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BEFORE THE LIQUOR CONTROL COMMISSION  
OF THE STATE OF OREGON

In the Matter of the )  
Application for a )  
Retail Malt Beverage (RMB) )  
License by: )  
  
James N. and Cynthia M. Haywood )  
DADDY'S PLACE )  
Two N. Killingsworth )  
Portland, OR 97217 )  
- - - - - )  
Multnomah County )

FINAL  
FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER

A hearing in the above matter was held on the 28th day of April, 1983, in Portland, 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 Retail Malt Beverage (RMB) license in the trade name DADDY'S PLACE, Two N. Killingsworth, Portland, Oregon 97217.
2. The Commission's staff has recommended that the application be refused based upon OAR 845-05-025(1) (adverse recommendation by the City of Portland).
3. Applicants seek to open a tavern-delicatessen at the above address.

4. On December 8, 1982, the Portland City Council considered the application. The Council heard testimony in opposition to the application from a representative of the City's Bureau of Licenses, a representative of the Police Bureau, and a spokesperson for the Humboldt Neighborhood Association.

5. The witnesses before the City Council spoke about problems at the intersection at which Applicants' premises is located. There were references to a high accident rate and to crimes, including drug trafficking, which occur at this intersection.

6. There was also testimony that three petitions containing 45 names and three individual letters, all opposing the application, had been submitted to the City.

7. Applicant James N. Haywood and the owner of the building in question also testified before the City Council in favor of the application.

8. The Council members noted that they had no derogatory information regarding the Applicants.

9. The building in which Applicants' premises would be located has housed a tavern for many years. The last tavern at this location closed in approximately November, 1981. No evidence presented at the City Council meeting or at the OLCC hearing indicated that problems in the area had directly involved the earlier taverns.

10. Salvation Army officials also indicated opposition to the license to the City Council. A Salvation Army facility is located at the other end of the block, but is around the corner

slightly. There is a large fourplex between it and the proposed tavern.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. 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:

An adverse recommendation of the governing body of the appropriate city or county, after due consideration. The recommendation may be disregarded by the Commission if the body has failed to give to the applicant and to interested members of the public both reasonable notice of the proceeding in which the application was considered and reasonable opportunity to be heard. OAR 845-05-025(1).

The evidence establishes that the City of Portland made an adverse recommendation on this matter. The evidence further establishes that the vote of the Portland City Council was made after the Council heard testimony from opponents of the application as well as from Applicant and a supporter. The Commission concludes that the adverse recommendation was made after due consideration and that Applicants had reasonable notice of the proceeding and a reasonable opportunity to be heard.

Applicant correctly points out that none of the testimony regarding problems at the intersection tied the problems either to past taverns or to the proposed application. Applicants also correctly point out that the evidence regarding crime, drug trafficking, and automobile accidents all was in the nature of hearsay evidence. Under the rule involved, however, there is no requirement that the local governing body consider any particular type or quality of evidence, nor is there a

requirement that the reasons taken into account by the local governing body be particularly convincing to the OLCC. Nevertheless, the Commission finds that the City acted reasonably in making its determination, based on the information before it.

The Commission concludes that this criterion provides a basis for denying the license.

ULTIMATE CONCLUSIONS OF LAW

The license should be denied because the local governing body has recommended against the application after due consideration and after providing opportunity to Applicants and to the public to be present and to provide evidence. OAR 845-05-025(1).

FINAL ORDER

It is hereby ordered that the application for a Retail Malt Beverage (RMB) license by John N. and Cynthia M. Haywood, in the trade name Daddy's Place, Two N. Killingsworth, Portland, Oregon 97217 be DENIED.

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

Dated this 20th day of June, 1983.



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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.