

# LOCAL LIQUOR CONTROL COMMISSION

## REQUEST FOR ACTION

**DATE:** May 19, 2015

**ITEM NO. 4** - Application for a Class B3 liquor license (Video Gaming Establishment with On-Premises Consumption) for MLK Enterprises, LLC d/b/a Triple Sevens at 105 South Washington Street

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Attached is an application for a Class B3 liquor license from MLK Enterprises, LLC d/b/a Triple Sevens. While the address on the application identifies the location as 201 East Main Street and the Newell building's address is 201 East Main Street, currently the 911 address for this particular business is 105 South Washington Street (the former site of 1187 Creative.) Included are the business operation questionnaire and diagram, as submitted by the applicant.

This application along with another application from MLK Enterprises, LLC, was on the March 3, 2015 Commission agenda. Excerpts from the May 3 meeting minutes are attached where the discussion revolved around both applications from MLK Enterprises. Since this meeting, one of the applications (Mr. Lucky's/Wild Deuces) has been withdrawn by the applicant's representative.

Assistant City Attorney Jamie Snyder submitted evidence opposing the applications. The representative for MLK Enterprises, LLC, Mr. Richard Brizendine, requested a delay in action to acquire documentation to rebut the evidence entered into the record by Assistant City Attorney Snyder. Attached for the Local Liquor Control Commission's review are the itemized items of evidence Mr. Snyder entered into the record.

**Liquor Code Provisions:** Class B3 licenses shall authorize the retail sale of all alcoholic liquors, by the drink, for consumption on the premises only. The license shall only be issued to a business which operates primarily for the purpose of video gaming with at least fifty-one (51%) of its gross revenue from video gaming.

The number of Class B3 licenses issued by the local liquor control commission will not exceed five (5). Three Class B3 licenses have been approved to date. A license shall not be issued for any location within the City that is within five hundred feet of any other Class B3 liquor licensed establishment. Other distance restrictions which apply to all Class B licenses, including B3, are detailed in the provisions of Section 2-4-5 of the Revised Code, which is printed on the reverse.

**Liquor Advisory Board review:** The Liquor Advisory Board reviewed the application on February 5, 2015. The motion to approve did not receive a second; therefore, the application was neither approved nor denied, but forwarded to the Local Liquor Control Commission for consideration. Excerpts from the L.A.B. meeting minutes are attached.

**Outstanding Items:** The \$100 application fee has been paid. The criminal history check did not reveal anything which would preclude the applicant from holding a liquor license. Other items outstanding include: balance of the liquor license fee, certificate of insurance, Retailer's Occupation tax certificate, Jackson County Health permit, certificate of good standing, proof of residency, affidavit of server training, lease or deed for the property, and approvals from Building and Neighborhood Services and the Fire Department.

**Recommended Action:** The Local Liquor Control Commission may:

- (1) Approve the Class B3 liquor license for MLK Enterprises, LLC d/b/a Triple Sevens at 105 South Washington Street, contingent upon receipt of all outstanding items; or
- (2) Deny the Class B3 Liquor License for MLK Enterprises, LLC d/b/a Triple Sevens at 105 South Washington Street, based on one or more of the provisions of *Liquor Code*.

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**Excerpts from the Meeting Minutes of March 3, 2015**

**5. Consideration of an Application for a Class B2 liquor license for MLK Enterprises, LLC d/b/a Wild Deuces/Mr. Lucky's at 201 East Main Street**

*Clerk's Note: The minutes are, as always, a summary of the action taken. The following is not a verbatim transcript, although the audio and video for the Liquor Commission are available both on the City's website and in the City Clerk's Office.*

Richard Brizendine was present, as the representative for MLK Enterprises, to respond to questions from the Commission. D. Monty noted that the City and Commission, at the previous Liquor Commission meeting, requested additional information, to which Mr. Brizendine submitted a responsive letter dated January 30, 2015. D. Monty asked if he would be willing to respond to additional questions and Mr. Brizendine asked to make a statement prior to the additional questions.

Richard Brizendine, indicated that he believed confusion has arisen between the City and himself regarding the documents he has filed. He indicated the applicant is considering actions against the Assistant City Attorney and expressed his belief that it would be inappropriate for Mr. Snyder to make any statements this evening. Mr. Brizendine noted that he had provided updated copies of maps for the two applications, explained that the building holds three addresses, that efforts to reclassify the building with one address are underway, and indicated that he believed that with his letter from January 30 and the updated maps, he had provided clarification with regard to ownership.

D. Monty questioned Mr. Brizendine about the following:

The resident manager Shaun Kocel and the address where he lives;

If GLH Enterprises holds other liquor licenses other than the one held by MLK Enterprises, LLC;

Whether the applicant, any member of the LLC, or corporate parent company runs any other liquor licensed establishments, and if so, under what names and where;

Whether Mr. Hamilton would be opposed to appearing before the Local Liquor Control Commission;

Whether Mr. Hamilton, GLH Enterprises, or any of its subsidiaries have ever been cited for a violation of the Illinois Liquor Control Act;

If, based upon the establishment's name, there would be video gaming at the establishment;

The proximity of the establishment to the nearest church and residential properties;

A description about the character and nature of the proposed establishment and whether the wine and liquor tasting would be for tasting purposes only or for sales by the glass;

A description about the operation of the establishment including the number of employees, the experience of management in the liquor business and the commitment to abide by the law with staff training and checking of IDs;

In relation to the experience of the management, what are the other successful liquor operations

indicated in the application; and

If Mr. Hamilton is personally the sole owner, that nobody in any manner, has any form of ownership interest in GLH.

J. Bradshaw, D. Monty, and C. Harvey questioned Mr. Brizendine about the kitchen, patio, and about the estimated sales figures.

Mr. Brizendine responded to the questions posed.

Assistant City Attorney Snyder noted that following the previous Liquor Control Commission meeting, he was asked to review the application. In response to his review of the application and to the Commissions' questions, Mr. Snyder presented to the Commission Exhibits A through I, which exhibits will be made a part of the record. Further, he summarized the content of each exhibit for the Commission, and also provided a certified copy of a map of the city limits for the north east corner of Carbondale, asking the Commission to take judicial notice of such map.

D. Monty indicated that Brandon Circle, where the resident manager resides, is outside of the City limits. Mr. Snyder noted that the application would have to be updated with a new address or manager.

Mr. Brizendine responded to Mr. Snyder's comments and exhibits, indicating that that the information provided on the application is consistent with Mr. Snyder's presentation and with what the law requires. He noted that a contract provided by the Assistant City Attorney is irrelevant to the application, as it pertains to the acquisition of the property, and the liquor license itself is the best evidence of ownership of the establishment. Mr. Brizendine noted that Mr. Kocel's address and mail have Carbondale addresses, but if an update to the application was necessary, he would be happy to do so. He asked to provide State-filed, certified copies of documents for this application as well as agenda item number six which could clarify any cloud or innuendo placed on this decision.

D. Monty agreed to Mr. Brizendine's request, but clarified that question 23 on the application does ask about fines imposed against a liquor license. He also stated that the agreement for sale which was submitted by Mr. Snyder appeared to be addressing sale of membership interest as opposed to real estate. D. Monty asked if Mr. Westlund bought the enterprise and not just the real estate. Mr. Brizendine responded to Mr. Monty's questions.

D. Monty summarized Mr. Brizendine's request to have time to gather documentation to rebut the exhibits presented by Mr. Snyder. Mr. Brizendine stated that they are here to be a good neighbor, pay sales tax, and hire employees, and that if it takes another hearing to prove the evidence submitted is lacking, he requests that opportunity.

C. Harvey moved, J. Adams seconded, to table items 5 and 6 to a future meeting. VOTE: Ayes: J. Bradshaw, C. Harvey, J. Adams, L. Fronabarger, C. McDaniel, and D. Monty. Nays: None. Motion declared carried.

## **6. Application for a Class B3 liquor license (Video Gaming with On-Premises Consumption) for MLK Enterprises, LLC d/b/a Triple Sevens at 105 South Washington Street**

Discussion of this application and the prior item was deferred until the representative could obtain certain documentation from the State of Illinois.