



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

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In the matter of the request of)
JK LIQUORS INC.)
1392 E. M-89) Request ID No. 667438
Otsego, Michigan 49078)
)
Otsego Township Allegan County)
_____)

At the January 8, 2013 hearing of the Michigan Liquor Control Commission
(Commission) in Lansing, Michigan.

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

LICENSING APPEAL ORDER

On August 13, 2012, JK Liquors Inc. (applicant) filed a request to transfer ownership of an existing escrowed 2012 SDD license with Sunday Sales Permit (P.M.) from Rite Aid of Michigan, Inc.; and to transfer location of the SDD license from 399 Cross Oaks Plaza, M-89, East, Plainwell, Otsego Township, Allegan County, to the above-noted location; to be held in conjunction with a proposed new SDM license with Sunday Sales Permit (A.M.) at that location.

At a meeting held on November 28, 2012, the Commission denied the subject request under administrative rule R 436.1133 because there is one (1) existing SDD licensee located within 2,640 feet of the proposed location (Wal-Mart Stores East, Limited Partnership), and the applicant does not qualify for a waiver under administrative rule R 436.1133 relative to that licensed outlet.

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 January 8, 2013 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 finds that the supplemental information presented by legal counsel at the hearing sufficiently demonstrates that the applicant is over 2,640 feet from the existing SDD licensee, and therefore, does not require a waiver of administrative rule R 436.1133.

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)(f)(j), the licensee may sell beer, wine, spirits and mixed spirit drink 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 November 28, 2012 issued in this matter is REVERSED, and the applicant's request is APPROVED, subject to the following:

1. The consummation of the applicant's request for a new SDM license (Request ID# 667436).
2. The licensee shall pay all license fees by April 30th each year pursuant to administrative rule R 436.1107.

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 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 this license and 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.

MICHIGAN LIQUOR CONTROL COMMISSION

Teri L. Quimby, Commissioner

Dennis Olshove, Commissioner

Prepared by:
Terri Chase, Commission Aide

Date Mailed: _____