

PETITION TO FINE, SUSPEND OR * BEFORE THE ALCOHOLIC
 REVOKE THE ALCOHOLIC *
 BEVERAGE LICENSE HELD BY * BEVERAGE HEARING BOARD
 WILLIAM VOLMER, STEVEN *
 STANTON, AND CHRISTOPHER * FOR
 REICH ON BEHALF OF 411, INC., t/a *
 JILLY'S RESTAURANT * 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"). This Proposed Decision and Order shall take effect immediately in accord with Rule 7.05(C), and shall become Final, as provided in Rule 6.13.

On April 8, 2014, the Hearing Board heard the Petition of Howard County, Maryland and Detective Mark Baxter, Alcoholic Beverage Inspector (collectively, "Petitioners"), to Fine, Suspend, or Revoke the Class B Beer, Wine, and Liquor 7-day on-sale license held by William Volmer, Steven Stanton, and Christopher Reich ("Licensees"), on behalf of 411, Inc., t/a Jilly's Restaurant, located at 10030 Baltimore National Pike, Suite D240, Ellicott City, Maryland 21042. The Petitioners were represented by David Moore, Senior Assistant County Solicitor. The Licensees were not represented by an attorney.

All the documents on file were incorporated into the record by reference. These included the following: a letter dated March 13, 2014, to the Licensees, from the Liquor Board Administrator, advising them of the hearing date; and enclosing the Petition to Fine, Suspend, or Revoke the alcoholic beverage license for 411, Inc., t/a Jilly's Restaurant; and an email dated March 28, 2014, from the Alcoholic Beverage Inspector stating that the property had been posted.

The Licensees waived their right to be represented by counsel and agreed to the following stipulations.

STIPULATIONS

1. On or before May 1, 2013, the Licensees applied for and received a Class B Beer, Wine, and Liquor 7-day on-sale license for 411, Inc., t/a Jilly's Restaurant, 10030 Baltimore National Pike, Suite D240, Ellicott City, Maryland 21042. Jilly's Restaurant is located in Howard County and is subject to the jurisdiction of the Board of License Commissioners for Howard County.
2. At all times relevant to these proceedings, the Licensees were responsible for the operation of Jilly's Restaurant, and were responsible for ensuring compliance with all local and State laws concerning the distribution, sale, and transfer of alcoholic beverages to members of the public.
3. On October 15, 2013, Detective Mark Baxter was made aware that Jilly's Restaurant, located at 10030 Baltimore National Pike, Suite D240, Ellicott City, Maryland, was no longer in operation. On that same day, Detective Baxter drove by the establishment and observed a sign on the front door stating that the business was closed, but would soon reopen under new management as White Oak Tavern.
4. Detective Baxter confirmed with the Liquor Board Administrator, that she had not received any notice of the closing of Jilly's Restaurant, or any application for a license transfer for the location at 10030 Baltimore National Pike, Suite D240, Ellicott City, Maryland.
5. On October 25, 2013, Detective Baxter received an email from the Liquor Board Administrator, advising that on October 24, 2013, she received a phone call from Steve Stanton, the resident agent of Jilly's Restaurant, inquiring as to what he needed to do regarding the sale/transfer of Jilly's Restaurant. The Liquor Board Administrator advised Mr. Stanton that he would need to notify her, and submit a management agreement, if the establishment was going to continue to operate before a transfer would be heard. Mr. Stanton indicated that he was remaining on the license as the resident agent, and that they would be submitting a management agreement. Mr. Stanton also indicated that the new owners/operators were in the process of filling out the transfer

application. At no time during their conversation did Mr. Stanton mention the business being closed.

6. The Liquor Board Administrator advised Detective Baxter on December 17, 2013, that she had not received a transfer application or a management agreement from Jilly's Restaurant or the White Oak Tavern.
7. On December 17, 2013, Detective Baxter drove by the location, and observed the name on the building was "White Oak Tavern", and the front window displayed a sign, "Opening Soon." Detective Baxter observed people inside who appeared to be renovating the establishment.
8. On January 30, 2014, Detective Baxter again drove by the establishment and observed a sign displaying "White Oak Tavern". The establishment appeared to be open for business, with customers inside eating and drinking.
9. On February 4, 2014, Detective Baxter informed the Liquor Board Administrator that the establishment was open, and she confirmed that she never received a transfer application or management agreement from either entity.
10. Detective Baxter discovered an article in the Baltimore Sun on October 16, 2013, which stated that according to Dean Volmer, a licensee for 411, Inc., t/a Jilly's Restaurant, the deal to sell Jilly's Restaurant was finalized on October 11, 2013. This article indicated that Jilly's shut down on Sunday, October 13, 2013.
11. Upon further research, Detective Baxter discovered a photo posted on Jilly's Facebook page on October 14, 2013, which showed a subject standing in front of the entry door to Jilly's Restaurant, with the caption, "Brian closing the doors for the last time." On that same day, a photo was posted on the White Oak Tavern's Facebook page showing the entrance to Jilly's Restaurant, with a handwritten sign stating, "Jilly's closed. Under new ownership. Soon to reopen as The White Oak Tavern."
12. Through a SDAT Business Entity Search, Detective Baxter was able to determine that the Articles of Organization for The White Oak Tavern, LLC, were filed on January 22, 2013.

13. On February 5, 2014, Detective Baxter went to 10030 Baltimore National Pike, Suite D240 in Ellicott City to speak with the operators of the establishment. Upon arrival, Detective Baxter observed that the establishment appeared to be in full operation, with customers eating and individuals drinking at the bar. Alcoholic beverages were displayed behind the bar as well. Detective Baxter met with Noel Johnson, one of the owners of the establishment, who indicated that they were operating under a management agreement with the previous owners of Jilly's. Mr. Johnson provided a copy of the management agreement, but was unsure as to whether it had been submitted to the Liquor Board Administrator. Mr. Johnson indicated that it was his belief that a transfer application had been submitted, and that the transfer hearing was scheduled for March. Mr. Johnson also advised that they were waiting for the lease to be finalized.
14. Detective Baxter communicated with Steven Stanton to determine the status of the license. Mr. Stanton indicated that he would remain on the license as the resident agent, due to none of the new owners being qualified. Mr. Stanton also indicated that there was a management agreement in place, and that he assumed the new ownership had submitted all the required paperwork. Detective Baxter advised Mr. Stanton that no paperwork or notification had been made to the Liquor Board. Detective Baxter further notified Mr. Stanton that if the business closed for more than ten (10) days, without notification, they would be petitioned to the Liquor Board, to answer to numerous violations. Detective Baxter further indicated to Mr. Stanton that he could turn the license in, if he wished, so as to not have to answer these violations. Mr. Stanton advised that he would contact Noel Johnson, and get back with Detective Baxter with a decision on how they wished to proceed.
15. On February 6, 2014, Mr. Stanton contacted Detective Baxter and advised him that he wished to remain on the license until it is transferred. Mr. Stanton indicated he was aware of the possible violations he may face as the resident agent.

16. The above facts indicate that Jilly's was closed for a period of more than ten (10) days, without notification to the Board, which is sufficient cause for revocation of the alcoholic beverage license for 411, Inc., t/a Jilly's Restaurant.

Christopher Reich, Licensee for 411, Inc., was sworn and testified that he was approached by the people from White Oak Tavern during the summer to discuss their business, and in September, to discuss buying the business. Mr. Reich testified that they did not have experience in business acquisitions, and relied on their commercial real estate agent to guide them. They were told that the sale would be based on whether White Oak Tavern would be able to assume the lease, and get an extension of the lease. Mr. Reich testified that the goal was to do this through their landlord, Kimco, within 30 days. Mr. Reich testified that it took four (4) and a half months for this to occur. Mr. Reich testified that the real estate agent never informed him they were supposed to file a liquor license application.

Mr. Reich testified that he was not aware of the obligation to notify the Board if they were closed for more than ten days. He stated that they filed the original management agreement with the Department of Inspections, Licenses, and Permits and the Health Department. Mr. Reich testified that after Noel Johnsons' attorney reviewed and amended the agreement, it was filed with the Liquor Board in February 2014.

Mr. Reich testified that Mr. Stanton will not remain on the transferred license as the resident agent. Mr. Reich testified that it was determined by the buyers, that one of the principle partners met the resident agent requirements. Therefore, they do not need Mr. Stanton to remain as the resident agent.

Mr. Reich testified that a renewal application was submitted for 411, Inc., since the transfer application will not be heard until after May 1, 2014.

Noel Johnson, proposed licensee on the transfer application of The White Oak Tavern, LLC, was sworn and testified that he was aware of the violation. Mr. Johnson testified that once he spoke to Detective Baxter, he immediately went to his attorney to have a new management agreement drawn up. Mr. Johnson testified that previous to obtaining an attorney, they were told by their real estate broker that the original management agreement would be sufficient. Mr. Johnson testified that they thought they were doing the right thing, and that they would have filed the transfer application more quickly, but that they were waiting on Kimco to sign as the

landlord. Mr. Johnson testified that they had gotten permission from Kimco, to begin the renovation of the restaurant.

Mr. Johnson testified that they understand the responsibility of being a licensee, and they realize the mistakes they have made. Mr. Johnson testified that they have learned a tremendous amount from these mistakes, and since they have opened under the management agreement, they have tried to become a good partner with the community.

Steven Stanton, Licensee for 411, Inc., was sworn and testified that he is the resident agent for Jilly's Restaurant, and a retired Howard County Police Officer. Mr. Stanton testified that he had no idea that licensees are required to notify the Liquor Board when they are going to be closed for more than ten (10) days, and that he had trusted the broker to advise them. Mr. Stanton also stated that the broker told them to talk to an attorney.

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

FINDINGS OF FACT

1. The Hearing Board finds that William Volmer, Steven Stanton, and Christopher Reich are Licensees on behalf of 411, Inc., t/a Jilly's Restaurant, a Class B Beer, Wine, and Liquor 7-day on-sale license located at 10030 Baltimore National Pike, Suite D240, Ellicott City, Maryland 21042.
2. The Hearing Board finds that the Licensees have violated the following provisions of the Liquor Board Rules and Regulations:
 - a. Liquor Board Rule 2.03 – Updated Application
 - b. Liquor Board Rule 4.02(A) – Closing or Vacating Licensed Establishments
 - c. Liquor Board Rule 4.07 – Trade Name
 - d. Liquor Board Rule 4.09(A) – Agreement in Anticipation of Transfer of License
3. The Hearing Board finds that it is not necessary to revoke the liquor license, but because of the nature of these offenses, and in order to ensure compliance with the law and Rules and Regulations, and to promote the peace and safety of the community, it is necessary to impose a fine in the amount of Two Hundred Fifty Dollars, (\$250.00), and a fee of Two Hundred Sixty Dollars (\$260.00), for the cost of the hearing as provided by Rule 7.05(B), for a total of Five Hundred Ten Dollars (\$510.00).

CONCLUSIONS OF LAW

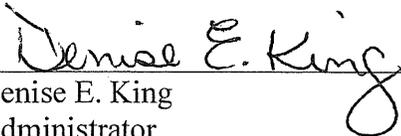
1. The Hearing Board concludes that William Volmer, Steven Stanton, and Christopher Reich are Licensees on behalf of 411, Inc., t/a Jilly's Restaurant, a Class B Beer, Wine and Liquor 7-day on-sale license located at 10030 Baltimore National Pike, Suite D240, Ellicott City, Maryland 21042.
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ORDER

For the foregoing reasons, and upon finding a violation of Rules 2.03, 4.02(A), 4.07, and 4.09(A) of the Liquor Board's Rules and Regulations, it is this 14th day of May, 2014, by the Alcoholic Beverage Hearing Board for Howard County, Maryland, **ORDERED:** That a **FINE** in the amount of **Two Hundred Fifty Dollars, (\$250.00)**, for violation of Rules 2.03, 4.02(A), 4.07, and 4.09(A) of the Liquor Board's Rules and Regulations, and a **Fee** of **Two Hundred Sixty Dollars (\$260.00)**, for a total of **Five Hundred Ten Dollars (\$510.00)**, is **HEREBY IMPOSED** upon William Volmer, Steven Stanton, and Christopher Reich, Licensees on behalf of 411, Inc., t/a Jilly's Restaurant, a Class B Beer, Wine, and Liquor 7-day on-sale license located at 10030 Baltimore national Pike, Suite D240, Ellicott City, Maryland, and **SHALL BE PAID NO LATER THAN June 16, 2014.**

ATTEST:

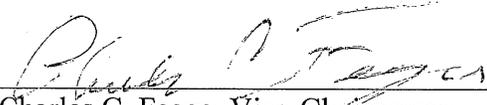
**ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND**



Denise E. King
Administrator



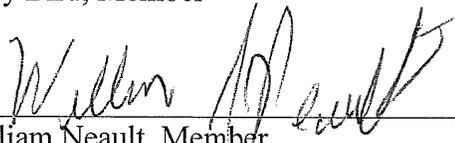
Harry Evans, III, Chairperson



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

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER MAY APPEAL THE
DECISION TO THE LIQUOR BOARD WITHIN TEN DAYS OF THE DATE OF THE
DECISION, IN ACCORD WITH RULE 6.14 OF THE RULES AND REGULATIONS OF THE
LIQUOR BOARD.