



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

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In the matter of the request of)	
)	
BHAM SHELL, INC.)	Request ID No. 774070
33588 Woodward)	
Birmingham, Michigan 48009)	
)	
Oakland County)	
_____)	

At the August 27, 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 December 26, 2014, Bham Shell, Inc. (applicant) filed a request for a new Specially Designated Merchant license with permission for motor vehicle fuel pumps under MCL 436.1541(1) and Sunday Sales Permit (A.M.), to be held at the above-noted address.

At a meeting held on July 22, 2015, the Commission denied this request under administrative rule R 436.1105(2)(a) after considering the operating record of the applicant stockholders as current licensees of the Commission at multiple locations that have been cited and found responsible for several violations of the Michigan Liquor Control Code and Administrative rules, including a January 28, 2015 violation of the sale of alcoholic liquor to a 17 year old minor; contrary to MCL 436.1801(2).

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.

Joseph Shallal, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the August 27, 2015 hearing,

held at the Commission's Southfield office.

After hearing arguments, reviewing the MLCC file, and discussion of the issue on the record, the Commission finds that the applicant has 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 the investigation revealed the proposed licensed location appears to qualify for SDM licensure with permission for motor vehicle fuel pumps under MCL 436.1541(1), providing the applicant installs and maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$250,000.00, at cost, of those goods and services customarily marketed by approved types of businesses; and providing the nearest motor vehicle fuel pump is not less than 50 feet from the points of sale and selection of alcoholic beverages.

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)(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 July 22, 2015 issued in this matter is reversed and the applicant's request for a new Specially Designated Merchant license is APPROVED, subject to the following:

1. The licensee shall submit to a Final Inspection to be conducted by the

Commission's Enforcement Division to determine that the licensee has purchased and installed an approved type inventory of at least \$250,000.00, at cost, as required under MCL 436.1541(1)(a)(ii), on the licensed premises, including an itemized breakdown of the installed inventory; to determine that the nearest motor vehicle fuel pump is not less than 50 feet from the points of sale and selection of alcoholic beverages, as required under MCL 436.1541(1)(b); and to determine that the licensed premises meets all requirements of the Michigan Liquor Control Code and Administrative Rules.

2. The licensee shall submit to the Commission verification that Bham Shell, Inc. received a loan in the amount of \$900,000.00 from B6 Investments, LLC.
3. The licensee shall submit to the Commission verification that Bham Shell, Inc. received a loan in the amount of \$200,000.00 from B5 Investments, LLC.
4. The licensee shall submit to the Commission an acceptable and executed Lease Agreement between Bham Shell, Inc. and B5 Investments, LLC.
5. 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 permit until the licensee provides the Commission with proof of financial responsibility as required under MCL 436.1803.
6. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners".

B. The applicant's request for permission for motor vehicle fuel pumps on or adjacent to the licensed premises under MCL 436.1541(1) is APPROVED, subject to compliance with the requirements contained therein. The licensee shall maintain on the licensed premises at all times, a minimum inventory of at least \$250,000.00, at cost, of

goods and services customarily marketed by approved types of businesses, excluding alcoholic liquor, motor vehicle fuel, inventory on a consignment, or inventory owned by others, as required for licensure under MCL 436.1541(1)(a)(ii).

C. The applicant's request for a new permit to sell alcoholic liquor between 7 A.M. and Noon on Sundays is APPROVED, pursuant to Public Act 213 of 2010, MCL 436.2111-2115. This permit is subject to revocation by operation of law or otherwise if the Commission receives notice from a county, city, village, township, or the local governmental unit, that it prohibits or otherwise objects to the sale of spirits, mixed spirit drink or beer and wine between the hours of 7 A.M. and Noon on Sundays. If notice and supporting documentation is received by the Commission a Show Cause Hearing will be scheduled before the Commission under administrative rule R 436.1925(1) to determine if the permit must be revoked.

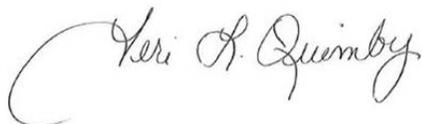
D. Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcements officials who have jurisdiction over the licensee. Approval of the license by 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.

E. 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 license and permit.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner



Dennis Olshove, Commissioner

Date Mailed:

tlc