

Thursday, May 19, 2016
SHELBY COUNTY BEER BOARD MEETING

Attendees: Jack Leonard
Oretha Anderson
Doug Ivy
Kevin McVay
Mike Miller
Merrick Horne, Chairman
Terry Roland, Chairman of County Commission
Carter Gray, Assistant County Attorney
Waylon Winger, Clerk's office
Rosalind Nichols, Clerk of County Commission

Horne calls meeting to order at 2:00 pm. The Board introduces themselves.
Nichols calls items.

I. Approval of Minutes

April 21, 2016

Moved by McVay, 2nd by Anderson

II. New Applicants

Applicant #1:

Chitown Ent LLC/dba/Ice Bar & Grill
4202 Hacks Cross Road #121
Memphis, TN 38125

ON PREMISES

Owner – Jeffrey Holliday.

Winger gives overview; application was filed in Clerk's office; Paperwork is valid and everything looks to be in order and a start date of today on the business license application of May 19th.

Horne asks the owner to explain the nature of the business.

Holliday explains .that it will be operated as an existing restaurant, bar and grill; live entertainment at times.

Anderson states that the address of the business is the same address of another owner; asks the owner why the change in ownership.

Holliday explains that the former owner Tara Cherry is in the medical field and it does not allow her to have a liquor license so she's out of the business. She has

different contracts with different medical vendors and she wasn't allowed to hold a liquor license so she had to choose to do medical or be a business owner.

McVay asks the date of sale of the business and is there liquor on the premises right now.

Holliday states that the date of sale is today and that there is liquor on the premise right now.

Anderson asks if there is beer on the premises being sold now.

Holliday states that the business is not open right now; the business was opened the night before.

Anderson asks if the business has new opening date.

Holliday states that he wants to resume business at the normal hours; they open at 9:00 pm tonight pending the approval of the beer permit.

Leonard asked how long the owner knew he was going to buy the business.

Holliday states about three weeks.

Leonard asked if he applied for his liquor license on May 5th.

Holliday states yes.

Roland asks how can somebody apply for a beer license when they don't own the business and how can they have everything checked on the checklist when they're not the owner; he asks if everything with the Health Department is okay too. Posed a question to the County Attorney - How can the County go out and check somebody's business when it's not their business.

Gray explains that the assignment of the lease is to happen today, so if you look at what the County requires when they require a lease it doesn't mean that it can't be for a future date, so that appears okay. "I don't know of anything that would prevent doing this, for instance if it was a new business, you would be doing it before you're opened, this happens to be an existing business and you still have the same requirements in terms of getting the new certificate and getting the lease. I don't think there's anything that prohibits it, but I like you seem to think that it's something that we need to look at pretty closely because I guess its good business when we want to have a continuity of business and I'm sure that's what Mr. Holliday is interesting in doing."

Roland asks what happened at last months' meeting.

Horne explains that Tara Cherry, who was the owner of Ice Bar and Grill at the time, came before the board seeking her beer permit. She sent a delegate the month before who was unable to answer some questions regarding when the effective date of sale of the business took place, the dates of when the liquor license was applied for as opposed to the beer permit and there was some cloudiness there. Ms. Cherry came before the board last month and satisfied the board with her explanation of what happened. The board agreed to grant the beer permit based on the fact that she appeared to make some honest mistakes. She went through quite an ordeal to obtain a beer permit that approved last month and then less than 30 days later the board is hearing an applicant for the same business and Mr. Holliday indicated that he started this process about three weeks ago.

Holliday states yes that is right.

Horne asks when Mr. Holliday purchased the business.

Holliday states the purchase of the business is today (May 19th).

Horne asks when did the owner know he was going to purchase the business.

Holliday states it was after she met with the Beer Board last month. She received a letter from someone who said that she couldn't hold a liquor license and at that point Mr. Holliday decided to purchase the business and they moved on it real fast.

Horne asks Wininger if there is something in the application that shows the ownership change.

Wininger states that there is an application for business tax license dated May 5th; date application was filed. Ms. Martin called around this time and asked what date they should do the change because of what happened last month and Mr. Wininger called Ms. Iverson (Assistant County Attorney) and she said to make it the day of the meeting (Beer Board Meeting).

Horne asks who is Ms. Martin.

Holliday states that she came in to represent Ms. Cherry at a prior Beer Board meeting.

Horne asks was she an employee or manager of the business.

Wininger states that she was an agent for Ms. Cherry; she helped file the application.

Horne asks what the relationship is between Mr. Holliday and Ms. Cherry.

Holliday states friend.

Horne asks if Mr. Holliday and Ms. Cherry decided to transition the business into his name and if she has any ownership in the business now.

Holliday states yes to the transition and that she does not have any ownership in the business.

Horne asks if this business is a LLC.

Holliday states yes.

Horne asks who is Ms. Banks.

Holliday states that Banks is a guy (Toriano Banks) and that he is a manager of the business.

Horne explains that there are more questions than normal because this is the third time that this business has come before the board in the last three months and so they have questions about the process. He asks if the LLC was formed May 3rd.

Holliday states that's about right.

Horne poses question to Mr. Gray; would Mr. Holliday's history and impact his ability to own the business. The records were pulled on Mr. Holliday.

Gray states that all of his offenses are over 10 years and they're not applicable to his eligibility.

Horne asks that his history is irrelevant for the purposes of this meeting.

Gray states that it does not affect his ability to apply for and obtain a permit.

Horne states that the process to get a beer permit usually takes more than two weeks and it surprises him how Mr. Holliday could get all of those things done in such a short period of time. Horne asks the applicant to explain how he was able to expedite getting all of those things done.

Holliday states because Ms. Martin (Agent) had already done with Tara Cherry so he asked her to do the same for him and she knew exactly what steps to take and how to get it done.

Horne poses a question to Winger; some of the things done for Mr. Holliday were probably not done again because they were done for Ms. Cherry and her application.

Holliday states that actually they went through every step all over again because they had to call everybody out (Code Enforcement, Fire Department) and signed off; there was nothing that they used from the past.

Miller asks that on the business tax license, it says that Mr. Holliday is a member and not listed as an owner.

Winger states that he is a member of that LLC and that's the correct box he should have checked.

Miller states so he's a member of the LLC; but what about the other members of the LLC.

Holliday states that there are no other members of the LLC.

Winger states that it is a one member LLC.

Gray states that the only concern he might have about the apparent continuity is the servers and other people selling beer will still have to get their cards for you, so even if the board chooses to approve it today, you will have to get the people who are selling beer at your facility tonight registered and I don't think that can happen, so I would caution you to hustle them down there, but not to serve beer until all of the servers have new registration permits under your name. now I understand that can't happen until you get your beer permit, but I would make you aware, we can efficient but we can't grant those before the board issues you that permit.

Holliday states is it safe to say that my permit itself – I would have to go down and reapply again.

Gray states that no, if the board chooses to grant your permit, you would be authorized to sell beer and your corporation would be authorized to sell them but the individual servers have to get their own permit issued in the name of Chitown Entertainment and so that can't happen until the license is actually issued. So they could go down tomorrow if the board issues that permit and get it, but I don't believe you unless you sell all the board tonight, if the board grants it, you won't be able to operate the facility with them working under another license.

Holliday states that won't be a problem because I'm the only operator.

Horne states let me add a little clarity. Carter what you're saying that any person that handles or sells beer in that location has to have a criminal background

check conducted and you receive a permit under the name Ice Bar under this ownership, is that correct.

Gray states Wininger brings up a question; many of these employees I assume will be the same employees that were currently there but recently got their new license and the owner that got it April had a background check at that time. His question was would they have to have a new background check and I think the answer to that is yes. Because something could have happened in that month long period since the original check which would disqualify them.

Horne states that since the sale of the business occurred today, any person any employee other than Mr. Holliday if this permit is granted, there's no other person in that building allowed to handle or sell beer because they haven't been certified as being able to handle beer at this location under this ownership.

Gray states that's how I read the rules.

Horne states not trying to stop you but I'm saying that in other words there's no bartender that can sell beer or give it to anyone, they can't pour it in a glass at this point until they receive the certification.

McVay made a motion to grant the permit; 2nd – Leonard.

All ayes.

None opposed.

(APPROVED)

Horne asks how many employees will be employed by the business.

Holliday states he thinks there are six.

Horne states that I'll say that the permit has been granted, but now you don't know how many employees there will be selling beer.

Holliday states that you have waitresses and you have bartenders and the waitresses don't always come in at the same time as bartenders, but on an average we keep at least six employees.

Horne asks how many employees will you have their total; employed by the business total. Have you run this operation before?

Holliday states I have run an operation like this but not this operation.

Horne asks you've run a restaurant and a liquor by the drink establishment.

Holliday states not a liquor by the drink because in Florida they're different.

Leonard asks what is the occupancy limit on the building you're in?

Holliday states 300.

Horne states that he would caution the owner to make sure every employee that may touch beer be registered. You signed a document that said you read the rules and regulations of the beer board so I didn't take you around the block on those; given that you've recently relocated here from Florida, I would suggest you review those rules and that you are current and update otherwise you may make a mistake.

III. Misdemeanor Citations

None

IV. Permits Void by Operation of Law

None

V. Other Violations

None

VI. Discussion/Announcements

Report from County Clerk's Office

Winger states that it was discussed last month that Ms. Iverson was going to put together a process to check permit status.

Horne states that when Commissioner Roland asked the question and this was an unusual circumstance but that's what we're trying to address. Commissioner Roland the circumstance is a person officially owns the business but they are handicapped from being able to sell until they come here before the board. We discussed coming up with a process; in this offline conversation between Iverson and the agent that would make the business change effective today, that prevents any opportunity for the business to sell beer under the current ownership without having a permit. To make it easy, make it effective today; that solves one scenario. We were talking about having a process or look at something or perhaps mimicking what the City of Memphis does and that is provide some kind of guidance or leigh way or flow chart or process as to when a person purchases the business what has to happen before they can sell the business. That's the question I think you were asking or getting to earlier. We've never had that before; we need that.

Miller poses a question; if something happened to the current owner where they are injured or killed who would be responsible, the person who had the business or the new owner?

Gray states that he can't imagine the county issuing – I think the city does a temporary approval or something like that but they only do it after the ownership is changed. So legally the owner would be that person. What the temporary does is let them operate a part of their business that sells beer but the basic ownership of the business would have to change before that temporary would even be considered and I think is considered by the city and therefore they would be the owner and they would be legally responsible.

Report from County Attorney's Office

Gray states that our last County Attorney has been appointed to be on the Criminal Court of Appeals; first attorney ever to be confirmed by the legislature under the new process; Mr. Dyer is now Judge Dyer. Marcy Ingram has been named Interim County Attorney. We've had a couple of other people leave the office; you may see some new faces.

Report from Sheriff's Office

None

VII. Adjournment

Motion to adjourn by Miller; 2nd by Anderson.

Adjourned at 2:57 p.m. until June 16, 2016.