

IN THE MATTER OF THE	*	BEFORE THE ALCOHOLIC
APPLICATION OF SUSAN MARIE	*	
MILLER AND JOHN L. MOORE, III ON	*	BEVERAGE HEARING BOARD
BEHALF OF RED WINE, LLC, t/a RED	*	
FOR A NEW CLASS A-1 BEER, WINE	*	FOR
AND LIQUOR 7-DAY OFF-SALE	*	
LICENSE	*	HOWARD COUNTY, MARYLAND
	*	

DECISION AND ORDER

The Board of License Commissioners for Howard County, Maryland (the "Liquor Board"), pursuant to Rule 1.02(A) of the Liquor Board Rules and Regulations, has delegated the authority to hear and decide cases to the Alcoholic Beverage Hearing Board for Howard County, Maryland (the "Hearing Board").

On June 10, 2014, the Hearing Board heard the application of Susan Marie Miller and John L. Moore, III ("Applicants"), on behalf of Red Wine, LLC, t/a RED ("Red Wine, LLC"), for a new Class A-1 Beer, Wine, and Liquor 7-day off-sale license for a 1,036 square foot package goods store, located at 5805 Clarksville Square Drive, Suite 7, Clarksville, Maryland 21029. The hearing was properly advertised pursuant to Article 2B of the Annotated Code of Maryland. The Applicants were represented by Sang W. Oh, Esquire. There were Protestants who appeared in opposition to the application. Steve Wise, Esquire represented Vintage Cellars, one of the Protestants.

All the documents on file were incorporated into the record by reference. These include the following: a letter dated March 31, 2014, from the Applicants' attorney enclosing the application; the background investigation questionnaires of the Applicants; a copy of the floor plan; a Corporate Charter approval sheet for Red Wine, LLC; a copy of the Articles of Organization for Red Wine, LLC; a copy of the criminal history check for the Applicants from the State of Maryland Department of Public Safety and Correctional Services; a memorandum confirming TAM certification for Susan Miller; a memorandum dated May 15, 2014, from the Liquor Board to the Alcoholic Beverage Inspector, the Department of Inspections, Licenses and Permits, the Bureau of Environmental Health and the Department of Planning and Zoning; the background investigations for the Applicants from the Alcoholic Beverage Inspector dated June

5, 2014; an email dated May 20, 2014, from the Department of Inspections, Licenses, and Permits; a memorandum dated June 3, 2014, from the Bureau of Environmental Health; a memorandum dated May 28, 2014, from the Department of Planning and Zoning, a letter dated May 15, 2014, to the Department of Finance; a letter dated June 5, 2014, from the Department of Finance; a letter dated May 15, 2014, to the Comptroller of Maryland; an email dated June 5, 2014, from the Comptroller of Maryland; an email from the Liquor Board Administrator enclosing a fax transmission to the Applicants' attorney, and a letter dated May 15, 2014, with notification of the hearing date and the necessity to advertise; a memorandum dated May 25, 2014, from the Alcoholic Beverage Inspector stating the premises had been posted; and a letter dated June 9, 2014, from the Applicants' attorney attaching the certification of advertisement from The Baltimore Sun and Patuxent Publishing Company.

SUMMARY OF TESTIMONY

John Moore, 50% owner of Red Wine, LLC, was sworn and testified that the proposed business will be a small boutique-type package goods store that will "specialize exclusively in organic, Earth-friendly, biodynamic wines as well as craft beers and small-batch spirits." Mr. Moore testified that these beverages will have fewer chemicals and pesticides, many will be vegan friendly, sulfate free, and/or GMO free.

Mr. Moore testified that they will be located in what is known as "conscientious corner," a shopping center where other organic businesses are located, such as Roots and Great Sage. Mr. Moore testified that although he was previously employed by Roots, they have no financial connection to the proposed package goods store.

Mr. Moore testified that the store will consist of approximately 60% wine, 25% craft beers, and 15% spirits. He stated that there are thousands of organic wines available but that the store would only carry around 200-400 domestic and international wines due to the store's size. He said, "we don't have a problem having a relatively small selection."

Mr. Moore testified that he did not do a marketing analysis, but feels that he would draw from the same customer base of the local organic food stores such as MOM's, David's, Roots and Whole Foods. He stated that there are many places to buy organic food in Howard County, but not organic alcoholic beverages and he believes this is an unmet need in the community. Mr.

Moore testified that the store would not disturb the peace and safety of the neighborhood and that the store will offer new and healthy choices to their customers.

Mr. Moore testified that he has never held a liquor license, but has owned his own business. Mr. Moore testified that he is very familiar with wine, and that he plans to surround himself with experts in the business. Mr. Moore testified that he will employ one full-time manager, one full-time assistant manager, and two part-time sales persons. Mr. Moore testified that he plans to be at the store every day when it first opens, and that he is alcohol awareness certified. Mr. Moore testified that their hours of operation will be 10:00 A.M. to 8:00 P.M.

Mr. Moore testified that he is familiar with the Liquor Board's rules and regulations, and that he understands his responsibility as a licensee.

When asked by a Protestant, Ashish Parikh, if he would expand his products in the future if the boutique concept failed, Mr. Moore testified that they plan to keep the same concept. When asked by the Board whether, if the organic-centric business did not do well, he would close the business rather than expand his stock to carry non-organic products, Mr. Moore said, "absolutely... I have no interest in being part of that kind of wine store."

Susan Miller, 50% owner of Red, LLC, t/a RED, was sworn and testified that she has been a Howard County resident for 22 years, that she is a registered voter, and is alcohol awareness certified. Ms. Miller testified that she will occasionally visit the store, but will not be there daily. Ms. Miller testified that she understands the responsibility of being the resident agent. Ms. Miller testified that she believes in the store's mission to offer organic, sustainable products. Ms. Miller testified that she feels the store will offer something unique, and believes there is a market for the concept. Ms. Miller testified that it is difficult to go into local liquor stores and find the depth of the product that will be offered at RED. When asked by her counsel whether she agreed with Mr. Moore that, "its this way, the vision that you're painting [organic-centric products only] or really no other way," Ms. Miller answered, "correct."

Martin Johnson, retired Howard County Liquor Inspector, was sworn and testified on behalf of the opposition to the application. Mr. Johnson testified that he researched licenses that are in close proximity to the proposed store. Mr. Martin testified that the nearest store is Village Liquors of Clarksville, and it is located 496 feet away. Mr. Johnson testified that Vintage Cellars is right across Rt. 108, near the Giant food store, and 108 Liquor & Deli is approximately 7/10ths of a mile west of the proposed store.

Mr. Johnson testified that according to the U.S. Census Bureau 2008-2012, American Community Survey and the 2010 Actual Census, there has not been a significant change in population growth in the immediate area.

Carlos Guarin, owner of Vintage Cellars, was sworn and testified in opposition to the application. Mr. Guarin testified that he does not feel that there is a need for another store in the area, that it is a threat to his business, and that the proposed store will not provide unique products. Mr. Guarin testified that he and other stores in the area offer organic, biodynamic, and sustainable alcoholic beverages. Mr. Guarin testified that if they do not have a particular product for a customer, they will order it and it will be available within one to three days.

Mr. Guarin testified that he took over his 3,000 square foot store in September 2013, and that the business was not doing well. Mr. Guarin testified that his business has improved, but at this point, he has not drawn a salary. Mr. Guarin testified that if this liquor store is approved, it will have a devastating effect on his business.

Kevin Jo, owner of 108 Deli & Liquor, was sworn and testified in opposition to the application. Mr. Jo testified that he does not think there is a need for a new liquor store. Mr. Jo testified that he just received his license last year, and that he is the newest licensee in the area. Mr. Jo testified that if a customer requests a product that he does not have, he will order it and will have it available within a couple of days.

Eric Stein, manager of Decanter Fine Wines, was sworn and testified in opposition to the application. Mr. Stein testified that he has been a licensee for 15 years, and was in the wholesale business for 20 years. Mr. Stein testified that he objects to clustering liquor stores in one area. Mr. Stein testified that there are five stores on the Rt. 108 corridor. Mr. Stein testified that alcoholic beverages are a regulated industry, and that it is up to the County to decide what kind of image they would like to portray. Mr. Stein testified that most of the liquor stores offer organic alcoholic beverages, and that most have a section for those products.

Bharat Jani, owner of Highland Wine & Spirits, was sworn and testified in opposition to the application. Mr. Jani testified that he sells a good amount of boutique wine and spirits. Mr. Jani testified that he has one to two customers per week that ask for organic beverages. If he does not have what they are asking for, he orders it for them. Mr. Jani testified that the existing stores are already offering these products to the customers in the area.

Jeff Karl, a 15 year employee of Village Liquors, was sworn and testified in opposition to the application. Mr. Karl testified that he feels there is no need for this new store. Mr. Karl said the area is saturated with liquor stores, and that the market is stretched. Mr. Karl testified that Village Liquors has a section in their store dedicated to organic products.

Shrinath Desai, owner of All Saints Liquors, was sworn and testified in opposition to the application. Mr. Desai testified that there was a previous applicant who came before the Alcoholic Beverage Hearing Board who testified that they would only sell organic alcoholic beverages. They were located next to MOM's Organic Market. Mr. Desai testified that business did not go well, and the licensees changed their business model, and began selling all types of alcoholic beverages. Mr. Desai said that the Alcoholic Beverage Hearing Board will not be made aware of this change, if it occurs.

Debbie Papavizas, was sworn and testified in opposition to the application. Ms. Papavizas testified that she is a resident of Howard County, and that she regularly travels on Rt. 108. Ms. Papavizas testified that she is happy with the number of existing liquor stores, and does not feel there is a need for another one.

The following Licensee Exhibit was entered into the record:

Exhibit #1 – a copy of the rules for employees

The following Protestants Exhibits were entered into the record:

Exhibit #1 – aerial photo showing the location of the proposed licensee, Village Liquors, Vintage Cellars, and 108 Deli and Liquor

Exhibit #2 – aerial photo showing the location of the proposed licensee, Village Liquors, and Vintage Cellars

Exhibit #3 – aerial photo showing the location of the proposed licensee, and Village Liquors

Exhibit #4 – the ACS Demographic and Housing Estimates, 2008-2012 American Community Survey 5-Year Estimates and a Profile of General Population and House Characteristics: 2010

Exhibit #5 – a list of beer and wine from 108 Deli and Liquor

In his closing summation, counsel for the Applicants proffered that the Applicants, “absolutely consent, 100%, that whatever will be sold in the store will be organic, biodynamic, local, sustainable, or other Earth-friendly practices and we would ask that as a condition of this license, however you want to phrase it.”

Based on the evidence presented at the hearing, the Hearing Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Hearing Board finds that Susan Marie Miller and John L. Moore, III on behalf of Red Wine, LLC, t/a RED have applied for a new Class A-1 Beer, Wine, and Liquor 7-day off-sale license for a 1,036 square foot package goods store, located at 5805 Clarksville Square Drive, Suite 7, Clarksville, Maryland 21029.

2. The Hearing Board finds that the Applicants are fit and proper persons to hold an alcoholic beverage license.

3. The Hearing Board finds that the Applicants have consented to limiting their alcoholic beverage product offerings to those that are organic, sustainable, and biodynamic.

4. The Hearing Board finds that a Class A-1 licensee limited to organic, sustainable, and biodynamic products would be unique in Howard County.

5. The Hearing Board finds that Susan Marie Miller has been a Howard County resident for more than two years, is a registered voter, and 50% owner of Red Wine, LLC, t/a RED.

6. The Hearing Board finds that the granting of the application is necessary for the accommodation of the public.

7. The Hearing Board finds that the granting of the application will not unduly disturb the peace and safety of the residents in the neighborhood.

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Susan Marie Miller and John L. Moore, III on behalf of Red Wine, LLC, t/a RED have applied for a new Class A-1 Beer, Wine, and Liquor 7-day off-sale license for a 1,036 square foot package goods store, located at 5805 Clarksville Square Drive, Suite 7, Clarksville, Maryland 21029.

2. The Hearing Board concludes that the Applicants are fit and proper persons to hold an alcoholic beverage license.

3. The Hearing Board concludes that Susan Marie Miller meets the requirements of Rules 1.09(T), 1.09(U), 2.06, and 2.10 of the Liquor Board Rules and Regulations concerning resident agent qualifications.

4. The Hearing Board concludes that the Applicants have consented to limiting the type of alcoholic beverages they sell to those that are organic, sustainable, and biodynamic.

5. The Hearing Board concludes that the potential negative impact upon neighboring licensees of granting this application is not a sufficient basis for denying the application.

6. The Hearing Board concludes that the granting of the application is necessary for the accommodation of the public.

7. The Hearing Board concludes that the granting of the application will not unduly disturb the peace and safety of the residents in the neighborhood.

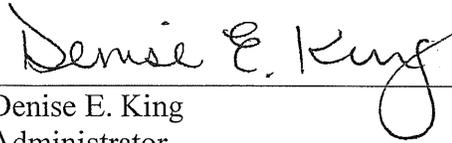
ORDER

For the foregoing reasons, by a 3 to 1 vote, it is this 29th day of July, 2014, by the Alcoholic Beverage Hearing Board of Howard County, Maryland **ORDERED** that the application of Susan Marie Miller and John L. Moore, III on behalf of Red Wine, LLC, t/a RED for a new Class A-1 Beer, Wine, and Liquor 7-day off-sale license for a 1,036 square foot package goods store, located at 5805 Clarksville Square Drive, Suite 7, Clarksville, Maryland 21029, be and the same is hereby **GRANTED** subject to the following conditions:

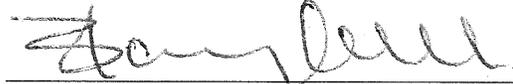
1. That this **PROPOSED DECISION AND ORDER** shall become final when the Applicants obtain the license, and comply with the following conditions:
 - (a) That the Applicants comply with all State and County rules and regulations; and
 - (b) Failure to comply with these conditions and obtain the license before September 30, 2014, shall render this proposed Decision and Order null and void.
2. That, as an ongoing condition of the license, alcoholic beverages sold under its authority are limited to those that are organic, sustainable, and biodynamic, as determined by Board of License Commissioners, or its designee, in its sole discretion.

ATTEST:

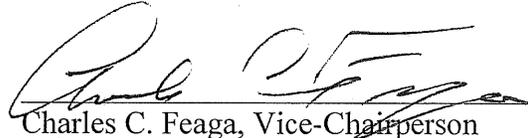
ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND



Denise E. King
Administrator

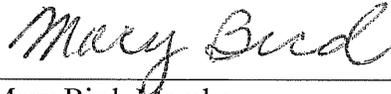


Harry Evans, III, Chairperson

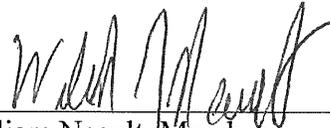


Charles C. Feaga, Vice-Chairperson

REVIEWED BY HOWARD COUNTY
OFFICE OF LAW
MARGARET ANN NOLAN
COUNTY SOLICITOR



Mary Bird, Member



William Neault, Member



Lewis Taylor, Esquire
Assistant County Solicitor