

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION



MINUTES June 15, 2011 1:30 pm

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, June 15, 2011, in Nashville, Tennessee at 1:30 p.m. Although Commissioner Jones was not present, a quorum was present with Chairperson Mary McDaniel and Commissioner Bryan Kaegi and therefore the meeting was conducted. Executive Director Danielle Elks, CLEO Mark Hutchens SAC Brad Allison and Jack Byrd, III, intern, were present.

1. **The Minutes for May 25, 2011 Commission Meeting were approved.**
2. **CONTINUED RETAIL MATTERS FROM MAY 25, 2011 MEETING**
 - A. **141 WINE AND SPIRITS
CARYVILLE, TENNESSEE (CAMPBELL COUNTY)**

Applicant: 141 Wine and Spirits, LLC
Members: Mark L. Hoskins and Jeff Hoskins

Before the Commission is a request for a new retail store to be located at 295 Howard Baker Highway in Pioneer, Tennessee. Mark Hoskins and Jeff Hoskins wish to initially invest \$100,000 each. Financing is based upon a line of credit from American Trust Bank and existing personal funds. If approved, each would own 50% of the business. The applicant LLC is leasing the property from Legacy Land Company, LLC for a period of five years at \$3000/month. (Jeff Hoskins is the sole member of Legacy Land Company, LLC.) Although the applicant did submit a copy of the newspaper notice, the notice was published only once—as opposed to the required publication in three consecutive issues. However, it should be noted that it was the City of Caryville that published the notice—not the applicant. Further, on this notice, all possible applicants for a certificate of compliance—including the current applicant—were listed in the published notice. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. Actual loan agreements.

Discussion/Action Taken (05/25/11):

Director Elks reviewed the matter to the Commissioners and stated that one of the requirements to obtain a retail package store license was the publication of the newspaper notice in three consecutive issues of a local newspaper. Director Elks stated that the newspaper ad was only run once in the local newspaper by the City of Caryville indicating all applicants for retail stores in Caryville. The city issued the Certificate of Compliance. Director Elks stated that the newspaper will need to be published twice more in the newspaper and the City of Caryville will need to reissue the Certificate of Compliance. She also stated that the Use and Occupancy will need to be submitted. Director Elks recommended that this matter be continued to the June Commission meeting.

Commissioner Jones made a motion to continue this matter to the June Commission meeting. Commissioner Kaegi seconded the motion and it passed with 3 ayes.

Discussion/Action Taken (06/15/11):

Director Elks indicated the newspaper notice had been properly published, and the City of Caryville had properly re-issued the Certificate of Compliance. All additional information had been submitted. Therefore, she recommended approval.

Commissioner Kaegi made a motion for approval. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**B. IROQUOIS WINE AND SPIRITS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: PPT Enterprises, LLC
Stockholder: Mary Thomas

Before the Commission is a request for a new retail store to be located at 7063 Highway 70 in Nashville, Tennessee. Ms. Thomas wishes to initially invest \$100,000 to operate the business. Financing is based upon a loan from her father, Al Thomas. The applicant LLC is leasing the property from Bellevue Properties, LP for a period of five years, with two five-year options to renew. Monthly rent begins at \$5133.33/month and increases to \$5780.13/month, plus an additional \$1781.27/month for common area maintenance, property tax and insurance. Tennessee statutes prohibit an individual having an interest, directly or indirectly, in a on-premise consumption license (LBD) if one has an interest, directly or indirectly, with a off-premise consumption license (retail package store)—and visa versa. It

should be noted that Mr. Thomas is the owner of the restaurant licensee, Sperry's. Further, Ms. Thomas's mother, Patricia, was the original applicant for this store; however, when advised that she could not qualify for a license, the applicant was changed to Mary Thomas. All documentation has been submitted with the exception of the following:

- a. Certificate of Compliance;
- b. TABC Inspection;
- c. Acknowledgement of the rules/regulations;
- d. Sales tax registration in applicant's name;
- e. Explanation of joint checking account;
- f. Loan agreement;
- g. Financial and bank check on Al Thomas.

Discussion/Action Taken:

Director Elks stated that the attorney, Adam Dread, has requested that this matter be continued to the June Commission meeting in order to obtain the Certificate of Compliance.

Since the May 25, 2011 Commission meeting and after discussion with the applicant's attorney, Ms. Thomas has obtained independent financing from her grandfather and is no longer borrowing money from her father.

Discussion/Action Taken (06/15/11):

Mary Thomas, Ernie Paquette (manager), and Adam Dread, attorney, were present at the meeting. Director Elks reviewed the matter for the Commissioners. Director Elks stated that because Al Thomas owns Sperry's Restaurant, he could not loan Mary Thomas money for the retail package store; therefore, Ray Porter (grandfather) is loaning Mary Thomas the money to open the retail package store. Subsequent to this review, Director Elks recommended approval.

Commissioner Kaegi made a motion for approval. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**C. CORNER WINE AND SPIRITS
FRANKLIN, TENNESSEE (WILLIAMSON COUNTY)**

Licensee/Seller: Elizabeth Ward
Applicant/Buyer: Jai Guru Development of Franklin, LLC
Members: Krishna Patel and Vrushank Surati

Before the Commission is a request for a change in ownership of the retail store located at 1110 Hillsboro Road, Suite 120, in Franklin, Tennessee. Mr. Patel and Mr. Surati wish to purchase the business from Ms. Ward for \$650,000, which includes the inventory. Financing is based upon a loan in the amount of \$480,000 from American Security Bank and Trust, and the remainder upon a loan in the amount of \$107,500 from Manharbhai Patel, Krishna Patel's father. If approved, Krishna Patel will own 51% of the business, and Mr. Surati will own 49%. The applicant LLC will be leasing the property from Harpeth Village Retail Partners for a period of 10 years, with monthly rent beginning at \$7027.25 and increasing to \$8398.22 over the term of the lease. All documentation has been submitted with the exception of the following:

- a. Original questionnaire for Mr. Surati;
- b. Questionnaire for Manharbhai Patel;
- c. Amend application to reflect LLC;
- d. Deed to Harpeth Village Retail Partners;
- e. Certificate of Compliance for Krishna Patel;
- f. Newspaper Notice and Affidavit for Krishna Patel;
- g. Actual loan agreement with American Security Bank and Trust;
- h. Financial and Bank check, including verification of funds, for Manharbhai Patel.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended that this matter be continued to the June Commission meeting due to Certificate of Compliance issues for one of the two individuals.

Commissioner Jones made a motion to continue the matter to the June Commission meeting. Commissioner Kaegi seconded the motion and it passed with 3 ayes.

Discussion/Action Taken (06/15/11):

Krishna Patel, Vrushank Surati and William Cheek, III, attorney, were present at the meeting. Director Elks reviewed the matter to the Commission. She indicated that both members of the LLC were able to obtain a Certificate of Compliance from the City of Franklin. She recommended approval subject to the receipt of the remaining documentation.

Commissioner Kaegi made a motion to approve. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

3. RETAIL NEW MATTERS

**A. FUZZY DUCK LIQUORS
COLUMBIA, TENNESSEE (MAURY COUNTY)**

Licensee/Seller: John Totty
Applicant/Buyer: Fuzzy Duck Enterprises, Inc.
Stockholder: Sabrina Parker

Before the Commission is a request for a transfer of ownership of the retail store located at 203 West 6th Street, in Columbia, Tennessee. Sabrina Parker wishes to purchase the business for \$270,000 plus inventory. Financing is based upon personal loans with LeRoy Martin (\$150,000) and Michael Prickett (\$135,000), as well as a security note with the current licensee, John Totty (\$135,000). The applicant corporation is leasing the property from John and Debra Totty for a period of five years at \$1850/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection
- b. Acknowledgement of the rules and regulations;
- c. Signature pages on loans with Prickett and Totty and the Bill of Sale;
- d. Questionnaires for Mr. Totty, Mr. Prickett; and Mr. Martin;
- e. Bank credit check on Ms. Parker; and
- f. Loan agreement with Mr. Martin.

Discussion/Action Taken:

Sabrina Parker was present at the meeting. Director Elks reviewed the matter to the Commission. She indicated that all remaining documentation had been submitted with the exception of the bank credit check for Ms. Parker. Director Elks recommended approval upon submission of the bank credit check.

Commissioner Kaegi made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**B. JAX LIQUOR STORE
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Licensee: Steve and Peggie Andrews
Applicant: Steve Andrews

Before the Commission is a request for a transfer of ownership of the retail store located at 216 Market Street in Chattanooga, Tennessee. Mrs. Andrews passed away in January, 2010 without a will. Because Mrs. Andrews had been in poor health in the recent years, Mr. Andrews became the predominant partner in the running of the business. He is now requesting the license be placed in his name as a sole proprietorship. He is leasing the property from himself and his wife for a period of one year at \$3000/month. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. Certificate of Compliance;
- c. Newspaper Notice and affidavit.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval when the remaining documents were submitted.

Commissioner Kaegi made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

3. WINERY MATTERS

**A. BOOTLEGGERS' HOMEMADE WINE, LLC
GATLINBURG, TENNESSEE (SEVIER COUNTY)**

Applicant: Bootlegger's Homemade Wine, LLC
Members: Margaret Edwards and Virginia Baker

Before the Commission is a request for a new winery to be located at 903 Parkway, Suite 108, in Gatlinburg, Tennessee. Ms. Edwards and Ms. Baker wish to initially invest \$86,000 to operate the business, and if approved, will operate as a LLC. If approved, Ms. Edwards will own 30% and Ms. Baker will own 70%. Financing is based upon a loan with Joseph Baker. They are sub-leasing the property from Ole Smoky Distillery, LLC for a period of ten years with the monthly rent ranging from \$1261.67 to \$2,379.50. All documentation has been submitted with the exception of the following:

- a. Department of Agriculture certification;
- b. Written verification that business will be separate and distinct from distillery.

Discussion/Action Taken:

Margaret Edwards was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval when the remaining documents were submitted.

Commissioner Kaegi made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

4. DISTILLERY/MANUFACTURER MATTERS

A. BLUES CITY BREWERY

Applicant: Blues City Brewery, LLC

Members: Sabina Bossard, Kurt Bosshard, George Parke, III,
William Bosshard, John Bosshard, III, Ralfph Morello

Before the Commission is a request for a new manufacturer to be located at 5151 East Raines Road in Memphis, Tennessee. If approved, the business will be operated as a LLC. During the recent legislative session, a bill was passed (HB 986/ SB 1224) which clarified that a manufacturer licensed by the TABC would be able to brew high alcoholic content beer (beer containing greater than 5% alcoholic content by weight). This bill further allows such manufacturer to sell the product at retail and be licensed as a restaurant. The applicant will be manufacturing both regular beer and high alcoholic content beer. The applicant is leasing the property from the Industrial Development Board of the City of Memphis and the County of Shelby, Tennessee. The LLC is investing \$35,000,000 to operate the business. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgment of the rules/regulations.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the TABC Inspection and the Acknowledgment of the rules and regulations.

Commissioner Kaegi made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

4. **BUDGET**
5. **CONSENT ORDERS**
6. **PENDING MATTERS LIST**
7. **MISCELLANEOUS**
 - A. **Monthly Summary of TABC Activity**
 - B. **Discussion on HB 986/SB 1224**

Discussion/Action Taken:

Director Elks stated that HB 986/SB 1224 pertains to Blues City Brewery and others. Director Elks stated that the new bill gives the Commission the authority to issue manufacturing licenses to high alcoholic content locations and it also allows retail stores to give away complimentary samples of alcoholic products on their licensed premises. The statute further gives the Commission the authority to promulgate rules and regulations regarding tastings.

- C. **Discussion on recent AG Opinion regarding ownership of wholesale business**

Discussion/Action Taken:

Director Elks stated that the agency had requested an Attorney General's Opinion in March regarding Eagle Distributing Company. Director Elks stated that Eagle Distributing Company owns a beer distributorship in Knoxville and they were requesting a separate and distinct wholesale license to distribute liquor and wine. Director Elks stated the questions arose whether a corporation could be the sole stockholder of the corporate applicant. Opposition to the structure of the application arose at the Commission meeting. Pending the issuance of the Attorney General Opinion, and as a result of this, the Commission gave the applicant a temporary license that was valid for six months until the Attorney General's Opinion was issued. It was agreed that depending on the result of the Opinion request, Eagle Distributing may have to restructure after the issuance of the Opinion. The Opinion sets forth that the stockholder of a corporate applicant must be an individual and cannot a corporation or a trust. Director Elks stated that an exception exists in the statute if a corporation has been in existence for 25 years and the majority of its assets are located in the state of Tennessee.

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Based upon the Attorney General Opinion, Eagle Distributing would be required to re-structure their ownership and licensing.

- 8. DATE OF NEXT MEETING** – Wednesday, July 27 at 1:30 p.m. and Wednesday, August 24, 1011 at 1:30 p.m.

Mary McDaniel
Chairperson

Shari Danielle Elks
Executive Director