

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Ajit D. Divaraniya, Applicant
ADS Group Liquors, LLC, Backer
Docket No. 13-454
Permit No. LGB.14816

Case No. 2013-601
July 16, 2013

MEMORANDUM OF DECISION

This matter involves an application for a grocery beer liquor permit for ADS Group Liquors, LLC, 31 North Avenue, Norwalk, Connecticut. A formal administrative hearing was held before the Liquor Control Commission on May 30, 2013. Ajit D. Divaraniya, applicant, appeared with his consultant, Thomas Brennan. The hearing was held on a question of Sec. 30-20(c), Connecticut General Statutes, to determine whether the premises qualifies as a “grocery store”.

Section 30-20(c) provides, in part:

“Grocery store” means any store commonly known as a supermarket, food store, grocery store or delicatessen, *primarily engaged in the retail sale of all sorts of canned goods and dry goods such as tea, coffee, spices, sugar and flour, either packaged or in bulk*, with or without fresh fruits and vegetables, and with or without fresh, smoked and prepared meats, fish and poultry... (Emphasis added.)

Based upon the evidence adduced at the hearing, the following facts are found. Liquor Control Agent Driffin was assigned to investigate this new application and visited the proposed location on two occasions as part of her

new application investigation. This proposed premises is located in a freestanding building which is part of a Mobil gas station. The store's inventory includes very minimal grocery items. It is a convenience store which sells periodicals, tobacco products, auto care and auto repair items, snacks, candies, sodas and juice. At the time of Agent Driffin's initial visit, she observed that the store did not appear to operate as a bona fide grocery store. She met with the applicant's mother at that time and gave her some suggestions as to how to meet the department's statutory requirements for a grocery store beer liquor permit. When Agent Driffin revisited the proposed location in April 2013, she found that nothing had changed. At the hearing, both Agent Driffin and the applicant described this store as "a convenience store".

As part of the application process, the applicant submitted two breakdown of sales forms, one for November 2012 and one for February 2013, to provide the department with sales data in specific categories to determine compliance with Sec. 30-20(c), Connecticut General Statutes. Based upon the evidence adduced at the hearing, we find that the numbers entered on the forms, which were certified as true by the applicant, are not representative or accurate with regard to the sales for the store. For example, Line 10 asks for sales data for "Non-edible items: (i.e. *tobacco*, health/beauty aids, paper products, magazines, newspapers)" (Emphasis added) and the applicant

testified at the hearing that tobacco is not included in the sales figures on either form submitted to the department, as required by the form.

This location is part of a Mobil gas station and all sales are rung on one computerized register. Sales of gasoline products are attributed to a separate limited liability company, “ADS Group LLC”, which is permissible. At the hearing, the applicant revealed that monthly sales of approximately \$30,000 in tobacco products are not included on the breakdowns of sales forms submitted to the department and are attributed to “ADS Group LLC”, as are auto-related products sold at the store.

The sale of tobacco products should have been listed on Line 10 of the breakdown of sales forms. Had the tobacco sales figures of approximately \$30,000 each month been properly included in the Line 10 figures, the breakdown of sales forms would have reflected our finding that the vast majority of sales at the proposed premises are in the category of “non-edible items” rather than “groceries”.

Based on the testimony and documents provided, we do not find that this store is “primarily engaged in the sale of groceries” and does not operate as a grocery store within the meaning of Sec. 30-20(c), Connecticut General Statutes. Accordingly, the Department of Consumer Protection orders the application for a grocery store beer permit by Mr. Divaraniya denied for failure to qualify with the requirements set forth in Sec. 30-20(c). However, we will STAY such denial until August 1, 2013, to afford the applicant an opportunity to

submit a withdrawal of this application to this department. If no such withdrawal has been received by August 1, 2013, the application will be denied.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION
BY**

Elisa A. Nahas, Esq.
Presiding Officer

Stephen R. Somma, Commissioner

Angelo Faenza, Commissioner

Parties:

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Non-Parties:

Director John Suchy, Liquor Control Division
Connecticut Beverage Journal
Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106