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Liquor Law Update

MICHIGAN LEGISLATURE REWARDS DEVELOPMENT WITH NEW ON-PREMISES LIQUOR LICENSES

The Michigan Legislature recently created two new types of public on-premise liquor licenses, the Redevelopment Project Area Liquor License¹, and the Development District Liquor License², which are not regulated by the Michigan Liquor Control Commission's "Quota System."³ The Commission's Quota System limits the number of new on-premises liquor license to 1 license for every 1,500 persons living in a particular municipality. These new liquor licenses circumvent the Quota System, and allow the Michigan Liquor Control Commission and local municipalities to use liquor licensing as a means to promote development in our State's redevelopment project areas and downtown districts. This legislation complements many other State and local initiatives currently in place to help revitalize these areas.⁴

There are a number of requirements that a business must meet in order to qualify for a Redevelopment Project Area or Development District Liquor License. First and foremost, the Applicant must show that a quota license⁵ is not available from the municipality in which it proposes to locate its liquor licensed business, and that an escrowed license⁶ is not available in the municipality in which the license is to be located.⁷ The application requirements for each License are mapped out on the attached *Carlin Edwards, Brown & Howe, PLLC* Flow Charts, which provide a step-by-step analysis for determining whether a business is eligible to apply for one of these Licenses.

If the eligibility requirements are established, and the threshold number of Redevelopment Project Area or Development District Liquor Licenses have not been issued in the proposed municipality⁸, a business may proceed with the application process. It should be aware however, that these two Licenses are fundamentally different than the traditional on-premise liquor licenses. There are three main characteristics that are unique to these Licenses:

1. Redevelopment Project Area Liquor Licenses and Development District Liquor Licenses are not transferable to another location;
2. If the licensee of a Redevelopment Project Area Liquor License or a Development District Liquor License were to go out of business, the license must be surrendered to the MLCC; and
3. An applicant for a Redevelopment Project Area Liquor License or a Development District Liquor License that has been surrendered to the MLCC, must utilize the license at the former location, and meet the eligibility requirements specific to an applicant for a surrendered license.⁹

Redevelopment Project Area Liquor Licenses and Development District Liquor Licenses are great tools to reward those investing in our Redevelopment Project Areas and Development Districts, and can also be used to attract new development to our municipalities. If you would like to obtain one of these Licenses, or further discuss ways to utilize this licensing scheme to attract development in your community, please contact us. We are excited to incorporate the acquisition of these new Licenses to our Firm's expertise, as we are committed to playing a role in the revitalization and redevelopment of our State.

Dated: February 6, 2007

¹ M.C.L. 436.1521a(1)(a)

² M.C.L. 436.1521a(1)(b)

³ M.C.L. 436.1531(1).

⁴ See e.g. Michigan Cool Cities Initiative www.coolcities.com

⁵ M.C.L. 436.1531(1) (A “Quota License” is a new on-premise license available under the 1 per 1500 persons “Quota System”).

⁶ M.C.L. 436.1531(18)(1) (“Escrowed License” means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan Administrative Code.”)

⁷ M.C.L. 436.1521a(9).

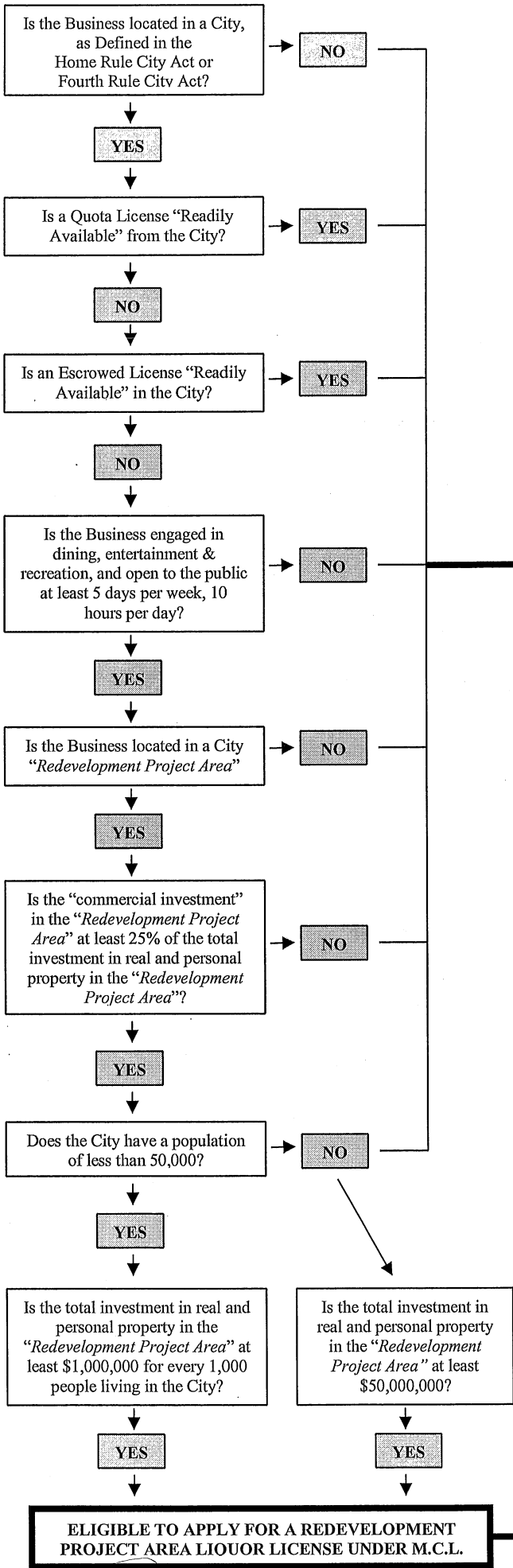
⁸ See M.C.L. 436.1521a(5) and 436.1521a(7).

⁹ See M.C.L. 436.1521a(8).

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IS YOUR BUSINESS ELIGIBLE TO APPLY FOR A REDEVELOPMENT PROJECT AREA LIQUOR LICENSE UNDER M.C.L. §436.1521a(1)(a) ?



NOT ELIGIBLE TO APPLY FOR A REDEVELOPMENT PROJECT AREA LIQUOR LICENSE UNDER M.C.L. §436.1521a(1)(a)

- YOU MUST SUBMIT THE FOLLOWING DOCUMENTS WITH YOUR LIQUOR LICENSE APPLICATION:**
1. A resolution from the City Council verifying the status of the “Redevelopment Project Area” where the Business is located;
 2. An affidavit from the City Assessor, Certified by the City Clerk, stating the total amount of investment in real and personal property within the “Redevelopment Project Area” of the City during the past five years*; and
 3. An affidavit from the City Assessor, Certified by the City Clerk, stating the amount of investment money spent for manufacturing, industrial, residential, and commercial development within the “Redevelopment Project Area” of the City during the past five years.*

**A year is defined as the licensing year of the MLCC (i.e. May 1st through April 30th). The first five year period will begin on May 1, 2001, and end on April 30, 2006.*

IS YOUR BUSINESS ELIGIBLE TO APPLY FOR A DEVELOPMENT DISTRICT LIQUOR LICENSE UNDER M.C.L. §436.1521a(1)(b)?

Is the Business located in a development district or area established under the Tax Increment Financing Authority Act?

OR

Is the Business located in a development district or area established under the Corridor Improvement Authority Act?

Is the Business located in a Downtown District established under the Downtown Development Authority Act?

Is the Business located in a Principle Shopping District established under the Principle Shopping Districts and Business Improvement Districts Act?

YES NO

Is a Quota License "Readily Available" from the Community?

YES

NO

Is an Escrowed License "Readily Available" in the Community?

YES

NO

Is the Business open to the public for dining, entertainment or recreation, and have a seating capacity of at least 50 persons?

NO

YES

Has at least \$75,000 been spent on the rehabilitation or restoration of the existing building for the licensed business during the past five years*?

NO

YES

Has the total amount of public and private investment in the real and personal property within the qualified Redevelopment District Area over the past five years* been at least \$200,000?

NO

YES

ELIGIBLE TO APPLY TO THE MICHIGAN LIQUOR CONTROL COMMISSION FOR A DEVELOPMENT DISTRICT LIQUOR LICENSE UNDER M.C.L. §436.1521a(1)(b)

Is there a commitment for a capital investment in the proposed building for the licensed business of at least \$75,000, and will that amount be spent before the liquor license is issued?

YES

NO

NOT ELIGIBLE TO APPLY FOR A DEVELOPMENT DISTRICT LIQUOR LICENSE UNDER M.C.L. §436.1521a(1)(b)

YOU MUST SUBMIT THE FOLLOWING DOCUMENT WITH YOUR LIQUOR LICENSE APPLICATION:

1. A resolution from the local governmental unit certifying the existence of the Development District or Area, and that the licensed business will be located in the Development District or Area.
2. An affidavit from the City Assessor, certified by the City Clerk, stating that the total amount of public and private investment in real and personal property within the Qualified Redevelopment Project Area during the past five years* has been at least \$200,000.

**A year is defined as the licensing year of the MLCC (i.e. May 1st through April 30th). The first five year period will begin on May 1, 2001, and end on April 30, 2006.*