

Owen Ramey, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the August 11, 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 has demonstrated through the Judgment of Divorce dated August 21, 2007 (Van Buren Circuit County File No. 06 55 451 DM H) and by comments made on the record, that Kristy L. Pobuda-Nutting was not involved in the operation of the business when the serious violation history took place in the other licensed establishment as noted in the denial order issued in this matter.

Further, the Commission finds that the applicant adequately demonstrated plans for an adequate physical plant appropriate to the proposed type of business the applicant plans to operate.

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 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 request for the reasons stated on the record.

THEREFORE, IT IS ORDERED that:

A. The denial order of July 15, 2015 issued in this matter is reversed and the applicant's request to transfer ownership of the escrowed Class C license from Lariat Lanes, Inc. 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 construction has been completed as proposed; to determine the final dimensions of the licensed premises; to determine adequate furniture, fixtures, and equipment have been installed; to determine the hours of operation; to determine the seating capacity has been established and is posted; to determine the total cost and method of financing; to determine the Outdoor Service area has been constructed as proposed; and to determine the licensed premises meets all requirements of the Michigan Liquor Control Code and Administrative Rules.
2. The licensee shall submit to the Commission verification that Viking43, L.L.C. received a loan in the amount of \$14,000.00 from applicant member, Kristy L. Pobuda-Nutting.
3. The licensee shall submit to the Commission verification that real estate purchaser, WK Enterprises, LLC, received a loan in the amount of \$20,000.00 from applicant member, William Nutting.
4. The licensee shall submit to the Commission an acceptable and executed Lease Agreement with a specific commencement date.
5. The licensee shall submit to the Commission a copy of 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.
6. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners".
7. The licensee shall submit to the Commission Form LC-3012 "Closing Form for License Sale".
8. 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 license and permit until the licensee provides the Commission with proof of financial responsibility as required under MCL 436.1803.

9. 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 license and permit, 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 license and permit.

B. 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.
3. The licensee is prohibited from allowing the sale, service, possession or consumption of alcoholic beverages in any portion of the approved outdoor service area designated for the playing of sporting activities or for sporting events, including any break or intermission.

C. The licensee shall pay all license fees by April 30th each year pursuant to administrative rule R 436.1107.

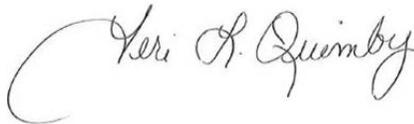
D. Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcements officials who have jurisdiction over the licensee. Approval of the license and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

E. 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 license and permit.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner



Dennis Olshove, Commissioner

Date Mailed:

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