

MEMORANDUM

TO: Dublin City Council
Dana McDaniel, City Manager
Jenny Delgado, Clerk of Council

FROM: Jennifer D. Readler, Law Director
Jesse J. Shamp

DATE: June 7, 2022

RE: MVGC BI, LLC Patio & Volleyball Courts – TRFO Application for D1, D2, D3, D3A and D6 Permits

I. INTRODUCTION

The City of Dublin recently received a Notice to Legislative Authority (“Notice”) from the Ohio Division of Liquor Control (“Division”) regarding MVGC BI, LLC Patio & Volleyball Courts (“MVGC”). Dublin received this Notice pursuant to Ohio Revised Code (“ORC”) 4303.26 because MVGC is applying for a Transfer of Ownership for D1, D2, D3, D3A, and D6 permits, 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 permits.

II. BACKGROUND

MVGC is a limited liability company whose exact name is not located with the Ohio Secretary of States. It is possible that the online registry lags filings and the Division of Liquor Control is responsible to determine whether or not the company is entitled to a liquor permit. The address designated for the permit premises is 6013 Glick Road, Powell, Ohio 43065, which is located just south of Glick Road and east of Dublin-Prospect Road. This is the site of the former Bogey Inn.

MVGC is seeking to Transfer Ownership of 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; 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 1:00 AM; a D3 permit which allows for the sale of spirituous liquor for on-premises consumption only until 1:00 AM; a D3A permit allows the holder of a D3 permit to sell liquor, and beer if the holder also has a D1 permit, for on premises consumption until 2:30AM; and a D6 permit, which permits the sale of intoxicating liquor on Sunday during the same hours that sales are permitted under the holder’s underlying liquor permit(s), unless impacted by

local option elections. The acquisition of another business's liquor permit must be done pursuant to Ohio Administrative Code 4301:1-1-14.

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 ORC Chapter 3717, a club, an amusement park, a drugstore, a lunch stand, a boat, or a vessel. Both D2 and D3 permits may only be issued to the owner or operator of a hotel, a retail food establishment, or a food service operation licensed pursuant to ORC Chapter 3717, a club, boat, or vessel. MVGC will have to meet the ORC requirements in order to obtain the D1, D2, and D3 permits. The Division, and not the City, holds the authority to determine if MVGC is the type of business eligible to receive the D1, D2, and D3 permits.

The application is currently pending before the Division. If approved, the D1, D2, and D3 permits will be transferred from The Thirsty Eagle, LLC – Bogey Bar and Grill. This corporation is actively registered with the Ohio Secretary of State. The permits will be transferred to the same permit location.

According to the Division's records, MVGC does not have a history of violating Ohio liquor laws.

III. RECOMMENDATION

It appears unnecessary to request a hearing in this matter. MVGC does not have a history of liquor law violations. The State will determine if MVCG meets the remaining eligibility requirements necessary to obtain D1, D2, D3, D3A, and D6 permits through a Transfer of Ownership. Regardless of whether the City of Dublin desires to request a hearing, the Notice must be signed and returned to the Ohio Division of Liquor Control no later than June 27, 2022.

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

6238378		TRFO	TO	MVGC BI LLC
PERMIT NUMBER		TYPE		PATIO & VOLLEYBALL COURTS
02 01	2020			6013 GLICK RD
ISSUE DATE				DUBLIN POWELL OH 43065
05 24	2022			
FILING DATE				
D1 D2	D3 D3A D6			
PERMIT CLASSES				
25	066	B	F27657	
TAX DISTRICT			RECEIPT NO.	

FROM 05/26/2022

6550959				THE THIRSTY EAGLE LLC
PERMIT NUMBER		TYPE		BOGEY BAR AND GRILL
02 01	2020			PATIO & VOLLEYBALL COURTS
ISSUE DATE				6013 GLICK RD
05 24	2022			DUBLIN POWELL OH 43065
FILING DATE				
D1 D2	D3 D3A D6			
PERMIT CLASSES				
25	066			
TAX DISTRICT			RECEIPT NO.	



MAILED 05/26/2022

RESPONSES MUST BE POSTMARKED NO LATER THAN. 06/27/2022

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

B TRFO 6238378

(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
ATTN: LEGISLATIVE AFFAIRS
5200 EMERALD PARKWAY
DUBLIN OHIO 43017



**Department
of Commerce**

Rev 2/10/2021

Mike DeWine, Governor
Jon Husted, Lt. 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

Restaurant / Night Club

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.
D2	\$564	ORC 4303.14 Wine and mixed beverages for on premises consumption or in original sealed containers for carryout only until 1:00am.

D3

\$750

[ORC 4303.15](#) Spirituous liquor for on premises consumption only until 1:00am.

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.*