

Bob Mollette

3rd Ward Councilman

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Correspondence#: 05-022

December 12, 2005

Jim Kalb, Mayor
728 Second Street
Portsmouth, Ohio 45662

Re: Division of Liquor Control - Permit Renewal Objections

I reviewed the "Notice to Legislative Authorities" concerning Liquor Permit Renewal Objections. The letter was a reminder that all permits to sell alcoholic beverages in the City will expire on February 1, 2006. The City has the right to object to the renewal and request a hearing. This will be the city's only opportunity for the 2006 renewals to object or question the appropriateness of issuing renewals for liquor permits on certain establishments, which may be presenting problems in our community. I am requesting input and documentation on liquor establishments in the City of Portsmouth that *valid* objections exist for the renewal of their liquor permit.

In order to register a valid objection with the Division and obtain a hearing, City Council must pass a Resolution, which specifies the reason for objecting. The Resolution must be addressed to the Division and postmarked no later than January 3, 2006. The enclosed brochure entitled "How to Object to the Issuance or Renewal of a Liquor Permit" states pertinent evidence must be presented to establish an objection.

I also enclosed a news article from the Columbus Dispatch, dated December 10, 2005, which details the thought process in Columbus, Ohio. Neighbors are requesting seven (7) establishments, accused of breeding crime, to have their liquor licenses pulled by City Council.

Please assess if a valid objection exists and supply pertinent evidence for discussion at the earliest date to meet the January 3, 2005 deadline.

Thanks in advance for your cooperation and contact me if you have any questions or comments.

Respectfully,



Bob Mollette, 3rd Ward Council

rwm

CC w/enclosures:

David Kuhn, Solicitor
Charles Horner, Police Chief
Council (5)
Jo Ann Aeh, City Clerk



Ohio Department of Commerce

Division of Liquor Control

6606 Tussing Rd., P.O. Box 4005
Reynoldsburg, OH 43068-9005
(614)644-2360 FAX(614)644-2480
<http://www.com.state.oh.us>

Bob Taft
Governor

Doug White
Director

NOTICE TO LEGISLATIVE AUTHORITIES
Re: Permit Renewal Objections

CLERK OF MUNICIPAL COUNCIL
CITY HALL
PORTSMOUTH OHIO 45662

NOVEMBER 07, 2005
RECEIVED
NOV 30 2005

Dear Clerk of Legislative Authority:

CITY CLERK'S OFFICE

The purpose of this letter is to notify you that all permits to sell alcoholic beverages in your political subdivision will expire on February 1, 2006. In order to maintain permit privileges, every permit holder must file a renewal application.

Ohio Revised Code Section 4303.271(B) provides the legislative authority with the right to object to the renewal of a permit and to request a hearing. The hearing may be held in the county seat of the county in which the permit premises is located if that request is made in writing. This will be your only opportunity to object to the renewal of a liquor permit premises which might be a problem in your community.

In order to register a valid objection with this Division and obtain a hearing, the legislative authority must pass a resolution which specifies the reason for objecting. The resolution must be addressed to the Division and postmarked no later than January 3, 2006. The reasons for the objection must be based upon the grounds set forth in Ohio Revised Code Section 4303.292(A). The Chief Legal Officer of your political subdivision must submit a statement with the resolution that, in the Chief Legal Officer's opinion, the objection is based upon substantial legal grounds within the meaning and intent of Ohio Revised Code Section 4303.292(A).

For your convenience, we have enclosed a brochure entitled "How to Object to the Issuance or Renewal of a Liquor Permit", which explains the process in more detail.

You may wish to contact the law enforcement agency for your jurisdiction to determine if it has any information which will aid in your decision whether or not to object and request a hearing. If you wish to obtain a list of permit holders in your jurisdiction, you may now access this list from our website at www.liquorcontrol.ohio.gov, and at the left click on Permit Holder Info." and then click on "ACTIVE Permit Holders By County,.....(In print image format)". If you do not have access to the internet, this list can be provided by this Division upon written request. This request should be directed to the Ohio Department of Commerce—Division of Liquor Control, Attention: Permit Renewal Unit, Licensing Section, 6606 Tussing Rd., P.O. Box 4005, Reynoldsburg, Ohio 43068-9005.

If you have any questions, please contact the Legal Section at (614)644-2489.

Very truly yours,

Rae Ann Estep, Superintendent

What Type of Evidence Should Be Submitted at the Hearing?

Evidence must be pertinent to the advisability of granting or renewing the permit. Speculative testimony not supported by sufficient evidence is of little use because Ohio courts have ruled such testimony is insufficient reason not to allow a business to operate.

Although the safety and welfare of Ohio citizens is first priority, the division is guided by statutes, rules and legal cases in determining whether to overrule or sustain an objection. Evidence presented, therefore, should establish that one or more of the following conditions exist, or would exist if the permit is issued:

- Conviction for a crime relating to their ability to operate a liquor establishment of the applicant, any partner, member, officer, director, manager or shareholder owning 10 percent or more of the capital stock;
- An applicant's alcohol or drug addiction;
- An applicant's unfavorable enforcement record and/or operation in disregard for laws, regulations or local ordinances;
- An applicant's misrepresentation of a material fact when applying for the permit;
- Inability of law enforcement officers or authorized agents of the division to gain ready entrance to the premises;

- The location of the establishment substantially and adversely interfering with the public decency, sobriety, peace, or good order of the neighborhood, or the normal, orderly conduct of a public institution;

- Saturation in the neighborhood such that the permit applied for would be detrimental to and substantially interfere with the morals, safety or welfare of the public. Saturation means "too many." However, the same number of establishments resulting in saturation in a residential area may not result in saturation in a commercial area.

Because each case is unique, presentation of such evidence may result in the denial of a permit, but does not guarantee it. Additionally, a general objection based on location of an institution, moral beliefs, institutional policy, adequate number of permit premises currently in the neighborhood, inadvisability, or economic and social consequences of drinking do not constitute reasonable bases to reject a permit.

Ohio Department of Commerce Division of Liquor Control

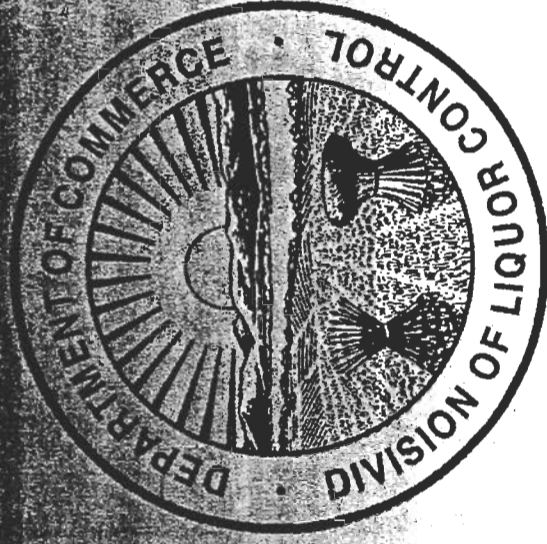
Bob Taft, Governor

Rae Ann Estep, Superintendent

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How To...

Object to the Issuance or Renewal of a Liquor Permit



Neighbors ask city to pull liquor licenses

Seven establishments
breed crime and trouble,
residents tell officials

By Mark Ferenchik
THE COLUMBUS DISPATCH

Someone was killed there. High-school kids fight there. Drug deals go down there.

Those are some reasons cited by residents who want seven Columbus businesses to lose their liquor licenses. They said the businesses are magnets for crime and other problems.

The city does go after businesses with several liquor violations pending against them, Assistant City Attorney Bridget Carty said.

Owners contacted said they had recently bought the business or have been working with the city to curb problems.

The City Council will vote Monday on the license renewals for the seven businesses:

- Boogie Nights, 2013 Lockbourne Rd.
- Dirty Dungarees, 1944 Morse Rd.
- G & L Carryout, 54 E. 5th Ave.
- Main and Wilson Convenience Mart, 1223 E. Main St.
- Quik Meat, a convenience store at 1198 E. Main St.
- Rhythm & Blues Cafe, 4428 Walford St.
- Stewart's Carryout, 691 E. Stewart Ave.

Boogie Nights was the scene of a killing June 11, when 19-year-old Michael L. Carter was found shot in the parking lot.

In a letter to the city attorney's office in October, the Innis Gardens Village Civic Association said that crime, drugs and disturbances have risen because of bars in the area.

"The peace and serenity of the night is broken by the sound of police sirens," the letter said, referring to 273 police runs to 12 businesses along Lockbourne between Frebis Avenue and Marion Road.

"This is not the kind of

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LICENSES

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neighborhood we moved into and we do not want this type of neighborhood now," the letter said.

A phone message left at the address of the permit holder for Boogie Nights was not returned yesterday.

Stewart's Carryout, behind South High School, is known to neighbors as Bulldog Corner because it's often chosen as the site for after-school fights, said community leader Dan Charles. Charles, who lives near the store, said it is a magnet for drug activity and a threat to the neighborhood, so much so that he installed a surveillance system on his house.

"The place needs to disappear," Charles said.

He calls the building "a pigsty."

Carty said the city this week filed a nuisance action to try to close the business down for a year.

Last call?

These are the businesses up for liquor license renewals. The Columbus City Council will vote Monday night whether to object to them.

1. Boogie Nights, 2013 Lockbourne Rd.
2. G&L Carryout, 54 E. 5th Ave.
3. Rhythm & Blues Cafe, 4428 Walford St.
4. Stewart's Carry Out, 691 E. Stewart Ave.
5. Main and Wilson Convenience Mart, 1223 E. Main St.
6. Dirty Dungarees, 1944 Morse Rd.
7. Quik Meat, 1198 E. Main St.

Source: Columbus City Council



THE COLUMBUS DISPATCH

The new owner of Stewart's, Raed Alghazzawi, is in the process of obtaining the liquor license. He contends there are no problems around the store.

"A year-and-a-half ago someone got shot," outside the store, said Alghazzawi, who has a drug-trafficking charge pending against him, according to infor-

mation from the city and Franklin County courts.

A co-owner of the Main and Wilson Convenience Mart, Ayman Rawahnih said the owners have been working with the community to rid crime from the area. Police investigated the store for receiving stolen property in April.

"It was bad when we took over," said Rawahnih, who said he's co-owned the store for three years. "I can't lose my liquor license."

Kathy Webb of the Olde Towne East Block Watch complained of drugs deals and prostitution outside the store.

Even if the council objects to the permit renewals, the cases usually are resolved slowly.

The city must file its objections with the state by Jan. 1. Then a hearing officer will make a recommendation to the state liquor control superintendent, said Denise Lee, an Ohio Division of Liquor Control spokeswoman.

Whatever the superintendent's decides then can be appealed to the Ohio Liquor Control Commission, and that ruling can be appealed to a common pleas court.

In the meantime, permit holders can continue to operate, Lee said.

The liquor licenses are due for renewal Feb. 1.

mferenchik@dispatch.com