



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Deborah B. Goldberg
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

**AMENDED
DECISION**

SAJJAN ENTERPRISES, LLC D/B/A COHASSET WINE AND SPIRITS
27-29 SOUTH MAIN STREET
COHASSET, MA 02025
LICENSE#: 023800015
HEARD: 03/30/16

This is an appeal of the action of the Town of Cohasset Board of Selectmen (the "Local Board" or "Cohasset") for denying the application to transfer the location of a M.G.L. c. 138, § 15 all alcoholic beverages license of Sajjan Enterprises, LLC D/B/A Cohasset Wine and Spirits ("Licensee" or "Sajjan") from 27-29 South Main Street to 807 Chief Justice Cushing Highway, Cohasset, Massachusetts. The Applicant appealed the Local Board's decision denying the transfer of location application to the Alcoholic Beverages Control Commission (the "Commission"), and a hearing was held on Wednesday, March 30, 2016.

The following documents are in evidence:

1. Copy of license #023800015;
2. Application for change of location, 11/24/14;
3. Notice of public hearing, 1/12/15;
4. Letter from Licensee's attorney, 1/17/15;
5. Memo from Robert Egan, 1/26/15;
6. Plot plan of 807 CJC Highway;
7. Minutes of Local Board hearing, 1/20/15;
8. Minutes of Local Board hearing, 2/3/15;
9. Request for extension of time, 4/8/15;
10. Minutes of Local Board hearing, 4/14/15;
11. Request for extension of time, 7/23/15;
12. Minutes of Local Board hearing, 8/25/15;
13. Request for extension of time, 9/22/15;
14. Minutes of Local Board hearing, 9/22/15;
15. Application for site plan approval, 9/22/15;
16. Agenda and minutes of Planning Board, 10/21/15;
17. Agenda and minutes of Planning Board, 11/18/15;
18. Minutes of Local Board hearing, 11/24/15;

19. Request for extension of time, 11/24/15;
20. Decision of Local Board, 11/24/15;
21. Site plan approval of Planning Board, 2/24/16;
22. 2 photographs of 27-29 South Main Street area;
23. Photograph of parking area;
24. Photograph of municipal parking lot;
25. 3 photographs of 807 Chief Justice Cushing Highway;
26. 3 photographs of area abutting 807 Chief Justice Cushing Highway;
27. Photograph of area across the street from 807 Chief Justice Cushing Highway; and
28. Photograph of area across the street and diagonally to the left of 807 Chief Justice Cushing Highway.

There is one (1) audio recording of this hearing, and three (3) witnesses testified. The Commission took administrative notice of the Licensee's Commission file.

FINDINGS OF FACTS

1. Sajjan Enterprises, LLC d/b/a Cohasset Wine and Spirits was issued a § 15 all alcoholic beverages license in September 2013 and operated a package store at 27-29 South Main Street, Cohasset, Massachusetts for about one year. (Commission Files).
2. In October 2014, the lease expired and Licensee lost the premises. (Testimony).
3. Debra Sajjan is the sole shareholder and Manager of Record of the Licensee.¹ (Commission Files).
4. In November 2014, the Licensee timely renewed its license for 2015. (Testimony; Commission Files).
5. On or about November 24, 2014, the Licensee applied for a transfer of location with the Local Board to change the licensed premises to 807 Chief Justice Cushing Highway. (Exhibit 2).
6. Between January 17, 2015 and September 22, 2015, the Licensee sought numerous extensions of time from the Local Board regarding the transfer of location application, and the Local Board granted those extensions. (Testimony; Exhibits 4, 9, 11, 13).
7. On November 24, 2015, the Licensee sought an additional extension of time from the Local Board for the November 24, 2015 hearing, but that request to extend the time was denied, and the hearing proceeded. (Testimony; Exhibit 18).

¹ At the Commission appeal hearing, Debra Sajjan's husband, Joginder Sajjan, was the only one who testified on behalf of the Licensee, and he held himself out as the owner of the Licensee. (Appearance Slip; Testimony). According to the Commission's files, Mr. Sajjan has no ownership interest in the license. (Commission Files, including Affidavit of Joginder Sajjan, 9/9/13). However, Mr. Sajjan appears to be the one who acted on behalf of the Licensee in seeking a new location and the necessary approvals from the Town of Cohasset relative thereto. (Exhibits 2, 4, 7, 8, 12-14, 18, 19). If the Commission's decision in this matter were any different, the Commission would refer the issue of hidden ownership to the Commission's Investigators.

8. At the November 24, 2015 hearing, the Local Board denied the application to transfer the location. (Exhibits 18, 20).
9. On or about November 11, 2015, the Licensee filed its renewal application for 2016. (Testimony; Commission Files).
10. Following the Local Board's November 24, 2015 decision denying the application to transfer the location of the license, and before the end of 2015, the Local Board voted to deny the Licensee's 2016 renewal application. (Testimony; Commission Files).
11. The Local Board is holding the license during the pendency of this appeal. (Testimony).
12. On December 9, 2015, the Licensee appealed the Local Board's decision denying the application to transfer the Licensee's location. (Commission Files).
13. The Licensee did not appeal the decision of the Local Board in denying the renewal application.

DISCUSSION

General Laws c. 138, § 23, provides that “[e]very license and permit granted under the provisions of this chapter, unless otherwise provided in such provisions, shall expire on December thirty-first of the year of issue, subject, however, to revocation or cancellation within its term.” M.G.L. c. 138, § 23. General Laws c. 138, § 16A, confers upon § 15 licensees, the prima facie right to renew the license every November, subject to certain conditions. “Licenses issued under section twelve or fifteen shall be automatically renewed for the next annual license period upon application by the holder thereof during the month of November. . . Any such application may, however, be rejected for cause, subject to appeal under section sixty-seven.”² M.G.L. c. 138, § 16A. Under General Laws c. 138, § 67, a licensee who is aggrieved by the action of the local board in rejecting its renewal application may appeal to the Commission within five days of notice of such action. M.G.L. c. 138, §§ 67, 16A.

Here, the Licensee filed a renewal application for 2016 in November 2015, but the Local Board disapproved the renewal application before the end of 2015. (Commission Files; Testimony). The Licensee never appealed the disapproval of the renewal application, and it had only five days to do so upon notice of the disapproval. See M.G.L. c. 138, § 67. If Licensee's application for renewal had been approved, the Licensee would have been in a position to call for determination by the Commission of the substantive issue regarding the denial of the transfer of location. But the Licensee never appealed Cohasset's denial of its renewal application for the license for calendar year 2016. The 2015 license expired with the close of that year. See M.G.L. c. 138, § 23. Without a renewed license, Licensee's underlying appeal before the Commission is moot. See Zelman v. Alcoholic Beverages Control Comm'n, 335 Mass. 515 (1957) (determining that a Licensee's appeal becomes moot when the Licensee fails to renew its license). The Commission is relieved of determining whether the Local Board's denial of the application to transfer the location of the premises was an error of law or arbitrary or capricious. See id.

² The Commission's earlier decision of July 20, 2016 inadvertently quoted the former language of the statute. The difference in language does not otherwise alter this Amended Decision.

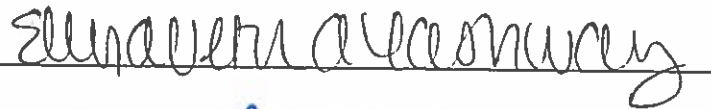
Even if the Commission were now to find in Licensee's favor on the underlying appeal, such a finding would not make the corporation a licensee for 2016 or put it in a position where it could by its act acquire prima facie rights for 2016. Id.; Ward v. Selectmen of Scituate, 334 Mass. 1, 2 (1956). Compare Piona v. Alcoholic Beverages Control Comm'n, 332 Mass. 53, 57 (1954) (where the petitioner was seeking restoration of a license improperly cancelled.)

CONCLUSION

Based on the evidence and testimony at the hearing, the Licensee's appeal is **DISMISSED WITHOUT PREJUDICE** for failure of the Licensee to appeal the Town of Cohasset's disapproval of its 2016 license renewal application.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: August 9, 2016

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You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

cc: Thomas Orlandi, Jr., Esq. via facsimile 617-376-0254
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Frederick G. Mahony, Chief Investigator
Administration, File