

Re: New England Golf Partners, Inc.  
d.b.a.: Georgetown Club  
Premise: 258 Andover Street  
City/Town: Georgetown, MA 01833  
Heard: March 18, 2009

## DECISION

The Georgetown Club, through its General Manager, Daniel Cammarata, appeared before the Commission on March 18, 2009 for an informational hearing pertaining to the new legislation under G.L. Chapter 138 §12 governing the sale of alcoholic beverages on premises in regards to golf courses. Under the recent amendment, Chapter 300 of the Acts of 2008 holds that, “a local licensing authority may grant a license for the sale of all alcoholic beverages or a license for the sale of wines and malt beverages, at any location on the grounds of a golf course as it deems responsible and proper.” The Georgetown Club hearing brought before us several issues, which must be addressed to clarify for local licensing authorities, managers and owners of golf courses on how this amendment is to be practically applied.

## DISCUSSION

### I.

Is the same license that the Licensee currently holds (whether it be an all alcohol or a wine and malt beverage license) extending to the golf course premises?

Under Massachusetts’s case law, it is clear that restrictions placed on a license by a local licensing authority is not permitted. See Hub Nautical Supply Co., Inc. v. Alcoholic Beverages Control Commission & Others, 11 Mass. App. Ct. 770 (1981). According to Hub it is within the power of the Alcoholic Beverages Control Commission to disapprove a license issued by a local licensing authority on the ground that the conditions be imposed on the license were beyond the scope of authority of the local board. In the case before us, specifically the Georgetown Club, the club is seeking to have the license altered for sale of alcoholic beverages on their golf course only. This would be granted through the amendment passed by the legislature, Chapter 300 of the Acts of 2008. However, Georgetown is seeking not only to extend the hours of the sale of alcoholic beverages to its golf course but also to change or alter the nature of its liquor license. This cannot be done and the local licensing authority does not have the authority to do so.

### II.

If one has an all alcohol license can a local licensing authority alter the license and approve the alteration of the license for the sale of alcoholic beverages on golf courses to be wine and malt only?

In the case before us, the local licensing authority approved the alteration of the liquor license for the sale of alcoholic beverages on golf courses. The Georgetown Club currently holds an all alcohol license. The local licensing authority altered their “golf course” license per se (which is the same license) and gave them permission to use this license as one for wine and malt only. There is no authority to do so. Whatever license the licensee currently holds is the license that is extended to the golf course. It is considered the same license whether it be wine and malt or all alcohol. The local licensing authority cannot alter a license, which is exactly what it did in this case. The Georgetown Club had an all alcohol license and the local licensing authority allowed the club to have the golf course sell only wine and malt on the golf course. If the Georgetown Club has an all alcohol license then that type of license could be extended to the golf course. But the license it currently has cannot be limited to only wine and malt, nor could a wine and malt license be altered to include all alcohol. The local licensing authority has no authorization to do this. It may not alter the license in any manner.

### III.

Can the local licensing authority alter the time in which alcohol is served? If so, can the hours for the golf course be different than those for the licensed premises?

Under M.G.L. Chapter 138 §12, the time is set forth in which alcohol can be served on premises. The local licensing authority cannot decrease but may increase the licensee’s hours that it may serve alcohol up to a certain hour enacted by statute. Under this new amendment however, whatever hours the licensee is currently allowed to serve alcohol will be the same hours for the golf course since it is considered the same license.

### GUIDELINES

The Guidelines that the Alcoholic Beverages Control Commission has set forth for the service of alcoholic beverages on golf course are as follows:

1. Alcoholic beverages cannot be sold or delivered outdoors on the grounds of a golf course unless and until approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission as part of a § 12 licensed establishment.

Once approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission as part of a § 12 licensed establishment only those alcoholic beverages sold or delivered by the approved licensee may be consumed and possessed by the patrons outdoors on the grounds of a golf course that is included as part of a § 12 licensed establishment.

2. An application to extend the premises must describe the area in detail. The applicant must provide the description of the area in detail that includes the location and size of any areas of service and storage of alcoholic beverages, including whether alcoholic beverages will be sold or delivered in or from a cart. For example:
  - (a) “the 18 holes of the golf course as shown on the scorecard on the golf course dated January 27, 2009 attached hereto and marked as Exhibit 1 to be sold from 3 beverage carts”;

- (b) “the area containing the 18 holes of the golf course shown on the plan attached hereto dated January 27, 2009 attached hereto and marked as Exhibit 1 to be sold at the stands indicated and from a beverage cart”;
  - (c) “the area containing holes 1-7, 9-12- and 16-18 on the north side of Main Street as shown on the plan attached hereto dated January 27, 2009 attached hereto and marked as Exhibit 1 to be sold at the stands indicated and from a beverage cart and stored in the shack indicated.”
- 3. The applicant for the license to be used on the grounds of a golf course must provide documented proof that the applicant has a legal right to occupy the grounds of the golf course on which permission is sought to sell and deliver alcoholic beverages. For example, the applicant may provide a copy of a lease, an occupancy agreement, a letter agreement or a contract.
- 4.
  - (a) The grounds of the golf course must be contiguous and appurtenant to the existing licensed premises.
  - (b) Public ways may intersect, interrupt or divide the grounds of the golf course for which approval is sought. The Commission will approve a single license to cover that portion of the grounds of a golf course that lies across a public way provided the licensee applies for and receives from the Commission a transportation permit under M.G.L. c. 138, § 22 for each beverage cart used in the transportation and delivery of alcoholic beverages.
  - (c) No licensee shall permit any patron to possess or carry alcoholic beverages in or on a public way.
  - (d) At each crossing of a public way, each licensee shall post signs stating “no alcoholic beverages permitted beyond this point” at appropriate locations in a conspicuous place where these signs can easily be read.
  - (e) Parking lots of a golf course will be treated the same as a public way. The Commission will not approve any parking lot to be included in the description of licensed premises on the grounds of a golf course.
- 5. The licensing authorities should consider the type of neighborhood and the potential for noise in the environs.
- 6. No more than two drinks shall be sold, delivered or in the possession of any one patron at any one time while on the grounds of a golf course approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission.
- 7. The applicant must post signs stating “no alcoholic beverages permitted beyond this point” at appropriate locations bordering the course in a conspicuous place where these signs can easily be read. The local licensing authorities may specify the location of any such signs.
- 8. No § 12 licensee shall permit any patron to possess alcoholic beverages on the grounds of a golf course approved in writing by both the local licensing

authorities and the Alcoholic Beverages Control Commission other than those alcoholic beverages purchased from that licensee.

9. No § 12 licensee shall permit any patron to carry or transport any alcoholic beverages off the grounds of a golf course approved in writing by both the local licensing authorities and the Alcoholic Beverages Control Commission.
10. A § 12 licensee is reminded that the § 12 licensee must ensure that each person employed for the direct handling or selling of alcoholic beverages is 18 years of age or older.

### CONCLUSION

The license that the Licensee currently holds, whether it be all alcohol, or wine and malt, is the only license that the licensee is issued. Therefore that license is extended to the golf course premises and is not altered, and cannot be in any manner.

The hours that the Licensee is currently operating under also is extended to the golf course. In other words, the hours that the licensed premises are operating under must also be in effect for the golf course. The local licensing authority cannot alter these hours at all for the golf course. Whatever hours the Licensee is operating under for hours of operation for the licensed premises shall be applicable to the golf course.

In conclusion, it should be clear that the Licensee has one license that extends to the golf course and that the hours and type of license also extends to the golf course, without exception.

### ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner \_\_\_\_\_

Eddie J. Jenkins, Chairman \_\_\_\_\_

Dated in Boston, Massachusetts this 2<sup>nd</sup> day of April 2009.

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 days of receipt of this decision.

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
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