

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

In the Matter of

Mike's Blue Collar Bar
Neal Theodore Kwort, Applicant
Mike's Blue Collar Bar LLC, Backer
Permit No. LCA.7384
Case No. 2012-1009

Docket No. 12-744
October 23, 2012

MEMORANDUM OF DECISION

This matter involves a new application for café liquor permit for Mike's Blue Collar Bar, 5 National Drive #6, Windsor Locks, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection, Liquor Control Commission, on October 4, 2012. Neal Theodore Kwort, applicant and sole member of the backer limited liability company, appeared. The agent for the remonstrants, Wali M. Islam, and a resident remonstrant appeared with counsel to oppose the application. At the conclusion of the hearing, the record was left open until October 11, 2012 for either party to present written submissions.

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 applicant and of the proposed location for use as a café. The issue of the applicant's suitability was based on the remonstrants' questioning his ability to read and understand English. That issue was dismissed during the hearing by the presiding officer; there was ample evidence of Mr. Kwort's fluency with the English language.

Based upon the evidence adduced at the hearing, we find the following facts:

Liquor Control Agent Sarah Richards reviewed the pending application and found it to be in order. She conducted a new application investigation. The proposed premises is in a small plaza off Route 75, a busy road across from the airport. The plaza contains several restaurants which do not have liquor permits, several vacant storefronts, and an education center serving members of the Islamic faith. The proposed location meets the requirements for a cafe permit and Agent Richards found nothing questionable about the application itself.

As part of her remonstrance investigation, Agent Richards discussed the remonstrants' concerns with Mr. Kwort and with the agent for the remonstrants, Wali Islam. She communicated with Jennifer Rodriguez, now town planner and assistant zoning officer, who signed the application on behalf of the town.

In order to obtain zoning approval for a liquor permit at this location, Mr. Kwort was required to obtain a Special Use Permit as his proposed location was within 1500 feet of other liquor venues and within 200 feet of an education center. As part of the process to obtain the Special Use Permit, Mr. Kwort was required to post at the proposed location a sign provided by the town informing the public of a public hearing concerning his Special Use Permit application. The sign conspicuously disclosed that the property would be the subject of a public hearing before the Windsor Locks Planning and Zoning Commission on

February 13, 2012. We find that the sign was properly posted on the inside of the entrance door as of February 1, 2012, and was in fact, observed by a member of the planning and zoning commission. Mr. Kwort did not have keys to the premises during the posting period and had no way to remove the sign from inside the premises. Therefore, we find that proper notice of the public hearing was given. There was no opposition by any of the remonstrants or any members of the education center at the public hearings held to discuss the Special Use Permit. The 1500-foot separating distance requirement was waived, and the commission considered the 200-foot distance requirement in granting the Special Use Permit. The 15-day appeal period has passed, and Ms. Rodriguez's signature indicating local zoning approval remains in force.

Ms. Rodriguez confirmed in writing and at the remonstrance hearing that the zoning approval signature on the application remains in effect based on the Planning and Zoning Commission's granting of a Special Use Permit at a public hearing which took place on March 12, 2012.

The remonstrants presented testimony and documents which they feel would reflect a different interpretation of the Windsor Locks zoning laws, resulting in a conclusion that a café liquor permit could not be issued for the premises. We have thoroughly reviewed the evidence presented at the hearing. We find that the premises has proper zoning approval and is a permitted use. It is established that the Commission has the authority to determine whether or not its issuance of a permit would result in the violation of a local zoning law. Town of Greenwich v. Liquor Control Commission, 191 Conn. 528, 469 A.2d 382

(1983). 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 A.2d 834 (1978).

There is no substantial evidence that the town erred in its decision to approve the proposed premises, and we find that its decision complies with the requirements of the Windsor Locks zoning ordinances.

Resident remonstrants and other interested parties expressed general concerns about safety, possible inappropriate conduct by Mr. Kwort's patrons, and a possible adverse effect upon women and children utilizing the neighboring educational center.

Mr. Kwort intends to operate an entertainment establishment catering to a mid-life clientele, a "forgotten generation" whose needs he feels are currently underserved. He believes that his café will help bring the plaza in which it is located back to being a viable business location and he seeks to both bring people into town and to offer a venue which will keep Windsor Locks residents from going out of town to fulfill their entertainment needs.

Based upon the substantial evidence presented, we find the location and the applicant to be suitable for a café liquor permit. The determination of factual matters with regard to the suitability of the location of proposed liquor permit premises is vested with the Liquor Control Commission. Brown v. Liquor Control Commission, 176 Conn. 428, 407 A.2d 1020 (1973).

Accordingly, we hereby grant the final café liquor permit to Neal Theodore Kwort and Mike's Blue Collar Bar, subject to the agent's final requirements, and deny the remonstrance.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION**

BY:

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Parties:

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(Via US Mail and Certified Mail # 7011 2000 0001 0588 8816)

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Non-Parties:

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