

**BOARD OF LICENSE COMMISSIONERS
CARROLL COUNTY, MARYLAND
MINUTES**

On August 12, 2015, the Board of License Commissioners met in Room 003/004 of the Carroll County Office Building, 225 North Center Street, Westminster, Maryland 21157. Board members Roland Meerdter, Chairman, Robert Tabler, and David Brauning were present as well as Assistant County Attorney Timothy Dixon, Counsel to the Board, Deputy County Attorney Gail Kessler, Counsel to the Inspectors, Jo Vance, Administrative Hearings Coordinator, Charles Kaizer, Senior Liquor Inspector, and Keith Benfer, Liquor Inspector.

10:00 a.m., the Board addressed the following official business:

1. A hearing was held in the matter of **Case 5854**, violation – sale to a minor by a Class B – Beer, Wine and Liquor license issued to Robert R. Baldini, Edward Gilliss, and Alexander D. Obriecht for the use of Ruby Tuesday, Inc., t/a Ruby Tuesday, 210 Malcolm Drive, Westminster, Maryland 21157. Gail Kessler, as attorney for the inspectors, opened by calling Jacob Smith to testify about his participation as the underage volunteer in the age compliance check at Ruby Tuesday. Jacob testified that he asked to be seated and told the staff of Ruby Tuesday that he was waiting for his girlfriend. He ordered a glass of wine and he was served a carafe of merlot. At that time he texted Inspector Benfer that he had been served alcohol and was not asked for an ID. Mr. Gilliss cross-examined Mr. Smith and asked him if he told the Ruby Tuesday staff that he was waiting for his wife and Mr. Smith said he did not say that. Mr. Gilliss asked Miranda Bomhardt to testify as to what she remembered from the night in question as she was acting as hostess that evening. She testified that Mr. Smith said he was waiting on his wife. Ms. Kessler questioned Ms. Bomhardt about how many other patrons she had seated of whom she could remember the specifics of a conversation with them. Mr. Gilliss then asked to enter an affidavit from the server, Michelle Martino, about her recollection of the event. Ms. Kessler objected to the affidavit being entered as evidence because she contended that Ms. Martino was not present to cross – examine and that arrangements could have been made to have her there. Mr. Gilliss then asked Jeff Hofrichtor to testify that he was the Acting General Manager at the time of the incident, but that he was in the kitchen washing dishes when Mr. Smith was served. He stressed the intensive training and reminders that the servers and staff undergo with emphasis on not serving underage patrons. Mr. Gilliss entered as exhibits the server and bartender training manuals. Mr. Hofrichtor also testified that Ruby Tuesday has now enacted a policy of giving a \$100.00 bonus for success in an age compliance check. He stated that the restaurant policy is to card anyone who looks younger than 45 years of age. Bruce Beer then testified as the regional manager for Ruby Tuesday and the operating partner since the operating partner at that time was also fired. Testimony was then given by Carol Mullen of the Carroll County Coalition Against Underage Drinking and Jason Fowler an intern for the Health Department, both of whom requested that the Board institute a harsher

penalty than fines if Ruby Tuesday was found culpable in this matter. Ms. Kessler requested that the Board bifurcate the violation decision and the penalty decision. The Board adjourned to seek legal counsel and upon their return they found Ruby Tuesday culpable in the matter. At that time Ms. Kessler asked that in addition to fines that their liquor license be suspended for some period of time. Mr. Gilliss asked the Board not to suspend or revoke their license but offered that Ruby Tuesday would be happy to contribute to a charitable organization in addition to paying a fine. The Board again adjourned for legal counsel. Upon their return, Mr. Brauning presented a motion that Ruby Tuesday be fined \$2,000.00 and that they pay a like amount to the Carroll County Coalition Against Underage Drinking. Mr. Gilliss was asked if Ruby Tuesday was willing to do this and he stated that they were. They were asked to provide proof to Ms. Kessler and the Office of Administrative Hearings that \$2,000.00 was given to the Coalition within 15 days.

2. A hearing was held in the matter of **Case 5861**, violation – sale to a minor by a Class A – Beer, Wine and Liquor license issued to Jignashaben Chokshi for the use of Greenmount Group, Inc., t/a The Liquor Shoppe, 2775 Hanover Pike, Hampstead, Maryland 21074. Testimony was given by Inspector Benfer that alcohol was sold to an underage volunteer by a server who did not ask for ID. The server was TAM certified but did not have a good reason for not asking for ID. Mr. Brooks Leahy, Esq., appeared on behalf of the Liquor Shoppe and presented mitigating information. He did not contest the violation, but asked Ms. Chokshi whether steps had been taken since the violation to improve their shoppe for preventing underage buyers from being successful. After testimony, the Board voted unanimously to find the establishment culpable in the matter and fined them \$300.00 for the first offense.
3. A hearing was held in the matter of **Case 5869**, the application of Michael Thompson, Christopher Wireman and Ronald Lowrey, Jr., for a new Class BC – Beer, Wine and Liquor with catering license for the use of The Old Town Grill, LLC, t/a The Old Town Grill, 832 S. Main Street, Hampstead, Maryland 21074. Mr. Lowrey testified as the majority owner of the restaurant and he and Mr. Wireman would be working at the restaurant from 40 to 70 hours per week. Mr. Thompson, the resident licensee testified that he would be working at the establishment 40 hours per week and that he would be on the payroll in addition to being a part owner in the business. All of the character witnesses affirmed that they believed all three men to be fit and proper to have a liquor license and to be reliable, hard-working people. Upon a motion to approve pending all State and County agencies approval, and seconded, the Board voted unanimously to approve this application.

12:50 p.m., the Board adjourned for lunch and returned at 2:00 p.m. for the afternoon session.

4. A hearing was held in the matter of **Case 5871**, violation – sale to a minor by a Class A – Beer and Wine license issued to Kenneth Kacmarski for the use of 251 East Baltimore Street, Inc., t/a Taneytown Exxon, 251 East Baltimore Street, Taneytown, Maryland 21787. Inspector Benfer testified that an underage volunteer

entered the station and purchased a six pack of Miller Light Beer without being asked for ID. The clerk stated that he was very busy at the time. Brooks Leahy, Esq. appeared on behalf of Mr. Kacmarski to present mitigating factors in Mr. Kacmarski's favor. Mr. Kacmarski testified that because of past violations over ten years ago, he had instituted stringent training and signage to prevent sales to underage buyers and that he also offers a rewards system of \$250.00 for successfully passing a tobacco age compliance check and \$500.00 for successfully passing an alcohol compliance check. He also testified that he has all of his staff TAM certified and does this quickly after they are hired, even if he has to go out of County to accomplish this. After meeting with counsel, voted unanimously that the establishment was culpable in this matter and they fined him \$600.00 because there had been two offenses in less than two years.

5. A hearing was held in the matter of **Case 5872**, violation – sale to a minor by a Class BC – Beer, Wine and Liquor license issued to Blinn A. Salisbury, III, for the use of Bud's Bar & Grill, Inc., t/a Bud's at Silver Run, 4115 Littlestown Pike, Westminster, Maryland 21157. Testimony was given by Inspector Benfer that alcohol was sold to two underage volunteers by a server who asked for ID and was given their vertical licenses but served them anyway. The server, Ms. Cain, stated that she worked in Pennsylvania for years and was not familiar with Maryland licenses and that she calculated their age based on the birthdates, but made an error. Mr. Ken Lurie testified that the establishment will no longer accept any vertical IDs. After testimony, the Board voted unanimously to find the establishment culpable in the matter and fined them \$300.00 for the first offense.

At approximately 2:50 pm, the Board addressed the following official business:

6. A letter from Mr. Martin about the availability of beer from a keg at the Reese Fire Carnival was discussed. Mr. Kaizer had investigated the claim and found there was no substance to it.
7. The Board was informed of a letter from Tom Dougherty of BJ's Liquors about the fact that he was forced out of his retail space and has been having trouble finding a new location. Mr. Kaizer informed the Board that he has spoken to Mr. Dougherty several times and that he is aggressively looking for a new space. The Board agreed that they would be kept informed of his progress on a monthly basis.
8. A letter from the United Coon Hunters Association requesting an outdoor event and approval for a one day liquor license for a Sunday event was presented to the Board and approved.
9. A one day liquor license application for an outdoor event held by the McDaniel College Alumni Office on October 17, 2015 was presented to the Board and approved.
10. A one day liquor license application for an outdoor event held by the LTH Foundation at the Sykesville Volunteer Fire Department facility on September 19, 2015 was presented to the Board and approved.

11. A one day liquor license application for an outdoor event held by the Freedom Swim Club on their own premises on August 28, 2015 was presented to the Board and approved.
12. There was discussion about an error in Rule 20 regarding the Sunday sales of beer and wine for Class BW seven (7) day licenses was discussed. The law was changed in 2008, but the change never made it into the rule book. The Board asked that the rule be corrected and a new page with the corrected rule be distributed to all licensed establishments.
13. There was a discussion about the outdoor festivals in Sykesville where they close off Main Street, with the SHA's permission, and allow citizens to wander the street with open containers of alcohol. It was decided that the Board could allow this type of street festival if the Town of Sykesville passed an ordinance to allow this.
14. The Board review a draft copy of the permit and application form for the non-profit entity overseeing the Maryland Microbrewery Festival at Union Mills Homestead. On a motion by Mr. Brauning and seconded by Mr. Tabler, the forms were approved. It was decided by the Board that a letter should be drafted to send to the Board of County Commissioners informing them that since the Maryland Wine Festival and the Maryland Microbrewery Festival were now operating under State permits, that the liquor inspectors would not be overseeing the operations of these two festivals. Since our office is not issuing any of the licenses to the wineries and breweries, we do not have any jurisdiction at these events.
15. The Board was informed of a letter from Eric Celitto of Main Street Liquors in Hampstead about his upset over Class D licenses. Chuck Kaizer had talked to him at length about the Class D licenses, and that they have been available for years. He also explained that the Board actually restricted the number of Class D licenses that can be issued by instituting a rule restricting Class D licenses from being obtained by convenience stores and/or gas stations. The Board determined that Mr. Kaizer had addressed the issue and nothing further needed to be done.

The meeting adjourned at 3:25 p.m.

Respectfully submitted by:

Jo Vance
Administrator Hearings Coordinator
Office of Administrative Hearings