

ALCOHOL AND TOBACCO COMMISSION

May 4, 2021

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

April 20, 2021

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

403 renewals

34 new/transfers

14 catering

7 new/renewal carriers

34 new/renewal direct wine shippers

6. Renewal Letters and Waivers of Fees for Letters of Extension -

7. Applications for Discussion –

RR82-37330 Clean Slate of Evansville, LLC – transfer with LB voting 3-1 to deny

RR73-36516 Tami Zinser – prohibited ownership

RR54-91395 Touch of Class

8. Inactive Files –

3 permits not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Amended Escrow Drop Dead Dates

Roundtable dates – 5/18 package stores, 6/15 non-package store dealers, 7/20 wholesalers, 8/17 retailers, 9/21 artisan distillers, 10/19 brewers, TBD farm wineries

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MAY 4, 2021

CALL TO ORDER/NOTING OF QUORUM

Chair Allen called the meeting to order and noted the quorum and the attendance. Vice Chairman Krauss, Commissioner Maginn, Commissioner Grubb, Commission Prosecutor Harrison and Sgt. Stewart were virtually present.

By consent, the Commission gave Kim Chew permission to initial approval for the commissioners.

DISPOSITION OF MINUTES

Vice Chairman Krauss moved to approve the minutes from the April 20, 2021 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Chair Allen stated Prosecutor Harrison submitted 83 Parties' Agreed Dispositions, with fines totaling \$37,850.00, for the Commission's approval.

Vice Chairman Krauss moved to approve the PAD forms submitted by the Prosecutor. Commissioner Grubb seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

BR1890548 DEREK RADFORD – Commissioner Maginn stated this applicant has had two unrelated OWI convictions in the last ten years, so he was denied renewal of his employee permit. An appeal was filed and the matter was set for hearing.

The applicant failed to appear at the appeal hearing and, therefore, did not supply any new information regarding the convictions that would possibly allow the overturning of the denial. Commissioner Maginn submitted Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Krauss moved to uphold the Findings of Fact and Conclusions of Law to deny the permit. Commissioner Grubb seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Grubb moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same, pending any escrow hearings, and the inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve and incorporate by reference these lists of permit applications for a new permit or application for changes in location, ownership, or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same, pending final floor plan approval by the Indiana State Excise Police and escrow, if needed, and inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the catering applications. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal carrier applications. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal direct wine shipper applications. Commissioner Maginn seconded. The motion was unanimously approved.

RENEWAL LETTERS AND WAIVERS OF FEES

Vice Chairman Krauss moved to approve the renewal and fee waived letters of extension issued the preceding weeks. Commissioner Grubb seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR82-37330 CLEAN SLATE OF EVANSVILLE, LLC – Chair Allen noted this is a transfer of ownership with the local board voting 3-1 to deny.

Commissioner Maginn stated the prior owners of the permit and current owners of the building, per settlement agreement, were required to sell the permit in an arm's-length transaction. There were problems at the establishment, including public nuisance issues and the use of promoters. The local board stated concerns that this may not be an arm's-length transfer because the previous permittee is still the owner of the building. Also, a flyer was presented showing an upcoming event where a promotor was being used, which concerned the local board.

Commissioner Maginn moved to uphold the local board's recommendation to deny the transfer. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR73-36516 TAMI ZINSER – Chair Allen noted the applicant is married to a local board member. There is a statute that prohibits a local board officer from having an interest in an alcoholic beverage permit, so the Commission is concerned about a possible prohibited interest issue. The Commission had requested information from the applicant to help clarify the situation and that information was received, however, some things are still unclear.

Vice Chairman Krauss asked to table this matter until July 6, 2021. He would like the Commission's counsel to investigate this further.

Tami Zinser, the applicant, was present for the meeting and requested an opportunity to speak. Chair Allen stated testimony is not taken at the Commission meeting and that the documents that were

provided have been reviewed but created more questions that will be investigated by Commission counsel.

By consent, the matter was continued until July 6, 2021.

RR54-91395 TOUCH OF CLASS - Chair Allen noted this is a denial of a renewal that is currently under appeal. The permittee requested the Commission remand this to the local board for reinvestigation due to change of stockholders of the permit.

Commissioner Maginn stated this is not a true transfer, but a change of stockholders. The corporation's name remains the same. The owner of the building, Mike Bickers, is not listed as an owner of the permit; however, he has signed documents that gives the appearance of ownership. The new stockholders are current employees of this establishment.

Commissioner Maginn moved to remand this matter to the local board with instructions. Some of those include, questioning Mr. Bickers as to his history of involvement with this permit. Why is he listed as registered agent? Why did he hold the treasurer's position? Why did he sign paperwork with the ATC if he is just a landlord and not really running the business? Mail is being delivered to the business address. Who is picking up that mail? Does Mr. Bickers keep an office at the establishment? Does he frequent the business during non-business hours, or business hours? If so, is he in areas designated for employees only? What is his relationship to the employees and/or contractors of the business---specifically the new stockholders? Also, the Commissioner would like the local board to question the new stockholders regarding the boundaries set for the landlord, such as no access to the business unless he is a paying patron, unless there is an issue with the building, but making sure there is a record of the work that needed to be done. Lastly, Commissioner Maginn also wants the local board to make sure the new stockholders understand that because this is not an actual transfer of ownership any prior history of this permit, bad or good, remains a part of this permit. There is no clean slate. There should be a business plan provided in writing. Commissioner Grubb seconded. The motion was unanimously approved.

INACTIVE FILES

By consent, the Commission added permit #HD64-29937 to the inactive list.

Vice Chair Krauss moved to make four (4) permits inactive that are not subject to auction. Commissioner Grubb seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

ANNOUNCEMENTS

ESCROW DROP DEAD DATES – Chair Allen stated the House Enrolled Act 1369 was emergency effective regarding drop dead dates for escrow permits. Permits deposited in escrow between 7/1/16 to 6/30/2017 are extended to 7/1/2022. Permits deposited in escrow between 7/1/2018 to 6/30/2019 are extended to 7/1/2023.

Vice Chairman Krauss wanted to remind the preparers keep in contact with their clients and make sure they are aware of the changes and when or if it is necessary to appear before the Commission.

Vice Chairman Krauss moved to extend the dates, pursuant to amended statute. Commissioner Grubb seconded. The motion was unanimously approved.

ROUNDTABLE DISCUSSIONS – Chair Allen noted the dates for roundtable discussions in May and June will be held virtually. Those dates are: 5/18 package stores and 6/15 non-package store dealers. Information regarding 7/20 wholesalers, 8/17 retailers, 9/21 artisan distillers, 10/19 brewers, TBD farm wineries will be forthcoming.

If the roundtable discussions are held virtually, a link will be sent closer to the date of the discussion.

ADJOURNMENT

Vice Chairman Krauss moved to adjourn the meeting. Commissioner Grubb seconded. The motion was unanimously approved.

Approved this 18th day of May, 2021.



JESSICA ALLEN, CHAIR



JOHN KRAUSS, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER