

MEMORANDUM

To: Dublin City Council
Dana L. McDaniel, City Manager
Anne Clarke, Clerk of Council

From: Jennifer D. Readler, Law Director
Yazan S. Ashrawi

Date: June 22, 2017

Re: Matt the Miller LLC DBA Matt the Miller
Change of Corporate Stock Ownership – D5I & D6 Liquor Permits

I. INTRODUCTION

The City of Dublin recently received a Notice to Legislative Authority (“Notice”) from the Ohio Division of Liquor Control regarding Matt the Miller LLC DBA Matt the Miller (“Matt the Miller”). The Ohio Division of Liquor Control (the “Division”) requires that liquor permit holders notify the Division when there is a change of corporate stock ownership. Matt the Miller currently holds a D5I and D6 liquor permit, and submitted an application for a change of corporate stock ownership. Dublin received this Notice pursuant to R.C. 4303.26 because the location for the permit premises is within the corporate limits of Dublin. As such, Dublin may request a hearing regarding the advisability of the issuance, transfer of ownership, or transfer of location of the permit.

II. BACKGROUND

Matt the Miller is a domestic limited liability company that is actively registered with the Ohio Secretary of State. The address designated for the permit premises is 6725 Avery-Muirfield Drive, Dublin, Ohio, 43017, which is located just south of the Post Road / Avery-Muirfield Drive roundabout. Matt the Miller currently holds two liquor permits at this location: a D6 permit, which permits the sale of intoxicating liquor on Sundays between 10:00am and midnight; and a D5I permit, which permits spirituous liquor for on premises consumption only, and beer, wine, and mixed beverages for on or off premises in original sealed containers, until 2:30am. A D5I permit is identical to a typical D5 permit, but is for restaurants meeting certain criteria.

Matt the Miller had to meet the following criteria for the State to issue it a D5I permit:

- (1) It is located in a municipal corporation or a township with a population of one hundred thousand or less.
- (2) It has inside seating capacity for at least one hundred forty persons.

- (3) It has at least four thousand square feet of floor area.
- (4) It offers full-course meals, appetizers, and sandwiches.
- (5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total gross receipts.
- (6) It has at least one of the following characteristics:
 - (a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.
 - (b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the state agency that owns or leases the property to obtain a D-5i permit.

Matt the Miller submitted its application due to a change in stock ownership. This change likely has no effect on its liquor permits, but notification of such change is required by the Division. The application is currently pending before the Division.

According to the Division's records, Matt the Miller does not have a history of violating Ohio liquor laws. The change in stock ownership should have no impact on its clean history with the Division.

RECOMMENDATION

It would appear that it is unnecessary to request a hearing in this matter. Matt the Miller does not have a history of violating Ohio liquor laws and the change in stock ownership should not change that. Regardless of whether Dublin desires to request a hearing, the Notice must be signed and returned to the Ohio Division of Liquor Control by July 17, 2017.

**NOTICE TO LEGISLATIVE
AUTHORITY**

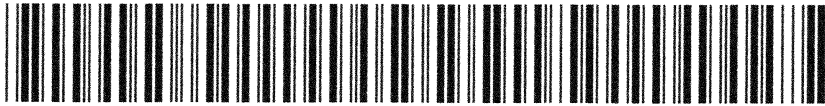
OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD, P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005
(614)644-2360 FAX(614)644-3166

TO

56349810005 <small>PERMIT NUMBER</small>		STCK <small>TYPE</small>	MATT THE MILLER LLC DBA MATT THE MILLER 6725 AVERY MUIRFIELD DR & PATIO DUBLIN OH 43017	
ISSUE DATE				
01 17 2017				
FILING DATE				
D5I D6 <small>PERMIT CLASSES</small>				
25 <small>TAX DISTRICT</small>	066	B	F18651 <small>RECEIPT NO.</small>	

FROM 06/14/2017

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



MAILED 06/14/2017

RESPONSES MUST BE POSTMARKED NO LATER THAN. 07/17/2017

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

B STCK 5634981-0005

(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 DUBLIN CITY COUNCIL
5200 EMERALD PARKWAY
DUBLIN OHIO 43017**

Office Hours
8:00 a.m. - 5:00 p.m.
For Questions, call
(614) 644-3156

Ohio Department of Commerce - Division of Liquor Control
6606 Tussing Road, Reynoldsburg, Ohio 43068-9005
<http://www.com.ohio.gov/liqr>
APPLICATION FOR CHANGE OF LLC MEMBERSHIP INTERESTS
PROCESSING FEE \$100.00

10K
#259961
\$100



CAUTION: ALLOW 10 TO 12 WEEKS FOR PROCESSING

PERMIT HOLDER REQUESTS APPROVAL OF THE DIVISION OF LIQUOR CONTROL OF THE FOLLOWING:

Permit Holder Name: **Matt the Miller, LLC**
Change of LLC Membership Interest of CLB Restaurants Holdings, LLC

Permit Premises Address:
6725 Avery Muirfield Drive
Dublin Ohio 43017

Liquor Permit Number(s):
58349810010
5634981-0005

P-018651

Email Address:

Attorney's Name
Christy Prince, 65 E. State St., Suite 1800, Columbus Ohio 43215, 614-462-5444

Please be advised that any social security numbers provided to the Division of Liquor Control in this application may be released to the Ohio Department of Public Safety, the Ohio Department of Taxation, the Ohio Attorney General, or to any other state or local law enforcement agency if the agency requests the social security number to conduct an investigation, implement an enforcement action, or collect taxes.

PLEASE COMPLETE ALL AREAS OF SECTION A & B BELOW

Section A - PREVIOUS List of managing members and all persons with a 5% or greater membership or voting interest in the LLC

NAME	SOCIAL SECURITY # OR FEDERAL TAX ID #	OFFICE HELD	INTEREST	BIRTHDATE
1) Craig L. Barnum, Jr.			<input checked="" type="checkbox"/> Managing Member <input checked="" type="checkbox"/> Voting interest <u>0</u> % <input checked="" type="checkbox"/> Membership interest <u>0</u> %	12/22/1964
2) MTM Management, LLC			<input type="checkbox"/> Managing Member <input checked="" type="checkbox"/> Voting interest <u>25</u> % <input checked="" type="checkbox"/> Membership interest <u>25</u> %	n/a
3) James Frauenberg			<input type="checkbox"/> Managing Member <input checked="" type="checkbox"/> Voting interest <u>7.062</u> % <input checked="" type="checkbox"/> Membership interest <u>7.062</u> %	07/01/75
4) Jeffrey Lauria			<input type="checkbox"/> Managing Member <input checked="" type="checkbox"/> Voting interest <u>6.073</u> % <input checked="" type="checkbox"/> Membership interest <u>6.073</u> %	02/18/51

Section B - REVISED List of managing members and all persons with a 5% or greater membership or voting interest in the LLC

NAME	OFFICE HELD	INTEREST	BIRTHDATE
1) Addison Holdings, LLC		<input type="checkbox"/> Managing Member <input checked="" type="checkbox"/> Voting interest <u>5.686</u> % <input checked="" type="checkbox"/> Membership interest <u>5.686</u> %	n/a
2) Jason Woodward		<input type="checkbox"/> Managing Member <input checked="" type="checkbox"/> Voting interest <u>5.152</u> % <input checked="" type="checkbox"/> Membership interest <u>5.152</u> %	08/16/73
3) MTM Management, LLC		<input type="checkbox"/> Managing Member <input checked="" type="checkbox"/> Voting interest <u>32.764</u> % <input checked="" type="checkbox"/> Membership interest <u>32.764</u> %	n/a
4)		<input type="checkbox"/> Managing Member <input type="checkbox"/> Voting interest _____ % <input type="checkbox"/> Membership interest _____ %	

D5	\$2,344	ORC 4303.18 Spirituous liquor for on premises consumption only, beer, wine and mixed beverages for on premises, or off premises in original sealed containers, until 2:30am.
D5I	\$2,344	ORC 4303.181 (Same as D5). Restaurant meeting certain criteria.

(2) The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued.

(3) The fee for a D-5h permit is one thousand eight hundred seventy-five dollars.

(I) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

(1) It is located in a municipal corporation or a township with a population of one hundred thousand or less.

(2) It has inside seating capacity for at least one hundred forty persons.

(3) It has at least four thousand square feet of floor area.

(4) It offers full-course meals, appetizers, and sandwiches.

(5) Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five per cent of its total gross receipts.

(6) It has at least one of the following characteristics:

(a) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

(b) It is located on property that is owned or leased by the state or a state agency, and its owner or operator has authorization from the state or the state agency that owns or leases the property to obtain a D-5i permit.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5i permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. In addition to the privileges authorized in this division, the holder of a D-5i permit may exercise the same privileges as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the retail food establishment or food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be issued. The fee for the D-5i permit is two thousand three hundred forty-four dollars.

(J) Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The

Sunday Sales

Permit Class	Permit Fee	Description
D6	\$400-c \$500-d	ORC 4303.182 Sale of intoxicating liquor on Sunday between the hours 10:00am or 11:00am and midnight.

4303.182 D-6 permit.

(A) Except as otherwise provided in divisions (B) to (K) of this section, permit D-6 shall be issued to the holder of an A-1-A, A-2, A-3a, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, or D-7 permit to allow sale under that permit as follows:

(1) Between the hours of ten a.m. and midnight on Sunday if sale during those hours has been approved under question (C)(1), (2), or (3) of section [4301.351](#) or [4301.354](#) of the Revised Code, under question (B)(2) of section [4301.355](#) of the Revised Code, or under section [4301.356](#) of the Revised Code and has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code, under the restrictions of that authorization;

(2) Between the hours of eleven a.m. and midnight on Sunday, if sale during those hours has been approved on or after October 16, 2009, under question (B)(1), (2), or (3) of section [4301.351](#) or [4301.354](#) of the Revised Code, under question (B)(2) of section [4301.355](#) of the Revised Code, or under section [4301.356](#) of the Revised Code and has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code, under the restrictions of that authorization;

(3) Between the hours of eleven a.m. and midnight on Sunday if sale between the hours of one p.m. and midnight was approved before October 16, 2009, under question (B)(1), (2), or (3) of section [4301.351](#) or [4301.354](#) of the Revised Code, under question (B)(2) of section [4301.355](#) of the Revised Code, or under section [4301.356](#) of the Revised Code and has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code, under the other restrictions of that authorization.

(B) Permit D-6 shall be issued to the holder of any permit, including a D-4a and D-5d permit, authorizing the sale of intoxicating liquor issued for a premises located at any publicly owned airport, as defined in section [4563.01](#) of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code.

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section [3731.03](#) of the Revised Code, that contains at least fifty rooms for registered transient guests, and that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio history connection area or the state fairgrounds, as defined in division (B) of section [4301.40](#) of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section [4301.361](#) of the Revised Code. A D-6 permit issued under this division is subject to the results of an election, held after the D-6 permit is issued, on question (B)(4) as set forth in section [4301.351](#) of the Revised Code. Following the end of the period during which an election may be held on question (B)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a D-6 permit issued under this division, unless an election on that question is held during the permitted period and a majority of the voters voting in the precinct on that question vote "no."

As used in this division, "outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(G) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a golf course owned by the state, a conservancy district, a park district created under Chapter 1545. of the Revised Code, or another political subdivision to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code.

(I) Permit D-6 shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located at a ski area to allow sale under the D-6 permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code.

As used in this division, "ski area" means a ski area as defined in section [4169.01](#) of the Revised Code, provided that the passenger tramway operator at that area is registered under section [4169.03](#) of the Revised Code.

(J) Permit D-6 shall be issued to the holder of any permit that is described in division (A) of this section for a permit premises that is located in a community entertainment district, as defined in section [4301.80](#) of the Revised Code, that was approved by the legislative authority of a municipal corporation under that section between October 1 and October 15, 2005, to allow sale under the permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code.

(K) A D-6 permit shall be issued to the holder of any D permit for a premises that is licensed under Chapter 3717. of the Revised Code and that is located in a state park to allow sales under the D-6

permit between the hours of ten a.m. and midnight on Sunday, whether or not those sales have been authorized under section [4301.361](#), [4301.364](#), [4301.365](#), or [4301.366](#) of the Revised Code.

As used in this division, "state park" means a state park that is established or dedicated under Chapter 1541. of the Revised Code and that has a working farm on its property.

(L) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

(M) The fee for the D-6 permit is five hundred dollars when it is issued to the holder of an A-1-A, A-2, A-3a, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 131st General Assembly File No. TBD, HB 141, §1, eff. 9/29/2015.

Amended by 128th General Assembly File No.38, HB 519, §1, eff. 9/10/2010.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 09-26-2003; 09-29-2005; 03-30-2006; 2008 SB150 09-01-2008; 2008 HB562 09-22-2008

Related Legislative Provision: See 128th General Assembly File No.9, HB 1, §743.11.