

At the hearing, Mr. Boman referred to the Commission's diagram and photographs of the licensed premises contained in the MLCC investigative report and described that the proposed outdoor service area is used as a smoking porch for patrons and is separated into three sections: left, middle and right. The "left" area is identified in the diagram as containing 117 sq. ft.; the "right" side of the proposed area is identified as containing 161 sq. ft.; and the "middle" section is the large space between those two areas.

After hearing arguments, reviewing the MLCC file and discussion of the issue on the record, the Commission finds that the licensee sufficiently addressed the Commission's concerns relative to the left side of the outdoor service area, only. The concerns regarding the middle and right sections still remain.

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 licensee 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, in part, and to approve the applicant's request relative to the left side of the outside service area, only, for the reasons stated on the record.

THEREFORE, IT IS ORDERED that:

A. The denial order dated February 18, 2015 is REVERSED, in part, and the licensee's request for authorization for the outdoor sale, service, and consumption of

alcoholic beverages in the “left” area identified in the diagram as containing 117 sq. ft., located directly adjacent to the licensed premises and is well-defined and clearly marked, 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.

B. The denial order dated February 18, 2015 is AFFIRMED, in part, relative to the “middle” and “right” areas as depicted in the diagram.

C. 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.

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, 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

Request ID No. 770401
Page 4



Dennis Olshove, Commissioner

Date Mailed:

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