

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Ashok V. Patel, Applicant
Giri, LLC, Backer
Docket No. 09-779
Permit No. LGB.14349

Case No. 2009-4938
July 28, 2009

MEMORANDUM OF DECISION

This matter involves an application for a grocery beer liquor permit for FMD & CC, 218 Prospect Street, Naugatuck, Connecticut. A formal administrative hearing was held before the Liquor Control Commission on July 26, 2009. Ashok V. Patel, the applicant, and Chirag Patel, the store manager, appeared with counsel. The hearing was held on a question of Sec. 30-20(c), Connecticut General Statutes, to determine whether the premises qualifies as a “grocery store”.

Based upon the evidence adduced at the hearing, the following facts are found. Liquor Control Agent Kuria was assigned to investigate this new application and conducted an on-site investigation on December 24, 2008. He observed a thriving deli and coffee business with a coffee station, a deli counter which offered take-out foods, pet food, beverages, and snack items. He did not observe a significant amount of grocery-type items.

In all, the applicant submitted five Breakdown of Sales forms. The first breakdown sales form for September, 2008, did not list any sales of

items identified as “grocery items.”. The second Breakdown of Sales form for November 2008, showed a dramatic increase of grocery items to approximately 54% of total sales. Agent Kuria revisited the proposed premises on March 25, 2009, at which time he took photographs of the interior of this location because he was concerned that the kind of merchandise available for sale did not support the figures provided on the breakdown of sales forms. Based upon his on-site observations and the Breakdown of Sales forms, Agent Kuria questioned whether this location meets the requirements for a grocery beer liquor permit.

Three additional breakdowns of sales forms for the months of April, May and June, 2009, were submitted at the hearing. In each instance, the amount of take-out foods sold overwhelmingly exceeds the amount of grocery items sold. The applicant indicated that they have been increasing the grocery stock consistently in response to neighboring residents’ requests. Nonetheless, at this time, based on the testimony and documents provided, this store cannot be found to be “primarily engaged in the sale of groceries” as required, and does not operate as a grocery store within the meaning of Sec. 30-20(c), Connecticut General Statutes.

Accordingly, the Department of Consumer Protection **ORDERS** your application for a grocery store beer permit **DENIED** for failure to qualify with the requirements set forth in Sec. 30-20(c). In view of the ramifications of application denial in the event the applicant wishes to

reapply for a liquor permit in the future, we will **STAY** such denial until August 15, 2009 to allow the applicant to submit a withdrawal of such application to this department. If no such withdrawal has been received by August 15, 2009, the application will be denied.

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

Elisa A. Nahas, Esq.
Presiding Officer

Stephen R. Somma, Commissioner

Angelo Faenza, Commissioner

Parties:

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Non-Parties:

Director John Suchy, Liquor Control Division
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