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BEFORE THE LIQUOR CONTROL COMMISSION  
OF THE STATE OF OREGON

In the Matter of the	)	
Application for a	)	
Dispenser Class A (DA)	)	
License by:	)	FINAL
	)	FINDINGS OF FACT,
James D. Quenemoen	)	CONCLUSIONS OF LAW,
and Dennis J. Delano	)	AND ORDER
SUMMIT HOUSE INN	)	
90055 E. Mt. Hood Loop	)	
Government Camp, Oregon 97028	)	
- - - - -	)	
Clackamas County	)	

A hearing in the above matter was held on the 4th day of April, 1983, in Portland, Oregon, before Hearings Examiner Allen R. Scott. The Applicants appeared in person and were represented by Ronald Thom, Attorney at Law, Oregon City, Oregon. 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. Licensees seek a Dispenser Class A (DA) license at the SUMMIT HOUSE INN. The premises presently operates with a Restaurant (R) license.

2. The Commission's Staff has recommended that the application be denied based upon OAR 845-05-030(1), 845-05-040(3)(f) (adequate service in the area; gross sales), OAR 845-05-040(1), 845-05-040(2)(a), 845-05-040(2)(b) (no greater services and economic benefit; not unique).

3. The Summit House Inn is located in the unincorporated community of Government Camp, at the east end of the Mt. Hood Loop near the Summit Ski Area. Applicants began operating the premises in May, 1982. It had been closed for some time prior to the reopening.

4. The premises contains a restaurant and lounge. The building also contains 10 guest rooms. Applicants do not propose that the guest rooms be included in the licensed premises.

5. The dining portion of the premises consists of two sections. One, which can be used as a banquet room, contains approximately 50 seats. The other contains table seating for approximately 16 and a counter with approximately 13 seats. The lounge contains a total of 20 seats, including six at the bar.

6. The lounge contains a fireplace. Applicants have attempted to create a cozy, quiet atmosphere for the premises. They intend to appeal primarily to either a family or older clientele, rather than to younger skiers and travelers who like a more boisterous atmosphere.

7. The only entertainment on the premises is a stereo. Applicants do not intend to have live music or other forms of entertainment.

8. The premises is open seven days a week. The restaurant is open from 6:00 a.m. to 8:00 p.m. daily; the lounge is open from 4:00 p.m. to 2:00 a.m. daily.

9. The dinner menu contains 11 entrees: beef bordelaise, chicken bordelaise, scallops bordelaise, chicken fried

steak, breaded veal cutlets, roast sirloin of beef, chicken strip dinner, ground round steak, chicken livers, halibut steak, and fish and chips. Also offered are a steak sandwich, several burgers, and various sandwiches, salads, and side dishes. Prices of the dinners range from approximately \$5.35 to \$7.95. The breakfast menu contains traditional items.

10. Total monthly sales at the premises since it opened have been as follows:

<u>1982</u>	
June	\$ 9,379
July	12,553
August	12,286
September	6,711
October	8,184
November	8,670
December	10,237
 <u>1983</u>	
January	12,502
February	7,638
March	6,170
Average	\$ 9,433

Almost all of the above sales are food. Applicants indicated that beer and wine sales average only approximately seven to eight percent of the totals noted above.

11. Applicants estimate that monthly sales would average as follows during the period April, 1983, through September, 1983, if the Dispenser Class A license is granted:

<u>1983</u>	<u>FOOD</u>	<u>LIQUOR</u>	<u>TOTAL</u>
April	\$ 9,498	\$1,809	\$11,307
May	7,070	1,245	8,315
June	11,020	2,099	13,119
July	14,990	3,070	18,060
August	14,572	2,985	17,557
<u>September</u>	<u>8,121</u>	<u>1,517</u>	<u>9,668</u>
Average	\$10,878	\$2,126	\$13,004

12. The average monthly sales at existing Dispenser Class A outlets in Clackamas County have been as follows:

<u>FOOD</u>	<u>ALCOHOLIC BEVERAGE</u>	<u>TOTAL</u>
\$31,231	\$16,069	\$47,300

13. The nearest premises with dispenser privileges is the Huckleberry Inn, 0.4 miles west in Government Camp. The premises is open 24 hours a day, and serves as a bus stop restaurant. The dinner menu contains five steak and chop dinners, fish and chips in a basket, prawn basket, chicken basket, steak sandwich, six burgers, 12 sandwiches, and salads and soup. It has a breakfast menu similar to that of Applicants' premises.

14. There are two premises with Seasonal Dispenser licenses in Government Camp, Charlies and the Ratskeller. Both also have Retail Malt Beverage licenses. Both of these premises have much more limited food service than Applicants' premises and tend to appeal to younger people than are attracted to Applicants' premises. The atmosphere of the two establishments is somewhat like that of a tavern.

15. Another premises with a Seasonal Dispenser and RMB license, the Ski-Bowl Beer Stube, is located 1.3 miles from Applicants' premises.

16. The next nearest premises with a Dispenser Class A license is Timberline Lodge, approximately 5.5 miles up the mountain from Applicants' premises.

17. There are two Dispenser Class A outlets in Rhododendron, approximately nine miles to the west of Government Camp.

18. Government Camp has been primarily a winter resort area. However, business during the summer months has increased in recent years. Some of the reasons are the opening of a year-round ski area on Mt. Hood and the construction of an Alpine slide approximately one mile from Applicants' premises. This latter facility had 100,000 paid admissions between July, 1982 and September, 1982.

19. Clackamas County, with a population of 246,100, has 83 DA and DB licenses in operation.

20. There are approximately 70 DA and DB licenses available for issuance throughout the state. The Commission has approximately 35 applications for such licenses in process.

#### ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The existence of sufficient licensed premises in the locality set out in an application shall weigh against granting the application. For purposes of this section, the applicant's community will be a 10-mile radius for dispenser licenses and a two-mile radius for other licenses, unless the applicant establishes that a substantial portion of the patronage of the premises is or would be from a larger or smaller area.

OAR 845-05-030(1).

The evidence does not establish that the community in which Applicants' premises is located is served by sufficient licensed premises. Clackamas County is "under subscribed" with respect to the "quota." This fact may be taken as an indication that the area is not served by sufficient licensed premises. Government Camp and the nearby areas are served by one year-round dispenser license and three Seasonal Dispenser licenses. There is no evidence which would suggest that that is

either sufficient or insufficient to serve the needs of the community.

The Commission concludes that this criterion does not provide a basis for denying the license.

2. Unfavorable consideration may be given to an applicant if applicant's premises will provide lesser services, facilities and economic benefit to the area or to the general public, as indicated by actual or reasonably projected number of patrons served, seating capacity, banquet facilities, hours of operation, number of employees, extent of investment in facilities, amenities, or other such characteristics. Gross sales figures may be used as a basis for determining the number of patrons served.

OAR 845-05-040(3)(f).

The evidence establishes that Applicants' gross sales are far below those of existing dispenser outlets in Clackamas County. Applicants' projections, which seem reasonable, indicate that even if the license is granted, sales will be far below those at presently licensed premises. This is an indication that the premises will serve substantially fewer patrons than the average existing premises in the area. It should be noted, however, that this premises is located in a small, rather isolated community far from most premises in Clackamas County, much of which is part of the urban Portland area. These sales figures may therefore be of little significance as an indication of the public service the premises might provide.

The evidence also establishes that the premises has a banquet facility and will serve breakfast, lunch and dinner. Both of these facts may be an indication of significant service to the community.

The Commission concludes that on balance this criterion does not provide a basis for denying the license.

3. Preference for issuance of a dispenser license will be given to applicants who provide dining service or atmosphere which is unique or substantially different in quality, quantity or type from that offered by other licensees within a 20-mile radius as indicated by menu, decor and amenities, entertainment or other characteristics.

OAR 845-05-040(2)(b).

The evidence indicates that Applicants' premises will provide dining service and atmosphere which are unusual in the area, if not literally unique. Applicants' menu is rather varied and complete. The only other Dispenser Class A outlet in Government Camp has a menu which appears to be somewhat less substantial. The next nearest premises with full menus are at Timbeline, approximately six miles away, and at Rhododendron, approximately nine miles away. The quiet "dinner house" atmosphere which Applicants intend for their premises is, according to the evidence, unusual in the Government Camp area, as the other establishments with dispenser privileges have either a bus stop atmosphere or tavern atmosphere.

The Commission concludes that this criterion provides a basis for preference in granting the license.

4. ORS 472.114 states as follows:

- (1) It is the finding of the Legislative Assembly that ORS 471.030(2) does not require the Commission consistently to grant licenses to applicants which have the potential to do a larger gross business than other applicants.

(2) It is the intention of the Legislative Assembly, that in issuing Class "A" and "C" licenses authorized under ORS 472.110 and 472.113, the Commission shall recognize the importance of issuing licenses to otherwise qualified applicants located in rural and unincorporated areas and in incorporated areas with populations of less than 25,000.

(3) It is the intent of the Legislative Assembly that the Commission shall recognize the importance in licensing applicants described in subsection 2 of this section to also recognize those having seating capacities for 100 or fewer patrons.

The evidence indicates that Applicants meet the provisions of both subsections (2) and (3) of the above statute. The application is therefore entitled to some preference under this statute.

#### ULTIMATE CONCLUSIONS OF LAW

The Dispenser Class A license should be granted because Applicants' premises provides some additional services to the area, because it has dining service and atmosphere which are unusual in the area, and because it is entitled to some preference because of its location and size. OAR 845-05-040(2)(b), (2)(c) and ORS 472.114.

#### FINAL ORDER

It is hereby ordered that the application for a Dispenser Class A (DA) license by Dennis J. Delano and James D. Quenemoen in the trade name Summit House Inn, 90055 E. Mt. Hood Loop, Government Camp, Oregon 97028, be GRANTED.

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

Dated this 23rd day of May, 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.