

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

In the Matter of

Lake House

Michelle Zurko-Smith, Permittee

337 Roosevelt Drive LLC, Backer

Liquor Permit No. LIR.17440

Case No. 2009-3288

Docket No. 10-013

January 14, 2010

MEMORANDUM OF DECISION

This matter involves a renewal application for a restaurant liquor permit for 337 Roosevelt Drive, Seymour, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on October 22, 2009. Michelle Zurko-Smith, permittee, 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 place of business. No resident remonstrants appeared to testify in opposition to the renewal of this permit.

The following facts are found based upon evidence adduced at the hearing. Special Agent Sturgeon conducted a general inspection of this premises on July 8, 2009 and found no violations. She also conducted an exhaustive remonstrance investigation which included numerous visits to the premises and surrounding areas at different times of the day and night. She met with the agent for the remonstrants, who resides in Shelton, to discuss her concerns. The remonstrance itself, signed by at least 10 Seymour residents, cited issues with noise as the basis for questioning the renewal. No residents of Seymour appeared at the hearing to

offer first-hand testimony concerning alleged noise problems. Seymour has a noise ordinance; however, Lake House has never been cited for violating the noise ordinance. The location is properly zoned for a restaurant.

Lake House is located on the Housatonic River. Ms. Zurko-Smith and the restaurant manager are aware that individuals residing across the river may be negatively affected by music from the restaurant and have taken steps to lessen the sound. The bands have been relocated to a spot closer to the road and away from the river and the speakers have been turned so they face inward and not towards the river.

Based upon the evidence presented, we find that substantial evidence was not presented at this time which would cause us to deny Ms. Zurko-Smith's renewal application. It is well settled that the determination of whether a proposed location is suitable for a liquor permit rests with the Liquor Control Commission. Williams v. Liquor Control Commission, 175 Conn. 409, 399 A2d 834 (1978).

Accordingly, based upon the foregoing, we hereby deny the remonstrance and grant the renewal application of Michele Zurko-Smith and Lake House.

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

Elisa A. Nahas, Esq.
Designated Hearing Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Michele Zurko-Smith, Permittee, Lake House, 337 Roosevelt Drive, Seymour, CT 06483

Michelle Zurko-Smith c/o Jeffrey W. Tuccio, Esq. Lyons, Tuccio & Tuccio, 235 Wakelee Avenue, Ansonia, CT 06401

Karen S. Battistelli, Agent for Remonstrants, 49 Birchbank Road, Shelton, CT 06484

Nonparties:

John Suchy, Director, Liquor Control Division

Connecticut Beverage Journal

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