

STATE OF ILLINOIS  
LIQUOR CONTROL COMMISSION

GRAHAM C. STORES CO.  
4802 CATON FARM RD  
JOLIET ILLINOIS

Appellant,

vs.

JOLIET LIQUOR CONTROL COMMISSION

Appellee.

Case No.: 21 APP 17

License Number: N/A

ORDER

THIS MATTER having come to be heard before the Liquor Control Commission of the State of Illinois (hereinafter “State Commission”) upon the appeal of Graham C. Stores Co., Appellant, (hereinafter “Graham C. Stores”) the Commission being otherwise fully informed, and a majority of its members do hereby state the following:

Procedural History

Graham C. Stores applied for a Joliet Class BG license permitting the off-premises sales of beer and wine and the on-premises consumption of beer and wine in conjunction with video gaming at 4802 Caton Farm Road, Joliet, Illinois. On August 13, 2021, the Deputy Liquor Control Commission held a license application hearing. On September 24, 2021, the Joliet Local Liquor Control Commissioner signed an order denying the Graham C. Stores BG liquor license application. On October 5, 2021, the Joliet City Council adopted a Council Memo #463-21 to deny the Graham C. Stores BG liquor license application. The denial order was served on an agent of Graham C. Stores on October 8, 2021. On October 27, 2021, Graham C. Stores filed an appeal with the State Commission. On February 24, 2022, the State Commission, represented by Chair Cynthia Berg and Commissioner Thomas Gibbons, heard on the record arguments of counsel on

the matter. The State Commission as a whole reviewed the entire record and deliberated on the matter at the April 20, 2022, State Commission meeting.

#### Decision

Upon review of the entire certified record, the State Commission REVERSES the order of the Joliet Liquor Control Commission (hereafter “Joliet Commission”) to deny the Graham C. Stores Class BG liquor license.

#### Discussion

Section 7-9 of the Liquor Control Act of 1934 places the statutory responsibility to hear appeals from final orders entered by local liquor commissioners on the State Commission. 235 *ILCS 5/7-9*. If the county board, city council, or board of trustees of the associated jurisdiction has adopted a resolution requiring the review of an order to be conducted on the record, the State Commission will conduct an “On the Record” review of the official record of proceedings before the Local Liquor Commission. *Id.* The State Commission may only review the evidence found in the official record. *Id.* Joliet has adopted a local ordinance requiring any appeal from an order of the Joliet Liquor Commissioner to be a review of the official record. *Chapter 56, Joliet Liquor and Tobacco Code (“Joliet Liquor Code”)*. Accordingly, the State Commission will only review the evidence as found in the official record.

In reviewing the propriety of the order or action of the local liquor control commissioner, the State Commission shall consider the following questions:

- (a) Whether the local liquor control commissioner has proceeded in the manner provided by law;
- (b) Whether the order is supported by the findings;

(c) Whether the findings are supported by substantial evidence in the light of the whole record.

*235 ILCS 5/7-9.*

The Illinois Appellate Court has provided guidance that the State Commission's duty is to determine whether local agency abused its discretion. *Koehler v. Illinois Liquor Control Comm'n*, 405 Ill. App. 3d 1071, 1080, (2<sup>nd</sup> Dist. 2010). The Court held that "[s]uch review mandated assessment of the discretion used by the local authority, stating that '[t]he function of the State commission, then, in conducting a review on the record of license suspension proceedings before a local liquor control commissioner is to consider whether the local commissioner committed an abuse of discretion.'" *Id.*.

**A. Whether the local liquor control commissioner has proceeded in a manner provided by law.**

The Joliet Commission acted in a manner provided by law by providing the Graham C. Stores with the minimum due process to seek a liquor license. In reviewing the actions of a local liquor commission, the State Commission must review whether the local liquor commission offered appropriate process in arriving at its decision. Upon a review of the record in this case, the Joliet Commission satisfied the minimum requirements of law in the review and disposition of the Graham C. Stores liquor license application.

Although the Liquor Control Act does not provide for a process by which a hearing is to occur for an application, the Joliet City Code provides for an application hearing process. The Code requires a hearing to take place within 30 days of the application. The Joliet City Code further requires that the City Council be notified, and that the City Council determine that the issuance of the license is in the best interest of the city. Following the review by the City Council, the Local

Liquor Commissioner is to issue an order consistent with the review conducted by the City Council. *Joliet City Code, Section 4-13*.

In this case, Joliet proceeded in the manner provided by law. Graham C. Stores filed a class BG liquor license application and Joliet held a hearing on the application on August 13, 2021. *ILCC pp. 020-026*. Following the hearing, the Deputy Liquor Control Commissioner provided a summary of the findings to the Joliet Liquor Control Commissioner who signed an order denying the Graham C. Stores BG liquor license application (“Order”). *ILCC pp. 067-068; 160-162*. On October 5, 2021, the Joliet City Council adopted a Council Memo #463-21 to deny the Graham C. Stores BG liquor license application. *ILCC p. 010*. The Joliet Commission grounded its decision to deny the liquor license in Section 4-13(c)(10) of the Joliet Code which authorizes the Joliet Commission to consider the impact the issuance of a liquor license will have on the “surrounding neighborhood and the city as a whole.” *ILCC p. 030*.

**B. Whether the order is supported by the findings.**

In reviewing whether the order is supported by the findings, this Commission analyzes whether the findings contained within the order constitute grounds to deny the license. The Illinois Appellate Court has ruled that, as a reviewing body, the issue is not whether the reviewing court would decide upon a more lenient penalty were it initially to determine the appropriate discipline, but rather, in view of the circumstances, whether this court can say that the commission, in opting for a particular penalty, acted unreasonably or arbitrarily or selected a type of discipline unrelated to the needs of the commission or statute. *Jacquelyn's Lounge, Inc. v. License Appeal Comm'n of City of Chicago*, 277 Ill. App. 3d 959, 966, (1<sup>st</sup> Dist. 1996).

In this case, the Joliet Commission did not issue an order consistent with the findings in the record because the final denial order was not sufficiently supported by the findings of the

application record. The Deputy Liquor Control Commissioner's Findings did not contain any negative information against the applicant or premises. Per the Findings, the applicant is of good character, will only sell 5% alcoholic liquor, owes no debt to the City, and there is no public opposition to the license. *ILCC pp. 160-162*. Pursuant to the Local Liquor Control Commission Order denying the license, the Joliet Commissioner issued limited findings; namely that Graham C. Stores filed an application for a Class BG license located at 4802 Caton Farm Road, Joliet; the "property consists of a brick structure which is used as a convenience store (proposed premise) which supports the sale of motor fuel from several fuel pumping islands"; the property is "zoned for business, however there are residential neighborhoods in the vicinity." *ILCC p. 067*. From these findings, the Local Commissioner stated there was just cause to deny the Graham C. Stores liquor license by stating:

The proposed premise (4802 Caton Farm Road) is in the vicinity of a residential area. The issuance of an additional liquor license at this location, will likely have a negative impact on the surrounding neighborhood, as well as the city as a whole. The issuance of this type of license will have a negative impact on the city as a whole. Based on the foregoing Findings of Fact, the Commissioner hereby concludes that there exists just cause to deny the application for the issuance of a liquor license.

*ILCC p. 068.*

The Order stated that the issuance of the license "will have a negative impact on the surrounding neighborhood" and "the city as a whole," but the basis of finding a negative impact or why there was "just cause" to deny the license, remains unclear. The only finding which implies a "negative impact" of license issuance, is that the license would be issued "in the vicinity of a residential area." *Id.* Neither the findings nor the conclusion in the Order, however, identify the reasons the issuance of a license near a residential area will have a negative impact on the surrounding community. While the Joliet Code authorizes the Joliet Commissioner to consider the

impact the issuance of a liquor license will have on the larger community [Section 4-13(c)(10)], the findings of the Joliet Commissioner should contain some evidence as to why the issuance of a license to Graham C. Stores will have a negative impact on the community. Neither the Order nor the Findings demonstrate any evidence to support such a conclusion.

**C. Whether the findings are supported by substantial evidence in the light of the whole record.**

The reasons the Joliet Commissioner could not substantiate the denial of a Class BG liquor license to Graham C. Stores are due to the lack of evidence in the record demonstrating why the issuance of the Class BG license will negatively impact the specific residential area. In fact, the manifest weight of the evidence in the record demonstrates the opposite conclusion. Upon review, an agency's findings of fact are held to be prima facie true and correct, and they must be affirmed unless the court concludes that they are against the manifest weight of the evidence.” *Daley v. El Flanboyan Corp.*, 321 Ill. App. 3d 68, 71, (1<sup>st</sup> Dist. 2001). A finding is “against the manifest weight of the evidence only if an opposite conclusion is clearly evident from the record.” *Vino Fino Liquors, Inc v. License Appeal Comm’n of the City of Chicago*, 394 Ill.App.3d 516, 522 (1<sup>st</sup> Dist. 2009).

In this case, an opposite conclusion “is clearly evident” that the issuance of a Class BG license to Graham C. Stores will not have a negative impact on the surrounding community. First, the applicant complied with all necessary city inspection and documentation requirements related to the application. Per Joliet inspection documents all applicant related inspection requirements were either approved or conditionally approved. The Joliet Building and Fire Departments did not identify any violations that would have made the location unsafe for patrons and the Joliet financial

review departments did not identify any significant and outstanding debts owed by the applicant to the City. *ILCC pp. 053-054; 062-63; 164.*

More importantly, the record does not demonstrate that the issuance of a license will create a law enforcement problem for the surrounding community. The individuals operating the business, owner, John Graham, and manager Michael Graham, do not have any criminal convictions. *ILCC pp. 058-061; 097-099.* The record shows that these operators hold fourteen other liquor licenses and have been in business for over 28 years in other communities (*ILCC pp. 023, 160*), but there is limited evidence that their licensed establishments have created a law enforcement problem or had a negative impact on the community. Even though the record identifies two prior instances in which the owners were cited for selling alcohol to minors, the incidents occurred 15-20 years ago and were not cited in the Commission Findings to deny the license. Furthermore, although the record does contain criminal incident reports occurring at the applicant address of 4802 Caton Farm Road, Joliet, these incidents were also not cited as a basis for denial in the Findings. It is also unclear why the issuance of a Class BG license selling alcoholic beverages as a small percentage of the overall business will increase number of incidents at the location or increasingly burden the police or the community. In fact, the evidence demonstrates that the license will not burden the police based on the opinion of the Joliet Chief of Police who stated in writing: "I do not foresee any special law enforcement problems associated with the issuance of this license." *ILCC p. 056.*

Lastly, the record demonstrates a lack of evidence that license issuance will negatively impact the surrounding residential community. Local zoning laws allow for the Class BG license use in a General Business district zone which is the zoning designation of the applicant address. The zoning map attached to the application file demonstrates that there is not a residential area

within 100 feet of the boundaries of the applicant premises. *ILCC pp. 065-066*. Notably, the City Planner commented on the application by stating: “Approval of the requested liquor license should not alter the essential character of the area or the City as a whole.” *ILCC p. 064.* Finally, and importantly, the record does not contain any negative comments from nearby community members that the issuance of the license will lead to increased property disruptions or public nuisances.

Because the evidence in the record contains very little, if any, evidence that the issuance of the license will create a law enforcement problem, will negatively impact the surrounding community, or will negatively impact the City of Joliet as a whole, the Joliet Commissioner did not rely on substantial evidence in light of the whole record to deny the Graham C. Stores Class BG liquor license application.

IT IS HEREBY ORDERED:

For the reasons stated herein, because the Joliet Commission did not rely on substantial evidence in light of the whole record, and the Joliet Commission order denying the license is not supported by the findings, the Joliet Commission decision to deny the Graham C. Stores Class BG liquor license is REVERSED.

Pursuant to 235 ILCS 5/7-10 of the Illinois Liquor Control Act, a Petition for Rehearing may be filed with this Commission within twenty (20) days from the service of this Order. The date of mailing is deemed to be the date of service. If no Petition for Rehearing is filed, this order will be considered the final order in this matter. If the parties wish to pursue an Administrative Review action in the Circuit Court, the Petition for Rehearing must be filed within twenty (20) days after service of this Order as such the Petition for Rehearing is a jurisdictional prerequisite to filing an Administrative Review action.

ENTERED before the Illinois Liquor Control Commission at Chicago, Illinois, on April 20, 2022.

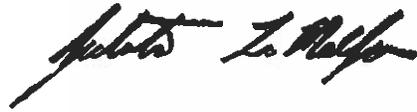
  
Cynthia Berg, Chairman



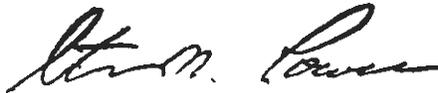
Melody Spann Cooper, Commissioner



Thomas Gibbons, Commissioner



Julieta LaMalfa, Commissioner



Steven Powell, Commissioner



Brian Sullivan, Commissioner

STATE OF ILLINOIS                    )  
COUNTY OF COOK                    ) 21APP 17

UNDER PENALTY OF PERJURY, as provided by law, section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that I caused copies of the foregoing ORDER to be e-mailed by agreement of the parties prior to 5:00 p.m. on the following date: June 13, 2022.

*/s/ Richard R. Haymaker*

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Richard R. Haymaker

Graham C. Stores  
c/o Jordan Kielian  
jkielian@msclawfirm.com

Joliet Liquor Control Commission  
c/o Chris Regis  
cregis@joliet.gov