

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

The Kitchen at Whittemore Crossing
Dean Yimoyines, Applicant
Middlebury Consignment LLC, Backer
Liquor Permit No. LIR.18602
Case No. 2012-1178

Docket No. 2013-66
February 28, 2013

MEMORANDUM OF DECISION

This matter involves a new application for a restaurant liquor permit for The Kitchen at Whittemore Crossing, 1365 West Street, Middlebury, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on February 7, 2013, at which time Dean Yimoyines, applicant, appeared with counsel. 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 proposed location. Remonstrants appeared on behalf of the remonstrance to oppose the permit application, with counsel.

Based upon the evidence adduced at the hearing, we find the following facts: Liquor Control Agent Anderson conducted a thorough investigation in connection with the new application itself and the remonstrance filed in opposition to it. He found nothing questionable about the new application. He conducted onsite surveillance at the premises while cooking classes were in session and did not note any noise emanating from the building. The premises, which is a free-standing building, has an adequate kitchen and dining room and

meets the requirements for its permit type. Service of alcohol will be by wait staff only; there is no bar. Agent Anderson spoke with local officials and the premises is located in a commercial zone. Until additional zoning approvals are received, service of alcohol is limited to times when cooking classes are occurring. There are no final requirements. But for the filing of this remonstrance, Agent Anderson would have submitted the application for final approval.

There are other restaurants with liquor permits in the immediate area, as well as the parish house and rectory of St. John of the Cross Church. Remonstrants expressed their beliefs that the proposed premises negatively impacts the formerly rural nature of the area as well as concerns about noise and issues with parking and traffic which might arise if a liquor permit is approved for this premises and parties or weddings are held. Remonstrants speculated that the exterior lighting on the proposed premises interferes with the neighboring priest's sleep. Remonstrants also discussed tree cutting and landscaping, which are not issues properly before this commission.

Mr. Yimoyines has made significant upgrades to the property from the old woodworking shop which previously existed on the site and to the surrounding landscaping, with the previous priest's concurrence. Mr. Yimoyines has provided his cell phone number to Father Vincenzo, the current priest for the church, and other neighbors, but he has never been contacted concerning noise or other issues.

Based upon the substantial evidence presented, we find the location to be suitable for a restaurant liquor permit. 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. Brown v. Liquor Control Commission, 176 Conn. 428, 407 A.2d 1020 (1973). Accordingly, we hereby deny the remonstrance and grant the final of the liquor permit application of Dean Yimoyines and The Kitchen at Whittemore Crossing.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION**

BY:

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Dean Yimoyines, Applicant, P.O. Box 809, Middlebury, CT 06762
(Via US Mail and Certified Mail # 7011 2000 0001 0653 2312)

Michael J. McVerry, Esq., 35 Porter Avenue, P.O. Box 578, Naugatuck, CT 06770
Michael Broderick III, Esq., Agent for Remonstrants, 750 Straits Turnpike, Suite 2A, Middlebury, CT 06762
(Via US Mail and Certified Mail # 7011 2000 0001 0653 1735)

Nonparties:

John Suchy, Director, Liquor Control Division
Connecticut Beverage Journal, 2508 Whitney Ave., P.O. Box 185159, Hamden, CT 06518
Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106