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METHUEN LICENSING BOARD
SEARLES BUILDING, 41 PLEASANT STREET
SECOND FLOOR CONFERENCE ROOM #208

MEETING of the Methuen Licensing Board on Wednesday August 9, 2023, at 6:00PM in the second-floor conference room, 41 Pleasant Street was called to order by Chairman Chase. Members present was Commissioner Camargo and Commissioner Giordano,

Pledge of Allegiance

Call to Order, Chairman Chase called the meeting to order. Present were Chairman Chase, Commissioner DiGloria and Commissioner Camargo

Approval of Agenda, Commissioner Giordano motioned to approve the agenda for August 8, 2023, Second by Commissioner Camargo, All in Favor

Approval of Minutes for July 12, 2023, Chairman tabled minutes for July 12, 2023, minutes until the next meeting on September 13, 2023, second by Commissioner Giordano. All in Favor

New Business

Attorney Anthony Copani was representing Liban D'OR 45 Hampshire Street, had requested a second hearing for reconsideration of extended hours. Attorney Copani asked for the board to reconsider the action that was taken on June 26, 2023, that denied the hours of operation change. In attendance Mr. Eli Merhab the owner of the business, began his application in 2020. The application allows the applicant to put their hours of operation. At that time Mr. Merhab posted his hours of operation. Attorney Copani states he has several exhibits. Exhibit A- Is a copy of the first 2020 license (See Attached) Attorney Copani then submitted exhibit B- (See Attached) Three renewal licenses showing the hours changed in 2022. Mr Merheb would never change the hours if he knew he had to come before the board. When renewed in 2022 he changed his hours on the application to Sunday 10AM -10PM and Mon- Sat. 8AM- 10PM. In Mr, Merhebs mind set, he was just changing hi hours. He was not trying to hide anything. Exhibit C- See Attached) Alcoholic Beverage Control Commission Frequently Asked Questions. Section 18, Package Store licensee chooses the hours of sale on a Sunday as long as the sales do not Commence before 10:AM and conclude no later than 11: 00AM. Exhibit D – The Alcohol Beverage Control Commission Advisory M.G.L c.138, s15 Off Premises Retail Licenses Sunday Opening Time Allowed at 10: AM. Exhibit E- (See Attached) A list of Package Store with their hours. Exhibit F – (See Attached). Administration of the Government, Public Safety and Good Order, Alcohol Liquors. Section 15. Mr. Merheb has never received one complaint, he only found out his error when the City Clerk called him and told him he was in violation. H immediately applied to come before the board to rectify his error. After all the documents were submitted and reviewed by the board Commissioner Camargo motioned to approve the application for change of hours, Second by Commissioner Giordano, All in favor. Attorney Company will withdraw his appeal to the ABCC.

An application was submitted for a new All Alcohol License from Attorney Anthony Copani, representing Wengs Garden, Inc. 436 R. Broadway which was continued from the July 12th. Licensing Board Meeting. Chairman started off by explaining the reason the application was tabled 1st month was because all departments hav not signed off, those being Fire Department and Inspectional Services. Attorney Copani said that he is aware that some departments have yet to sign off. Chairman Chase said he spoke to the Solicitor today and he stated that no license can be approved until all department have signed off. Once those are in hand we can reconvene. Attorney Copani would like the record to reflect, that Section 138 Chapter 15 A of the ABCC law to be submitted to the City Solicitor. Chairman Chase said he will be sure that the Solicitor gets this information. If all the required departments sign off, we will put you on the September 13th. Agenda.

An application was submitted for an All-Alcohol Package Store and a change of location from Ocean Street LLC., to Neighborhood Convenience Market, 7 Cross Street which was tabled from the July 12th.2023 meeting. Attorney Louis Cassis was present representing Neighborhood Convenience Store. Chairman Chase told Attorney Cassis, since their last appearance, we have been informed by the City Solicitor for a violation hearing with the ABCC on October 24, 2023. We have been advised by the City Solicitor to table this application until the issue has been resolved at the state level. Do I hear a motion? Commissioner Giordano motioned to table, second by Commissioner Camargo. All in favor. Attorney Daniel Newcomb spoke up stating he was there representing Ocean

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Street 2030 who had previously been requested to be present by the board for the transfer. Also in attendance was Attorney Bill Kelley While Attorney Kelley tried to speak, an unidentified woman was speaking loudly over him, making the conversation inaudible. Chairman Chase stated that the way this is going to work is, we will hear the motion to table and then we will allow the public to speak. Commissioner Giordano motioned to table this application second by Commissioner Camargo, All in favor. Attorney Kelley stated that the letter from the ABCC is not technically violation it is a notice of a hearing to decide whether as to the ABCC would cancel license for non-use based on allegations that were obtained on investigations report, we had no notification before this meeting that this board would be considering that allegation at this meeting, therefore tableting this position would be in proper. Without Mr. Newcomb who is the transferrer Further getting into the substance of that proceeding with the ABCC, having been involved in many of them, in fact the ABCC has a litany of procedural decisions Generally passing on appeals of local board decisions to cancel a license for nonuse as a matter of consistency in fairness applied the standard that is articulated and upheld by the appeals court before an local board or the ABC will terminate a license for nonuse under section 77. In fact they would call licensee in for the informational meeting and put them on notice of what they were risking by the nonuse and then inform them of the cure for this would be one of three actions. 1. Open at the location where the license is assigned; 2. File an application to transfer ownership of the license to an entity that would open up and operate the license at the designated location; or 3. File an application to transfer the location of the license to where it would be operated. Here on the agenda tonight as it was on the July meeting, where there was a quorum and the June meeting, where there was a quorum, you had two out of those three actions pending before, and they are pending before you tonight. That is the transfer of ownership to someone who is going to operate the license and a transfer of location to where the license will be activated. Chapter 138-23, paragraph 9, sets out the standard by which must make that decision. So now the question is, the transferee, Mr. Casis' client is qualified to receive the license in the first instance. I suggest he is as he suffers from no criminal convictions or felony that would disqualify him from holding the license. There is no question to the character and fitness of the proposed transferee. From what I understand, there was a large outpouring of community support at the two prior meetings. I heard, but was not present, there was upwards of 40 people were present here to speak in favor of this applicant getting this license in this location. And so I suggest that this proceeding should go forward on the merits. It was delayed, from July I am informed, because the Chair wanted Mr. Newcomb present, he is here, ready to speak with the Chair of the Commissioners to address any questions you might have of him, as am I.

Chairman Chase stated that he had a lot of questions. Last month's event and then days after that we received an investigative report and after that and speaking with the City Solicitor, we were advised to table this issue until the hearing in October was resolved. Attorney Kelly stated that there is no lawful basis for that nonaction by this board, and if you do that, you will get involved in a protracted litigation. Brian: That is how your client got this license in the first, place by threatening litigation. Attorney Kelly: it was not threatening Mr. Chairman, the local licensing board failed to abide by its legal obligations, you are going to repeat that mistake again tonight.

Chairman Chase: The issues raised in this investigative report, compel us to table the matter until the matter is resolved, and the state is going to resolve that in October.

Attorney Kelly: May I be heard on the Chair's comment. I suggest the Chair's comment insinuates that this board will sit as a super administrative board over the actions of the ABCC. You have a specific obligation to act within 30 days, you acknowledge that you did not do that from the very first time Mr. Newcomb applied for this license. I urge you strongly to reconsider and do not repeat your past legal errors that will only lead to litigation.

Catherine Forina, 14 Perly St.: I would like you to know that your previous action led to litigation by the ABCC. I do not want my taxes to go to frivolous litigation. After filing a public records request for minutes from previous meetings and not receiving what I asked for, you are in violation of the public records laws. After reviewing all the minutes, you never asked the purchaser to be present or how much they were purchasing the license for – that is none of your business. Please ask me why you cannot act on this license request.

Chairman Chase: Thank you for your comments. Does anyone else wish to speak? With no more public participation, there is a motion to table until the resolution of the ABCC action. Commissioner Camargo second the motion. All in favor. Motion to adjourn by Commissioner Giordano, second by Commissioner Camargo, all in favor.

The next meeting will be September 13 2023

Respectfully Submitted by
Marie Messina
Licensing Clerk