

BEFORE THE LIQUOR CONTROL COMMISSION
OF THE STATE OF OREGON

In the Matter of the)	
Request for Extension of)	
the License Privileges of)	
a Dispenser Class A (DA))	
Licensed Premises by:)	FINAL
)	FINDINGS OF FACT,
Everett and Barbara Rau)	CONCLUSIONS OF LAW,
PRIME COUNTRY)	AND ORDER
3815 State Street)	
Salem, Oregon 97301)	
- - - - -)	
Marion County)	

A hearing in the above matter was held on the 15th day of June, 1983, in Salem, Oregon, before Hearings Examiner Douglas Crumme'. The record was held open until the 24th day of June, 1983 to receive additional documentary evidence from the Applicants. The Applicants appeared in person and were represented by Ira S. Feitelson, Attorney at Law. 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. Everett and Baroara Rau hold a Dispenser Class A (DA) license at PRIME COUNTRY, 3815 State Street, Salem, Oregon 97301. The Licensees have requested extension of their licensed premises to include an upstairs room that they have constructed over the present licensed facility on the main floor of the building.

2. The Commission's Regulatory Staff Committee has recommended that the Applicants' request for extension of license privileges be refused, citing OAR 845-05-040(3)(e)(B) (unfavorable consideration may be given to a dispenser applicant if the premises is to be operated primarily as a tavern rather than as a restaurant as evidenced by the sale of alcoholic liquor to a greater degree than food service).

3. The present licensed premises of Prime Country has a 90-seat restaurant and a 34-seat lounge containing a 15-stool bar. The restaurant and lounge are partially separated with an open doorway between them.

4. The Licensees are able to hold banquets for as many as 50 persons in the existing licensed premises downstairs in an area that may be separated from the remainder of the premises by a folding door. The folding door does not entirely screen out the sound of live music that the Licensees offer in their lounge seven nights a week.

5. The Licensees completed remodeling of an upstairs room to the existing facility for use as a lounge and banquet room in approximately April, 1982. The cost of the remodeling was approximately \$15,000.

6. The upstairs lounge/banquet room is accessible through the interior of the premises only.

7. The upstairs lounge/banquet room has lounge seating for 40 persons and can accommodate up to 65 persons for banquets.

8. The upstairs lounge/banquet room will have a service bar. Only background music will be played. Live music will not be offered upstairs.

9. The upstairs lounge/banquet room presently has two pool tables. The Licensees plan to remove one of these pool tables.

10. The recent sales at Prime Country have been as follows:

<u>MONTH</u>	<u>ACTUAL SALES</u>			<u>PERCENT OF FOOD TO TOTAL SALES</u>
	<u>FOOD SALES</u>	<u>LIQUOR SALES</u>	<u>TOTAL SALES</u>	
<u>1982</u>				
Jan	\$ 9,237.92	\$ 21,808.49	\$ 31,046.41	30%
Feb	9,367.47	21,506.97	30,874.44	30%
Mar	11,013.85	24,949.90	35,963.75	31%
Apr	10,386.44	23,003.62	33,390.06	31%
May	9,052.10	20,800.55	29,852.65	30%
Jun	6,938.24	21,491.71	28,429.95	24%
Jul	6,506.27	24,756.59	31,262.86	21%
Aug	7,109.41	25,663.38	32,772.79	22%
Sep	8,360.73	25,231.49	33,592.22	25%
Oct	8,474.05	28,031.38	36,505.43	23%
Nov	7,487.89	26,507.65	33,995.54	22%
Dec	<u>9,166.20</u>	<u>27,487.67</u>	<u>36,653.87</u>	<u>25%</u>
1982 Total	\$103,100.57	\$291,239.40	\$394,339.97	26%
<u>1983</u>				
Jan	8,726.10	24,606.45	33,332.55	26%
Feb	8,411.50	22,715.60	31,127.10	27%
Nar	9,460.10	25,873.35	35,333.45	26%
Apr	8,965.00	22,226.30	31,191.30	28%
May	8,001.42	19,534.69	27,536.11	29%

11. Darrell Currier operates CTC Associates, Inc., an accounting services firm. CTC Associates, Inc. has been doing accounting work for Licensees Everett and Barbara Rau since 1977. Mr. Currier also does accounting for approximately 20 to

30 other restaurants located in the Salem area. Mr. Carrier has made a projection of likely sales for the upstairs lounge/banquet room at Prime Country, based on the proposals and menu that the Licensees outlined at their June 15, 1983 hearing. Mr. Carrier's projection is as follows:

PROJECTED SALES IN UPSTAIRS LOUNGE/BANQUET ROOM

<u>MONTH</u>	<u>FOOD SALES</u>	<u>LIQUOR SALES</u>	<u>TOTAL SALES</u>	<u>% OF FOOD TO TOTAL SALES</u>
Jan	\$ 1,179	\$ 1,821	\$ 3,000	39%
Feb	1,261	1,939	3,200	39%
Mar	1,135	2,112	3,250	35%
Apr	1,143	2,032	3,175	36%
May	878	2,047	2,925	30%
Jun	819	2,006	2,825	29%
Jul	770	1,980	2,750	28%
Aug	809	2,081	2,890	28%
Sep	845	2,070	2,915	29%
Oct	826	2,124	2,950	28%
Nov	805	2,070	2,875	28%
Dec	<u>867</u>	<u>2,123</u>	<u>2,990</u>	<u>29%</u>
Total	<u>\$11,340</u>	<u>\$24,405</u>	<u>\$35,745</u>	<u>31%</u>

13. The hours of operation of the existing licensed facility are from 7:00 a.m. until 2:30 a.m. The minor posting in the existing licensed facility allows minors between 7:00 a.m. and 9:00 p.m. After 9:00 p.m., the posting in the existing licensed facility forbids minors.

14. The proposed hours of operation for the upstairs lounge/banquet room are 11:00 a.m. to 2:30 a.m.

15. The Licensees propose to make available a special snack menu in the upstairs lounge/banquet room. In addition, the Licensees will make the items on their regular downstairs

menu available to patrons in the upstairs lounge/banquet room.

A dumbwaiter may be installed to ease service of food upstairs.

16. The Licensees' special snack menu proposed for the upstairs lounge/banquet room includes the following items:

SPECIAL UPSTAIRS SNACK MENU

Nachos	\$2.50
Potato Skins	2.00
Mini Shrimp	3.75
Philadelphia Steak Sandwich on French Roll	3.75
Hot Beef and Cheese Sandwich on Sourdough	3.75
Turkey, Ham and Cheese Sandwich on French Roll	3.75
Reuben Sandwich on Rye	3.75

17. The Licensees' present menu offered in the existing licensed facility downstairs includes the following items:

EXISTING DOWNSTAIRS MENU

(TO BE OFFERED UPSTAIRS ALSO)

Tossed Salad	\$ 1.00
Taco Salad	3.50
Chef's Salad	3.75
Seafood Louie	4.25
Cold Turkey Sandwich	2.00
Cold Ham Sandwich	2.00
Cold Beef Sandwich	2.00
Club House Sandwich	3.50
Patty Melt Sandwich	3.75
French Dip Sandwich	3.75
Grilled Ham and Cheese Sandwich	2.50
Steak Sandwich and Fries	4.95
Prime Country Hamburger	3.50
Prime Country Hamburger (8-oz.)	4.00
Mini Shrimp with Fries and Slaw	4.25
Steak	7.95
Prime Country Steak	8.95
Two Petite Steaks	11.00

In addition to the above, the Licensees also offer some additional sandwiches and specials at lunch.

18. The Licensees host about three banquets a month in their downstairs banquet area.

19. The Licensees have hosted approximately 40 meetings or banquets in their upstairs lounge/banquet room since the upstairs room was completed in approximately April, 1982.

20. The Licensees own a large catering business located in Salem. Consequently, the Licensees are experienced in hosting banquets.

21. The Licensees' advertisement for Prime Country in the yellow pages of the Salem telephone directory specifically mentions that banquet rooms are available.

22. The upstairs lounge/banquet room at Prime Country is intended to be a quieter, more relaxed lounge setting than the present lounge downstairs, where live music is offered seven nights a week.

23. The Licensees would staff the upstairs lounge/banquet room with a waiter or waitress and a bartender.

24. The upstairs lounge/banquet room at Prime Country is of little use other than as an extension of the DA-licensed restaurant and lounge business located on the first floor of the building.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Unfavorable consideration may be given to an applicant if the applicant's premises will be operated primarily as a tavern rather than as a restaurant, as indicated by factors emphasizing the sale of alcoholic liquor to a greater degree than food service. OAR 845-05-040(3)(e)(B).

The area sought for license extension in the upstairs lounge/banquet room would be used both for lounge and banquet purposes. In addition, the business's full existing menu plus a special snack and sandwich menu would be available for service in the new licensed area upstairs. The projected percentage of food sales to total sales in the upstairs is 31 percent. This exceeds the Licensees' present percentage of food sales to total sales in the downstairs of approximately 27%. Thus, the extension of licensed premises would serve to increase the food sales percentage at the business. In addition, the upstairs area provides a space that will be quieter and more conducive for eating and talking than the downstairs after the live music starts downstairs at 9:00 p.m.

Because of the factors noted above, the Commission concludes that the extension of the licensed premises to the upstairs lounge/banquet room would tend to decrease the emphasis on alcoholic beverage sales at the premises and thus would tend to reduce any present tavern orientation at the premises. Thus, the request for extension of license privileges should be granted under OAR 845-05-040(3)(e)(B).

ULTIMATE CONCLUSIONS OF LAW

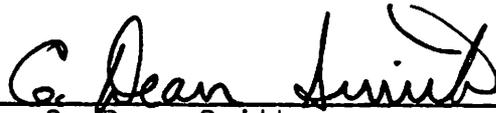
The request by Everett and Barbara Rau for the extension of their DA license privileges at Prime Country to the upstairs lounge/banquet room at the premises is demanded by the public interest and convenience because the addition of this area to the licensed premises will tend to increase the food sales percentage and will tend to reduce any existing tavern orientation at the premises. ORS 472.160(1).

FINAL ORDER

It is hereby ordered that the request by Everett and Barbara Rau, doing business at Prime Country, 3815 State Street, Salem, Oregon, for extension of their DA licensed premises to include the upstairs lounge/banquet room at the existing facility 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 October, 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.