



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

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In the matter of the request of)
PHONGTRAN, LLC)
912 E. Cork) Request ID No. 672037
Kalamazoo, Michigan 49001)
)
Kalamazoo County)
_____)

At the March 5, 2013 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 October 31, 2012, Phongtran, LLC (applicant) filed a request to transfer ownership of escrowed 2012 SDD and SDM licenses with Sunday Sales Permit (A.M.) and Sunday Sales Permit (P.M.) from B & S Party Store, Inc. located the above noted address. The applicant also requested permission to add space to the physical structure of the licensed premises in an area measuring up to 36' x 48'.

At a meeting held on January 16, 2013, the Commission denied this request under administrative rule R 436.1105(2)(a) after considering the prior operating record of applicant member, Phong Tran, involving three (3) violations of the sale of alcoholic liquor to a person under 21 years of age and Mr. Tran was the selling clerk cited in two (2) of those violations.

Attorney Michael Brown submitted a timely request for an appeal in this matter and represented the applicant at the March 5, 2013 hearing, held at the Commission's Lansing

office.

After hearing arguments, reviewing the MLCC file, and discussion of the issue on the record, the Commission finds that the applicant sufficiently demonstrated a course of action has been taken to assist in preventing further violations of the Michigan Liquor Control Code and Administrative Rules.

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 licensee is authorized to do business in Michigan, as required under MCL 436.1535 for licensure. Under MCL 436.1537(1)(f)(g), 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 January 16, 2013 issued in this matter is reversed and the applicant's request 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 that the added space has been constructed as proposed; to determine that the establishment does not have any direct connections; to determine that all remodeling, construction, and building improvements have been made; to determine that all furniture, fixtures, and equipment have been installed; to determine that sufficient inventory has been

installed to determine and verify the true nature of the business; to determine the total costs and method of financing; and to determine that the establishment 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.
3. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners".
4. The licensee shall provide 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.

B. The applicant's request to transfer the existing permit to sell alcoholic liquor after 12:00 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 licensee's to transfer the existing permit to sell alcoholic liquor between 7 a.m. and Noon on Sundays, as currently licensed by the Liquor Control Commission, 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 7:00 A.M. and 12:00 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 436.1925(1) to determine if the permit must be revoked.

D. Under administrative rule R 436.1107, the licensee shall submit all license fees to the Commission by April 30th of each year.

E. 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.

F. 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

Andrew J. Deloney, Chairman

Teri L. Quimby, Commissioner

Dennis Olshove, Commissioner

Prepared by:
Terri Chase, Commission Aide

Date Mailed: _____