



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

In the matter of )  
**DISCOUNT BEER & WINE, INC.** )  
1390 E. Bristol ) Business ID No. 215580  
Burton, Michigan 48529 )  
Genesee County )  
\_\_\_\_\_ )

At the October 4, 2012 hearing of the Michigan Liquor Control Commission  
(Commission) in Southfield, Michigan.

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

**PENALTY HEARING ORDER**

Under MCL 436.1903(1), the Commission is required to impose a suspension or revocation of the 2012 Resort SDD and SDM licenses with Sunday Sales Permit (A.M.) and Sunday Sales Permit (P.M.) held by Discount Beer & Wine, Inc. (licensee) at the above-noted address, as the licensee was found liable for three (3) violations of MCL 436.1801(2) on different occasions within a 24-month period. Those violations occurred on August 14, 2010, September 29, 2011 and June 15, 2012.

The penalty hearing was held on October 4, 2012, at the Commission's Southfield office. Representing the licensee at the hearing was Attorney Joseph Shallal and sole stockholder, David Yono.

After reviewing the record of the three (3) violations and hearing arguments from Attorney Shallal and Mr. Yono, the Commission finds that the licensee demonstrated a course of action has been taken to assist in preventing further sales to minors; however, the Commission must issue a penalty of suspension or revocation in this matter under MCL 436.1903(1). The Commission finds that a two (2) days suspension to be served on October 9, 2012 and October 10, 2012 is warranted.

THEREFORE, IT IS ORDERED that:

- A. The 2012 Resort SDD and SDM licenses with Sunday Sales Permit (A.M.) and Sunday Sales Permit (P.M.) is SUSPENDED for two (2) consecutive days, to be served on October 9, 2012 and October 10, 2012.
- B. The suspension is to run consecutively and not concurrently with any other suspension ordered by the Michigan Liquor Control Commission for this licensee.

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Andrew J. Deloney, Chairman

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Teri L. Quimby, Commissioner

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Dennis Olshove, Commissioner

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Prepared by:  
Terri Chase, Commission Aide

Date Mailed: \_\_\_\_\_



**STATE OF MICHIGAN**

**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LIQUOR CONTROL COMMISSION**

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In the matter of the request of )  
**FARS FILL UP INC.** )  
13500 W. Eight Mile ) Request ID No. 620590  
Oak Park, Michigan 48237 )  
Oakland County )  
\_\_\_\_\_ )

At the October 4, 2012 hearing of the Michigan Liquor Control Commission  
(Commission) in Southfield, Michigan.

**PRESENT: Andrew J. Deloney, Chairman**

**Teri L. Quimby, Commissioner**

**Dennis Olshove, Commissioner**

**LICENSING APPEAL ORDER**

On July 20, 2011, Fars Fill Up Inc. (applicant) filed a request for a new SDM license with permission for motor vehicle fuel pumps under MCL 436.1541(1) and Sunday Sales Permit (A.M.), to be located at the above-noted location.

At a meeting held on August 15, 2012, the Commission denied this request under administrative rule R 436.1105(3) as the City of Oak Park notified the Commission that the proposed licensed location would not meet zoning requirements.

Attorney Joseph Shallal, counsel for the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the October 4, 2012 hearing, at the Commission's Southfield office.

After hearing arguments, reviewing the MLCC file and discussion of the issue on the record, the Commission finds that the City of Oak Park sent a letter dated June 5, 2012 to the Commission regarding this request, citing the City of Oak Park Zoning Ordinance, Article XIX, Special Land Uses, Section 1929, as the basis of objection. A

summary of the reason is that the proposed location is within 1,000 feet of an existing licensee and within 500 feet of a place of worship.

The applicant's request was denied under administrative rule R 436.1105(3) which requires denial if the Commission is notified, in writing, that the applicant's proposed location does not meet all *appropriate* state and local building, plumbing, zoning, fire, sanitation, and health laws and ordinances as certified to the Commission by the appropriate law enforcement officials.

Administrative rule R 436.1003, however, places the burden on the licensee to comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules and ordinances as determined by the state and local law enforcement officials who have jurisdiction over the licensee.

The statutory provisions in MCL 436.1541(1) mandates that the Commission not prohibit an applicant for this type of license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises, if the conditions of the statute are met. The Legislature has been very specific in granting broad authority to the Commission, for example, as stated in MCL 436.1201(2): "Except as otherwise provided in this act, 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." The Legislature has also been very specific in granting specific authority to the local units of government, such as for the regulation of Sunday Sales and certain other sales, in MCL 436.2101 et seq.

It appears that a direct conflict may exist between this local regulation and the statutory provisions in the MLCC Code, as well as the Michigan Constitution of 1963, Article IV, §40, which states in part, that "the legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof." In applying the statutory provisions to the applicant's request, the applicant meets the statutory criteria. Under administrative rule R 436.1003, the licensee has the burden to comply with the stated appropriate regulations, including zoning. Whether or not an applicant needs to work with the local unit, in this case or others, for variances or challenges, to any particular Ordinance, it is the burden of the licensee to do so, not the burden of the Commission.

The Commission further finds that the MLCC Commission's investigation revealed that the proposed licensed location appears to qualify for licensure under the provisions of MCL 436.1541(1)(a)(ii) and MCL 436.1541(1)(b) as defined under administrative rule R 436.1129(4)(c), providing the applicant installs and maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$250,000.00, at cost, of those goods and services customarily marketed by approved types of businesses; and that the site of payment and selection of alcoholic liquor is not less than 50 feet from that point where motor vehicle fuel is dispensed.

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 August 15, 2012, 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 all improvements have been completed as proposed; to review form LC-130 "Affidavit of Inventory Service" and determine that the applicant has purchased and installed an approved type inventory of at least \$250,000.00, at cost, as required under MCL 436.1541(1)(a)(ii); to determine that the site(s) of payment and selection of alcoholic liquor is not less than 50 feet from the point where motor vehicle fuel is dispensed, as required under MCL 436.1541(1)(b); 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 documentary proof that Fars Fill Up Inc. received a loan in the amount of \$205,635.00 from stockholder, George Solaka.
3. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners".
4. The licensee must 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.

B. The licensee's application for a permit to sell alcoholic liquor between 7:00 A.M. and 12:00 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 7:00 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 R 436.1925(1) to determine if the permit must be revoked.

C. The licensee shall cooperate with the Commission's Enforcement Division during an accounting that will be conducted 180 days from the date of licensure to determine that the applicant continues to maintain on the licensed premises at all times, a minimum inventory of at least \$250,000.00, at cost, of goods and services customarily marketed by approved types of businesses, excluding alcoholic liquor, motor vehicle fuel, inventory on a consignment, or inventory owned by others, as required for licensure under MCL 436.1541(1)(a)(ii).

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 this 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, MLCC Administrative Rules, and Commission order, which may result in fines, suspension, and/or revocation of the license and permit.

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Andrew J. Deloney, Chairman

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Teri L. Quimby, Commissioner

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Dennis Olshove, Commissioner

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Prepared by:  
Terri Chase, Commission Aide

Date Mailed: \_\_\_\_\_



**STATE OF MICHIGAN**

**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LIQUOR CONTROL COMMISSION**

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In the matter of the request of	)	
<b>MARKET STREET LIQUOR &amp; WINE SHOP,</b>	)	
<b>INC.</b>	)	
45338 Market	)	Request ID No. 531227
Shelby Township, Michigan 48315	)	
	)	
Shelby Township Macomb County	)	
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At the October 4, 2012 hearing of the Michigan Liquor Control Commission (Commission) in Southfield, Michigan.

**PRESENT: Andrew J. Deloney, Chairman**

**Teri L. Quimby, Commissioner**

**Dennis Olshove, Commissioner**

**LICENSING APPEAL ORDER**

On October 19, 2009, Market Street Liquor & Wine Shop, Inc. (applicant) filed a request for a new SDD license with new Sunday Sales Permit (P.M.) to be held in conjunction with an existing SDM license with Sunday Sales Permit (A.M.) and Beer and Wine Sampling Permit, held at the above-noted location.

At a meeting held on June 22, 2012, the Commission denied the subject request under administrative rule R 436.1133 because there are two (2) existing SDD licensees located within 2,640 feet of the proposed location (Costco Wholesale Corp. and Meijer, Inc.) and the applicant does not qualify for a waiver under administrative rule R 436.1133 relative to those licensed outlets.

Peter Abbo, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and represented the applicant at the October 4, 2012 hearing, at the Commission's Southfield office.



After hearing arguments, reviewing the MLCC file and discussion of the issue on the record, the Commission does not find error with the application of the MLCC Code or MLCC Administrative Rules. Specifically, the applicant does not qualify for a waiver under administrative rule R 436.1133. For the reasons stated on the record, the previous order is affirmed.

THEREFORE, IT IS ORDERED that:

The denial order of June 22, 2012, issued in this matter is AFFIRMED.

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Andrew J. Deloney, Chairman

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Teri L. Quimby, Commissioner

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Dennis Olshove, Commissioner

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Prepared by:  
Terri Chase, Commission Aide

Date Mailed: \_\_\_\_\_