

MEMORANDUM

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

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

Date: May 17, 2018

Re: Charles Penzone Inc. – TREX Application for D1 Permit

I. INTRODUCTION

The City of Dublin recently received a Notice to Legislative Authority (“Notice”) from the Ohio Division of Liquor Control regarding Charles Penzone Inc. (“Charles Penzone”). Dublin received this Notice pursuant to R.C. 4303.26 because Charles Penzone is applying for an Economic Development Transfer (“TREX transfer”) for a D1 permit and the proposed location for the permit premises is located 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

Charles Penzone is a domestic corporation for profit that is actively registered with the Ohio Secretary of State. The address designated for the permit premises is 6675 Village Parkway, Dublin, Ohio 43017, which is located just north of the Shamrock Boulevard / Village Parkway roundabout. Charles Penzone is seeking to obtain a D1 permit, which allows for the sale of beer only for on premises consumption or in original sealed containers for carry out until 1:00am, through a TREX transfer. A TREX transfer allows for the transfer of location, or the transfer of ownership and location, of a liquor permit from within a municipal corporation or unincorporated area to an economic development project located in another municipal corporation, when certain criteria are met, including:

1. The acquisition of another business’s liquor permit must be done pursuant to Ohio Administrative Code 4301:1-1-14.
2. The location where the permit is being transferred to must not have any available permits or must have a quota of permits available with applicants on the waiting list exceeding the number of openings.

3. The City must sign Section B of the TREX form or provide a letter stating that it acknowledges the transfer will be to an Economic Development Project.

The TREX transfer was developed through legislation to try to help those areas of the state that have an over-issuance of permits by TREX transferring them to another area of the state.

It should also be noted that D1 permits may only be issued to the owner or operator of a hotel, of a retail food establishment or a food service operation licensed pursuant to Ohio Revised Code (“ORC”) chapter 3717, a club, an amusement park, a drugstore, a lunch stand, a boat, or a vessel. Charles Penzone will have to meet the ORC requirements in order to obtain the D1 permit. The Ohio Division of Liquor Control, and not the City, holds the authority to determine if Charles Penzone is the type of business eligible to receive a D1 permit.

The application is currently pending before the division. If approved, the D1 permit will be transferred from Noodle Shop Co Colorado Inc. dba Noodles (“Noodles & Company”), a foreign corporation actively registered with the Ohio Secretary of State. Noodles & Company, formerly located at 6475 Glenway Avenue, Cincinnati, Ohio, 45211, is now closed.

The State issued a D2 permit, which allows for the sale of wine and mixed beverages for on premises consumption or in original sealed containers for carry out until 1:00am, a D3 permit, which permits spirituous liquor for on premises consumption only until 1:00am, and a D6 permit, which permits the sale of intoxicating liquor on Sunday between the hours of 10:00am and midnight, to Charles Penzone earlier this month.

According to the Division’s Records, Charles Penzone does not have a history of violating Ohio liquor laws.

III. RECOMMENDATION

It would appear that it is unnecessary to request a hearing in this matter. Charles Penzone does not have a history of liquor law violations, the City Administration has provided the required documentation certifying that this project will have a positive impact on economic development in the City, and the State will determine if Charles Penzone meets the remaining eligibility requirements necessary to obtain a D1 permit through a TREX transfer. Regardless of whether Dublin desires to request a hearing, the Notice must be signed and returned to the Ohio Division of Liquor Control no later than June 4, 2018.

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

14141290015		TREX		CHARLES PENZONE INC	
PERMIT NUMBER		TYPE		6675 VILLAGE PKWY	
06	01	2016		DUBLIN OH 43017	
ISSUE DATE					
04	20	2018			
FILING DATE					
D1					
PERMIT CLASSES					
25	066	B	F20296		
TAX DISTRICT		RECEIPT NO.			

FROM 05/04/2018 SAFEKEEPING

64316440105				NOODLE SHOP CO COLORADO INC	
PERMIT NUMBER		TYPE		DBA NOODLES	
06	01	2016		6475 GLENWAY AVE	
ISSUE DATE		GREEN TWP			
04	20	2018		CINCINNATI OH 45211	
FILING DATE					
D1					
PERMIT CLASSES					
31	924				
TAX DISTRICT		RECEIPT NO.			



MAILED 05/04/2018

RESPONSES MUST BE POSTMARKED NO LATER THAN.

06/04/2018

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 TREX 1414129-0015

(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**

Commerce Division of Liquor Control : Web Database Search

OWNERSHIP DISCLOSURE INFORMATION

This online service will allow you to obtain ownership disclosure information for issued and pending retail liquor permit entities within the State of Ohio.

Searching Instructions

Enter the known information and click the "Search" button. For best results, search only ONE criteria at a time. If you try to put too much information and it does not match exactly, the search will return a message "No records to display".

The information is sorted based on the Permit Number in ascending order.

To do another search, click the "Reset" button.

SEARCH CRITERIA**Permit Number**

14141290015

Permit Name / DBA**Member / Officer Name****Search****Reset****Main Menu**

Member/Officer Name	Shares/Interest	Office Held
Permit Number: 14141290015; Name: CHARLES PENZONE INC; DBA: ; Address: 6675 VILLAGE PKWY DUBLIN 43017		
CHARLES PENZONE	695.00	CEO

- [Ohio.Gov](#)
- [Ohio Department of Commerce](#)

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Permit Class	Permit Fee	Description
D1	\$376	ORC 4303.13 Beer only for on premises consumption or in original sealed containers for carry out only until 1:00am.

4303.13 D-1 permit.

Permit D-1 may be issued to the owner or operator of a hotel, of 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, or of a club, amusement park, drugstore, lunch stand, boat, or vessel, to sell beer at retail either in glass or container, for consumption on the premises where sold; and to sell beer at retail in other receptacles or in original containers having a capacity of not more than five and one-sixth gallons not for consumption on the premises where sold. The fee for this permit is three hundred seventy-six dollars for each location, boat, or vessel.

Effective Date: 2003 HB95 09-26-2003