



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

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In the matter of the request of	)	
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<b>PINE CREEK PROPERTIES LLC</b>	)	Request ID No. 774952
1798 Ottawa Beach	)	
Holland, Michigan 49424	)	
	)	
Park Township	)	Ottawa County

At the July 7, 2015 hearing of the Michigan Liquor Control Commission (Commission) in Lansing, Michigan.

PRESENT: Teri L. Quimby, Commissioner  
Dennis Olshove, Commissioner

**LICENSING APPEAL ORDER**

On January 16, 2015, Pine Creek Properties LLC (applicant) filed a request to transfer ownership of the Specially Designated Distributor and Specially Designated Merchant licenses with Sunday Sales Permits (A.M. & P.M.) and permission to maintain one (1) Direct Connection to unlicensed premises from JJJ Enterprises, LLC at the above-noted location.

At a meeting held on May 6, 2015, the Commission denied this request under administrative rules R 436.1105(2)(g)(ii), R 436.1105(2)(g)(iii)(g) and R 436.1105(2)(h) after considering the prior conviction records of both applicant members, Leland Oppenhuizen and Zachary Walker. The Commission also denied this request under administrative rule R 436.1105(2)(j) after considering the effects that issuance of a license would have on the health, welfare, and safety of the general public when determining whether an applicant should be issued a license or permit.

John Carlin, legal counsel on behalf of the applicant, submitted a timely request for an appeal in this matter and Attorney Michael Brown represented the applicant at the June 2, 2015 hearing, held at the Commission’s Lansing office.

After hearing arguments, reviewing the MLCC file and discussion of the issue on the record, the Commission approved a motion to reverse and approve the request after concluding that the applicant sufficiently demonstrated a responsible plan of action for the operation of this establishment; making statements regarding no personal consumption of alcohol and other circumstances relative to the prior conviction records of Leland Oppenhuizen and Zachary Walker.

Prior to issuing the approval order, the Commission record was updated to reflect that Leland Oppenhuizen was arrested on June 18, 2015 in Ottawa County for an alcohol related offense and a warrant was issued.

On June 22, 2015, co-applicant member Zachary Walker submitted updated documents demonstrating that Leland Oppenhuizen was being dropped from the business and liquor license application. Mr. Walker also requested a re-hearing before the Commission for the purposes of amending his application to remove Leland Oppenhuizen from this application, in light of these circumstances.

The Commission then placed this matter on the July 7, 2015 appeal hearing agenda at the Commission's Lansing office. Representing the applicant at the hearing was Zachary Walker. Mr. Walker submitted Exhibit A which contained several supporting documents, including but not limited to: a resignation letter executed by Leland Oppenhuizen, Anchor Party Store Employee Handbook, "Liquor Sales Tests" for employees, proof from the county of a passed controlled-buy operation, and pictures of scanning equipment.

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)(f) and (g), the licensee may sell spirits, mixed spirit drink, beer and wine for consumption off the premises only.

The Commission finds that Mr. Oppenhuizen made statements to the Commission relative to his past and current involvement with alcohol and has become a responsible adult. The Commission finds that Mr. Oppenhuizen provided false and fraudulent information to the Commission contrary to MCL 436.2003.

The Commission finds that Mr. Walker has further demonstrated his seriousness concerning the establishment and preventing any alcohol related offenses. The Commission finds that Mr. Walker has stated that he will not hire Mr. Oppenhuizen in an employee capacity at this establishment or as part of the business structure. The Commission further finds that Mr. Walker advised the Commission of a restraining order he has against a patron who abuses alcohol.

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 May 6, 2015 issued in this matter is reversed and the applicant's request to transfer ownership of the 2015 Specially Designated Distributor and Specially Designated Merchant licenses from JJJ Enterprises, LLC at the subject location is APPROVED, subject to the following:

1. The licensee shall submit to the Commission an acceptable and executed Lease Agreement which lists 1798 Ottawa Beach, Holland, as the leased location.
2. The licensee shall submit the estimated Specially Designated Distributor license and/or permit fees in the amount of \$151.80, pursuant to MCL 436.1525(1)(k).
3. The licensee shall submit to the Commission form LCC-3010 "Report of Stockholders/Members/Partners", which lists Zachary Walker as sole member.
4. The licensee shall submit to the Commission an amended operating agreement for Pine Creek Properties LLC reflecting the membership change.

5. The licensee shall submit to the Commission form LCC-3011 “Application for New Licenses, Permits, or Transfer of Ownership or Interest in License” reflecting the membership change.
6. The licensee shall submit to the Commission an acceptable, executed Promissory Note between Charles Walker and Zachary Walker in the amount of at least \$16,000.
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 licenses and permits until the licensee provides the Commission with proof of financial responsibility as required under MCL 436.1803.
9. The licensee shall notify the Commission immediately if any of its members are arrested, convicted or involved in any offenses relating to alcohol or other criminal offenses.

B. 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.

C. The applicant’s request to transfer the existing permit to sell alcoholic liquor between 7 A.M. and 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

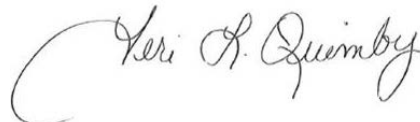
drink or beer and wine between the hours of 7 A.M. and Noon on Sundays. If notice and supporting documentation is received by the Commission, a show cause hearing will be scheduled before the Commission under administrative rule R 436.1925(1) to determine if the permit must be revoked.

D. The applicant's request to transfer the existing permission to maintain one (1) Direct Connection to unlicensed premises is APPROVED.

E. 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.

F. 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 licenses and permits.

MICHIGAN LIQUOR CONTROL COMMISSION



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Teri L. Quimby, Commissioner



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Dennis Olshove, Commissioner

Date Mailed:

Tlc/Aml