

BEFORE THE LIQUOR CONTROL COMMISSION
OF THE STATE OF OREGON

In the Matter of the)	
Application for a)	
Package Store (PS))	
License by:)	FINAL
)	FINDINGS OF FACT,
Donald and Eleanor McDougal)	CONCLUSIONS OF LAW,
MILL CREEK GENERAL STORE)	AND ORDER
7926 Marion Road)	
Turner, Oregon 97392)	
- - - - -)	
Marion County)	

A hearing in the above matter was held on the 19th day of October, 1982, in Salem, Oregon, before Hearings Examiner Allen R. Scott. The Applicants appeared in person and were not represented by legal counsel. The Commission was not represented by legal counsel. The Commission having considered the record of the hearing, the Proposed Order of the Hearings Examiner, and the entirety of the Criteria for the Issuance and Maintenance of Licenses and applicable statutes and regulations, enters the following:

FINDINGS OF FACT

1. Applicants seek a Package Store (PS) license in the trade name MILL CREEK GENERAL STORE, 7926 Marion Road, Turner, Oregon 97392.
2. The Commission's Staff has recommended that the license be refused based upon OAR Chapter 845-08-025 (written opposition from a person having control of a church).
3. Applicants' premises is located approximately 3/4 of a mile east of the town of Turner on Marion Road, a main east/west road.

4. The premises is approximately 400 feet east of the intersection of Witzel Road with Marion Road.

5. Beginning at the northwest corner of the intersection of Witzel Road and Marion Road, and extending for approximately five acres to the northwest of the intersection, is an establishment called the "Aldersgate Bible Camp and Conference Center."

6. The portion of the Camp and Conference Center nearest to the intersection, and therefore nearest to the Applicants' premises, contains campsites and hookups for trailers. This portion of the Camp and Conference Center is approximately 400 to 500 feet from Applicants' premises.

7. Further back from the intersection are other facilities that are part of the Camp and Conference Center. There are one or two houses or mobile homes, approximately 200 feet back from the intersection and thus approximately 600 feet from Applicants' premises. These structures are used for administrative purposes by the Camp.

8. Several hundred feet further to the northwest of the intersection is The Camp chapel, which is the Turner Free Methodist Church. This Church facility is approximately 1,200 feet from Applicants' premises.

9. The Aldersgate Bible Camp and Conference Center is used almost exclusively during the summer months. Groups from around the State come to the facility and remain for various periods of time in the Camp's trailer and camping area. Services are held in the chapel during periods when groups are visiting the Camp.

10. There is little activity in the Camp from approximately September to May.

11. The Commission received a letter from Robert Porter, Executive Director of the Aldersgate Bible Camp and Conference Center, which states that Mr. Porter, on behalf of the Camp and the Turner Free Methodist Church, registers a "negative vote" to the granting of the license at Applicants' premises. The letter goes on to state:

"With the existing local tavern and two grocery stores that presently sell liquor, it would appear that there are enough outlets for this size community.

"In addition, the store desiring such license is adjacent to the Church of God, and it does not seem a proper place nor in compliance with license criteria. The Aldersgate Bible Camp and Turner Free Methodist Church is approximately one block away and we feel strongly that the sale of alcoholic beverages would not be compatible or an asset to the immediate neighborhood community."

12. Directly adjacent to Applicants' premises is the Turner Church of God, which is apparently the church referred to in the first sentence of the second paragraph of the letter quoted above. The Church Of God was notified of the license application and expressed no objection to the granting of the license.

13. The Commission's file reflects that letters were sent to Mr. Porter and to the Church of God notifying each of the time, date and place of the hearing. No one representing either Church appeared at the hearing.

14. The nearest establishments with PS licenses or Retail Malt Beverage (RMB) licenses are two grocery stores and a tavern in Turner, approximately 3/4 mile to one mile away from Applicants' premises. Applicants' premises is outside the city limits of Turner. The Aldersgate Bible Camp is within the city limits of Turner.

15. Several houses are located near to Applicants' premises. Several dwellings may be built across the street.

16. A person who lives directly next door to the premises testified at the hearing in favor of the granting of the license. Another person who lives approximately one mile away testified in support of the application, stating that the license would be a convenience to him and to others who live outside of the immediate Turner area.

17. Applicants presented a petition with approximately 69 signatures of those supporting the granting of the license.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

The following criterion will be given sufficient consideration so that a license will not be issued unless good cause which outweighs the criterion involved is shown by the applicant:

Written opposition to the granting of the license, stating reasons for the opposition, by a person having control of a church if such facility is located within 500 feet of the proposed outlet in an urban or suburban area or within 1,500 feet in a rural area. OAR 845-05-025(2)(b).

The evidence indicates that a person writing on behalf of the Turner Free Methodist Church, which is located in the Aldersgate Bible Camp and Conference Center, expressed opposition

to the granting of the license. The evidence indicates that the actual Church facility is approximately 1,000 to 1,200 feet from the proposed licensed premises and that other portions of the Camp are somewhat closer.

The Commission concludes that the Applicants have established good cause for outweighing this criterion. The evidence indicates that the Camp is operated primarily, and perhaps exclusively, during a three or four month period. The Commission believes that this is "good cause" which outweighs the opposition of the Camp/Church. The Commission also notes that the physical layout involved in this matter, that is, with the Church and other facilities being located on a defined piece of land some distance from the store, would tend to reduce any effect of the store upon the people that are using the facility.

For these reasons, the Commission concludes that this criterion is not a basis for denying the license.

ULTIMATE CONCLUSIONS OF LAW

The license should be granted despite the written opposition from a nearby church because the church facility operates only a small portion of the year and because the actual effect of the license upon the Church/Campground facility would be small. OAR 845-05-025(2)(b).

FINAL ORDER

It is hereby ordered that the application for a Package Store (PS) license by Donald and Eleanor McDougal in the trade name Mill Creek General Store, 7926 Marion Road, Turner, Oregon 97392, be GRANTED.

It is further ordered that due notice of such action, stating the reasons therefor, be given as provided by law.

Dated this 24th day of January, 1983.



C. Dean Smith
Administrator
OREGON LIQUOR CONTROL COMMISSION

NOTICE: You are entitled to Judicial Review of this Order. Judicial Review may be obtained by filing a Petition for Review within 60 days from the service of this Order. Judicial Review is pursuant to the Provisions of ORS Chapter 183.