

**LIQUOR AND BEER MEETING
LOCAL LICENSING AUTHORITY
CITY OF GRAND JUNCTION, COLORADO
TWO RIVERS CONVENTION CENTER, 159 MAIN STREET**

MINUTES

WEDNESDAY, APRIL 19, 2000, 8:00 A.M.

I. **CALL TO ORDER** – The meeting convened at 8:04 a.m. Those present were Hearing Officer Phil Coebergh, Assistant City Attorney John Shaver and Senior Administrative Assistant Christine English.

II. **APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES**

1. Mountaineer Hotels Incorporated dba Peachtree Inn & Restaurant, 1600 North Avenue, Hotel and Restaurant-**Continued from April 5, 2000 meeting**

Douglas Frye, manager, was present. An Order of Suspension has taken place since the April 5, 2000 meeting and will be dealt with today along with the Health Department concerns.

Mr. Shaver stated the Order of Suspension action took place based upon the potential of serious health conditions reported by the Health Department at the April 5, 2000 meeting. In particular was the issue of the 3-bay sink. Mr. Shaver recommended proceeding with evidence from the licensee and the Health Department on the condition of the restaurant. There are 2 allegations in the verified complaint. One pertains to the sanitary requirements and one pertains to the meal service requirement. Mr. Shaver stated he had spoken to Mr. Stoika who stated he has evidence of food service. Food service would be a second order of question due to the problems identified with the kitchen.

Mr. Coebergh asked if this would be a contested hearing. Mr. Shaver stated both Mr. Stoika and Mr. Frye believe the kitchen is operational, so testimony from them as to the actual condition of the kitchen and verification from Ms. Mull of the Health Department would be needed. This would not be a contested hearing but rather information would be presented by the licensee relative to the allegations in the petition. This does not need to be sworn testimony. If the information is found to be inaccurate then the parties involved would be back before the Hearing Authority with a petition, but not necessarily a summary petition.

Mr. Frye stated since the last meeting, a 3-bay sink was ordered and installed on April 18, 2000. It needs to be inspected and approved by the Health Department. Mr. Coebergh asked if all the concerns of the Health Department had been addressed. Mr. Frye stated yes. He had copies of the menu, floor plans and receipts to verify that meals were being served.

Monique Mull, Mesa County Health Department, was present. Ms. Mull stated she is somewhat confused regarding the menu. After the April 5, 2000 meeting, Ms. Mull inspected the premises and was given a printed bar menu. Ms. Mull discussed with Mr. Frye what could be served at that time based upon the equipment on the premises. It was agreed they could serve the items that did not require a lot of utensils in the preparation. They then went into the kitchen area and the fryer was not there. She was told that the fryer had been removed so they could clean the wall behind it. On the March

29, 2000 inspection, the fryer was not present either. On April 11, 2000, Darlene McKisson from the Health Department inspected the facilities and took pictures at that time. She also noted that the fryer was not hooked up. It was found on the premises, but the baskets they had for the fryer did not fit. Ms. Mull stated she was uncomfortable with the menu they were serving and whether or not it matches the equipment they have. There is also a large variety and quantity of food on the premises. She was told this was the owner's personal food. They were told they needed to separate the personal food from the establishment's food. Ms. Mull stated she needs to verify the installation of the 3-bay sink, to see what food they are serving and verify it with both the cooking and sanitation equipment. The 3-bay sink was not sufficient to sanitize the equipment needed to prepare the menu she was presented with.

Mr. Coebergh asked Ms. Mull what her recommendation was as to how to proceed with this. Ms. Mull stated she would like to inspect the premises today to verify the installation of the 3-bay sink and that the food present matches the food on their menu and the equipment matches the food.

Mr. Shaver agreed with Ms. Mull. Mr. Coebergh stated the summary suspension would continue through today. If, after final inspection by the Health Department, there continues to be problems, then a hearing will be scheduled within the 15 days of the summary suspension. The license renewal was approved.

2. Loco Incorporated dba Loco Food Store No. 15, 722 Horizon Drive, 3.2% Beer Off Premise

The application was in order and approved.

3. Genco Olive Oil Incorporated dba GB Gladstones Restaurant & Bar, 2531 North 12th Street, Hotel and Restaurant

The Fire Department noted 2 critical violations. The Health Department noted some critical violations as well. Reinspections have been scheduled. The application was in order and approved contingent on favorable reinspection reports from the Fire and Health Departments.

III. APPLICATION FOR TRANSFER OF OWNERSHIP

1. Thomas Lewis Goerke dba C & D Food Store, 2685 Unawep Avenue, 3.2% Beer Off Premise

Transfer of Ownership from Marie O. Dam dba C & D Food Store, 2685 Unawep Avenue to Thomas Lewis Goerke dba C & D Food Store, 2685 Unawep Avenue

Sole Proprietor: Thomas Lewis Goerke, 519 Skyway Drive, Grand Junction

Thomas Goerke was present. The application was in order. The Code Enforcement Division inspected the premises to insure the diagram submitted matched the actual physical layout, which it does, and that the Notice of Hearing was posted in a timely manner, which it was. The Police Department reported several incidents involving Mr. Goerke which had been revealed on the individual history. Ms. English read the report from the Police Department into the record (see attached).

Mr. Goerke gave explanation as to the 1978, 1984, 1996 and 1998 incidents. Mr. Goerke stated he has met all the obligations and standards of the application. The establishment has been operating under a temporary permit since April 1, 2000.

Mr. Shaver stated 12-47-307 C.R.S refers to people who are prohibited from being licensees and 12-47-307(ii) refers to a person not of good moral character; 12-47-307(vi) refers to any person whose character record and reputation are not satisfactory to the licensing authority not being eligible for a license. This statute also states if there is a review of criminal history, the licensee or applicant may show evidence of rehabilitation to demonstrate to the Authority that they are appropriate for licensure. Mr. Goerke has done that.

Mr. Shaver also stated that 12-47-103 C.R.S. talks about good cause for refusing or denying a license. This statute includes the specification that if a licensee or applicant has failed to comply with any special terms which have been placed on the license from a prior disciplinary proceeding, this may be taken under consideration. Based upon the fact that Mr. Goerke had a former license known as "Andy's Liquor Mart" for many years, the State has raised the question as to whether or not the suspension, which was to be imposed against that license in 1995, would be relevant in this application. Mr. Shaver stated it was his opinion that it was not based upon the fact that there was a transfer of ownership of that license the day of the initiation of the suspension. Therefore, Mr. Goerke did not fail to honor the conditions, nor were there any disciplinary proceedings imposed for which there would have been a violation of the conditions. Mr. Shaver continued, saying that the statute also talks about determining if an applicant is of appropriate character, when looking at criminal convictions, the Authority shall be governed by 24-5-101C.R.S. This statute talks about felonies or other offenses of moral turpitude, not in and of itself, preventing an applicant from obtaining a license. All of the convictions Ms. English read into the record and disclosed by Mr. Goerke on his individual history are misdemeanor offenses that would not rise to the level of moral turpitude. Therefore, they do not preclude him from obtaining this license. Mr. Shaver recommended approval of the license.

Mr. Coebergh expressed some concern over the extensive history of arrests. Since these did not reach the felony level along with Mr. Goerke's explanation of the events, Mr. Coebergh stated there was nothing to impede this transfer of ownership. Based upon these facts, the application was found to be in order and approved on the local level. Mr. Coebergh stated he did not know what the State's position on this application would be. The State would make the final determination.

IV. REPORT OF CHANGE IN CORPORATE STRUCTURE

1. Thrifty Payless Incorporated dba Rite Aid, **3 locations**, 3.2% Beer Off Premise-Master File in Denver
 - a. Rite Aid #6367, 400 North 1st Street
 - b. Rite Aid #6258, 2992 F Road
 - c. Rite Aid #6178, 1834 North 12th Street

Vice President/Director: retirement of Frank M. Bergonzi, position to be held vacant

The application was in order and approved.

V. APPLICATION TO REGISTER MANAGER

1. Wadsworth Old Chicago, Incorporated dba Old Chicago, 120 North Avenue, Hotel and Restaurant

Manager: Matthew Deryle O'Dell, 733 Monument View Drive, Grand Junction

The application was in order. The local Police report has come back good. The report from C.B.I. has not yet been received. The application was approved contingent upon a favorable C.B.I. report.

VI. ADJOURNMENT The meeting adjourned at 8:45 a.m.

NEXT REGULAR MEETING – May 3, 2000 with James Majors as Hearing Officer

From: Julia Marston
To: Chris English
Date: 3/31/00 12:44PM
Subject: C & D Food Store

Transfer of Ownership
3.2% Beer Off Premise Liquor License
Thomas Lewis Goerke
d.b.a.: C & D Food Store
2685 UnawEEP Avenue
Grand Junction, Colorado

I have reviewed the application for liquor license submitted by Mr. Thomas Goerke. The fingerprint cards have been sent to Colorado Bureau of Investigations and Federal Bureau of Investigation. If there is a criminal history associated with those prints I will forward it on to you.

As for local criminal history, the following was found:

4-09-78 – arrested for disorderly conduct and malicious mischief by Grand Junction Police Department. Case #78-05150. Unknown disposition.

07-26-84 – arrested by Grand Junction Police Department for a municipal warrant out of Glenwood Springs, Colorado.

7-06-98 – arrested by Grand Junction Police Department for phone harassment. Case #98-38469. Received a deferred sentence.

In checking the Mesa County Sheriff's Office records management system there appear to have been numerous contacts with Mr. Goerke over the years, including some arrests. These files should be obtained from the originating agency.

It should also be noted that although Mr. Goerke shows on his application that he has resided at 519 Skyway Drive, Grand Junction, Colorado, since 1993; he has not had a valid Colorado drivers license since 1990. Mr. Goerke states he has an Idaho driver's license; #AA104675A. This license does show as valid and lists his address as 16436 Pride Lane, Caldwell, Idaho 83605. This Idaho driver's license was issued on 01-20-98.

CC: Robert Culver

From: Julia Marston
To: Chris English
Date: 4/5/00 4:28PM
Subject: Thomas Goerke

Following is additional information obtained on Mr. Thomas Goerke.
DOB: 09-28-43.

Mr. Goerke was arrested for third degree assault on 07-10-1994 by Mesa County Sheriff's Office. On 08-29-1996 he pleaded nolo contendere and was sentenced to 72 hours of community service, 1 year's probation, and \$138.00 fine.

Mr. Goerke was also arrested on 12-03-1996, court case #97-CR962, for criminal mischief and disorderly conduct. He received a deferred sentence on the criminal mischief charge. He pleaded guilty and was found guilty on the disorderly conduct charge and was sentenced to five days in jail.

If there is any other information you need, please let me know.

CC: Robert Culver