

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Pinal Kothari, Applicant
2808 Fairfield Avenue LLC, Backer
Docket No. 12-605
Permit No. LGB.14743

Case No. 2012-1123
August 16, 2012

MEMORANDUM OF DECISION

This matter involves an application for a grocery beer liquor permit for Black Rock Quick Mart, 2808 Fairfield Avenue, Bridgeport, Connecticut. A formal administrative hearing was held before the Liquor Control Commission on July 26, 2012. Pinal Kothari, the applicant, and Biten Kothari, the sole member of the backer limited liability company, appeared. 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". At the conclusion of the hearing, the record was left open to allow the investigating liquor control agent an opportunity to revisit the premises to determine if the premises qualified within the statute.

Based upon the evidence adduced at the hearing, the following facts are found. Liquor Control Agent Driffin was assigned to investigate this new application and conducted an on-site investigation in May, 2012, shortly after the applicant opened his business. Agent Driffin observed that the majority of the sales space on the three gondolas located on the selling floor is used for snack items. She did not observe a significant amount of grocery-type items.

In all, the applicant submitted three Breakdown of Sales forms. The first breakdown sales form for March 9-April 9, 2012 showed 59% of sales to be non-edible items, and only 26% of sales to be grocery items. The second Breakdown of Sales form for May, 2012, showed 60% of sales to be non-edible items and only 28% to be grocery items. The most recent Breakdown of Sales form for June, 2012 showed 48.6% of sales for non-edible items and 28.3% of sales for grocery items.

Agent Driffin revisited the store following the hearing on August 6, 2012, and found that while the applicants have increased their grocery inventory beyond the May inspection, it still is not the majority of the inventory available in the store. Based upon her on-site observations and the Breakdown of Sales forms, Agent Driffin again found that the premises does not appear to be primarily engaged in the sale of groceries and questioned whether this location meets the requirements for a grocery beer liquor permit.

The applicant indicated that they have been increasing the grocery items in response to customers' requests and have recently been approved as a food stamps provider. 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). However, we will stay such denial until August 30, 2012, to allow the applicant to submit a withdrawal of such

application to this department and consider whether it wishes to resubmit an application in the future after having increased its grocery-type items business. If no such withdrawal has been received by September 6, 2012, the application must be denied.

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

Elisa A. Nahas, Esq.
Presiding Officer

Stephen R. Somma, Commissioner

Angelo Faenza, Commissioner

Parties:

Pinal Kothari, Applicant, 255 Castle Avenue, Fairfield, CT 06825

Non-Parties:

Director John Suchy, Liquor Control Division

Connecticut Beverage Journal

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