

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

In the Matter of

Capitol Liquors

Viratkumar Patel, Applicant

Pintoos, LLC, Backer

Liquor Permit No. LIP.14580

Docket No. 10-362

Case No. 2009-5446

May 13, 2010

MEMORANDUM OF DECISION

This matter involves an application for a package store liquor permit for Capitol Liquors, 42 Hawthorn Street, Hartford, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on March 11, 2010. Viratkumar Patel, applicant, appeared with counsel. The hearing was held in accordance with Section 30-39(c), Connecticut General Statutes, as a result of a legally sufficient remonstrance questioning the suitability of the proposed place of business. The attorney agent for the remonstrants appeared. One resident remonstrant appeared to oppose the granting of this permit.

The following facts are found based upon evidence adduced at the hearing. Liquor Control Agent Anderson reviewed the pending application and found it to be in order. He conducted an on-site inspection and also conducted a remonstrance investigation. There is proper zoning approval for this application. A package store has been

in operation at this location for approximately 45-50 years. The sale of the business from the current owner to the applicant has not occurred. The location is a free standing building in a mix of commercial and residential buildings near the Aetna Insurance Company office buildings and parking lots. At the time of Agent Anderson's inspection, the area around the premises was clean of trash and rubbish. Barriers had been placed in front of the building to address a previous issue with parking; we find that the parking barrier issue is now resolved. Agent Anderson contacted the Hartford Police Department which reported that there had been a few calls for service of a minor nature under the current ownership. There is a "Standing Complaint" on file with the police department; the purpose of a "Standing Complaint" is to enable officers to take swift enforcement action should the need arise. "Standing Complaints" are preventative in nature and are in place in other package stores in Hartford. Agent Anderson found nothing questionable about the applicant or the premises. But for the filing of this remonstrance, he would have recommended and submitted this application for final approval.

Section 30-46(a) 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.

We do not find the existence of any church, public or parochial school, convent or charitable institution, hospital, veterans' home or camp, barracks or flying field of the armed forces, within 1500 feet. We do not find this location to be in proximity to any town which bars the sale of alcoholic liquor. There is another package store within approximately one-half mile at 304 Farmington Avenue which is challenged by the same neighborhood issues as Capitol Liquors, and we do not find that the granting of this liquor permit to Capitol Liquors

would be detrimental to the public interest based upon the number of other permit premises in the neighborhood. We do not find that the place has been conducted as either a lewd or disorderly establishment. Nor do we find any issue with respect to the applicant's right to occupy the premises, drive-up sales of alcoholic liquor, or any provision of any state or federal law.

The remonstrance also raises an issue concerning the possibility that the current premises has operated without having filed its trade name with the city of Hartford. While Title 30 of the Connecticut General Statutes, the Liquor Control Act, does not mandate that a trade name certificate be filed with the town in which a premises is located, any possible failure of the current owner – and not this applicant - to comply with any municipal or Sec. 35-1, Connecticut General Statutes, requirement concerning the filing of a trade name certificate does not negatively impact on Mr. Patel, the current applicant who has not yet finalized the purchase of Capitol Liquors and is not an issue the Commission would address.

The resident remonstrant expressed concerns that this area is generally a “troubled neighborhood” and does not feel that a package store at this location fits the strategic plan to improve conditions in the neighborhood. The Habitat for Humanity organization has made a

determination that it will build in this location and will be building in Fall 2010.

A parking garage owned by Aetna Insurance Company is located across the street from this location. It is equipped with security cameras which can be manipulated to focus on 42 Hawthorn Street. The head of asset management for Aetna, Mike Marshall, provided the Commission with three CDs of events extracted from a year of the cameras' recordings. They purport to show negative events at Capitol Liquors in February and April 2009 and February 2010. We note that they depict the usual foot traffic of customers entering and leaving a retail package store in an urban neighborhood. We also note the presence of a residential building next door to the premises, not part of the package store, at which persons gather; neither the applicant nor the current owner can be held responsible to monitor the behavior of the home's residents and visitors. Likewise, neither the applicant nor the current owner can be expected to monitor the behavior of pedestrians on the abutting sidewalk or drivers on the fronting city street.

The applicant has installed security cameras inside and outside of the premises and has filed a Standing Complaint with the police department. Mr. Patel has been working in the store for approximately eight or nine months and calls 911 if he observes anything troublesome.

He has stated that he wishes to cooperate with the neighborhood and would like to join the neighborhood association.

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, we hereby deny the remonstrance and grant the final package store liquor permit to Viratkumar Patel and Capitol Liquors, subject to the agent's final requirements.

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

Elisa A. Nahas, Esq.
Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma
Commissioner

Parties:

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Nonparties:

John Suchy, Director, Liquor Control Division, Department of Consumer Protection

Connecticut Beverage Journal

Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106