

STATE OF CONNECTICUT
DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

M&J Deli Market
Khalid Aboutayeb, Permittee
Medchakib Mawloud, Backer
Docket No. 11-476

Liquor Permit LGB.14423
Case No. 2010-386
June 30, 2011

MEMORANDUM OF DECISION

This matter involves a grocery store beer permit issued to M&J Deli Market, 988 State Street, Bridgeport, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on April 7, 2011. Khalid Aboutayeb, permittee, appeared at the hearing with Deserie Clack Wilson, his accountant. The record was held open until April 21, 2011, to allow the Respondent an opportunity to submit a Breakdown of Sales form for March 2011. Thereafter, the commission requested that the permittee submit an additional Breakdown of Sales form for April 2011, however, such April 2011 breakdown was never provided.

The alleged violations against the Respondent arose from a referral from a special investigation conducted by the Department of Consumer Protection's Liquor Control Division. It is alleged that on or about April 23, 2010, the Respondent violated (1) Sec. 30-20(b) of the Connecticut General Statutes, (2) Sec. 30-6-A41(a) of the Regulations of Connecticut State Agencies, and (3) Sec. 30-77 of the Connecticut General Statutes in that bottles of alcoholic liquor were found in the storage room of the premises, and (4) Sec. 30-53 of the Connecticut General Statutes in that the liquor permit had not been filed with the Bridgeport

Town Clerk. It is further alleged that on or about April-May, 2010, the Respondent violated (5) Sec. 30-20(c) of the Connecticut General Statutes by failing to be primarily engaged in the retail sale of grocery items.

Based upon the testimony and documents presented at the hearing, and the post-hearing submission, we find the following facts. Liquor Control Agent Vaughn visited the premises and conducted a special investigation on April 23, 2010, as a result of a complaint that the location was not a bona fide grocery store. She took photographs of the interior of the store and requested breakdown of sales forms for April and May, 2010. Upon their receipt, Agent Vaughn calculated the percentages for each category and determined that these forms did not reflect the sales of a bona fide grocery store. She discussed the requirements for a grocery beer liquor permit with the Respondent and requested that he furnish invoices for grocery items.

Agent Vaughn returned to M&J Deli Market on March 11, 2011. She noted the presence of out-of-date inventory displayed for sale and observed that some of the merchandise was dusty. She photographed the merchandise on the shelves.

At the conclusion of the hearing, the commission requested an additional Breakdown of Sales form. A Breakdown of Sales form for March, 2011 was provided. Those figures were more in line with those of a bona fide grocery store; however, the photographs taken by Agent Vaughn in March, 2011 did not support their accuracy. An additional Breakdown of Sales form for April, 2011 was requested. It was never received.

In order to maintain a “grocery store” beer permit, a retailer must be “*primarily engaged in the retail sale of all sorts of canned goods and dry goods*” (emphasis added). Even if a premises meets the standard when the permit is first granted, the statutory requirements must continue to be met in order to retain the permit.

The Liquor Control Act grants the Liquor Control Commission a liberal discretionary power to determine factual matters with regard to liquor permits and to suspend or revoke the permit after a hearing. Balog v. Liquor Control Commission, 150 Conn. 473, 191 A.2d 20 Accordingly, we do not find that M&J Deli Market is “primarily engaged in the retail sale of all sorts of canned goods and dry goods” in accordance with Section 30-20(c), Connecticut General Statutes. The grocery store beer permit for M&J Deli Market must be revoked. We will, however, hold the record open until July 15, 2011, to afford Mr. Aboutayeb an opportunity to cancel this permit in lieu of the revocation. Further, in view of the foregoing, it is not necessary for us to reach a determination on the other alleged matters.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION**

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

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Non-Parties:

John Suchy, Director, Liquor Control Division

Connecticut Beverage Journal

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