

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

In the Matter of
Sharon Valley Tavern
Jessica L. Kain, Permittee and Backer
Liquor Permit No. LIT.1772
Docket No. 08-931

Case No. 2008-5826
August 21, 2008

MEMORANDUM OF DECISION

This matter involves an application for a tavern liquor permit for Sharon Valley Tavern, 141 Sharon Valley Road, Sharon, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on August 14, 2008. Jessica L. Kain, applicant and sole owner 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 applicant and the proposed place of business. Remonstrants appeared to oppose the granting of this permit.

The following facts are found based upon evidence adduced at the hearing. Liquor Control Agent Richards reviewed the pending application and found it to be in order. She conducted an on-site inspection as well as a remonstrance investigation and prepared detailed reports of her findings. The premises meets the requirements for a tavern liquor permit. The local zoning authority has approved the application. Agent Richards reviewed the department's records and found that a tavern permit had been in existence at this location for more than 25 years. Agent Richards contacted the Connecticut State Police and received a list indicating five calls for service to

this location for the period July 10, 2006 to December 22, 2006. Ms. Kain operated the premises without incident under the prior permit from August 2007 through November 2007, when the permit lapsed. Agent Richards did a thorough background check of Ms. Kain and found nothing adverse. She found nothing questionable about either the applicant or the location.

The remonstrants expressed concerns about a school bus stop near the premises. Ms. Kain indicates she intends to open her business at 3:00 p.m. to minimize the impact on children alighting from buses near her business. Remonstrants were also concerned that under the prior permit patrons had been allowed to consume alcohol on the porch. At this time, Ms. Kain has not applied for an extension of use to permit patrons to consume alcohol outside. Plans to construct a community center near the proposed location have been tabled by the town of Sharon rendering the remonstrants' concerns on that issue moot. Lastly, remonstrants indicated that the behavior of the patrons frequenting this location under the most recent permit had deteriorated and the patrons were unruly and used profanity. Ms. Kain intends to offer a greater selection of local wines in an effort to increase her business from upscale tourists and local residents. The prior permit holder will not be involved in the operation of this business under Ms. Kain's permit. If her business proves profitable, she intends to paint the exterior of the building and make other improvements. Ms. Kain indicated a willingness to meet with local residents to address their concerns.

Based upon the substantial evidence presented, we find the location and the applicant to be suitable for a restaurant 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 deny the remonstrance and grant the final tavern liquor permit to Jessica L. Kain and Sharon Valley Tavern, subject to the agent's final requirements.

DEPARTMENT OF CONSUMER PROTECTION

BY:

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Jessica L. Kain, Applicant, 5206 Route 22, Amenia, NY 12501

(Via US Mail and Certified Mail # 7007 1490 0000 0381 9805)

Jessica L. Kain, c/o William A. Conti, Esq., Conti & Levy, 355 Prospect Street,
P.O. Box 239, Torrington, CT 06790-0239

Ray Aakjar, Agent for Remonstrants, 44 Sharon Station Road, Sharon, CT 06069
(Via US Mail and Certified Mail # 7007 1490 0000 0381 9799)

Nonparties:

John Suchy, Director, Liquor Control Division

Connecticut Beverage Journal

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

Hon. Malcolm Brown, First Selectman, Town of Sharon, Town Hall, 63 Main
Street, Sharon, CT 06069

Hon. Andrew W. Roraback, P.O. Box 357, 455 Milton Road, Goshen, CT 06756

