

IN THE MATTER OF THE	*	BEFORE THE ALCOHOLIC
APPLICATION OF ALEXANDER KEMP	*	
FREUND AND JOSE ANTONIO ULLOA	*	BEVERAGE HEARING BOARD
ON BEHALF OF CINCO DE MAYO #6,	*	
INC., t/a CINCO DE MAYO, FOR A NEW	*	FOR
CLASS B BEER, WINE, AND LIQUOR	*	
7-DAY ON-SALE LICENSE	*	HOWARD COUNTY, MARYLAND
	*	
	*	Case No.: 16-07

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 January 19, 2016, the Hearing Board heard the application of Alexander Kemp Freund and Jose Antonio Ulloa (the “Applicants”), on behalf of Cinco De Mayo #6, Inc., t/a Cinco De Mayo (“Cinco De Mayo #6 Inc.”), for a new Class B Beer, Wine, and Liquor 7-day on-sale license for a 2,577 square foot restaurant located at 8874 McGaw Court, Columbia, Maryland 21045. The hearing was properly advertised pursuant to Article 2B of the Annotated Code of Maryland. The Applicants were represented by Katherine Taylor, Esq. There were no protestants who appeared in opposition to the application.

All the documents on file were incorporated into the record by reference. These include the following: the application; a copy of the floor plan; a letter dated July 14, 2015, from the Maryland State Department of Assessment and Taxation confirming acceptance of the filing of the Articles of Incorporation for Cinco De Mayo #6, Inc.; a copy of the Articles of Incorporation

of Cinco De Mayo #6, Inc.; a copy of the Informal Organizational Action of the Board of Directors of Cinco De Mayo #6, Inc.; background investigation questionnaires for the Applicants; copies of the Maryland driver's records of the Applicants; copies of the Maryland driver's licenses of the Applicants; copies of the receipt of the criminal history record check request for the Applicants from the Department of Public Safety and Correctional Services – CJIS Central Repository; a copy of the Certificate of Live Birth for Alexander Kemp Freund; a copy of the Virginia Department of Motor Vehicles driver history of Jose A. Ulloa; a copy of the United States Permanent Resident Card for Jose A. Ulloa; copies of Alcohol Awareness Certifications for Jose Antonio Ulloa, Emmanuel M. Azamur, Edgar Ulloa, and Omar Toga; copies of receipts from the Department of Public Safety and Correctional Services Criminal Justice Information System – Central Repository for the Applicants; copies of the criminal history records check of Maryland's Criminal Justice Information System for the Applicants; a copy of a memorandum dated December 7, 2015, from the Liquor Board to the Alcohol Beverage Inspector, the Department of Inspections, Licenses, and Permits, the Bureau of Environmental Health, the Department of Planning and Zoning, and the Office of the Fire Marshal; the background investigation of the Applicants by the Alcohol Beverage Inspector, dated December 10, 2015; emails dated December 1, 2015, and December 10, 2015, from the Department of Inspections, Licenses, and Permits; a memorandum dated December 10, 2015, from the Department of Planning and Zoning; a letter dated December 15, 2015, from the Office of the Fire Marshal; a memorandum dated December 2, 2015, from the Bureau of Environmental Health; a letter dated December 7, 2015, to the Department of Finance; an email to the Office of Finance dated December 9, 2015; a letter from the Department of Finance; a letter dated

December 7, 2015, to the Comptroller of the Treasury; a letter dated December 8, 2015, from the Comptroller of the Treasury; a fax transmission to the attorney for the Applicants enclosing a letter dated December 16, 2015, with notification of the hearing date and the necessity to advertise; and an e-mail dated December 18, 2015, from the Alcoholic Beverage Inspector stating the premises had been posted.

SUMMARY OF TESTIMONY

Jose Antonia Ulloa, Director and 90% shareholder of Cinco De Mayo #6, Inc., t/a Cinco De Mayo, was sworn and testified that he has experience in the restaurant business, as his father has owned restaurants most of his life. Mr. Ulloa testified that his dad had a restaurant in Chapel Hill, North Carolina but retired, and Mr. Ulloa continued to be involved in the business. Mr. Ulloa testified that he has a lot of experience in asking for identification, as they had many students from the University of North Carolina come to the restaurant.

Mr. Ulloa testified that he currently owns three other Cinco De Mayo restaurants in Hagerstown, Westminster, and Martinsburg, West Virginia. Mr. Ulloa testified that they are full service Mexican restaurants that are family oriented. Mr. Ulloa testified that they have a small bar which seats 12 to 14 customers. Mr. Ulloa testified that their hours of operation will be Monday through Thursday, 11:00 A.M. to 10:00 P.M., Friday and Saturday, 11:00 A.M. to 11:00 P.M., and Sunday 11:30 A.M. to 9:30 P.M. Mr. Ulloa testified that their revenue from the sale of alcohol is approximately 15-18%.

Mr. Ulloa testified that he will be the General Manager at the Columbia location, if approved. Mr. Ulloa testified that he will be there 7 days per week. Mr. Ulloa testified that he is alcohol awareness certified, and that he will have all managers and servers alcohol awareness

trained. Mr. Ulloa testified that he will be bringing an experienced manager from the Martinsburg, West Virginia restaurant, who has 6 years of experience with Cinco De Mayo. Mr. Ulloa testified that he will employ approximately 15 to 25 people, who will also be trained by Martin Johnson. Mr. Ulloa testified that they will have a policy manual for their employees. He stated that they will not accept vertical IDs. Mr. Ulloa testified that they also have cameras throughout the restaurant.

With regards to his motor vehicle record, Mr. Ulloa testified that he was young, and has learned from his mistakes. Mr. Ulloa testified that he now has a fiancée and three children, and that he no longer drinks alcoholic beverages. He also stated that he was in the process of becoming a citizen of the United States.

Mr. Ulloa testified that his projected opening date is mid-February.

Alexander Kemp Freund, 10% shareholder for Cinco De Mayo #6, Inc., was sworn and testified that he has lived in Howard County for more than two years, is a registered voter, is alcohol awareness certified, and is retired from the Army, and the Howard County Police Department. Mr. Freund testified that he was approached by Martin Johnson, and asked if he would like to become the resident agent for Cinco De Mayo. Mr. Freund testified that he agreed to assist. Mr. Freund testified that he met Mr. Ulloa, and found him to be a calm individual, who is family oriented. Mr. Freund testified that all of the servers will be alcohol awareness certified, and that he feels confident the restaurant will be operated in a professional manner. Mr. Freund testified that he will make sure that the operation is being run properly.

Martin Johnson was sworn and testified that he has worked with Mr. Ulloa to draft policies and procedures for the restaurant. Mr. Johnson testified that Mr. Ulloa will be

implementing a policy to reward employees \$100.00, if they prevent a violation from occurring. Mr. Johnson testified that he contacted other local Liquor Boards regarding previous violations, and their successful testing. Mr. Johnson testified that they were tested two times, and passed..

The following Exhibits were entered into the record:

- Exhibit #1 - aerial map and photographs that are representative of the interior of Cinco De Mayo
- Exhibit #2 - a take-out menu
- Exhibit #3 - (4) alcohol awareness certificates for Jose Antonio Ulloa, Edgar Ulloa, Omar Toga, and Emmanuel M. Azamur
- Exhibit #4 - information sheet identifying violations and successful underage sale tests for Cinco De Mayo restaurants at other locations

Pursuant to Rule 6.13 of the Liquor Board Rules and Regulations, the Applicants waived their right to request the Liquor Board to hear the case.

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

FINDINGS OF FACT

1. The Hearing Board finds that Alexander Kemp Freund and Jose Antonio Ulloa, on behalf of Cinco De Mayo #6, Inc., t/a Cinco De Mayo, have applied for a new Class B Beer, Wine, and Liquor 7-day on-sale license for a 2,577 square foot restaurant located at 8874 McGaw Court, Columbia, Maryland 21045.
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 Alexander Kemp Freund has been a Howard County resident for more than two years, is a registered voter, and a 10% shareholder of Cinco De Mayo #6, Inc., t/a Cinco De Mayo.

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

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

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Alexander Kemp Freund and Jose Antonio Ulloa, on behalf of Cinco De Mayo #6, Inc., t/a Cinco De Mayo, have applied for a new Class B Beer, Wine, and Liquor 7-day on-sale license for a 2,577 square foot restaurant located at 8874 McGaw Court, Columbia, Maryland 21045.

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 Alexander Kemp Freund 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 granting of the application is necessary for the accommodation of the public.

5. The Hearing Board concludes that the granting of this application would not unduly disturb the peace and safety of the neighborhood.

ORDER

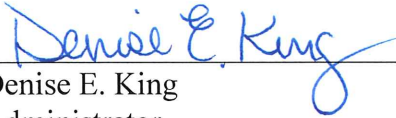
For the foregoing reasons, it is this 24th day of February 2016, by the Alcoholic Beverage Hearing Board of Howard County **ORDERED** that the application of Alexander Kemp Freund and Jose Antonio Ulloa, on behalf of Cinco De Mayo #6, Inc., t/a Cinco De Mayo, for a

new Class B Beer, Wine, and Liquor 7-day on-sale license for a 2,577 square foot restaurant located at 8874 McGaw Court, Columbia, Maryland 21045, 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 by May 31, 2016, shall render this Proposed Decision and Order null and void.

ATTEST:

ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND



Denise E. King
Administrator




Mary Bird, Chairperson

ABSENT

Harry Evans, III, Vice-Chairperson

REVIEWED BY HOWARD COUNTY
OFFICE OF LAW
GARY W. KUC
COUNTY SOLICITOR



Charles C. Feaga, Member



Lewis Taylor, Esquire
Assistant County Solicitor



Heather Gaetano, Member

ABSENT

Charley C. Sung, Member