



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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainstoro, Esq.
Chairman

DECISION

Idle Hands Craft Ales, LLC
3 Charlton Street
Everett, MA 02149
Heard: June 21, 2011

This was an informational hearing before the Alcoholic Beverages Control Commission (the "Commission") to determine whether to approve or disapprove the application of Idle Hands Craft Ales, LLC for a farmer-brewery license under M.G.L. c.138, § 19C to be located at 3 Charlton Street, Everett, MA. Based on the information presented at the hearing, the Commission finds the following facts and makes the following rulings of law.

The following is in evidence:

A. Legal Description.

There is one (1) tape of this hearing.

FACTS

1. On June 14, 2010, Idle Hands Craft Ales, LLC was organized in Massachusetts for the authorized purpose of being a manufacturer of craft beer. Ex. A
2. The Commission received an application dated February 28, 2011 by IDLE HANDS for a § 19C license. Ex. A
3. Idle Hands does not own a farm. Idle Hands seeks to locate a farmer-brewery license in a location that is not on a farm. Ex. A
4. The applicant proposes to locate the farmer-brewery in an industrial park in Everett. Idle Hands provided an aerial photograph of the proposed location. Ex. A
5. In support of its application, Idle Hands filed a self-styled "Statement of Eligibility For Farmer-Brewery Status" dated April 14, 2011 and a self-styled "Statement of Agricultural Support" dated May 1, 2011. Ex. A
6. Idle Hands admits in its Statement of Agricultural Support it will not itself grow any cereal grains. Ex. A
7. Idle Hands represents in its Statement of Eligibility For Farmer-Brewery Status that it "plans to grow hop plants on the property of 3 Charlton St., Everett, MA to be used in the manufacture of its beer." Ex. A
8. Idle Hands states that it plans in the future to grow hops in "raised beds and/or large planters ... along the eastern wall of the building that contains the brewery." Ex. A

9. Idle Hands represents in its Statement of Agricultural Support that it plans to contract with a Massachusetts farmer to grow grains that will provide 7-10% of the annual quantity of grain needed to produce the volume of malt beverages to be manufactured.
10. Idle Hands plans to buy on the open market 93-90% of the annual quantity of grain needed to produce the volume of malt beverages to be manufactured. Ex. A
11. Idle Hands did not disclose in its application as originally filed the percentage of hops it would grow to produce the volume of malt beverages to be manufactured. Ex. A
12. At hearing before the Commission, Idle Hands represented that in calendar year 2012, it would grow 3% of the annual quantity of hops needed to produce the volume of malt beverages to be manufactured. Ex. A
13. Idle Hands provided no facts on the source of its hops for calendar year 2011 in the quantity needed to produce the volume of malt beverages to be manufactured. Ex. A
14. Idle Hands did not indicate the source of its cereal grains for calendar year 2011 in the quantity needed to produce the volume of malt beverages to be manufactured. Ex. A

ISSUE

Whether the Commission will approve the application for a farmer-brewery for a location that is not located on a farm when the applicant does not grow any hops to produce malt beverages and the applicant does not grow any cereal grains to produce malt beverages and the applicant has contractual rights to have grown for it only 7-10% of the quantity of cereal grains needed to produce the anticipated volume of malt beverages?

DISCUSSION

General Laws chapter 138, § 19C authorizes the Commission to issue a farmer-brewery license. Chapter 138, § 1 defines "farmer brewery" as "any plant or premise where malt beverages are produced from the fermentation of malt with or without cereal grains or fermentable sugars, or of hops, provided that said hops or cereal grains are grown by the *farmer-brewer* [emphasis added.]" The term "farmer brewer" is defined as "any person who grows cereal grains or hops for the purpose of producing malt beverages and who is licensed to operate a farmer-brewery under section nineteen C."

There is no question that Idle Hands itself does not grow any cereal grains or hops to produce malt beverages. At best, Idle Hands holds exclusive contractual rights to the yield produced from an acre of domestic farmland by an independent farmer, that is, a farmer who is not a person with a disclosed interest in the license being sought. This contractual right held by Idle Hands would provide only 7-10% of the quantity of cereal grains needed to produce the anticipated volume of malt beverages.

The Commission is persuaded that a person who grows less than 50%, in the aggregate, of the quantity of cereal grains and hops needed to produce the anticipated volume of malt beverages is not a farmer brewer within the meaning of section 1 of chapter 138 of the General Laws. The Commission acknowledges that, in addition to growing cereal grains or hops him or herself, a person may also be considered to grow "cereal grains or hops for the purpose of producing malt beverages" within the meaning of M.G.L. c. 138, §1, when that person contracts exclusively for the rights to the yield of cereal grains or hops produced from acreage of domestic farmland.

On these facts, the Commission finds that Idle Hands does not meet the state law definition of "farmer brewer." The application is not approved and is remanded to the

Investigative Division for the applicant to submit additional facts to prove it grows at least 50%, in the aggregate, of the quantity of cereal grains and hops needed to produce the anticipated volume of malt beverages.

CONCLUSION

Therefore, the application of Idle Hands Craft Ales, LLC for a farmer-brewery license under M.G.L. c. 138, § 19C to be located at 3 Charlton Street, Everett, MA is not approved.

The industry is put on notice that the Commission will be applying this ruling prospectively and, specifically, during the next annual renewal cycle to ensure that every applicant for a farmer-brewer license meets the state law definition of farmer-brewer by growing at least 50%, in the aggregate, of the quantity of cereal grains and hops needed to produce the anticipated volume of malt beverages.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman

Susan Corcoran, Commissioner

Robert H. Cronin, Commissioner

Dated: July 20, 2011

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: Frederick G. Mahony, Chief Investigator
Jack Carey, Investigator
Local Licensing Board
File