

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

In the Matter of

Red's Café

Tamechia R. Morgan, Permittee

Red's Café, LLC, Backer

Liquor Permit No. LCA.6868P

Docket No. 08-695

Case No. 2008-2085

July 3, 2008

MEMORANDUM OF DECISION

This matter involves an application for a café liquor permit for Red's Café, 287 Central Avenue, Norwich, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on June 26, 2008. Tamechia Morgan, permittee, and Rodney Morgan, a member of the backer limited liability company, appeared. 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 proposed place of business. A remonstrant appeared to oppose the granting of this permit. The premises has been operating under the auspices of a provisional permit since February 6, 2008.

The following facts are found based upon evidence adduced at the hearing. Liquor Control Agent Sturgeon reviewed the pending application and found it to be in order. She did a new application investigation which included an on-site inspection as well as a remonstrance investigation and she prepared detailed reports of her findings. The

premises meets the requirements for a café liquor permit. The local zoning authority signed off on the application. She reviewed the department's records and found that a liquor permit had been in existence at this site for approximately 30 years. The current applicant and backer were not involved with the prior operation of this business. Between February 6, 2008, the date the provisional permit was issued, and the date of the hearing, the police have responded to two calls for service, both for incidents which occurred outside the café. Agent Sturgeon spoke to the agent for the remonstrants who expressed concern about the lack of parking and the unsatisfactory manner in which the premises was operated in the past.

The remonstrant felt that the character of the bar had changed over the years from being a neighborhood bar which served a walk-in clientele to more recently attracting unruly patrons from outside the Greenville area. The remonstrant and a local police officer pointed out the numerous police calls for service to this location under the prior owners.

The Morgans have renovated the premises and have taken steps to attract a less boisterous clientele. They have removed certain types of music from the jukebox to lessen the attraction to an unsavory element, and keep the door closed in order to lessen any possible noise emanating from the café. The Morgans reached out to the community in an effort to work together, but there was no response. The permittee stated that

they are aware of the objectionable history of the previous liquor establishment, and will not allow any drug dealing or unruly patrons in Red's Café. They invested substantial moneys to renovate the café and would like to work together with the community and residents for the betterment of the neighborhood.

Section 30-47 of the Connecticut General Statutes enumerates the parameters for the department to consider when addressing the suitability of the location. It provides that,

The Department of Consumer Protection may, except as to a store engaged chiefly in the sale of groceries, in its discretion, suspend, revoke or refuse to grant or renew a permit for the sale of alcoholic liquor if it has reasonable cause to believe: (1) That the proximity of the permit premises will have a detrimental effect upon any church, public or parochial school, convent, charitable institution, whether supported by private or public funds, hospital or veterans' home or any camp, barracks or flying field of the armed forces; (2) that such location is in such proximity to a no-permit town that it is apparent that the applicant is seeking to obtain the patronage of such town; (3) that the number of permit premises in the locality is such that the granting of a permit is detrimental to the public interest, and, in reaching a conclusion in this respect, the department may consider the character of, the population of, the number of like permits and number of all permits existent in, the particular town and the immediate neighborhood concerned, the effect which a new permit may have on such town or neighborhood or on like permits existent in such town or neighborhood; (4) that the place has been conducted as a lewd or disorderly establishment; (5) that the backer does not have a right to occupy the permit premises; (6) that drive-up sales of alcoholic liquor are being made at the permit premises; or (7) that there is any other reason as provided by state or federal law or regulation which warrants such refusal.

The remonstrant did not question the proximity to churches and schools or the proximity to a no-permit town. He did not question the number of existing liquor permits close to the proposed location nor did he allege that this premises has been conducted as a lewd or disorderly establishment by this applicant. There is no doubt that the backer has the right to occupy the premises and is there no issue of drive-up sales of alcohol. Rather, the remonstrant relies on the unsuitable operation of this location under prior ownership. Unsavory business practices at a particular physical location operated by a previous owner cannot and do not render the location itself unsuitable. A building, or physical location, is inanimate and unable to take on a life of its own. A troubled history at a particular physical location while under different ownership is not relevant to our consideration of a new liquor permit application submitted by different owners.

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). If specific problems develop with the premises while it is operated by the Morgans, we are certainly empowered to take enforcement action directed to their liquor permit, and will do so if necessary.

Accordingly, we hereby deny the remonstrance and grant the final café liquor permit to Tamechia R. Morgan and Red's Café, subject to the agent's final requirements.

**DEPARTMENT OF CONSUMER PROTECTION
BY**

Elisa A. Nahas, Esq.
Designated Hearing Officer

Angelo J. Faenza, Commissioner

Parties:

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Robert Allain, Agent for Remonstrants, 297 Central Avenue, Norwich, CT
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Tamechia R. Morgan, Permittee, Red's Café, 287 Central Avenue,
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Nonparties:

John Suchy, Director, Liquor Control Division
Connecticut Beverage Journal
Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106