

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.

Frank Palazzolo, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the March 5, 2015 hearing, held at the Commission's Southfield office.

After hearing arguments, reviewing the MLCC file and documents submitted, and discussion of the issue on the record, the Commission finds that the applicant adequately addressed the Commission's 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), the licensee may sell beer, wine, mixed spirit drink and spirits for consumption on the premises.

The Commission finds sufficient reasons to reverse its denial issued in this matter and to approve the applicant's conditional license request for the reasons stated on the record.

THEREFORE, IT IS ORDERED that:

A. The denial order of November 12, 2014 issued in this matter is reversed and the applicant's request for conditional Class C license under MCL 436.1525(5) is APPROVED, subject to the following:

1. The existing license and permits shall be submitted to the Commission before or at the time of the issuance of the conditional license, and remain in escrow under administrative rule R 436.1107 until one of the expiration factors is reached under MCL 436.1525(7).
2. The conditional license is non-transferable and non-renewable, and

expires one year after the date the conditional license was issued unless one of the other expiration factors is reached earlier under MCL 436.1525(7).

3. The conditional licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners".
4. The conditional licensee shall maintain 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 conditional licensee provides the Commission with proof of financial responsibility as required under MCL 436.1803.
5. The conditional 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 conditional license, as provided in administrative rule R 436.1060.
 - a. The conditional 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 conditional 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 for a conditional 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.

C. The applicant's request for a conditional Topless Activity Permit is APPROVED.

D. The applicant's request for a conditional Dance-Entertainment 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 for a conditional Specific Purpose Permit (Food) is APPROVED, subject to the following:

1. Under administrative rule R 436.1437(2), the licensee shall not allow customers on the licensed premises during the time period provided by the Specific Purpose Permit unless the activity, and only that activity, allowed by the Specific Purpose Permit, is occurring.

F. The applicant's request for 5 conditional Additional Bar Permits is APPROVED.

G. Failure by the conditional licensee to comply with all laws and rules may result in the revocation of the approval contained in this order.

H. The approval of this conditional license does not guarantee approval by the Commission of the request to transfer the existing license. Any investments made by the conditional license applicant are done at the applicant's risk.

I. Under administrative rule R 436.1003, the conditional 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 conditional license by the Michigan Liquor

Control Commission does not waive any of these requirements. The conditional licensee shall obtain all other required state and local licenses, permits, and approvals before selling or serving alcoholic liquor.

J. Failure to comply with all requirements of licensure in the State of Michigan will result in the conditional 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 conditional license.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Dennis Olshove, Commissioner

Date Mailed:

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