



Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358

Jean M. Lorizio, Esq.
Chairman

IVHAN INC. D/B/A NEIGHBORHOOD CONVENIENCE MARKET
7 CROSS STREET
METHUEN, MA 01844
LICENSE#: NEW
HEARD: 9/27/2023

**MEMORANDUM AND ORDER ON IVHAN INC. D/B/A NEIGHBORHOOD
CONVENIENCE MARKET'S MOTION FOR SUMMARY DECISION**

Ivhan Inc. d/b/a Neighborhood Convenience Market (“Neighborhood Convenience”) applied for the transfer of 2030 Ocean St, LLC d/b/a Wine and Market’s (“Wine and Market”) M.G.L. c. 138, § 15, all alcoholic beverages retail license to the Methuen Licensing Board (“Local Board”) on April 29, 2023. The Local Board scheduled a hearing on the application for June 14, 2023, which was continued until July 12, 2023, and then again to August 9, 2023, over Neighborhood Convenience’s objection. On August 9, 2023, the Local Board did not conduct a hearing but rather tabled the matter indefinitely. Neighborhood Convenience appealed to the Alcoholic Beverages Control Commission (“Commission”) citing the Local Board’s failure to act on their M.G.L. c. 138, § 15, all alcoholic beverages retail application within thirty days. A hearing on Neighborhood Convenience’s Motion for Summary Decision was held on September 27, 2023.

A motion for summary decision may be filed pursuant to 801 C.M.R. 1.02(7)(c). These motions are decided under the well-recognized standards for summary disposition as a matter of law, i.e., “viewing the evidence in the light most favorable to the non-moving party,” the undisputed material facts affirmatively demonstrate that the non-moving party has “no reasonable expectation” of prevailing on at least one “essential element of the case”. Milliken & Co., v. Duro Textiles LLC, 451 Mass. 547, 550 n.6 (2008); Maimonides School v. Coles, 71 Mass. App. Ct. 240, 249 (2008).

When a local licensing authority receives an application for a § 12 or § 15 retail license, M.G.L. c. 138, § 16B dictates that the Local Board must act on the application, either granting or dismissing the application, within thirty (30) days. M.G.L. c. 138, §16B. In addition, pursuant to M.G.L. c. 138, § 15A., a hearing must be afforded before the granting or dismissal of an application. M.G.L. c. 138, § 15A. Failure to act on an application, including the failure to hold a hearing, within thirty days, constitutes the denial of an application, which the applicant may appeal to the Commission. M.G.L. c. 138, § 67 (“Any applicant for a license who is aggrieved by the action of the local licensing authorities in refusing to grant the same, or by their failure to act within the period of thirty days . . . may appeal therefrom to the commission . . .”).

Here, there is no dispute that Neighborhood Convenience filed an application for the transfer and change of location of the M.G.L. c. 138, § 15, all alcoholic beverages retail license, with the Local Board on April 29, 2023, and as of September 27, 2023, the Local Board had not held a hearing, and had not acted on the application. There is not an exemption within the Commonwealth's Liquor Control Act that allows a Local Board to disregard M.G.L. c. 138, § 16B and/or § 15A.

CONCLUSION

For the foregoing reasons, Ivhan Inc. d/b/a Neighborhood Convenience Market's Motion for Summary Decision is allowed. The Commission remands this matter to the Methuen Licensing Board to hold a hearing regarding the application filed by Neighborhood Convenience and either grant or deny the application as required pursuant to M.G.L. c. 138, §§ 15A & 16B. Said hearing shall be scheduled for the earliest possible date, in compliance with M.G.L. c. 138.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman _____ 

Crystal Matthews, Commissioner _____ 

Deborah A. Baglio, Commissioner _____ 

Dated: November 16, 2023

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.

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2023-000226-ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Louis Cassis, Esq.
Kenneth Rossetti, Esq.
Administration, File