

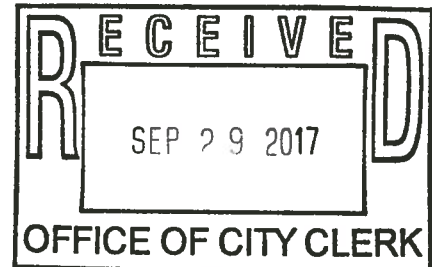
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Toll Free: 1-866-4BEVLAW
File No. 27033.059

September 28, 2017

Via Email and Fed Ex

Louise M. Kelchner
City Clerk
City of Bethlehem
10 East Church St.
Bethlehem, PA 18018



Re: Request for a Hearing on the Inter-municipal Transfer of a Liquor License into the City of Bethlehem, Lehigh County, Pennsylvania

Dear Ms. Kelchner:

I represent and am writing on behalf of Giant Food Stores, LLC ("Giant") to request a resolution from the City of Bethlehem approving the inter-municipal transfer of a Pennsylvania "R" or "restaurant" liquor license from outside the municipality into the City of Bethlehem. Giant will be operating a restaurant inside a remodeled grocery store located at 2174 West Union Boulevard in the City of Bethlehem in which it intends to sell beer, referred to in the Liquor Code as malt and/or brewed beverages, and wine. Giant plans to sell beer from the restaurant for consumption on premises in the restaurant and "to go" and to sell wine "to go."

In order to sell beer and wine in its restaurant in the City of Bethlehem in accordance with its business plan, Giant must secure a restaurant liquor license. No City of Bethlehem restaurant liquor license is available for purchase. As a result, Giant has entered into an agreement to purchase a liquor license from the Pennsylvania Liquor Control Board. Giant was the successful bidder for a Lehigh County restaurant liquor license (R-8401) that was part of a public auction of liquor licenses conducted by the PLCB in July 2017. Giant plans to move the license into the City of Bethlehem, with the approval of the municipality, and subsequently the Pennsylvania Liquor Control Board ("PLCB"), pursuant to the intermunicipal transfer provisions of the Liquor Code (47 P.S. 461).

Giant hereby formally requests that, pursuant to 47 P.S. 461, the City of Bethlehem issue a resolution approving the transfer by Giant of a restaurant liquor license from outside the municipality to within the municipality.

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Pursuant to 47 P.S. 461, the City of Bethlehem must hold a hearing for the purpose of allowing the residents of the municipality to voice their opinions on the proposed intermunicipal transfer by Giant. Under 47 P.S. 461, after the hearing, the municipality must approve or deny the requested transfer, by way of a resolution or ordinance, within 45 days of this request.

To date, the PLCB has approved liquor licenses at fifty one (51) Giant locations. Forty seven (47) of the locations are currently selling beer and wine both for consumption on premises in the restaurant and "to go."

For your convenience and reference, I have enclosed a form resolution which numerous other municipalities have used in responding to requests for intermunicipal transfers. The Pennsylvania Liquor Control Board requires that a resolution approving an inter-municipal transfer must include the following: (1) the name of the applicant (here, Giant Food Stores, LLC); (2) the address to which the license is being transferred (here, 2174 West Union Blvd., Bethlehem, PA 18036); (3) the liquor license number (here, R-8401); (4) a statement that a public hearing was held on the requested resolution; (5) a statement that proper notice of the hearing was published and (6) the name of the current licensee and address (here, Pennsylvania Liquor Control Board via Public Auction conducted in July 2017).

Further, the Liquor Code (47 P.S. Section 102) requires that notice of the public hearing must be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Pursuant to the statute, the notices must state the time and place of the hearing and the matter to be considered at the hearing. Section 102 also provides that the first publication shall not be more than 30 days before the date of the hearing and the second publication shall not be less than seven (7) days before the date of the hearing.

Giant will reimburse the City of Bethlehem for any costs related to the hearing.

At the time of the hearing, we will present complete information on the operations of Giant's proposed restaurant and answer any questions that you, the mayor, council, solicitor or residents might have. Initially, by way of background, I am providing the following information. Giant has over 180 grocery stores and restaurants in Pennsylvania and neighboring states. Giant's restaurant in the City of Bethlehem will be a family-friendly restaurant which will have a specific delineated space, but also have interior connections or openings to the grocery store. The restaurant will be located in a distinct, tastefully decorated and well accommodated area. Giant's

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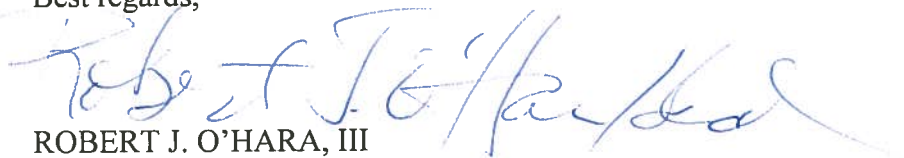
restaurant will sell beer and other malt and brewed beverages and offer meals for consumption on and off the premises. Wine will be sold to go.

The City of Bethlehem Giant restaurant will have a seating capacity of approximately 30. A restaurant within Giant will offer another dining alternative in the City of Bethlehem, regardless of whether patrons will also be shopping at Giant's store. Giant is very sensitive to its role in the communities it serves and is very involved in those communities. A Giant store and restaurant typically employs 175-200 full and part-time people and generates significant tax revenues for the local economy. The City of Bethlehem's approval of an inter-municipal transfer of a restaurant liquor license for Giant's restaurant will permit the operation of a restaurant in the City of Bethlehem that will be a positive attribute to the township.

We respectfully request that, if possible, the City Council vote on the Resolution on the same evening as the public hearing.

Please email or call me or my paralegal Diane DeNardo, (412) 456-2129, as soon as possible when a hearing date is scheduled in order that I can be sure my client and I are available to travel to and attend the hearing.

Best regards,



ROBERT J. O'HARA, III

RJO:dcd

Enclosure: Check, Payable to City of Bethlehem
Draft Municipal Resolution

cc: Giant Food Stores, LLC

THE CITY OF BETHLEHEM
RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF BETHLEHEM,
COUNTY OF LEHIGH, COMMONWEALTH OF PENNSYLVANIA,
APPROVING THE TRANSFER OF RESTAURANT LIQUOR LICENSE NO. R-8401
INTO THE CITY OF BETHLEHEM FROM THE PA LIQUOR CONTROL BOARD

WHEREAS, Act 141 of 2000 (“the Act”) authorizes the Pennsylvania Liquor Control Board to approve, in certain instances, the transfer of restaurant liquor licenses across municipal boundaries within the same county regardless of the quota limitations provided for in Section 461 of the Liquor Code if, as in the City of Bethlehem, sales of liquor and malt or brewed beverages are legal in the municipality receiving the license; and

WHEREAS, the Act requires the applicant to obtain from the receiving municipality a resolution approving the inter-municipal transfer of the liquor license prior to an applicant’s submission of an application to the Pennsylvania Liquor Control Board; and

WHEREAS, the Liquor Code stipulates that, prior to adoption of a resolution by the receiving municipality, at least one hearing be held for the purpose of permitting individuals residing within the municipality to make comments and recommendations regarding applicant’s intent to transfer a liquor license into the receiving municipality; and

WHEREAS, an application for transfer filed under the Act must contain a copy of the resolution adopted by the municipality approving the transfer of a liquor license into the municipality.

NOW, THEREFORE, BE IT RESOLVED, that Giant Food Stores, LLC has requested the approval of the City of Bethlehem Council for the proposed transfer of Pennsylvania restaurant liquor license no. R-8401 (acquired by Giant Food Stores, LLC from the Pennsylvania Liquor Control Board via Public Auction conducted in July 2017) by Giant Food Stores, LLC to restaurant facilities within the City of Bethlehem to be located at 2174 West Union Boulevard, Bethlehem, PA 18036, with the understanding that said transfer must be approved at a later date by the Pennsylvania Liquor Control Board; and

BE IT FURTHER RESOLVED, that the City of Bethlehem Council has held a properly advertised public hearing pursuant to the notice provisions of Section 102 of the Liquor Code to receive comments on the proposed liquor license transfer; and

BE IT FURTHER RESOLVED, that the City of Bethlehem approves, by adoption of this Resolution, the proposed inter-municipal transfer of restaurant liquor license no. R-8401 into the City of Bethlehem by Giant Food Stores, LLC; and

BE IT FURTHER RESOLVED, that transfers, designations and assignments of licenses hereunder are subject to approval by the Pennsylvania Liquor Control Board.

Duly adopted this ____ day of _____, 2017, by the Council of the City of Bethlehem, Lehigh County, Pennsylvania, in lawful session duly assembled.

THE CITY OF BETHLEHEM
COUNCIL:
