

CITY COUNCIL ACTION REPORT

June 5, 2008

TO: Phillip L. Nelson, City Manager

FROM: Charles T. Craft, Chief of Police *CC*
 Captain Colleen Mott, Support Services Division *adm*
 Sergeant Robert Cantlon *RC*

SUBJECT: Application for transfer of Class C license to Somerset Collection Limited Partnership.

Background:

- Request to transfer ownership of 2007 Class C licensed business, located in escrow at 2801 W. Big Beaver, Somerset Collection, Suite J-230, Troy, MI 48084, Oakland County, from Sebastian's LTD. To Somerset Collection Limited Partnership; with license to be held in escrow.
- On March 10, 2008, applicant's attorney, Patrick Howe answered questions for the Liquor Advisory Committee.
- Mr. Howe explained to the Committee that the Somerset Collection Limited Partnership is attempting to gain control of this license pursuant to a lease agreement with the previous licensee. The license has been surrendered to the Partnership
- Somerset Collection Limited Partnership will control the license for record purposes to hold it in escrow until a suitable, approved applicant is located.
- The Committee unanimously approved this request.

Financial Considerations:

- There are no financial considerations for the City.

Legal Considerations:

- The request complies with all applicable Troy City ordinances and Michigan Liquor Control Commission rules. On April 10, 2008, the Commission waived the enforcement investigation
- The Police Department did not find any disqualifying factors for this request.
- The MLCC requires local government approval for the transfer of a Class C license.

Policy Considerations:

- City Goal III: “Retain and attract investment while encouraging redevelopment”.

Options:

- City Council can approve or deny the request.



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

FOR MLCC USE ONLY

Request ID # 416257

Business ID # 194021

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

SOMERSET COLLECTION LIMITED PARTNERSHIP REQUESTS TO TRANSFER OWNERSHIP OF 2007 CLASS C LICENSED BUSINESS, LOCATED IN ESCROW AT 2801 W. BIG BEAVER, SOMERSET COLLECTION, SUITE J-230, TROY, MI 48084, OAKLAND COUNTY, FROM SEBASTIAN'S LTD.; WITH LICENSE TO HELD IN ESCROW.

Section 1. APPLICANT INFORMATION

APPLICANT #1:
SAMUEL FRANKEL - STOCKHOLDER IN SOMERSET COLLECTION GP, INC. - GENERAL PARTNER
3875 LAKE LAND LANE
BLOOMFIELD HILLS, MI 48302
H(248)626-8294/B(248)649-2600

APPLICANT #2:
NATHAN FORBES - STOCKHOLDER IN SOMERSET COLLECTION GP, INC. - GENERAL PARTNER
31625 NOTTINGHAM
FRANKLIN, MI 48025
H(248)626-8001/B(248)827-4600

DATE FINGERPRINTED: NO FINGERPRINTS REQUIRED

DATE FINGERPRINTED: NO FINGERPRINTS REQUIRED

DATE OF BIRTH:
Is the applicant a U.S. Citizen: Yes No

DATE OF BIRTH:
Is the applicant a U.S. Citizen: Yes No

*Does the applicant have permanent Resident Alien status?
Yes No

*Does the applicant have permanent Resident Alien status?
Yes No

*Does the applicant have a Visa? Enter status:

*Does the applicant have a Visa? Enter status:

Attach the fingerprint card and \$30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: Felony Misdemeanor

ARREST RECORD: Felony Misdemeanor

Enter record of all arrests & convictions (attach a signed and dated report if more space is needed)

Enter record of all arrests & convictions (attach a signed and dated report if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?

No Yes, complete LC-1636

Are gas pumps on the premises or directly adjacent? No Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? Yes No

If you are recommending approval subject to certain conditions, list the conditions: (attach a signed and dated report if more space is needed)

Section 4. RECOMMENDATION

From your investigation:

- 1. Is this applicant qualified to conduct this business if licensed? Yes No
2. Is the proposed location satisfactory for this business? Yes No
3. Should the Commission grant this request? Yes No
4. If any of the above 3 questions were answered no, state your reasons: (Attach a signed and dated report if more space is needed)

Signature (Sheriff or Chief of Police)

Date

TROY POLICE DEPARTMENT



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

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Section 1. APPLICANT INFORMATION

APPLICANT #1:
SIDNEY FORBES - STOCKHOLDER IN SOMERSET COLLECTION GP, INC. - GENERAL PARTNER
1350 KIRKWAY
BLOOMFIELD HILLS, MI 48302
H(248)626-8690/B(248)827-4600

APPLICANT #2:
MAURICE COHEN ESTATE; BRANDON COHEN, CO-PERSONAL REPRESENTATIVE - STOCKHOLDER IN SOMERSET COLLECTION GP, INC. - GENERAL PARTNER
11258 HIGHWAY 133
CARBONDALE, CO 51623
H(970)763-8118/B(970)618-0039

DATE FINGERPRINTED: NO FINGERPRINTS REQUIRED

DATE FINGERPRINTED:

DATE OF BIRTH:
Is the applicant a U.S. Citizen: Yes No*

DATE OF BIRTH:
Is the applicant a U.S. Citizen: Yes No*

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Signature (Sheriff or Chief of Police)

Date

TROY POLICE DEPARTMENT



FOR MLCC USE ONLY
Request ID # <u>416257</u>
Business ID # <u>194021</u>

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Section 1. APPLICANT INFORMATION

APPLICANT #1:
 MAURICE COHEN ESTATE; JEFFREY COHEN, CO-PERSONAL REPRESENTATIVE – STOCKHOLDER IN SOMERSET COLLECTION GP, INC. – GENERAL PARTNER
 405 BONNIE BRIER, (MAILING- PO BOX 8382)
 BLOOMFIELD, MI 48302
 CELL(248)672-1724

APPLICANT #2:
 MAURICE COHEN ESTATE; LESLI COHEN, CO-PERSONAL REPRESENTATIVE – STOCKHOLDER IN SOMERSET COLLECTION GP, INC. – GENERAL PARTNER
 405 BONNIE BRIER
 BIRMINGHAM, MI 48009
 H(248)723-6630

DATE FINGERPRINTED:

DATE FINGERPRINTED:

DATE OF BIRTH:
 Is the applicant a U.S. Citizen: Yes No*

DATE OF BIRTH:
 Is the applicant a U.S. Citizen: Yes No*

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TROY POLICE DEPARTMENT



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Request ID # 416257

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Section 1. APPLICANT INFORMATION

APPLICANT #1:
 MAURICE COHEN ESTATE; MARGO COHEN, CO-PERSONAL REPRESENTATIVE – STOCKHOLDER IN SOMERSET COLLECTION GP, INC. – GENERAL PARTNER
 633 PICACHO LANE
 MONTECITO, CA 93105
 H(805)969-9217

APPLICANT #2:

DATE FINGERPRINTED:

DATE FINGERPRINTED:

DATE OF BIRTH:
 Is the applicant a U.S. Citizen: Yes No*

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 Is the applicant a U.S. Citizen: Yes No*

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Signature (Sheriff or Chief of Police)

Date

TROY POLICE DEPARTMENT

Carlin, Edwards, Brown & Howe, PLLC

Attorneys & Counselors at Law

John B. Carlin, Jr.
Scott D. Edwards
Michael J. Brown
J. Patrick Howe

2855 Coolidge Hwy., Suite 203
Troy, Michigan 48084
P. (248) 816-5000
F. (248) 816-5115
www.cebhlaw.com

Lansing, Michigan
6017 West St. Joe Hwy., Suite 202
Lansing, Michigan 48917
P. (517) 321-4616
F. (517) 321-4642
Northern Michigan
213 East Main St., 2nd Floor
Gaylord, Michigan 49735
P. (989) 688-5946
F. (989) 688-5901

June 11, 2008

VIA EMAIL cantlonrf@troymi.gov

Sgt. Robert Cantlon
Troy Police Department
500 West Big Beaver Road
Troy, MI 48084

VIA EMAIL lancasteSM@ci.troy.mi.us

Ms. Sue Lancaster, Deputy Clerk
City of Troy
500 W. Big Beaver Road
Troy, MI 48084

Re: Somerset Collection Limited Partnership
Sebastian's, Ltd.
Liquor License Transfer

Dear Sgt. Cantlon and Deputy Clerk Lancaster:

Pursuant to my telephone conversation of Tuesday, June 10, 2008, enclosed please find a letter signed by Somerset Collection, Limited Partnership which specifically states that they will not activate the liquor license. It is my understanding that this letter will be attached to your report and that the Resolution to be approved by the Michigan Liquor Control Commission would be in the form provided by the Michigan Liquor Control Commission without the condition that would not be acceptable to them.

I am also forwarding a copy of this to Sue Lancaster so that she can review the letter and verify our conversation.

If either you or Sue have any questions or require revisions to the letter, please let me know. I am arranging to have an original signed letter sent by overnight mail, so that I can have it to the Clerk prior to the meeting on Monday.

Again, I thank both you and Sue for your assistance and patience in this matter. Should you have any questions, please let me know.

Very truly yours,

CARLIN, EDWARDS, BROWN & HOWE, PLLC



Scott Edwards
Direct Dial: (248) 816-3205
E-Mail: sedwards@cebhlaw.com

Enclosure

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Member: Academy of Hospitality Industry Attorneys - Alcohol Beverage & Hospitality Law Practice Committee of the State Bar of Michigan
Business Law Section - Alliance of Alcohol Industry Attorneys & Consultants - Michigan Association of Planning - Michigan Hotel, Motel and Resort
Association - Michigan Licensed Beverage Association - Michigan Restaurant Association - National Association of Alcohol Beverage Licensing
Attorneys - Beverage Alcohol Practice Committee of the American Bar Association Administrative & Regulatory Practice Section -
National Restaurant Association - Urban Land Institute

THE FORBES COMPANY



June 10, 2008

Sgt. Robert Cantlon
Troy Police Department
500 West Big Beaver Road
Troy, MI 48084

Re: Somerset Collection Limited Partnership
2801 West Big Beaver, Somerset Collection
Suite J-230, Troy, Michigan 48084
Transferor: Sebastian's, Ltd.
MLCC REQ ID #416257

Dear Sgt. Cantlon:

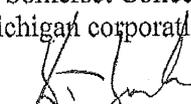
This letter is provided pursuant to conversations that you and Sue Lancaster have had with our attorney, Scott Edwards, regarding the transfer of the above-referenced liquor license. This letter will confirm that Somerset Collection, Limited Partnership will not use the liquor license for a restaurant in its own name or activate the liquor license in its own name. This request is a transfer for record purposes only to enable Somerset Collection, Limited Partnership to transfer the license to a third party at a later date. Again, Somerset Collection, Limited Partnership will not activate this liquor license for its own use.

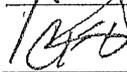
If you have any questions, please direct them to our attorney, Scott Edwards, at (248) 816-3205.

Very truly yours,

SOMERSET COLLECTION LIMITED PARTNERSHIP
a Michigan limited partnership

By: Somerset Collection GP, Inc.
a Michigan corporation

By: 

Its: 

Carlin, Edwards, Brown & Howe, PLLC

Attorneys & Counselors at Law

John B. Carlin, Jr.
Scott D. Edwards
Michael J. Brown
J. Patrick Howe

2855 Coolidge Hwy., Suite 203
Troy, Michigan 48084
P. (248) 816-5000
F. (248) 816-5115
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May 23, 2008

Lansing, Michigan
6017 West St. Joe Hwy., Suite 202
Lansing, Michigan 48917
P. (517) 321-4616
F. (517) 321-4642
Northern Michigan
213 East Main St., 2nd Floor
Gaylord, Michigan 49735
P. (989) 688-5946
F. (989) 688-5901

Sgt. Robert Cantlon
Troy Police Department
500 West Big Beaver Road
Troy, MI 48084

Re: Somerset Collection Limited Partnership
2801 West Big Beaver, Somerset Collection
Suite J-230, Troy, Michigan 48084
MLCC REQ ID #416257

Dear Sgt. Cantlon:

This letter will confirm our telephone conversation of May 23, 2008 regarding the above-referenced application.

As you are aware, the transfer of the Sebastian's, Ltd. liquor license to Somerset Collection Limited Partnership is for record purposes only and the license will not be activated or removed from escrow until approval by the Michigan Liquor Control Commission and receipt by the Michigan Liquor Control Commission of the required reports.

Further, I have confirmed that on April 10, 2008, an Order from the Michigan Liquor Control Commission was issued which waived the enforcement investigation. Therefore, the only two items required for the approval of the transfer are the resolution from the Troy City Council and your LC-1800 report.

We have already attended the Liquor Advisory Board and if you could arrange for the application to be set for the Troy City Council that would be very much appreciated.

If you have any questions or require modification to this letter to meet your needs, please let me know. Thank you for your assistance.

Very truly yours,

CARLIN, EDWARDS, BROWN & HOWE, PLLC

/s/ Scott Edwards

Scott Edwards
Direct Dial: (248) 816-3205
E-Mail: sedwards@cebhlaw.com

cc: John B. Carlin, Jr.

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Carlin, Edwards, Brown & Howe, PLLC

Attorneys & Counselors at Law

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March 4, 2008

Lansing, Michigan
6017 West St. Joe Hwy., Suite 202
Lansing, Michigan 48917
P. (517) 321-4616
F. (517) 321-4642

Northern Michigan
213 East Main St., 2nd Floor
Gaylord, Michigan 49735
P. (989) 688-5946
F. (989) 688-5901

Sgt. Robert Cantlon
Troy Police Department
500 West Big Beaver Road
Troy, MI 48084

Re: Somerset Collection Limited Partnership
2801 West Big Beaver, Somerset Collection
Suite J-230, Troy, Michigan 48084

Dear Sgt. Cantlon:

You will find enclosed herewith a copy of correspondence dated February 26, 2008 which we sent to Sharon Martin, Assistant Director of the Licensing Division of the Michigan Liquor Control Commission in Lansing, regarding our above-captioned client. This letter specifically indicates that our request to the Commission for transfer of ownership of the license formerly held by Sebastian's Limited is "for record purposes only" and that Somerset Collection, Limited Partnership does not intend to own and operate a licensed business at that location. We further indicated to the Commission that we had no problem with the Commission placing a statement in the Order of Approval that Somerset Collection, Limited Partnership will not activate the license in the future and in the event that any entity wishes to activate this license in the future, then that entity, whether it be Somerset Collection, Limited Partnership or any other entity, will comply with all the Rules and Regulations of the Michigan Liquor Control Commission for transfer of ownership of the license and activating same as well as the City of Troy's requirements, including providing the City of Troy Liquor License Agreement and fingerprinting, as required by the Liquor Commission.

Should you need anything further, please do not hesitate to call.

Very truly yours,

CARLIN, EDWARDS, BROWN & HOWE, PLLC

John B. Carlin, Jr.
Direct Dial: (248) 816-3210
E-Mail: jdarlin@cebhlaw.com

Enclosure

cc: Susan M. Lancaster, Esq. (w/encl. via fax 248-524-3259)

Ms. Lee Hunrath (w/o encl.)

the forbes c-18258\somerset - sebastian-52504\

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Attorneys & Counselors at Law

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February 26, 2008

Ms. Sharon Martin
Assistant Director, Licensing
Michigan Liquor Control Commission
7150 Harris Drive
P.O. Box 30005
Lansing, MI 48909

**Re: Somerset Collection Limited Partnership
2801 West Big Beaver, Somerset Collection
Suite J-230, Troy, Michigan 48084
Request ID No. 416257**

Dear Ms. Martin:

Please enter our Appearance on behalf Somerset Collection Limited Partnership in conjunction with the transfer of ownership of the Class C license located at the above address. The transfer is of the Class C liquor license and permits from Sebastian's Ltd. to Somerset Collection Limited Partnership. On behalf of that entity, we hereby advise the Commission that the transfer of ownership of the license is for **record purposes only** and Somerset Collection Limited Partnership is not intending to own and operate the licensed business at this location. Instead, Somerset Collection Limited Partnership will hold the license in escrow for transfer, at a later date, to a restaurant in the Somerset Mall.

We respectfully request that you waive any investigation on Somerset Collection Limited Partnership for the simple reason that it is never going to become an operating licensee and along with that we request that any and all fingerprinting requirements be likewise waived.

Further, we have no problem should the Liquor Commission wish to place a statement in the order of approval that Somerset Collection Limited Partnership not activate the license in the future and the transfer is for record purposes only.

Ms. Sharon Martin
February 26, 2008
Page 2

Please advise accordingly and we await your response.

Very truly yours,

CARLIN, EDWARDS, BROWN & HOWE, PLLC



John B. Carlin, Jr.
Direct Dial: (248) 816-3210
E-Mail: jcarlin@cebhlaw.com

cc: Ms. Lee Hunrath
Maurice Binkow, Esq.
Ms. Susan Williams

A regular meeting of the Liquor Advisory Committee was held on Monday, March 10, 2008 in the Lower Level Conference Room of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 7:00 p.m.

ROLL CALL:

PRESENT: Max K. Ehlert, Chairman
Henry W. Allemon
W. Stan Godlewski
Patrick C. Hall
Timothy P. Payne
Clark Yuan, Student Representative
Susan Lancaster, Assistant City Attorney
Sergeant Robert Cantlon
Pat Gladysz

ABSENT: David S. Ogg
Bohdan L. Ukrainec

Resolution to Excuse Committee Members Ogg and Ukrainec

Resolution #LC2008-03-007
Moved by Allemon
Seconded by Payne

RESOLVED, that the absence of Committee members Ogg and Ukrainec at the Liquor Advisory Committee meeting of March 10, 2008 BE EXCUSED.

Yes: 5
No: 0
Absent: Ogg, Ukrainec

Resolution to Approve Minutes of February 11, 2008 Meeting

Resolution #LC2008-03-008
Moved by Allemon
Seconded by Payne

RESOLVED, that the Minutes of the February 11, 2008 meeting of the Liquor Advisory Committee be approved.

Yes: 5
No: 0
Absent: Ogg, Ukrainec

Agenda Items

1. **AMC Troy, Inc.** requesting to transfer ownership of escrowed 2007 Class C licensed business with Official Permit (Food), from Kingsway LLC; transfer location, governmental unit under MCL 436.1531(1), from 43155 Main, Suite 208, Novi, Michigan 48375, to 1873 East Big Beaver Road, Troy, Michigan 48083, Oakland County; requesting a new outdoor service (1 area), new entertainment permit, new SDM license, to be held in conjunction. {MLCC Req #434767}

Present to answer questions from the Committee was Michael Ansley, franchisee of Buffalo Wild Wings of the metropolitan Detroit and Florida markets.

Buffalo Wild Wings opened its first location in Columbus, Ohio in 1982. Mr. Ansley has been a franchisee for 12 years. He currently owns several restaurants, including Sterling Heights, Warren, Ferndale, Novi, Fenton, Grand Blanc, and Petoskey. Management for the Troy location will be transferred from his other restaurants. Training will be done by both corporate and internal teams. They require that all servers be 21 years of age and attend the "Serve Safe" alcohol training. In his 12 years of business, Mr. Ansley has received only one liquor violation. The parking was questioned by a committee member and Mr. Ansley replied that the landlord has obtained a parking variance for the site.

Assistant City Attorney Lancaster informed the Committee of a 1993 City Council Resolution stating that there cannot be two facilities with Class C licenses and entertainment permits within 3,000 feet of each other. The City Attorney's office is of the opinion that it is timely for City Council to review this Resolution in light of the high density trend in Troy. Also, the City now has an adult business use ordinance which we did not have when this Resolution went into effect.

Sergeant Cantlon reported that his investigation found only one liquor violation and that occurred in 2002 in Novi.

Resolution #LC2008-03-009

Moved by Hall

Seconded by Payne

RESOLVED, that AMC Troy, Inc. be allowed to transfer ownership of escrowed 2007 Class C licensed business with Official Permit (Food), from Kingsway LLC; transfer location, governmental unit under MCL 436.1531(1), from 43155 Main, Suite 208, Novi, Michigan 48375, to 1873 East Big Beaver Road, Troy, Michigan 48083, Oakland County; be granted a new outdoor service (1 area), new entertainment permit, new SDM license, to be held in conjunction.

Yes: 5
No: 0
Absent: Ogg, Ukrainec

2. **Somerset Collection Limited Partnership** requests to transfer ownership of 2007 Class C licensed business located in escrow at 2801 West Big Beaver Road, Somerset Collection, Suite J-230, Troy, Michigan 48084, Oakland County, from Sebastian’s Ltd.; with license to be held in escrow. {MLCC Req #416257}

Present to answer questions from the Committee was Patrick Howe of Carlin, Edwards, Brown & Howe.

This request is for a license transfer to the owners of the Somerset Collection. They have no intention of activating the license. Several years ago, Sebastian’s Restaurant closed and there is a lease provision which states that the liquor license would revert back to the landlord if the tenant vacated. The license has been surrendered to the landlord, and the landlord would like to hold on to the license for “record purposes” to hold it in escrow until they find a tenant within the mall. The MLCC regulations state that the license can be held in escrow for five years.

Assistant City Attorney Lancaster suggested that the Committee make their recommendation to City Council with the stipulation that when the license comes out of escrow, the City of Troy be entitled to its standard investigation.

Resolution #LC2008-03-010
Moved by Allemon
Seconded by Hall

RESOLVED, that Somerset Collection Limited Partnership be allowed to transfer ownership of 2007 Class C licensed business located in escrow at 2801 West Big Beaver Road, Somerset Collection, Suite J-230, Troy, Michigan 48084, Oakland County, from Sebastian’s Ltd.; with license to be held in escrow, with the stipulation that when the license comes out of escrow, the City of Troy be entitled to its standard investigation.

Yes: 5
No: 0
Absent: Ogg, Ukrainec

The meeting adjourned at 7:24 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Secretary II

RESOLUTION

At a _____ meeting of the _____
(Regular or Special) (Township Board, City or Village Council)

called to order by _____ on _____ at _____ P.M.

The following resolution was offered:

Moved by _____ and supported by _____

That the request to TRANSFER OWNERSHIP OF 2007 CLASS C LICENSED BUSINESS, LOCATED IN ESCROW AT 2801 W. BIG BEAVER, SOMERSET COLLECTION, SUITE J-230, TROY, MI 48084, OAKLAND COUNTY, FROM SEBASTIAN'S LTD. TO SOMERSET COLLECTION LIMITED PARTNERSHIP; WITH LICENSE TO HELD IN ESCROW.

be considered for _____
(Approval or Disapproval)

APPROVAL

DISAPPROVAL

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

It is the consensus of this legislative body that the application be:

_____ for issuance
(Recommended or Not Recommended)

State of Michigan _____)

County of _____)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the _____ at a _____
(Township Board, City or Village Council) (Regular or Special)

meeting held on _____
(Date)

(Signed) _____
(Township, City or Village Clerk)

SEAL

(Mailing address of Township, City or Village)