



**TO:** Members of the Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney  
Christopher J. Forsyth, Assistant City Attorney  
**DATE:** June 29, 2006  
**SUBJECT:** In Re: Hooters lawsuit

---

Attached please find a copy of a summons and complaint, filed by Hooters of Troy Inc. against the City of Troy.

Hooters of Troy, Inc. is seeking an Order of Superintending Control, which essentially is a ruling from the Oakland County Circuit Court that overrules the City's decision to deny the requested transfer of the liquor license to Hooters of Troy, Inc. In addition to this unusual relief, they are also asking for costs, attorney fees, and incidental damages caused by a delay in opening the restaurant in the proposed new location.

According to the allegations in the complaint, Troy City Council acted arbitrarily and capriciously in denying the requested transfer of the Class C liquor license and entertainment permit license transfer from the Sign of the Beefcarver (The Wagon Wheel) to Hooters of Troy, Inc.. According to the statements in the complaint, Hooters has leased the building formerly occupied by the Wagon Wheel at Rochester Road and Big Beaver Road. Not later than September of this year, Hooters had planned to move its restaurant from its current location on John R Road to the Wagon Wheel site. At the June 19<sup>th</sup> Council meeting, City Council denied the requested transfer.

In the complaint, Hooters alleges that the denial of the requested liquor license transfer violated the owner's due process rights and/or equal protection rights that are guaranteed under the Michigan and United States Constitutions. Hooters is also requesting costs, attorney fees, and damages incurred by Hooters as a result of the delay in moving its operations to the Rochester Road Location.

Absent objections, the City Attorney's Office will assume representation of the City in this case. If you have any questions concerning the above, please let us know.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

In re HOOTERS OF TROY, INC.  
RECEIVED FOR FILING  
OAKLAND COUNTY CLERK

Plaintiff.

06

06-075618-AS



'06 JUN 27 P3:22

Hc

OAKLAND COUNTY JUDGE JOHN J. McDONALD  
HOOTERS OF TR V NONE

---

EDWARD G. LENNON PLLC  
Edward G. Lennon (P42278)  
Attorney for Plaintiff  
322 N. Old Woodward  
Birmingham, MI 48009  
(248) 723-1276

HYMAN LIPPITT, P.C.  
Stephen McKenney (P65673)  
Co-counsel for Plaintiff  
322 N. Old Woodward  
Birmingham, MI 48009  
(248) 646-8292

---

**COMPLAINT**

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in this Complaint.

Plaintiff, Hooters of Troy, Inc., a Georgia Corporation, by and through its attorneys, Edward G. Lennon PLLC and Hyman Lippitt, P.C., for its Complaint, states as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff, Hooters of Troy, Inc. ("Hooters"), is a Georgia Corporation authorized to conduct business in the State of Michigan and which conducts business in Oakland County, Michigan.

2. Hooters seeks the review and reversal of an arbitrary and capricious decision of the City of Troy ("Troy") denying, without legitimate basis, Hooters' request for transfer of a Class C liquor license.

3. Hooters is entitled to review of Troy's decision, but has no prescribed procedural remedy other than the filing of this action.

4. Hooters seeks, under MCR 3.302, a superintending control order approving Hooters' request to transfer a Class C liquor license.

### FACTS AND CLAIMS

5. Hooters is a subsidiary corporation of Hooters of America, Inc., an Atlanta based operator and franchiser of over 375 Hooters restaurants located in 46 states, Argentina, Aruba, Austria, Brazil, Canada, Chili, England, Guatemala, Mexico, Singapore, Switzerland, Taiwan, Taipei, and Venezuela. Hooters of America, Inc. and its related and/or affiliated entities have been conducting business since 1983. Such entities operate entertainment-related businesses, including a golf tour, an auto racing series, a magazine and a casino.

6. Hooters currently operates a restaurant with a Class C Liquor License at 1686 John R Road in Troy (the "John R Restaurant"). The John R Restaurant abuts a residential neighborhood.

7. On January 6, 2006, Hooters entered into an agreement with Sign of the Beefcarver, Inc. to purchase Sign of the Beefcarver, Inc.'s 2005 Class C Liquor License and SDM License ("Liquor License"). Sign of the Beefcarver, Inc. had operated a restaurant under the name of Wagon Wheel Saloon at 2950 Rochester Road, Troy, MI. (Hereinafter, Sign of the Beefcarver, Inc. will be referred to as "Wagon Wheel".)

8. In addition to agreeing to purchase the Wagon Wheel Liquor License, Hooters also agreed to lease the property at which Wagon Wheel operated its restaurant, 2950 Rochester Road, Troy, MI ("Rochester Road Restaurant"). The Rochester Road Restaurant was and is located in an area

occupied exclusively by other commercial businesses. Hooters intends to close its John R Restaurant and move its operations to the Rochester Road Restaurant once the Hooters-Wagon Wheel transactions are consummated.

9. Among other things, the sale of the Liquor License is contingent upon approval of the transfer of the Liquor License by the Michigan Liquor Control Commission ("MLCC") and local authority (i.e., Troy). Michigan law and the MLCC require Troy's approval of the Liquor License transfer request.

10. On January 17, 2006, Hooters submitted a request to the MLCC to transfer the Liquor License from Wagon Wheel to Hooters.

11. Pursuant to Hooters' request to transfer the Wagon Wheel Liquor License to Hooters, on March 14, 2006, the MLCC issued a Notice of Impending Investigation.

12. Pursuant to the request to transfer the Liquor License from Wagon Wheel to Hooters, Troy also began an investigation. Hooters provided all information and documents requested by Troy during its investigation.

13. Troy police officials found no reason to deny the request to transfer the Liquor License.

14. Troy building officials found only minor conditions that needed to be corrected prior to approving the transfer of the Liquor License.

15. Other Troy employees and staff members have recommended that Troy approve the Liquor License transfer request.

16. On May 8, 2006, Hooters' representatives met with Troy's Liquor License Advisory Committee ("Advisory Committee"). After discussing the merits

of approving the transfer of the Liquor License, effectively moving Hooters from a location adjacent to a residential neighborhood to an area surrounded by solely commercial businesses, the Advisory Committee unanimously recommended that the City Council approve the Liquor License transfer.

17. Hooters' representatives then appeared at a June 19, 2006 Troy City Council meeting. At that meeting, the Troy City Council, by a 4 to 3 vote, denied the request for a Liquor License transfer. The Troy City Council presented no legitimate reasons for its decision to deny the Liquor License transfer request.

18. Because the Troy City Council voted to deny the request to transfer the Liquor License, the MLCC will not approve the Liquor License transfer request.

19. Troy's action, through its City Council, in denying the Liquor License transfer request, was arbitrary and capricious in that:

- a. no legitimate reasons were given for the decision to deny the Liquor License transfer;
- b. the governing considerations for granting the request to transfer were wholly ignored;
- c. the decision is contrary to the fact that for many years other businesses similar to Hooters conducted operations at the location to which Hooters seeks to transfer its business; and
- d. the decision was not authorized by law and not supported by competent, material and substantial evidence.

20. Hooters' due process rights guaranteed under the Michigan and United States Constitutions have been violated as a result of the arbitrary and capricious denial of the Liquor License transfer request.

21. Hooters' equal protection rights guaranteed under the Michigan and United States Constitutions have been violated as a result of the arbitrary and capricious denial of the Liquor License transfer request.

22. It is anticipated that, as a result of Troy's action in denying the request to transfer the Liquor License, Hooters will incur damages, including reduced profits, as a result of the delay in opening the Rochester Road Restaurant.

Wherefore, for the above reasons, Hooters seeks:

- a. a superintending control order approving the transfer of Hooters' Class C Liquor License;
- b. its costs and attorney fees in having to pursue this action; and
- c. all actual damages, including pre-complaint and post-complaint interest, incurred by Hooters as a result of the delay in moving its operations to the Rochester Road Restaurant.

Respectfully submitted,

EDWARD G. LENNON PLLC

  
EDWARD G. LENNON (P42278)  
Attorney for Plaintiff

Dated: June 27, 2006