



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

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In the matter of the request of)) JTW ENTERPRISE, LLC) 206 N. Williams) Rose City, Michigan 48654)) Ogemaw County) _____)	Request ID No. 772349
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At the March 24, 2015 hearing of the Michigan Liquor Control Commission (Commission) in Lansing, Michigan.

PRESENT: Andrew J. Deloney, Chairman
Teri L. Quimby, Commissioner
Dennis Olshove, Commissioner

LICENSING APPEAL ORDER

On November 18, 2014, JTW Enterprise, LLC (applicant) filed a request to transfer ownership of 2014 Class C license and Specially Designated Merchant licenses with Sunday Sales Permits (A.M. & P.M.), Dance Permit, Outdoor Service (1 area), Off-Premises Storage, Specific Purpose Permit (Food) and two (2) Bars from Tee Pee Management, Inc., with Stephen L. Bush as court-appointed Receiver; to be held at the above-noted location. The applicant also requested to cancel the existing Specific Purpose Permit (Food); and requested consideration of licensing under the provisions of administrative rule R 436.1121(2)(f).

At a meeting held on February 4, 2015, the Commission denied this request under administrative rule R 436.1105(2)(g)(iv) after considering the prior arrest and conviction record of applicant member, Todd Wilber.

The Commission also denied this request 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.

Further, the Commission did find that the applicant demonstrated good cause to satisfy the requirements of administrative rule R 436.1121(2)(f) and granted approval of same.

John MacNeal, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the March 24, 2015 hearing, held at the Commission's Lansing office.

After hearing arguments, reviewing the MLCC file and documents presented, and discussion of the issue on the record, the Commission finds that the applicant sufficiently demonstrated mitigating circumstances relative to the prior arrest and conviction record of Todd Wilber, and adequately addressed the concerns with this application.

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) and (f), the licensee may sell beer, wine, mixed spirit drink and spirits for consumption on the premises, and beer and wine only for off premise consumption.

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 February 4, 2015 issued in this matter is reversed and the applicant's request to transfer ownership of the 2014 Class C and Specially Designated

Merchant licenses from Tee Pee Management, Inc., with Stephen L. Bush as court-appointed Receiver, at the subject location is APPROVED, subject to the following:

1. The licensee shall submit to the Commission documentary proof that JTW Enterprise, LLC has received a loan in the amount of \$25,000.00 from applicant member, Todd Wilber.
2. The licensee shall submit to the Commission documentary proof that JTW Enterprise, LLC has received a loan in the amount of \$200,000.00 from CTI Restaurant, Inc.
3. The licensee shall submit to the Commission a signed land contract, real estate mortgage, warranty deed, or quit claim deed. A Real Estate Transfer Tax Valuation Affidavit must be provided, if the deed does not list the actual purchase price.
4. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners".
5. The licensee shall submit to the Commission Form LC-3012 "Closing Form for License Sale".
6. 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 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 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 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.

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. The applicant's request to transfer the existing Dance Permit is APPROVED, subject to the following:

1. 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.
2. The licensee is prohibited from having tables, chairs, or other obstacles on the dance floor while customers are dancing.

E. The applicant's request to transfer the existing Outdoor Service (1 Area) 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.

F. The applicant's request for permission to maintain an Off-Premises Storage area is APPROVED subject to the following:

1. The licensee shall ensure that the off-premises storage area is locked and secured at all times.
2. The licensee shall make the off-premises storage area available for inspection and search of a Commission investigator or law enforcement officer empowered to enforce the Commission's rules during regular business hours or when the licensed premises are occupied by the licensee or a clerk, servant, agent, or employee of the licensee.
3. The licensee agrees that evidence of a violation discovered pursuant to any investigation of the off-premises storage area may be seized and used in an administrative or court proceeding.
4. The licensee shall immediately notify the Commission if the off-premises storage area is no longer being used.
5. The licensee shall immediately notify the Commission if the off-premises storage area increases or decreases in size.

G. The applicant's request to transfer the existing two (2) Additional Bars is APPROVED.

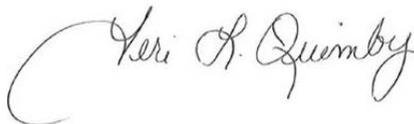
H. Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcements officials who have jurisdiction over the licensee. Approval of the licenses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

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 licenses and permits.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner



Dennis Olshove, Commissioner

Date Mailed:

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