

license or permit.

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 September 8, 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 a course of action has been taken to assist in preventing further violations of the Michigan Liquor Control Code and Administrative Rules.

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 Talmer West Bank is APPROVED, subject to the following:

1. The licensee shall submit to the Commission verification that W Burt, LLC received a loan in the amount of \$167,000.00 from applicant members, Roger Schultz and Juanita Schultz.
2. The licensee shall submit to the Commission verification that W Burt, LLC and real estate purchaser, M Dewey, LLC, received a loan in the

amount of \$440,000.00 from Horizon Bank.

3. The licensee shall submit to the Commission an executed and acceptable Lease Agreement between W Burt, LLC, tenant and M Dewey, LLC, landlord.
4. 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.
5. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners".
6. The licensee shall submit to the Commission Form LC-3012 "Closing Form for License Sale".
7. 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 license and permits until the licensee provides the Commission with proof of financial responsibility as required under MCL 436.1803.
8. 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 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 license 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 permits.

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

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-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 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.

F. The licensee's request for a new 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 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.

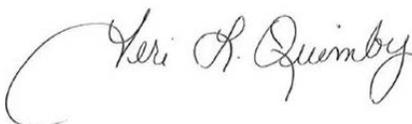
G. Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcements officials who have jurisdiction over the licensee. Approval of the license and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

H. 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 permits.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner

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Dennis Olshove, Commissioner

Date Mailed:

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