



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

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

DECISION

ASH-GEN, INC.
42 AMESBURY STREET
LAWRENCE, MA 01810
LICENSE: NEW APPLICATION
HEARING DATE: 4/4/2012

This is an appeal of the action of the City of Lawrence Licensing Board (the "Local Board") in denying the application of Ash-Gen, Inc. (the "Applicant") for an all alcoholic beverages, general-on-premise license pursuant to M.G.L. c. 138, §12 , to be exercised at 42 Amesbury Street, Lawrence, Massachusetts. On January 11, 2012, the Local Board held a hearing that resulted in the denial of the license application of Ash-Gen, Inc. The Applicant timely appealed the Local Board's decision to the Alcoholic Beverages Control Commission (the "Commission") and a hearing was held on Wednesday, April 4, 2012.

The following documents are in evidence:

Exhibits of the Licensee

1. Applicant Ash-Gen Pre-Hearing Memorandum dated March 12, 2012;
2. Decision of Licensing Board for the City of Lawrence denying the application, dated January 13, 2012;
3. Map of Lawrence showing proposed location of Ash-Gen, Inc. ; and
4. Letter from Robert Wilson, Captain Fire Prevention, of the Lawrence Fire Department.

Exhibits of the Local Board

- A. Request for Continuance from Lawrence City Attorney Boddy dated April 4, 2012.

There is one (1) audio recording of this hearing.

PROCEDURAL HISTORY

1. A hearing on this application was held before the Local Board on January 11, 2012.
2. On January 11, 2012 the Local Board issued a decision denying the application. (Exhibit B)
3. The Applicant timely appealed the Local Board's denial to the Commission.
4. A hearing on this matter was scheduled before the Commission for April 4, 2012 at 1:30 p.m.
5. The Applicant submitted a Pre-Hearing Memorandum in this matter on March 13, 2012.
6. The Pre-Hearing Memorandum in this matter was not filed jointly. It was filed on behalf of the Applicant.
7. The Licensing Board for the City of Lawrence did not file a Pre-Hearing Memorandum.

8. On the scheduled hearing date before the Commission, the Applicant appeared with his counsel Robert Minasian, who filed an appearance in this matter.
9. City of Lawrence Attorney Charles Boddy did not appear at the Commission hearing on behalf of the Local Board.
10. Ms. Patricia Hathaway, Administrative Assistant to the Commission was instructed to phone Attorney Boddy and inquire as to his whereabouts.
11. Attorney Boddy requested a continuance via facsimile on April 4, 2012 at 2:25 p.m. (Exhibit 1)
12. Attorney Minasian opposed the Local Board's request for a continuance of the Commission hearing.
13. The Commission held the hearing on this matter and the Applicant presented his case.

FACTS

1. Ash-Gen, Inc. filed an application for an all alcoholic general on premise license to be exercised at 42 Amesbury Street, Lawrence, Massachusetts.
2. Mr. Pedro Beatto and Mr. Reyes appeared and testified at the Commission hearing.
3. Mr. Beatto is the principal and sole shareholder of Ash-Gen, Inc.
4. Mr. Beatto previously owned and operated a licensed establishment for six (6) years on Broadway in the City of Lawrence.
5. 42 Amesbury Street in Lawrence, the proposed location, is zoned for the applicant's intended use. (Exhibit A)
6. Mr. Beatto testified that he is forty-six (46) years old and applied to become the owner, manager, and the licensee of Ash-Gen, Inc.
7. Mr. Beatto has been working in the food and beverage industry since 1999.
8. Mr. Beatto testified that at the hearing before the Local Board, Lt. Sean Conway testified that the Lawrence Police Department is opposed to this license.
9. Six (6) people spoke in favor of this application at the hearing before the Local Board.
10. Mr. Reyes testified at the hearing in support of this application. Mr. Beatto is his cousin, and Mr. Reyes manages the building at 42 Amesbury Street in Lawrence, which is the proposed location of Ash-Gen, Inc.

DISCUSSION

The Local Board failed to appear at the hearing before the Commission. Therefore, due to the failure of the Local Board to appear, the Commission has no choice except to disapprove the action of the Local Board in denying the application, and remand the matter with the recommendation that the Local Board grant the application and forward it to the Commission for its consideration of Approval in the ordinary course.

CONCLUSION AND DISPOSITION

Based on the record of this hearing, the Commission must **DISAPPROVE** the action of the Local Board in denying the application, and remand the matter to the Local Board with the recommendation that the Local Board grant the application and forward it to the Commission for its consideration of approval in the ordinary course.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner Nathleen McNally

Susan Corcoran, Commissioner Susan Corcoran

Dated: August 6, 2012

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: Charles Boddy, Esq.
Robert Minasian, Esq.
Frederick G. Mahony, Chief Investigator
Administration
File