-2013 licensing year on April 24, 2012.

At a meeting held on August 3, 2012, the Commission denied this request under MCL 436.1107(11) after concluding that the proposed business does not meet the qualifications for licensure as a B-Hotel licensed establishment.

Applicant stockholder, Josh Otto, submitted a timely request for an appeal in this matter and represented the applicant at the September 27, 2012 hearing held at the Commission's Lansing office. After hearing arguments, reviewing the MLCC file and

Exhibits presented, and discussion of the issue on the record, the Commission tabled this matter to research the history of this license and placed it on its October 16, 2012 meeting agenda, held at the Commission's Lansing office.

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

This B-Hotel license has remained at the original location for which it was licensed, which is within the downtown district of Wayland. Commission records indicate that this hotel was originally licensed with less than 25 bedrooms, but was adequately equipped to serve meals to not less than 25 persons at one time in a public cafeteria or dining room, as authorized in Section 2 of Public Act No. 8 of Public Acts Extra Session 1933.

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have 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 under MCL 436.1201(2).

The applicant is authorized to do business in Michigan, as required under MCL 436.1535 for licensure. Under MCL 436.1537(1)(e), the licensee may sell beer, wine, mixed spirit drinks, and spirits for consumption on the premises and in the rooms of bona fide registered guests.

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

THEREFORE, IT IS ORDERED that:

A. The denial order of August 3, 2012 issued in this matter is reversed and the applicant's request to transfer ownership of 2012 B-Hotel and SDM licenses is APPROVED, subject to the following:

1. The licensee shall submit to the Commission documentary proof that Ottomatic, Inc. received a loan in the amount of \$98,000.00 from Donald Mercurio.
2. The licensee shall submit to the Commission documentary proof that the real estate purchaser, Mercurio Properties, LLC, received a loan in the amount of \$5,000.00 from Donald Mercurio.
3. The licensee shall submit to the Commission an acceptable and executed Lease Agreement between Ottomatic, Inc. and Mercurio Properties, LLC.
4. The licensee shall submit to the Commission the Salesperson license of stockholder, Joshua D. Otto, for cancellation.
5. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners".
6. 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.
7. 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 licenses and permits 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.

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 Dance Permit is APPROVED, subject to the following:

1. Issuance of this Dance Permit under MCL 436.1916(2) does not allow the licensee to have topless activity on the licensed premises.
2. 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 and the licensee is prohibited from having tables, chairs, or other obstacles on the dance floor while customers are dancing.

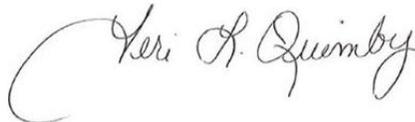
D. The applicant's request to transfer the existing Specific Purpose Permit (Food) is APPROVED subject to the following:

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.

E. 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.

F. 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.



Teri L. Quimby, Commissioner



Dennis Olshove, Commissioner



Prepared by:
Terri Chase, Commission Aide

Date Mailed: _____