

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

In the Matter of

Pulse
Jason Cutler, Permittee
JCUT, LLC, Backer
Permit No. LCA.7269.P
Case No. 2011-311

Docket No. 11-787
November 10, 2011

MEMORANDUM OF DECISION

This matter involves a new application for a cafe liquor permit for Pulse, 956 Chapel Street Rear, New Haven, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection, Liquor Control Commission, on September 15, 2011. Jason Cutler, permittee, appeared at the hearing with counsel. Pulse has been operating under the auspices of a provisional liquor permit since March 2011. Remonstrants appeared on behalf of the remonstrance to oppose the application.

The hearing was held in accordance with Section 30-39(c), Connecticut General Statutes, as a result of a legally sufficient remonstrance questioning the suitability of the applicant and of the location to hold a café liquor permit. Remonstrants also questioned whether the applicant properly placarded. At the conclusion of the hearing, the record was left open until September 22, 2011, for the submission of any additional evidence concerning patio approvals.

Based upon the evidence adduced at the hearing, we find the following facts:

Liquor Control Agent Anderson conducted a thorough investigation concerning the suitability of the applicant and the location. The applicant properly posted the department-supplied placard in the large window next to the entrance to the premises. The placard fulfilled its function of notifying the public of the pendency of a liquor permit application, as is evidenced by the remonstrance which was the subject of the September 15, 2011 hearing. We find nothing questionable concerning the placarding of this application.

As to Jason Cutler, who is the permittee and sole owner of the backer limited liability company, Mr. Cutler is also the backer of Center Street Lounge, holder of permit LCA.6829. Remonstrants expressed concern that what they viewed as unacceptable behavior at Center Street Lounge would also occur at Pulse. While Agent Anderson's report details 145 calls for service to Center Street Lounge during the period January 16, 2008 to March 6, 2011, it is worth noting that in New Haven "calls for service" are not specific to the establishment; rather they encompass an area within 200 feet of the establishment. They include calls during times when the premises is not open, as well as calls for other nearby locations in the busy downtown area housing Center Street Lounge. At the time of Agent Anderson's inspection, there were no unresolved cases pending against Center Street Lounge with the Department of Consumer Protection.

As part of his investigation, Agent Anderson also obtained a list of police calls for service made to Pulse. Since the date the provisional permit for Pulse was issued, there have been three calls for service, two were false alarms and one was an unfounded incident. Agent Anderson also ordered a CSBI background

check which was returned with no reports of any arrests or convictions for Mr. Cutler.

Pulse is located in the rear portion of a commercial building which fronts on Chapel Street. There is no interior access between this commercial space and Pulse. Pulse faces onto a city-owned public park called Temple Street Plaza. Pulse has not requested approval from the City of New Haven or this department to utilize any portion of Temple Street Plaza; however, Pulse does have the required approvals from the City of New Haven and this department to utilize a second floor exterior balcony and a strip of land approximately 10' wide owned by Pulse's landlord abutting the front of the permit premises as patios upon which alcoholic beverages may be consumed.

Temple Street Plaza is surrounded by residential apartment buildings as well as other locations holding liquor permits including Temple Street Grille and Kitchen Zinc. 956 Chapel Street Rear has housed three liquor permits prior to this application. It is properly zoned for the operation of a café liquor permit, and there is proper zoning approval for this liquor permit application. The premises meets the statutory requirements for this permit type.

Mr. Cutler participates in meetings of the Nightlife Committee of the Town Green Special Services District and maintains a good working relationship with the local police. He conducts a college night, a salsa night, a Latin night and a gay night at Pulse. He employs private security guards as well as extra-duty New Haven police officers to ensure the orderly operation of Pulse. He utilizes pat-downs of patrons and enforces a dress code. He does not have outdoor speakers at Pulse and has not been found in violation of any noise ordinances.

Based upon the testimony and documents presented at the hearing, we do not find substantial evidence which would necessitate the denial of this application for a liquor permit at this time. The determination of factual matters with regard to the suitability of the location of proposed liquor permit premises is vested with the Liquor Control Commission, which has broad discretion. Crescimanni v. Department of Liquor Control, 41 Conn. App. 83, 674 A.2d 851 (1996). Therefore, based upon the foregoing, we hereby grant the final café liquor permit to Jason Cutler and Pulse, subject to the agent's final requirements, and deny the remonstrance.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION
BY:**

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Jason Cutler, Permittee, Pulse, 956 Chapel Street Rear, New Haven, CT 06510
(Via US Mail and Certified Mail # 7010 1670 0000 0762 1112)

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Non-Parties:

John Suchy, Director, Liquor Control Division
Connecticut Beverage Journal

Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106

