

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION



Minutes
March 17, 2011
1:30 pm

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, March 17, 2011 in Nashville, Tennessee at 1:30 p.m. Chairman John Jones, Commissioner Bryan Kaegi and Commissioner Mary McDaniel were present. Executive Director Danielle Elks, Acting Assistant Director Melinda Arrington, CLEO Mark Hutchens and SAC Al Watson were present.

Chairman John Jones introduced Mary McDaniel from Memphis, West Tennessee member and Bryan Kaegi from Nashville, Middle Tennessee member. Chairman Jones stated he was reappointed as the East Tennessee member. Chairman Jones stated that if any of the members desire to appoint a new Chairman to the Commission they are entitled to do so.

Chairman Jones recognized Jeremy Harrell from the Governor's Office as being present at the meeting.

The Minutes for February 17, 2011 Commission Meeting were approved.

2. NEW BUSINESS: RETAIL

A. ZIPS LIQUOR LEBANON, TENNESSEE (WILSON COUNTY)

Applicant: Zips Liquor, LLC
Member: Daljit Sihgh Sandhu

Before the Commission is a request for a new retail store to be located at 1137 Castle Heights Avenue North, Suite B, in Lebanon, Tennessee. Mr. Sandhu wishes to initially invest \$40,000 to operate the business as a LLC. Financing is based upon existing personal funds. Mr. Sandhu is currently leasing the property SRI Gajana, Inc. for a period of five years with monthly rent of \$1000/month. All documentation has been submitted with the exception of the following:

- a. Written acknowledgment that the convenient store and the retail store must be maintained and operated separately;
- b. Assignment of the lease to the LLC, with written permission from the landlord;
- c. Use and Occupancy permit;
- d. TABC Inspection;
- e. Acknowledgment of the rules and regulations; and
- f. Stockholders of SRI Gajana, Inc.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of their Use and Occupancy permit.

Commissioner Kaegi made a motion for conditional approval upon submission of the pending documentation. Commissioner McDaniel seconded the motion and it passed with 3 ayes.

**B. WEST TOWN WINE AND SPIRITS
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Licensee: Bush Holdings, LLC
Members: Michael and Sara Bush

Before the Commission is a request for a transfer of location of the retail store currently located at 7319 Kingston Pike, in Knoxville, Tennessee. The request for the transfer of location is based upon an increase in the monthly rent at the current location and the lack of adequate parking for the business. The proposed new location is 8043 Kingston Pike, in Knoxville, Tennessee. If approved, the licensee will rent the property from Olde Kingston, LLC for a period of five years at \$6160/month, with two five year options to renew. If approved, the licensee is also requesting a **name change** to ThunderRoad Wine and Spirits. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval.

Chairman Jones made a motion for approval of transfer of location. Commissioner Kaegi seconded the motion and it passed with 3 ayes.

Chairman Jones made a motion for approval of name change. Commissioner McDaniel seconded the motion and it passed with 3 ayes.

**C. OLD FORT LIQUOR AND WINE
MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)**

Applicant: Cason Liquor, Inc.
**Stockholders: Vinod Raval, Mukesh Patel, Mitesh Patel, and
Dushyant Patel**

Before the Commission is a request for a new retail store to be located at 144 Cason Lane, Suite B, in Murfreesboro, Tennessee. The following investments will be made for the business if approved: Vinod Raval--\$88,125 (37.5% ownership interest) from the sale of a business and a loan from Prashant Patel for \$18,000; Mukesh Patel--\$64,625 (27.5% ownership interest) from personal savings and home equity loan; Mitesh Patel--\$11,750 (5%) from personal funds; and Dushyant Patel--\$70,500 (30%) from the sale of a business. The corporate applicant is leasing the property from Cason Lane Partners, which consist of the applicant's four stockholders, for a period of five years at \$8500/month. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations;
- d. Questionnaire for Prashant Patel.

Discussion/Action Taken:

Vinod Raval, Dushyant Patel and Rob Pinson, attorney, were present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the pending documentation.

Commissioner Kaegi made a motion for conditional approval upon receipt of the pending documentation. Commissioner McDaniel seconded the motion and it passed with 3 ayes.

**D. LAKEWOOD LIQUORS
OLD HICKORY, TENNESSEE (DAVIDSON COUNTY)**

Licensee/Seller: Dilip Amin
Applicant/Buyer: Old Hickory Wine & Spirits, Inc.
Stockholder: Neil Dilip Amin

Before the Commission is a request for a transfer of ownership of the retail store located at 2405 Hadley Avenue in Old Hickory, Tennessee. Mr. Dilip Amin wishes to transfer the ownership of the business to his son for \$10.00. Mr. Amin will loan his son \$50,000 as operating capital for the business. If approved, Neil Amin will operate the business as a corporation. The corporation will be leasing the property from Shoppes at Lakewood Operating, LLC for a period of five years at \$3000/month. The applicant will also be requesting a **transfer of location** to 3838 Old Hickory Boulevard in Old Hickory. All documentation associated with the application is associated with the new location. Also, if approved, Neil Amin is requesting a business **name change** to Old Hickory Wine & Spirits. It should be noted that Neil Amin's mother is the current licensee of the retail business, Riverside Liquors, in Nashville, Tennessee. All documentation has been submitted with the exception of the following:

- a. Assignment of the lease to the corporation;
- b. Signatures on the bill of sale and loan agreements;
- c. TABC Inspection;
- d. Acknowledgement of the rules and regulations;
- e. Use and Occupancy permit;
- f. Explanation why the City of Lakewood is issuing a certificate of compliance for an Old Hickory location.

Discussion/Action Taken:

Rob Pinson, attorney was present at the meeting. Director Elks stated that after sending out the agenda, the staff has received two complaints regarding Lakewood Liquors and also an allegation of hidden ownership. Director Elks requested a continuance of this matter to allow the staff and agents' sufficient time to investigate the allegations.

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

**E. BELLEVUE WINE AND SPIRITS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: Bellevue Wine and Spirits, LLC
Members: Allen McDonald; David Baker, III; John Thomas Trent, Jr.; and David Rutter

Before the Commission is a request for a new retail store to be located at 7066 Highway 70 South in Nashville, Tennessee. Allen

McDonald, David Baker, III, John Thomas Trent, Jr., and David Rutter each wish to initially invest \$20,000 to operate the business. Financing is based upon personal funds. If approved, each would own 25% of the business. The corporate applicant is leasing the property from BSM Belle Forrest, LLC for a period of five years at \$8750/month. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Acknowledgment of the rules and regulations.

Discussion/Action Taken:

Rob Pinson, attorney, was present at the meeting. Director Elks stated that this application is historic. Director Elks stated that Davidson County is separated into urban services district and general services district. Director Elks stated that Bellevue has been outside the area where Davidson County allows retail package stores, and this is the first application for a retail package store in Bellevue. Director Elks reviewed the application to the Commission and recommended approval upon submission of the Use and Occupancy permit.

Commissioner Kaegi made a motion for conditional approval upon receipt of the pending documentation. Commissioner McDaniel seconded the motion and it passed with 3 ayes.

3. WHOLESALER APPLICATIONS

**A. HAND FAMILY WINE & SPIRITS, LLC
CLARKSVILLE, TENNESSEE (MONTGOMERY COUNTY)**

Applicant: Hand Family Wine & Spirits, LLC
Members: Charles W. Hand, Sr.; Charles W. Hand, Jr.; and William Moseley

Before the Commission is a request for a new wholesale business to be located at 2069 Wilma Rudolph Boulevard, in Clarksville, Tennessee. Charles Hand, Sr., Charles Hand, Jr., and William Moseley wish to initially invest a total of \$100,000. Financing is based upon existing personal funds. If approved, the distribution of ownership would be as follows: Charles Hand, Sr.—100% of the voting rights and 2% financial rights; Charles Hand, Jr.—0% voting rights and 48% financial rights; Charles Hand Jr. as trustee and beneficiary of the Hand Company Trust fbo Charles Hand, Jr.—0% voting rights and 50% financial rights. The corporate applicant is leasing the property from CWHFP, LLC for a period of ten years at \$1000/month. It

should also be noted that the members of the corporate applicant also own Ideal Distribution Company, the Budweiser Distributor in Clarksville. **Issue:** T.C.A. §57-3-210(b)(1) and (2) prohibit anyone who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city or county, from having any interest in a wholesale business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business. However subsection (2) does not apply to uncompensated appointees to municipal boards and commissions where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages. These statutes are applicable in this application because Mr. Hand, Sr. is the Power Board for the City of Clarksville and on the City Airport Authority for the City of Clarksville. All documentation has been submitted with the exception of the following:

- a. Verification of licensee for Ideal Distribution Company;
- b. TABC Inspection;
- c. Use and Occupancy Permit;
- d. Written acknowledgment that the beer distributorship and the wholesale business will be operated separately; and
- e. Verification that Mr. Hand, Sr. is not in a paid appointive position for the City of Clarksville and does not oversee the sale of alcoholic beverages.

Discussion/Action Taken:

Director Elks stated that the issue that exists with this application is that Charles W. Hand, Sr. sits on the Clarksville City Airport Authority and is also on the Clarksville Power Board. Director Elks stated that there is a statute that sets forth that if you own a retail package store or a wholesale business then you cannot be an appointive or an elective official for the state, city or federal government. However, an exception exists if one is appointed to an unpaid position, then that individual is able to hold such a license. Rob Pinson stated that they furnished such verification to the staff and Charles Hand, Sr. has since resigned from the Clarksville Power Board. Further, the appointment to the Clarksville City Airport Authority is an unpaid position and does not involve the management of alcohol.

Commissioner Kaegi made a motion for conditional approval upon submission of the pending documentation. Commissioner McDaniel seconded the motion and it passed with 3 ayes.

4. **BUDGET** - Director Elks stated that the total budget for the proposed fiscal year 2011/2012 is \$5.6 million of which 74% consists of payroll. Director Elks stated that the TABC's operating cost is basically \$1.5 million. The TABC staff has been asked to revert \$600,000 this year, and this will be accomplished by not filling the vacant positions. Director Elks stated that TABC has 11 vacant positions totaling \$504,000. Director Elks stated that represents 18% of the TABC's total employees. The remaining \$95,000 will be taken from the supplies and from over collections. Director Elks stated that the TABC is also subject to a 3% reduction in the budget which consists of \$11,600 which will be accomplished with a decrease in the supply budget.

Director Elks stated in the proposed budget for next year, TABC is scheduled to receive \$374,000 from state dollars. The remaining \$5.3 million is primarily collected from licensing fees. Money collected as fines that are deposited to the general fund, and state appropriations up to a \$1,000,000, may be returned to the agency as state funds. Director Elks stated that as time has progressed, the state appropriations have gone down because the licensing fees continue to increase. Therefore, the TABC is scheduled to only receive \$375,000 from state dollars; however, it is anticipated that the TABC will not use this money because of over collections.

Director Elks stated that the TABC has over collected every year since fiscal year 2003.

5. **CONSENT ORDERS**
6. **PENDING MATTERS LIST**
7. **MISCELLANEOUS**
 - A. **Monthly Summary of TABC Activity**
8. **DATE OF NEXT MEETING** – Thursday, April 21, 2011 at 1:30 p.m.

John A. Jones
Chairman

Shari Danielle Elks
Executive Director