NEW YORK STATE LIQUOR AUTHORITY
FULL BOARD AGENDA
MEETING OF 04/15/2020
REFERRED FROM: SECRETARY'S OFFICE

2020-00532

REASON FOR REFERRAL
REQUEST FOR DIRECTION

LICENSING BOARD DELEGATION WITH
RESPECT TO CONDITIONAL APPROVALS

The Members of the Authority at their regular meeting held at the Zone 2 Albany Office on 04/15/2020 determined:

NEW YORK STATE OF OPPORTUNITY. | State Liquor Authority

ANDREW M. CUOMO
Governor

VINCENT G. BRADLEY
Chairman

LILY M. FAN
Commissioner

GREELEY FORD
Commissioner

To: Members of the State Liquor Authority

From: Thomas Donohue, Secretary to the Authority

Date: March 27, 2020

Re: Proposed changes to Licensing Board Delegation of Power

Attached please find a copy of the existing Delegation of Power regarding the Licensing Board with two changes proposed by Deputy Commissioner of Licensing Roberts. First, former Deputy CEO would be removed as a member of the Licensing Board. Second, Deputy Commissioner Roberts would be given the ability to designate additional staff to act on extensions of conditional approvals.

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Commissioner

DELEGATION OF POWER

Delegation of Power with respect to Licensing Board

Agenda ~~**#2019-02092**~~

Pursuant to Section 17 of the Alcoholic Beverage Control Law ("ABCL"), the Members of the State Liquor Authority hereby delegate the following powers to the following employees of the Authority, collectively known as the Licensing Board:

- The power to act on any license, permit or renewal application statewide:

  Executive Deputy Commissioner Sharif Kabir; and
  Deputy Commissioner of Licensing Adam Roberts.

- The power to act on any license, permit or renewal application statewide that has no opposition or no complex or controversial issues:

  ~~**Deputy Chief Executive Officer Michael Jones;**~~
  Deputy Commissioner David Edmunds;
  William Crowley, Director of Public Affairs
  Donald Roper, Excelsior Fellow
  Amy Male; Licensing Examiner 4
  Nancy Smith; Office Assistant 3
  Peter Klein; Licensing Examiner 2
  Andrea Pomeroy; Licensing Examiner 2
  Stephanie Kehn; Licensing Examiner 2
  Christina North; Licensing Examiner 2
  Brian Christy; Licensing Examiner 1
  Maureen Hughes; Licensing Examiner 3
  Jennifer Marzolf: Licensing Examiner 1
  Juan Herrera; Licensing Examiner 2, and
  Jennie Eastman Licensing Examiner 1.

- The power to issue a "Twenty Day Temporary Letter" allowing an applicant who has been conditionally approved and is awaiting issuance of the license certificate to operate under the privileges of that license: 1) when the only conditions of approval that have not been submitted to the Authority are: Certificate of Authority, Workers' Compensation & Disability Insurance, Newspaper Affidavit, photos showing the applicant is ready to open and operate and/or surrender of the current license in effect: or 2) for good cause shown:

  Chairman Vincent Bradley;
  Executive Deputy Commissioner Sharif Kabir;
  Deputy Commissioner of Licensing Adam Roberts;
  Deputy Commissioner David Edmunds; and
  Licensing Examiner 4 Amy Male.

- The power to authorize the issuance of a miscellaneous permit under ABCL §99-b(1)(k): 1) in a case not expressly provided for by the Alcoholic Beverage Control law; 2) when it appears the issuance of the permit would be appropriate and consistent with the purposes of the ABCL; and 3) the facts supporting the need for such a permit are not likely to reoccur:

  Executive Deputy Commissioner Sharif Kabir; and
  Deputy Commissioner of Licensing Adam Roberts.

- The power to grant an extension of time to an applicant to comply with the conditions of approval of an application. Each such extension shall be for six months, and no more than two extensions may be granted under this delegation to any applicant, provided that no extensions may be granted to an applicant operating with a temporary retail permit:

  Executive Deputy Commissioner Sharif Kabir;
  Deputy Commissioner of Licensing Adam Roberts; ~~and~~
  Licensing Examiner 4 Amy Male~~.~~ **and**
  Such employees of the Licensing Bureau as shall be designated in writing by Deputy Commissioner of Licensing Adam Roberts.

- The power to act on all types of permit applications statewide:

  Such employees of the Licensing Bureau as shall be designated in writing by Deputy Commissioner of Licensing Adam Roberts.

- The power to act on Temporary Retail Permit and Liquidation Permit applications:

  Such employees of the Licensing Bureau as shall be designated in writing by Deputy Commissioner of Licensing Adam Roberts.

- The power to act on any renewal application that has no opposition or no complex or controversial issue:

Such employees of the Licensing Bureau as shall be designated in writing by Deputy Commissioner of Licensing Adam Roberts.

Notwithstanding the aforesaid delegation of powers, the following licensing matters must be presented to the Full Board for consideration unless there is a statutory provision requiring the disapproval of the application by the Licensing Board:

- All new package stores, except for removals when there is no change in the four closest stores and the new location is:

    1) In New York City and is no more than 400 feet from the current location;
    or
    2) In Nassau County and is no more than 1,500 feet from the current location; or
    3) Outside of New York City/Nassau County and is no more than one-half mile from the current location.

- Applications where an application filed by the applicant or for the location has been disapproved within the last 2 years.

- Applications for a location where the prior license was revoked or cancelled must be forwarded to the Full Board. The following are exceptions where licensing may act in these situations:

    1) The prior license was cancelled and there is nothing in the record to show a connection between the prior licensee and the applicant;
    2) The prior license was revoked and there is nothing in the record to show a connection to the applicant and there is no "public convenience and advantage" or "focal point" issue involved;
    3) The application is subject to the 500 Foot law, there are no objections and the applicant has submitted a "public interest" statement in support of the application;
    4) An application where the prior license was cancelled or revoked, and that penalty was based solely on the prior licensee having been a prohibited person by revocation; and
    5) The prior license was cancelled due to non-payment of a civil penalty and no other complex or controversial issues exist.

- Applications where the Full Board has issued an emergency summary order of suspension regarding the proposed licensed premises within the last five years;

- Applications where the Members of the Authority have directed a STOP on the applicant or premises.

- Applications involving questions of eligibility of the applicant (citizenship, conviction record, police officer, etc.)

- Reconsiderations of Licensing Board determinations disapproving an application when a Member of the Authority has determined that reconsideration is warranted by the Full Board.

- Reconsiderations of prior Full Board licensing determinations.

- Applications where a protest to an application has been received from a governmental/elected official, police agency or municipality.

- Applications for on-premises licenses in the Village of Spring Valley, Rockland County.

- A request by an applicant who has been conditionally approved for an extension of time to comply with the conditions of approval when such applicant has exhausted the extensions that may be issued by the Licensing Board. Such further extensions shall be granted in the discretion of the Full Board and only for good cause shown.

- All other applications which, in the judgment of the Deputy Commissioner of Licensing, involve unusual, complex matters or those involving the public interest.

This delegation of power shall be effective immediately and replace all prior delegations of power with respect to action on licensing applications.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on October 23, 2019 before Chairman Vincent Bradley, Commissioner Lily Fan and Commissioner Greeley Ford. The above written delegation of power was approved by Chairman Bradley on behalf of the Members of the Authority on November 12, 2019.

Dated: 11/12/19

Thomas J. Donohue
Secretary to the Authority