



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

Jean M. Lorizio, Esq.
Chairman

DECISION

**LOTUS STORE 13, INC. D/B/A SHAMROCK MARKET
1116 ST. JAMES AVENUE
SPRINGFIELD, MA 01104
LICENSE#: NEW
HEARD: 11/13/2023**

This is an appeal of the action of the City of Springfield Board of License Commissioners (the "Local Board" or "Springfield") denying the M.G.L. c. 138, § 15 wines and malt beverages retail package store license application of Lotus Store 13, Inc. d/b/a Shamrock Market ("the "Applicant" or "Shamrock Market") to be exercised at 1116 St. James Avenue, Springfield, Massachusetts. The Applicant timely appealed the Local Board's decision to the Alcoholic Beverages Control Commission (the "Commission" or "ABCC"), and a remote hearing via Microsoft Teams was held on Monday, November 13, 2023.

The following documents are in evidence as exhibits:

- A. Customer and Community Signed Petition in Favor of Shamrock Market's M.G.L. c. 138, § 15 Wines and Malt Beverages Retail Package Store License Application;
- B. Appellant's Brief in Support of Shamrock Market's M.G.L. c. 138, § 15 Wines and Malt Beverages Retail Package Store License Application, 11/7/2023.

There is one (1) audio recording of this hearing, and one (1) witness testified.

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. Lotus Store 13, Inc. d/b/a Shamrock Market ("the "Applicant" or "Shamrock Market") is a convenience store located at 1116 St. James Avenue, Springfield, Massachusetts. (Testimony, Exhibit B)

Under common ownership and within Shamrock's convenience store is a fast dining and takeout restaurant called Chesters Chicken. The applicant applied for the license based on customers' requests and for customers' convenience. *Id.*

2. On or about August 2023, Shamrock Market filed its § 15 wines and malt beverages retail package store license application with the Local Board. *Id.*

3. On September 13, 2023, the Local Board held a public hearing regarding Shamrock Market's application for a M.G.L. c. 138, § 15 wines and malt beverages retail package store license. Id.
4. The Local Board heard from city residents concerning Shamrock Market and the awarding of additional alcoholic beverages licenses not just in their community within Springfield but Springfield as a whole. Id.
5. The Local Board discussed the saturation of licenses in Springfield and concerns about the oversaturation of licenses in the area surrounding Shamrock Market. Subsequently, the Local Board voted to deny the application. Id.
6. There is an existing M.G.L. c. 138, § 15 package store license issued nearby at 1132 St. James Avenue in Springfield. (Testimony)
7. In its decision, the Local Board stated, "...based on the number of establishments licensed to serve alcohol in the area of 1116 St. James Avenue that the area is adequately served." The decision further reads, "the addition of the Lotus Store 13 would result in a total number of five (5) package stores within a radius of approximately 2 miles." (Commission Records)
8. Approximately 166 customers/community members signed a petition in favor of Shamrock Market being granted a M.G.L. c. 138, § 15 wines and malt beverages retail package store license. (Testimony, Exhibit A)
9. The Licensee timely appealed the Local Board's action to the ABCC on September 27, 2023. (Commission Records)

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control for which states have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956); Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses to sell alcoholic beverages is set out in M.G.L. c. 138. Licensees must be approved by both the local licensing authorities and the Commission. M.G.L. c, 138, §§12, 67; see e.g Beacon Hill Civic Ass'n v. Ristorante Toscano, Inc. 422 Mass. 318, 321 (1996).

The statutory language is clear that there is no right to a liquor license. As Section 23 provides in pertinent part,

[t]he provisions for the issue of licenses and permits [under c. 138] imply no intention to create rights generally for persons to engage or continue in the transaction of the business authorized by the licenses or permits respectively, but are enacted with a view only to serve the public need and in such a manner as to protect the common good and, to that end, to provide, in the opinion of the licensing authorities, an adequate number of places at which the public may obtain, in the manner and for the kind of use indicated, the different sorts of beverages for the sale of which provision is made.

M.G.L. c. 138 §23.

A local licensing authority has discretion to determine public convenience, public need, and public good, with respect to whether to grant a license to sell alcoholic beverages. See Donovan v. City of Woburn, 65 Mass. App. Ct. 375, 378-379 (2006); Ballarin, Inc. v. Licensing Bd. of Boston, 49 Mass. App. Ct. 506, 510-511 (2000). A local board exercises very broad judgment about public convenience and public good with respect to whether to issue a license to sell alcoholic beverages. Donovan, 65 Mass. App. Ct. at 379. However, while the discretion of the local licensing authority is broad, “it is not untrammelled.” Ballarin, 49 Mass. App. Ct. at 511.

It is well-settled that the test for public need includes an assessment of public want and the appropriateness of a liquor license at a particular location. Ballarin, 49 Mass. App. Ct. at 511. The Appeals Court held that “Need in the literal sense of the requirement is not what the statute is about. Rather the test includes an assessment of public want and the appropriateness of a liquor license at a particular location.” Ballarin, 49 Mass. App. Ct. at 511, 512. In Ballarin, the Court identified factors to be considered when determining public need:

Consideration of the number of existing licenses in the area and the views of the inhabitants in the area can be taken into account when making a determination, as well as taking into account a wide range of factors -such as traffic, noise, size, the sort of operation that carries the license and the reputation of the applicant. Id.

The Appeals Court has held that a local board may deny a license even if the facts show that a license could be lawfully granted. See Donovan, 65 Mass. App. Ct. at 379. “Neither the [local board’s] broad discretion nor the limitations on judicial review, however, mean that [the board] can do whatever it pleases whenever it chooses to do so.” See Id. “Instead, ‘[w]here the factual premises on which [the board] purports to exercise its discretion is not supported by the record, its action is arbitrary and capricious and based upon error of law, and cannot stand.’” Id. (quoting Ruci v. Client’s Sec. Bd., 53 Mass. App. Ct. 737, 740 (2002)). A Board must state the reasons for its decision to deny the granting of a liquor license. M.G.L. c. 138 §23. “Adjudicatory findings must be ‘adequate to enable [a court] to determine (a) whether the ... order and conclusions were warranted by appropriate subsidiary findings, and (b) whether such subsidiary findings were supported by substantial evidence.’” Charlesbank Rest. Inc. v. Alcoholic Beverages Control Comm’n, 12 Mass. App. Ct. 879, 880 (1981) (quoting Westborough v. Dep’t of Pub. Util., 358 Mass. 716, 717-718 (1971)). General findings are insufficient, and if the licensing board does not make sufficient findings, “it remain[s] the Commission’s obligation to articulate the finding of fact, which were the basis of the conclusions it drew,” and not merely adopt the findings of the board. Charlesbank Rest. Inc., 12 Mass. App. Ct. at 880.

In reviewing the decision of a denial by a local licensing authority, the Commission gives “reasonable deference to the discretion of the local authorities” and determines whether “the reasons given by the local authorities are based on an error of law or are reflective of arbitrary or capricious action.” Great Atlantic & Pacific Tea Co., Inc. v. Board of License Comm’rs of Springfield, 387 Mass. 833, 837, 838 (1983); see Ballarin, Inc. v. Licensing Bd. of Boston, 49 Mass. App. Ct. 506, 512 (2000) (when reviewing the local licensing board’s authority, court does not assess the evidence but rather “examine[s] the record for errors of law or abuse of discretion that add up to arbitrary and capricious decision-making”).

Here, the Local Board based its denial on one reason, that “the number of establishments licensed to serve alcohol in the area of 1116 St. James Avenue[...] is adequately served.” (Commission Records)

The Local Board at its public hearing heard from city residents and discussed the saturation of licenses in Springfield. The Local Board further discussed and found that the area surrounding Shamrock Market was oversaturated with M.G.L. c. 138, § 15 package store licenses and denied Shamrock Market’s application. One § 15 package store license issued to Spirit Shoppe is very close to Shamrock Market and located at 1132 St. James Avenue in Springfield. (Testimony) Due to the oversaturation of § 15 package store licenses in the area of 1116 St. James Avenue, the Local Board determined there was no public need. The Massachusetts Appeals Court has held that once a local board determines that an area is adequately served by the number of existing dispensaries, it need go no further. Town of Middleton v. Alcoholic Beverages Control Comm’n, 64 Mass. App. Ct. 1108 (2005) (memo and order pursuant to Rule 1:28)

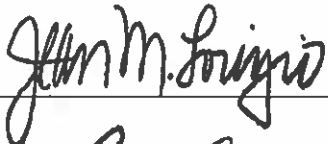
After examining the proceeding before the Local Board, the Commission finds the Local Board fulfilled its responsibility regarding this application. It held a public hearing and considered statements made by residents and discussed the oversaturation of licenses in the area of 1116 St. James Avenue. It deliberated and issued its decision based upon the discussion at the hearing. The Local Board’s denial of the application based on its proposed location given the number of existing licenses within the surrounding area is within its discretion.

Local licensing authorities are recognized as having expertise regarding the problems affecting the regulation of alcoholic beverages. Great Atl. & Pac. Tea. Co. v. Board of License Comm’n of Springfield, 387 Mass. 833, 837 (1983). Because the Local Board’s decision and its consideration of the number of package stores in the area is supported by the evidence and was based on a “logical analysis,” its disapproval of the wines and malt beverages package store license for Shamrock Market is not arbitrary and capricious and must be affirmed. Great Atl. & Pac. Tea. Co. v. Board of License Comm’n of Springfield, 387 Mass. 833, 839-840 (1983)

CONCLUSION

Based on the evidence and testimony at the hearing, the Commission **APPROVES** the action of the City of Springfield Board of License Commissioners in denying the M.G.L. c. 138, § 15 wines and malt beverages retail package license application of Lotus Store 13, Inc. d/b/a Shamrock Market.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman _____ 

Crystal Matthews, Commissioner _____ 

Deborah Baglio, Commissioner _____ 

Dated: March 6, 2025

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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cc: Rachel M. Fancy, Esq.
Seth N. Stratton, Esq.
Maurice Powe Esq.
Local Licensing Board
Frederick G. Mahony, Chief Investigator
Administration, File