



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

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In the matter of the request of)
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DL ENTERPRISES, LLC) Request ID No. 711808
12443-12449 Conant)
Detroit, Michigan 48212)
Wayne County)

At the February 12, 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 August 15, 2013, DL Enterprises, LLC (applicant) filed a request to transfer ownership of an escrowed Class C license from TGR, LTD at the above-noted address. The applicant also requested to transfer location and governmental unit under MCL 436.1531(1) of the subject license from 15070 Hamilton, Highland Park, Wayne County, to the above-noted location. The applicant also requested a new Entertainment Permit; new Topless Activity Permit; New Sunday Sales Permit (P.M.); and a new Additional Bar Permit (for a total of 2 Bars).

Objections were filed on behalf of the International Full Gospel Church of the Sons of God (church) and the Frontier International Academy High School (school). As a result the Commission held a hearing on those objections on February 20, 2014 and March 6, 2014, as required by MCL 436.1503(4) and administrative rule R 436.1955. At the March 6, 2014 hearing, the Commission concluded that the applicant failed to demonstrate by competent, material and substantial evidence that a waiver of MCL 436.1503 would not adversely affect the operation of the objecting church and school.

MCL 436.1503(1) states, in part: "A new application for a license to sell alcoholic beverages at retail, or a request to transfer location of an existing license, shall be denied if the contemplated location is within 500 feet of a church or a school building."

At a licensing meeting held on April 9, 2014, the Commission denied the licensing request under MCL 436.1503 based upon the church and school objections.

J. Patrick Howe, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the August 28, 2014 hearing, held at the Commission's Southfield office. Appearing on behalf of the church was Rhene Lee, Outreach Minister. There was no one present on behalf of the school and the Commission adjourned this matter to allow proper notice to be provided to all parties.

The Commission reconvened on October 30, 2014 in Southfield. Appearing on behalf of the applicant was Attorney Howe and applicant members, Dustin Williams and Leonard Manna. Attorney George Butler appeared on behalf of the school and Rhene Lee appeared on behalf of the church.

After hearing arguments, reviewing the MLCC file, and discussion of the issue on the record, the matter was tabled and the Commission reconvened on February 12, 2015 in Southfield.

After review of the entire record in this matter, the Commission finds that the sole issue on appeal is whether or not the applicant has shown by competent, material and substantial evidence that issuance of the license would not adversely impact the operations of the church and of the school. After providing the applicant, the church, and the school with several months of opportunity during the appeal process to submit to the Commission any additional documentation desired, the Commission finds that the applicant has clearly demonstrated a detailed business plan to comply with state laws and rules, as well as local laws and ordinances. Further, the Commission finds that the applicant has demonstrated that the operation of this business will not adversely impact the school on Conant, located down the street from the applicant location, across Conant and Charles Streets, or the church, located next to the applicant's business on Conant.

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 now finds sufficient reasons to conclude that the applicant has demonstrated by competent, material and substantial evidence that a waiver of MCL 436.1503 would not adversely affect the operation of the objecting church and school. The Commission therefore waives the objections of the church and school under administrative rule R 436.1963, and approves the applicant's request, for the reasons stated on the record.

THEREFORE, IT IS ORDERED that:

A. The denial order of April 9, 2014 issued in this matter is reversed and the applicant's request to transfer ownership of the escrowed Class C license from TGR, LTD 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 furniture, fixtures, and equipment have been installed; to determine adequate dressing rooms have been installed; to determine seating capacity has been established and posted; and to determine the licensed premises meets all requirements of the Michigan Liquor Control Code and Administrative Rules.
2. The licensee shall submit to the Commission an acceptable and executed Lease Agreement which correctly states the licensee as tenant.
3. The licensee shall submit to the Commission form LCC-3010 "Report

of Stockholders/Members/Partners”.

4. The licensee shall submit to the Commission form LCC-3012 “Closing Form for License Sale”.
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 permits until the licensee provides the Commission with proof of financial responsibility as required under MCL 436.1803.
6. 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 436.1060.
 - a. The licensee shall maintain active certification of completion for server training on the licensed premises at all times as provided in MCL 436.1906 and Administrative Rule 436.1060.
 - b. Failure to provide this documentary proof to the Commission within 180 days of the issuance of the licenses shall result in the licensee being charged with failure to comply with this order, under Administrative Rule 436.1029, which may result in fines, suspension and/or revocation of the license and permits.

B. The applicant’s request to transfer location and governmental unit under MCL 436.1531(1) of the subject license from 15070 Hamilton, Highland Park, Wayne County, to 12443-12449 Conant, Detroit, Wayne County, is APPROVED.

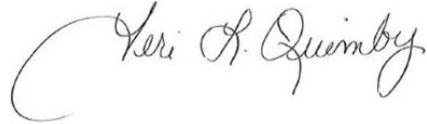
C. The applicant’s request for a new permit to sell alcoholic liquor after Noon on Sundays is APPROVED, subject to the following:

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 for a new Entertainment Permit is APPROVED.
- E. The applicant's request for a new Topless Activity Permit is APPROVED.
- F. The applicant's request for one (1) Additional Bar Permit (for a total of 2 Bars) is APPROVED.
- G. The licensee shall pay all license fees by April 30th each year pursuant to MCL 436.1501 and Administrative Rule 436.1107.
- H. Under Administrative Rule 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.
- I. 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 permits.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner



Dennis Olshove, Commissioner

Date Mailed:

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