



LEGISLATIVE COVER MEMO

Introduction: May 2, 2022

Agenda Item: **Resolution 2022-41**

OBJECTING TO A LIQUOR RETAIL PERMIT APPLICATION ON BEHALF OF THE CITY OF FRANKLIN, OHIO

Submitted by: Ben Yoder, Law Director

Scope/Description: The City of Franklin, Ohio received written notice from the Division of Liquor Control that an application to acquire a class D-2 liquor permit was received by the Division of Liquor Control with respect to premises within the City located at the Southeast corner of East 6th Street and Riley Boulevard. According to R.C. 4303.14, the Permit Application applicant must be the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises to be lawfully issued its requested liquor permit. The Applicant, Caseys Marketing Company, DBA Caseys General Store 4243, is not the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises.

Budget Impact: None.

Exhibits: Exhibit A: Notice to Legislative Authority

Recommendation: Staff recommends objecting to the application.

CITY OF FRANKLIN, OHIO
RESOLUTION 2022-41

OBJECTING TO A LIQUOR RETAIL PERMIT APPLICATION ON BEHALF OF THE CITY OF FRANKLIN, OHIO

WHEREAS, pursuant to Ohio Revised Code Chapter 4303, a property owner or establishment may not serve alcohol, or offer alcohol for sale, without first obtaining the necessary permit(s) for such service or sale from the Ohio Department of Commerce, Division of Liquor Control (the “Division of Liquor Control”);

WHEREAS, pursuant to R.C. 4303.271 and 4303.292, the legislative authority of a municipal corporation in which a liquor permit premises is located may object to an original application for a liquor permit, or application for renewal of an existing liquor permit;

WHEREAS, the City of Franklin, Ohio received written notice from the Division of Liquor Control, attached as “Exhibit A” to this Resolution, that an application to acquire a class D-2 liquor permit (the “Permit Application”) was received by the Division of Liquor Control with respect to premises within the City located at the Southeast corner of East 6th Street and Riley Boulevard, Franklin, Ohio 45005 (the “Premises”);

WHEREAS, according to R.C. 4303.14, the Permit Application applicant (the “Applicant”) must be the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises to be lawfully issued its requested liquor permit;

WHEREAS, the City of Franklin Law Director presented evidence to the City of Franklin City Council, at a public Council meeting held on May 2, 2022, that the Applicant is not the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises;

WHEREAS, City Council has determined the evidence presented by the Law Director constitutes lawful grounds to object to the Permit Application under R.C. 4303.271 and 4303.292; and

WHEREAS, City Council finds it necessary in order to preserve the health, safety and welfare of the residents of the City of Franklin to object to the Permit Application.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Franklin, Ohio, a majority of members present concurring, that:

Section 1. City Council hereby objects to the Permit Application based on Council’s determination that the evidence presented to Council by the Law Director demonstrates:

- (i) The Applicant is not the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises, and a D-2 liquor permit may not, therefore, be lawfully issued to the Applicant; and
- (ii) To the extent the Applicant represents in the Permit Application that it is the lawful owner or operator of a hotel, retail food establishment or food service operation on the Premises, the Applicant has misrepresented a material fact in applying to the Division of Liquor Control for a liquor permit.

Section 2. City Council hereby requests that the Division of Liquor Control hold a hearing on the Permit Application and Council’s objection to the same.

Section 3. The Clerk of Council is hereby directed to forward a copy of this Resolution to the Division of Liquor Control, together with a statement from the City of Franklin Law Director stating the Law Director

has reviewed this Resolution and, in the Law Director's opinion, the Resolution and objection herein are based on substantial legal grounds.

Section 4. The Law Director and City Manager are hereby authorized to represent City Council, designate other appropriate City staff to represent City Council, and designate citizens to appear as witnesses in support of Council's objection to the Permit Application at the hearing held by the Division of Liquor Control on this matter.

Section 5. It is found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and Chapter 105 of the Codified Ordinances.

Section 6. This Resolution shall become effective immediately upon its passage.

ADOPTED: May 2, 2022

ATTEST: _____
Khristi Dunn, Clerk of Council

APPROVED: _____
Brent Centers, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of a resolution passed by that body on May 2, 2022.

Khristi Dunn, Clerk of Council

NOTICE TO LEGISLATIVE
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD, P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005
(614)644-2360 FAX(614)644-3166

TO

13106380118 <small>PERMIT NUMBER</small>		NEW <small>TYPE</small>	CASEYS MARKETING COMPANY DBA CASEYS GENERAL STORE 4243 SOUTHEAST CORNER OF E 6TH & RILEY FRANKLIN OH 45005
ISSUE DATE			
03 23 2022 <small>FILING DATE</small>			
D2 <small>PERMIT CLASSES</small>			
83 <small>TAX DISTRICT</small>	044 A <small>PERMIT CLASSES</small>	D34983 <small>RECEIPT NO.</small>	

FROM 04/12/2022

PERMIT NUMBER		TYPE
ISSUE DATE		
FILING DATE		
PERMIT CLASSES		
TAX DISTRICT		RECEIPT NO.



MAILED 04/12/2022

RESPONSES MUST BE POSTMARKED NO LATER THAN. 05/13/2022

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES **A NEW 1310638-0118**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT
THE HEARING BE HELD IN OUR COUNTY SEAT. IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

CLERK OF FRANKLIN CITY COUNCIL
1 BENJAMIN FRANKLIN WAY
FRANKLIN OHIO 45005



**Department
of Commerce**

Rev 2/10/2021

Mike DeWine, Governor
Jon Husted, 11th Governor

Division of Liquor Control
Sheryl Maxfield, Director

Dear Local Legislative Authority Official:

Please find enclosed the legislative notice that is being sent to you regarding the applied for liquor permit as captioned on the notice. You **must**, within 30 days from the "mailed" date listed on the notice under the bar code:

- Notify the Division whether you object and want a hearing; or
- Ask for your one-time only, 30-day extension.
 - Any requests for a one-time, 30-day extension will be reviewed by the Division upon timely receipt. If granted, your additional 30-days runs from the expiration of the original 30-day period.

To be considered **timely**, your above response **must** be faxed, emailed, or mailed to the Division no later than the postmark deadline date given on the form. To speed up processing times and reduce paper, the Division respectfully asks that you either fax or email your response. Please send your response to:

FAX: (614) 644 – 3166

EMAIL: LiquorLicensingMailUnit@com.state.oh.us

MAIL: Ohio Division of Liquor Control
Attn: Licensing Unit
6606 Tussing Road
PO Box 4005
Reynoldsburg, Ohio 43068-9005

Please note that the Division is no longer sending ownership information with this legislative notice. If you want to know who owns the applied for permit you can find that information in two ways:

- Go to https://www.comapps.ohio.gov/liqr/liqr_apps/PermitLookup/PermitHolderOwnership.aspx and enter the permit number listed on the legislative notice; or
- Contact your police department or your county sheriff if you are a township fiscal officer or county clerk. The Division sends the applicable law enforcement agency the pertinent ownership information when it notifies them of the permit application.

Thank you in advance for your cooperation,

Division Licensing Section

Licensing Section
6606 Tussing Road
Reynoldsburg, OH 43068-9009

Fax 614-728-1281
TTY/TDD 800-750-0750
com.ohio.gov