

BEFORE THE LIQUOR CONTROL COMMISSION  
OF THE STATE OF OREGON

In the Matter of the Request	)	
for Change in Minor Posting by:	)	
	)	FINAL
Red Lion Inn/Lloyd Center, Inc.	)	FINDINGS OF FACT,
and Thunderbird Enterprises, Inc.	)	CONCLUSIONS OF LAW,
RED LION INN/LLOYD CENTER	)	AND ORDER
1000 NE Multnomah	)	
Portland, Oregon 97232	)	
-----	)	
Multnomah County	)	

A hearing in the above matter was held on the 14th day of October, 1983, in Portland, Oregon, before Hearings Examiner Douglas Crumme'. The Licensees appeared in person and were represented by Robert M. Gregg, Attorney at Law, Portland, Oregon. The Commission was not represented by legal counsel. The hearing record was held open until October 25, 1983, for the receipt of additional evidence from the Licensees.

The Hearings Examiner, having considered the record of the hearing, the applicable law and regulations and being fully advised, issued a Proposed Order dated January 30, 1984.

No Exceptions were filed to the Proposed Order within the fifteen (15) day period specified in OAR 845-03-050.

Now, therefore, the Commission hereby adopts the Proposed Order of the Hearings Examiner as the Final Order of the Commission, and enters the following:

FINDINGS OF FACT

1. Red Lion Inn/Lloyd Center, Inc. and Thunderbird Enterprises, Inc. hold a Dispenser Class A (DA) license at the RED LION INN/LLOYD CENTER, 1000 NE Multnomah, Portland, Oregon. The Licensees have requested Commission approval of

changes in the minor postings in the Maxi's Quiet Bar and the Maxi's lounge located at the licensed premises.

2. The Commission's Enforcement Staff has recommended that the Licensees' request for change of minor postings be refused, citing the following:

- a. OAR 845-06-040(1)(a) (reduce exposure of minors to environments where the primary activity is the consumption of liquor).
- b. OAR 845-06-040(1)(d) (aid licensees in controlling the presence of minors which could have an impact on their license privileges).

(Commission's Exhibit E.)

#### Request for Change in Quiet Bar

3. The Licensees presently have a No. II minor posting in their Quiet Bar. A No. II minor posting reads "no minors permitted in this portion of the premises." The Licensees seek to change the posting in the Quiet Bar to a No. IV from 9:00 a.m. until 2:00 p.m. on Sunday during the Licensees' Sunday brunch. A No. IV minor posting reads "no minors permitted except during meal hours."

4. The Licensees presently seat brunch patrons in both Maxi's dining room (seating for 145 persons) and in the Quiet Bar (seating for 70 persons). However, because of the existing minor postings, brunch groups with minors may only be seated in the dining room. Thus, when the dining room is full, family groups with minors are required to wait although seating may be available in the Quiet Bar.

5. The Quiet Bar is located immediately adjacent to the dining room. Access to the Quiet Bar during the Sunday brunch

is restricted to an entryway that leads off from the dining room waiting area. Access to the Quiet Bar during brunch is controlled by the host or hostess stationed in the waiting area.

6. The tables in the Quiet Bar are set with linen tablecloths and silverware during the Sunday brunch.

7. Brunch patrons seated in the Quiet Bar are waited upon by waitresses in dining room uniforms. These uniforms have dresses that extend below the knee and have conservative tops.

8. The decor and atmosphere in the Quiet Bar is formal and well-appointed, similar to Maxi's dining room.

9. The Licensees play the same background music in the Quiet Bar that is played in the dining room during the Sunday brunch.

10. The lights in the Quiet Bar are turned up to full bright during the Sunday brunch.

11. There is no suggestive decor or art in the Quiet Bar.

12. The liquor supply in the Quiet Bar is stored below the bar level. Therefore, the liquor supply is not visible to patrons when seated.

13. The Licensees would agree as a condition to the receipt of a No. IV minor posting in the Quiet Bar during the brunch to not seat patrons at the bar during the brunch.

14. The Licensees sell an average of \$750 to \$1,000 in food in the Quiet Bar to Sunday brunch patrons. By comparison, the Licensees sell an average of \$150 to \$175 a day in liquor in the Quiet Bar all day Sunday. Most of the Sunday liquor

sales in the Quiet Bar are champagne sold to brunch patrons. Very few patrons simply sit and drink in the Quiet Bar during the Sunday brunch.

15. The Licensees have a coffee shop located near the Quiet Bar and Maxi's dining room. The Commission's Enforcement staff suggested that the coffee shop would be a more appropriate area for brunch patrons with families than the Quiet Bar.

16. To go from the Sunday brunch buffet line in the dining room to the coffee shop, a guest would need to walk out the entrance of the dining room, through the hotel lobby approximately 200 feet to the entrance to the coffee shop. From the coffee shop entrance, the patron would need to walk to an available booth or seat.

17. The Licensees' coffee shop is open for regular menu service during the Sunday brunch.

18. The decor and atmosphere in the coffee shop is substantially less formal and well-appointed than that of the dining room or the Quiet Bar.

19. The price of the Licensees' Sunday brunch is \$9.50.

20. The lobby that Sunday brunch patrons would need to travel through from the brunch buffet line to the coffee shop normally has patrons waiting to get into the Sunday brunch as well as hotel guests walking back and forth to various parts of the hotel.

21. Although one end of the Licensees' coffee shop is very near the entrance to Maxi's dining room, this area of the coffee shop is separated from the lobby and the dining room by

a bolster divider. There are no breaks in this bolster divider near the dining room other than an emergency exit that is not customarily used for normal entry and exit to the coffee shop.

22. Brunch patrons are allowed to return to the buffet line and refill their plates. If the coffee shop were used for brunch overflow, the coffee shop host or hostess would have a difficult time determining whether a guest was leaving or was returning to the brunch line to refill his or her plate.

23. The Lloyd Center Red Lion Inn is the largest hotel in Oregon, with 520 rooms. The hotel is comparatively expensive. Hotel guests include business travelers as well as local persons. The hotel's guests expect good service.

24. The Commission has approved minor postings allowing minors in lounges for overflow Sunday brunch seating at the Ashland Hills Inn, the Jantzen Beach Thunderbird, the Valley River Inn and the Forest Inn in Creswell. (Commission's Exhibit F.)

#### Findings Concerning Change of Minor Posting in Lounge

25. The Licensees presently have a No. II minor posting in Maxi's lounge. The No. II posting forbids minors. The Licensees seek a No. IV posting, allowing minors, during the lunch buffet in Maxi's lounge from 11:00 a.m. to 2:00 p.m. on weekdays.

26. Maxi's lounge has seating for 144 persons.

27. One wall of Maxi's lounge consists of windows. Additionally, the lights in Maxi's lounge are turned up to full

bright during the lunch buffet. The lounge is consequently well-lighted during the lunch buffet.

28. Patrons may sit at the bar in Maxi's lounge during the lunch buffet. Patrons may order food while sitting at the bar.

29. The liquor supply in the lounge is located behind the bar below bar level. Consequently, the liquor supply is not generally visible to patrons who are seated somewhere other than the bar.

30. Waitresses in Maxi's lounge during the lunch buffet wear cocktail waitress uniforms. These uniforms include skirts or dresses that are above the knee and have less conservative tops than the dining room uniforms.

31. The Licensees sell an average of \$2,600 per day in liquor versus \$600 per day in food in Maxi's lounge. Peak hours in the lounge are between 10:30 p.m. and 12:30 a.m. During the buffet hours from 11:00 a.m. to 2:00 p.m., an average of \$150 in liquor sales are made in the lounge.

32. The Licensees have had a moderate number of requests for minors to go into the lounge for the lunch buffet.

33. Alternative sites in the Lloyd Center Red Lion besides Maxi's lounge for minors to eat lunch include Maxi's dining room, the coffee shop and Eduardo's, a Mexican restaurant.

34. There is no suggestive decor or art in Maxi's lounge.

35. During the lunch buffet, background music played in Maxi's lounge includes jazz and moderate music.

36. The tables in the lounge are not set up with tablecloths during the lunch buffet. Tables are set with large doilies, silverware, condiments and coffee cups.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Purposes for minor posting signs are to:

(a) Reduce exposure of minors to environments where the primary activity is the consumption of alcoholic liquors;

. . .

(d) Aid licensees in controlling the presence of minors which could have impact on their license privileges.

OAR 845-06-040(1) (a) and (d).

a. Request for No. IV minor posting in Quiet Bar during Sunday brunch. The Licensees have established that the exercise of a No. IV minor posting between 9:00 a.m. and 2:00 p.m. in the Quiet Bar during the Sunday brunch is appropriate and is not likely to lead to any ill effects under OAR 845-06-040(1)(a) and OAR 845-06-040(1)(d).

The primary activity in the Quiet Bar during the Sunday brunch is not the consumption of alcoholic liquors but rather the consumption of food by the brunch guests.

In addition, there are a number of features which reduce the lounge orientation of the Quiet Bar during the Sunday brunch. First, the decor and atmosphere in the Quiet Bar is similar to that of the dining room. The atmosphere in the Quiet Bar is not unlike a nice dining room rather than simply a bar. Second, the Quiet Bar is well-lighted during the brunch,

without suggestive decor or art. Third, the tables in the Quiet Bar are set up with tablecloths and silverware, creating the strong impression of a dining area. Fourth, the liquor supply in the Quiet Bar is down below the bar level and is not observable to patrons when they are seated. Further, the Licensees would agree not to seat patrons at the bar during the Sunday brunch hours. Fifth, the Licensees have hosts on duty at the entrance to the dining room and Quiet Bar who control access to both areas. Sixth, the waitresses in the Quiet Bar wear conservative dining room uniforms that are entirely suggestive of a dining room rather than a cocktail lounge.

The primary motivation for the change in minor posting in the Quiet Bar is simply to provide additional appropriate areas for family groups to enjoy the Sunday brunch. Children in family groups would generally be accompanied by adults. The adults in the family groups can supervise their children and can opt not to sit in the Quiet Bar if they are uncomfortable with the atmosphere.

b. Request for No. IV minor posting in Maxi's lounge during weekday lunch buffet. The Licensees' request to allow minors under a No. IV minor posting in the Maxi's lounge during the lunch buffet from 11:00 a.m. to 2:00 p.m. on weekdays does not appear appropriate under OAR 845-06-040(1)(a) and OAR 845-06-040(1)(d).

The environment in Maxi's lounge suggests the primary activity in the lounge is the consumption of alcoholic liquors. The waitresses in Maxi's lounge wear the less conservative

cocktail waitress uniforms. Patrons may sit and drink at the bar. The tables are not covered with a tablecloth or otherwise changed to appear other than they normally do. The exact mix of food sales versus liquor sales in the lounge during the lunch buffet hours has not been established. In contrast to the Sunday brunch in the Quiet Bar, however, where almost all the patrons would be consuming food in connection with the brunch, many of the persons in Maxi's lounge at noon on weekdays could simply be drinking rather than eating. Going to a cocktail lounge at noon on a weekday is not nearly as much a family activity as going out to Sunday brunch. Allowing the No. IV minor posting is likely to result in the fairly significant exposure of minors to a drinking environment. OAR 845-06-040(1)(a).

With the greater likelihood of drinkers in Maxi's lounge and the greater emphasis on a drinking environment, the Licensees are likely to have difficulty controlling potential violations of the liquor laws. The record then does not indicate that the relaxation of the minor posting in the lounge during the lunch buffet to a No. IV is warranted. OAR 845-06-040(1)(d).

#### FINAL ORDER

1. It is hereby ordered that the Licensees be issued a No. IV minor posting in their Quiet Bar during the hours of 9:00 a.m. until 2:00 p.m. during the operation of the Licensees' Sunday brunch.

2. It is further ordered that the Licensees' request for a relaxation of their minor posting from a No. II to a No. IV in Maxi's lounge during the weekday lunch buffet from 11:00 a.m. to 2:00 p.m. be denied.

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

Dated this 14th day of February, 1984.

Douglas Crumme  
Douglas Crumme  
Hearings Examiner  
Hearings Division

William A. Thomas for C. Dean Smith  
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.