



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

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In the matter of the request of)
MEIJER, INC.)
For a declaratory ruling regarding MCL 124.21)
et seq.)
_____)

At the October 16, 2018 business meeting of the Michigan Liquor Control Commission in Lansing, Michigan.

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

DENIAL ORDER
REQUEST FOR DECLARATORY RULING

The Commission received a request for a declaratory ruling from Meijer, Inc., (“Petitioner”) pursuant to Mich Admin Code, R 436.1971 on September 18, 2018. Under R 436.1973(1), the Commission has thirty days within which to notify a petitioner if a declaratory ruling will be issued. On October 16, 2018, the Commission met in an open meeting at 9:30 a.m. in the Lansing offices of the Commission and considered the request from Petitioner. After deliberation and discussion at the open meeting, the Commission denied the request for the declaratory ruling. Under R 436.1975, if a request for a declaratory ruling is denied, the Commission must issue a concise written statement of its principal reasons for denial within thirty days of the denial.

Petitioner is a licensee of the Commission and holds Specially Designated Distributor (SDD) and Specially Designated Merchant (SDM) licenses with various permits at 226 locations in Michigan. Petitioner requested a declaratory ruling with regard to two questions concerning MCL 124.21 *et seq.*, statutes that address intergovernmental conditional transfers of property by contract. Specifically, Petitioner asks: (1) If a 425 Agreement is silent regarding the assignment of MLCC license quota, is the availability of license quota determined according to the municipality where the property physically

resides or the municipality from which the property receives services? (2) If the availability of license quota is determined based upon the municipality from which the property receives services, which services are dispositive (i.e. police, utilities, sewage, etc.)?

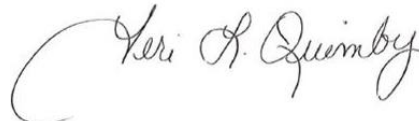
The Commission denies the request because the statutes permitting contracts for intergovernmental transfers of property, also known as “425 Agreements,” are not administered by the Commission, so to the extent the request requires opining on the meaning of those statutes, the Commission lacks the authority to do so. Additionally, the Liquor Control Code and the Commission’s administrative rules specify the methods for determining availability of quota licenses. The availability is determined by the Commission using (a) the Federal decennial census, (b) a special census taken pursuant to section 6 of the home rule city act, MCL 117.6, (c) a special census taken pursuant to section 7 of the Glenn Steil State Revenue Sharing Act, MCL 141.907, or (d) the latest population estimates and projections prepared by the US Department of Commerce, Social and Economic Statistics Administration or Bureau of the Census. See MCL 436.1531; Mich Admin Code R 436.1141.

THEREFORE, IT IS ORDERED THAT Meijer, Inc.’s request for a declaratory ruling is DENIED.

MICHIGAN LIQUOR CONTROL
COMMISSION



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner



Dennis Olshove, Commissioner