

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

In the Matter of

Route 1 Wine & Liquor

Mike Jain, Permittee

Route 1 Wine & Liquor, LLC, Backer

Liquor Permit No. LIP.14497P

Docket No. 2009-365

Case No. 2009-1891

March 24, 2009

MEMORANDUM OF DECISION

This matter involves an application for a package store liquor permit for Route 1 Wine & Liquor, 935 West Main Street, Branford, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on March 19, 2009, at which time Mike Jain, permittee, and sole member of the backer limited liability company, appeared. The hearing was held in accordance with Section 30-39(c), Connecticut General Statutes, as a result of a remonstrance questioning the suitability of the proposed place of business. Remonstrants appeared to oppose the granting of this permit, with counsel. The premises was issued a provisional liquor permit by the Department of Consumer Protection on November 25, 2008; however, it has not yet commenced business operations.

The following facts are found based upon evidence adduced at the hearing. Liquor Control Agent Raia conducted an investigation of the new application and found nothing questionable. Agent Raia also conducted a thorough remonstrance investigation regarding the suitability of the

location and visited the proposed location three or four times during the course of his investigation. There are nearby package stores, two of which are within .6 mile, restaurants and other liquor establishments. There is proper local zoning approval. This proposed premises is located in a corner unit of a strip mall on Route 1, a busy commercial thoroughfare, lined with retail stores, commercial enterprises, restaurants and fast food outlets. Liquor Control Agent Raia reviewed the pending application and found it to be in order. He did a new application investigation which included on-site inspections as well as a remonstrance investigation and he prepared detailed reports of his findings. The premises meets the requirements for a package store liquor permit.

Remonstrants, living nearby, expressed concerned that an additional package store would add to the traffic congestion on Route 1. They also expressed concern that an additional package store would have an adverse economic effect on existing package stores and that the area was already served by the two existing stores within .6 mile.

Section 30-47 of the Connecticut General Statutes enumerates the parameters for the department to consider when addressing the suitability of the location. It provides that,

The Department of Consumer Protection may, except as to a store engaged chiefly in the sale of groceries, in its discretion, suspend, revoke or refuse to grant or renew a permit for the sale of alcoholic liquor if it has reasonable cause to believe: (1) That the proximity of the permit

premises will have a detrimental effect upon any church, public or parochial school, convent, charitable institution, whether supported by private or public funds, hospital or veterans' home or any camp, barracks or flying field of the armed forces; (2) that such location is in such proximity to a no-permit town that it is apparent that the applicant is seeking to obtain the patronage of such town; (3) that the number of permit premises in the locality is such that the granting of a permit is detrimental to the public interest, and, in reaching a conclusion in this respect, the department may consider the character of, the population of, the number of like permits and number of all permits existent in, the particular town and the immediate neighborhood concerned, the effect which a new permit may have on such town or neighborhood or on like permits existent in such town or neighborhood; (4) that the place has been conducted as a lewd or disorderly establishment; (5) that the backer does not have a right to occupy the permit premises; (6) that drive-up sales of alcoholic liquor are being made at the permit premises; or (7) that there is any other reason as provided by state or federal law or regulation which warrants such refusal.

The remonstrants did not question the proximity to churches and schools or the proximity to a no-permit town. They noted the presence of two existing package store permits close to the proposed store but they did not submit substantial evidence that the granting of this permit would be detrimental to the public interest, other than to possibly increase traffic congestion on Route 1. There was no testimony that this premises has been conducted as a lewd or disorderly establishment by this applicant; his location has yet to open. The backer has the right to occupy the premises and is there no issue of drive-up sales of alcohol.

There was no substantial evidence which was presented which would necessitate a finding of unsuitability of the proposed location. It is well-settled that the determination of factual matters with respect to

applications for liquor permits is vested with in the liquor control commission, which has a liberal discretion in determining the suitability of the proposed liquor permit premises. Gulia v. Liquor Control Commission, 164 Conn. 537, 325 A.2d 455 (1973).

Accordingly, based upon substantial evidence, we hereby deny the remonstrance and grant the final package store liquor permit to Mike Jain and Route 1 Wine & Liquor, subject to the agent's final requirements.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION
BY:**

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Mike Jain, Applicant, 338 Copse Road, Madison, CT 06443
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Nonparties:

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