

TALBOT COUNTY, MARYLAND
BOARD OF LIQUOR LICENSE COMMISSIONERS

Minutes of Public Meeting
April 24, 2023

The meeting of the Talbot County Board of Liquor License Commissioners was called to order at 10:00 a.m. on Monday, April 24, 2023. Present were Chairman Jack M. Gottschalk, Commissioner Edward M. Bridges, Jr., Alternate Jacqueline M. O'Neil and Board Secretary Victoria E. Bradley.

OLD BUSINESS

- Upon motion by Commissioner O'Neil, seconded by Commissioner Bridges, the minutes of the meeting of March 27, 2023, were unanimously approved.

NEW BUSINESS

Bonheur, LLC – Reconversion of their Class I, Alcohol dispensary bistro license (beer, wine & liquor off-sale) & (craft beer and wine on-sale) to a Class B beer and light wine liquor license (on-sale – hotels and restaurants).

All those in attendance to testify in the matter were sworn in, (applicant Matthew Mason and his attorney Zachary Smith).

Attachment #3, the notarized affidavit of posting of property was submitted to the Board. The Chairman asked Ms. Bradley about the Attachment #2, Election Board Certificate. The applicants received the signature but no letter certifying them from the Election Office.

Mr. Smith gave opening statements with regard to the application, explaining the business set up and what is sold. Mr. Smith testified that the business was granted the Class I license in 2019 and has had no violations at this location. Mr. Smith testified about the expansion of the business and its hours of operation; because of this expansion the Class I license will no longer work for this business and this is why the applicant is seeking to change from Class I to a Class B.

The Chairman asked if the limitations with the Class I license are making it hard for the business to operate. Mr. Mason testified that the hours of operation time limitations for the Class I make it difficult to open earlier than they would like. Mr. Mason also testified that they do not sell anything off-premise at this location so they have no need for an off-premises license.

There being no further discussion, the following motion was made:

- Motion made by Commissioner Bridges, seconded by Commissioner O’Neil to approve the reconversion of the Class I liquor license to a Class B liquor license Application. Motion passed unanimously.

Sunflowers & Greens, LLC– Violation Hearing

All those in attendance to testify in the matter were sworn in, (applicant Matthew Mason and his attorney Zachary Smith, Talbot County Liquor Inspector Duane Gottschalk.)

The Chairman gave a brief description about how the violation hearing will take place. The Chairman testified the violation hearing was set in at the request of the Talbot County Liquor Inspector for violations of Talbot County Code, Chapter 11, “Alcoholic Beverages” § 11-14(A)(1)(c), “Failure to comply with any local, county, or state law, rule or regulation”, and Section 6-311, “Restriction on purchases and sale by retail dealers”, of the Annotated Code of Maryland.

At this point, the Chairman called Duane Gottschalk, Talbot County Liquor Inspector to present. Inspector Gottschalk read the narrative from his Incident Report dated 03/13/2023, which details the alleged violation.

Inspector Gottschalk testified that on May 8, 2023 he was at Sunflower & Greens located at 11 Federal St. Easton, MD 21601 to conduct a Liquor License Inspection. He made contact with the manager on duty, Ms. Michele Haynes and requested several items for inspection. While Ms. Haynes retrieved the requested items, Inspector Gottschalk made note of several different brands that he did not recall seeing during his last inspection on a bookshelf display. Ms. Haynes produced the requested alcoholic beverage invoices from their licensed wholesalers. After examining them, Inspector Gottschalk was unable to locate any invoices for most of the bottles of wine that were on the left side of the bookshelf display. Inspector Gottschalk questioned Ms. Haynes to see if there were more invoices located on the premise and she replied that she would have Manager Thad Hoy come to the establishment.

Inspector Gottschalk further testified that Mr. Hoy came to the location where the inspector questioned him regarding the missing invoices for the bottles in question. Mr. Hoy immediately made Inspector Gottschalk aware that there were no invoices for the bottles in question because they had been brought over from The Wardroom, another establishment of common ownership. Mr. Hoy further explained that he was aware that this was a violation and that an employee chose to do this without his approval. Inspector Gottschalk testified that Mr. Hoy and himself examined all of the bottles on the bookshelf and all of the beverage invoices present, they were able to determine that in total thirty-three (33) bottles of wine were unlawfully acquired.

Inspector Gottschalk testified that after documenting the bottles he instructed Mr. Hoy to remove the bottles of wine from the premises and take them back to The Wardroom. Inspector Gottschalk followed Mr. Hoy to the Wardroom with the alcoholic beverages to ensure they were removed. Inspector Gottschalk completed his Liquor License Inspection Report and left the establishment without further incident. Inspector Gottschalk further testified that a violation of Maryland Law § 6-311 ("Restrictions on purchases and sales by retail dealer") and a violation of the Talbot County Code Chapter 11, Section 14 (A)(1)(C) were both observed during his inspection.

The Chairman read the Maryland Law § 6-311 ("Restrictions on purchases and sales by retail dealer") and the Talbot County Code Chapter 11, Section 14 (A) (1) (C) that Inspector Gottschalk cited in his report and testimony.

The Chairman asked Inspector Gottschalk about the X mark on the photos provided in his report. The Inspector testified that the X mark on the pictures are to cover the wine bottles that were lawfully acquired. The Chairman also asked about the wine bottles being numbered. Inspector Gottschalk testified that it was his understanding that the numbers are the price points for each bottle. Mr. Mason testified that the numbers are codes for their sales. The Chairman asked if the pictures showed all of the bottles that were obtained unlawfully. Inspector Gottschalk confirmed the pictures showed all of the unlawful bottles.

Commissioner O'Neil asked if there were other displays at this location or if this display was the only one. Inspector Gottschalk gave testimony describing the location and clarifying that this was not the only display of wine.

The Chairman asked for confirmation if the parties received notice of the hearing. Ms. Bradley confirmed notice had been sent to all parties.

Mr. Smith testified that the facts as detailed by Inspector Gottschalk in his report were accurate and they do not dispute that a violation occurred. Mr. Smith gave testimony that this is the licensee's first violation in the time they have had a liquor license.

Mr. Mason gave testimony that his staff had a meeting to discuss a way to boost their wine sales. They had agreed buying the small bottles that their other location The Wardroom had would be a good way to make more sales. The employee took it upon herself to go to The Wardroom to take those bottles and move them to the Sunflowers and Greens location. Mr. Mason had already ordered the bottles legally and they were due to arrive the day after the Inspector came. Mr. Mason testified that there was a violation and it has been corrected and the employee was reprimanded. Mr. Mason also testified that in all the years of having the liquor license this was their first violation and asked the inspector to confirm that they run a tight ship business. Inspector Gottschalk confirmed this is their first violation and he has had no other incidents. Mr. Mason apologized to the Board and said he is doing everything to assure this will never occur again.

Mr. Smith asked Mr. Mason to testify if any of the illegal bottles were sold. Mr. Mason testified that no sales of wine occurred, their wine sales in general have only been about 1.9% of their total sales.

Commissioner Bridges asked if the employee that took the bottles of wine from The Ward room and illegally moved them to Sunflowers and Greens was TIPs certified. Mr. Mason testified that the employee was TIPs certified that most of the employees are Tips certified.

Commissioner O'Neil asked to clarify that Mr. Mason was in the process of purchasing the wine legally when the employee went to The Wardroom and moved the bottles illegally. Mr. Mason testified that that this was correct and they now have the legally purchased bottles on display.

The Board discussed the facts and testimony presented. The Chairman testified that each bottle that was procured illegally counted as one (1) violation, so this is a substantial violation.

Mr. Mason asked the Board that in their decision if they would consider a payment of a fine rather than a suspension or revocation of their liquor license.

The Chairman gave a quick rundown of the facts and testimony that where presented. The Board agreed that a violation did occur.

- Motion made by Commissioner O'Neil, seconded by Commissioner Bridges to state that a violation did occur on March 8, 2023 at the Sunflower & Greens located at 11 Federal St. Easton, MD 21601. Motion passed unanimously.

Mr. Smith asked the Board to keep in mind and consider that this is their first violation and that a fine would be preferred as opposed to a suspension or revocation.

The Board discussed their opinions on punishment for the violation that occurred. Commissioner O'Neil stated after considering all of the testimony given that a violation indeed occurred but it was not as significant as she originally thought. Commissioner Bridges agreed with Commissioner O'Neil's statement however, thirty-three (33) bottles and violations is a large amount. Thirty-three (33) violations would lead to a suspension of the liquor license however; this is their first violation in all their years of holding a liquor license. Commissioner Bridges stated because the sale of wine is not where they receive most of their profit, so a violation as opposed to a suspension would be more affective.

The Board agreed a fine is the appropriate penalty in this case and further discussed the amount of the fine. The Chair testified that the most they could impose on them based on the County Code is one thousand dollars (\$1,000). Commissioner O'Neil testified that a similar violation in the past was given a penalty of five hundred dollars (\$500).

- Motion made by Commissioner Bridges, seconded by Commissioner O'Neil to impose a fine of five hundred dollars (\$500) on Sunflower & Greens, LLC for their thirty-three (33) count violations. Motion passed unanimously.

Liquor Inspector's Report

Inspector Gottschalk briefed the Board as to ongoing County liquor inspections. There is no new information to report; no major violations occurred.

Inspector Gottschalk and Ms. Bradley briefed the Board on the Liquor License Renewal season that ends April 30, 2023.

Old Business

The Board discussed the fee schedule. The Chairman testified that he has not met with the Talbot County Finance Department yet to discuss the fees for liquor license.

The Chairman discussed the application for 4 Dogs Brewing with the board members. The Chairman testified that he informed Mr. Smith who is the attorney for 4 Dogs Brewing that the Board is looking for written documentation, executive order or legislation from the Comptroller's office stating that they may use this Class 7 license to sell off-sale.

There being no further business to discuss, the Board moved to adjourn.

- Upon motion by Commissioner O'Neil, seconded by Commissioner Bridges, there being no further business to discuss, the Board voted unanimously to close the meeting at 11:00 a.m.