



CITY COUNCIL ACTION REPORT

February 11, 2009

TO: Phillip L. Nelson, City Manager

FROM: Charles T. Craft, Chief of Police
Captain Keith Frye, Services Division
Sergeant Robert Cantlon

SUBJECT: Application to transfer a SDD license to Kroger Co. of Michigan.

Background:

- Kroger Co. of Michigan requests to transfer ownership of escrowed 2008 SDD license only from Perry Drug Stores, Inc. to be held in conjunction with existing SDM license; and transfer location from 805 E. Big Beaver to 2105 W. South Blvd, Troy, MI 48098, Oakland County. {MLCC Req #486575}
- On February 9, 2009, Tom Frank for the applicant answered questions for the Liquor Advisory Committee.
- Mr. Frank explained to the Committee that the purpose of this request is to allow the Kroger Co. of Michigan to sell spirits at their stores that are currently licensed to sell beer and wine only. It was also explained the store would be configured to assure the sale of spirits would be in compliance with City Ordinance.
- 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.
- The Police Department did not find any disqualifying factors for this request.

Policy Considerations:

- This action supports Council's Outcomes Statement III: "Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world."

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 #	<u>486575</u>
Business ID #	<u>197493</u>

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. **PRIVATE CHAIN**

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

THE KROGER CO. OF MICHIGAN 2105 W SOUTH, TROY, MI 48098, OAKLAND COUNTY
 REQUEST: TRANSFER OWNERSHIP OF ESCROWED 2008 SDD LICENSE ONLY FROM PERRY DRUG STORES, INC.
 TO BE HELD IN CONJUNCTION WITH EXISTING SDM LICENSE; AND TRANSFER LOCATION FROM 805 E BIG BEAVER
 TO 2105 W SOUTH, TROY, MI 48098, OAKLAND COUNTY

Section 1. APPLICANT INFORMATION

APPLICANT #1: CHAIN APPLICANT	APPLICANT #2:
DATE FINGERPRINTED: NO FINGERPRINTS REQUIRED	DATE FINGERPRINTED**:
DATE OF BIRTH: Is the applicant a U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have permanent Resident Alien status? <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have a Visa? Enter status:	DATE OF BIRTH: Is the applicant a U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have permanent Resident Alien status? <input type="checkbox"/> Yes <input type="checkbox"/> No* *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: <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)	ARREST RECORD: <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)
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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 motor vehicle fuel pumps at or directly adjacent to the establishment? 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 No, indicate which state and local ordinances the location does not meet: Building Plumbing Zoning Fire Sanitation Health

Section 4. RECOMMENDATION

- Is this applicant qualified to conduct this business if licensed? Yes No*
 - Should the MLCC grant this request? Yes No*
- *If any of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.
- Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances? Yes No
 - Is this recommendation subject to any other conditions? Yes No
- If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

Signature (Sheriff or Chief of Police)

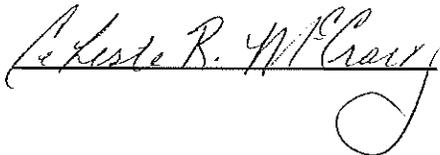
Date

TROY POLICE DEPARTMENT

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

This Agreement, made this ____ day of _____, 200____, by and between the CITY OF TROY, MICHIGAN, a municipal corporation, with offices located at 500 W. Big Beaver Road, Troy, Michigan, 48084, hereinafter known as THE CITY, and Kroger of Michigan Co., the Applicant, hereinafter known as APPLICANT.

1. The City Council of the City of Troy, for and in consideration of the following covenants and conditions, agrees to recommend to the Michigan Liquor Control Commission Approval of the request to transfer ownership of 2008 SDD license to be located at 2105 W South Blvd, Troy MI.
2. In consideration of the City of Troy's recommendation for approval of the request, the applicant hereby agrees that:
 - (a) It has read and is aware of the provisions of City of Troy Ordinances, Chapter No. 67, Chapter No. 68 and Chapter No. 98, and agrees that it shall be deemed to have knowledge of any subsequent amendments to said Chapters which may become effective during the term of this agreement.
 - (b) It agrees to observe and comply with all laws, statutes, ordinances, rules, regulations or resolutions of the United States government, State of Michigan, and the City of Troy, or any department or agency of the governmental entities, as well as the rules and regulations of the Michigan Liquor Control Commission as they pertain to the operation of a liquor licensed business in the City of Troy.
 - (c) It agrees to immediately require all employees who serve/sell alcohol to attend a recognized alcohol awareness program, and forward the names of each certified employee to the Troy Police Department. The alcohol awareness program must either be recognized by the Troy Police Department (i.e. TIPS,TAMS), or the program must be reviewed by the Troy Police Department to insure that the program is comparable to the recognized programs.
3. Applicant agrees that the recommendation for Approval agreed upon by the City Council is not a property right and is approved upon the express and continuing condition that no violation as set forth in paragraph 2 of this agreement shall occur.
3. Applicant agrees that the recommendation for Approval agreed upon by the City Council is approved upon the express and continuing condition that the physical characteristics (including but not limited to the inside layout, building design and engineering, seating capacity, parking space allocations, fire exits, and other physical attributes); and also the nature and type of business intended to be conducted remain virtually the same.
5. Applicant agrees that upon such violation, after full investigation and an opportunity for said applicant to be heard, upon a finding by the City Council that a violation as set forth in paragraph 2 of this agreement has occurred, the City Council shall have just cause for revocation of said recommendation for approval.



Authorized Representative for Kroger Co. of Michigan

Witnesses:

Healey Keeney

Subscribed and sworn to before me
this 14 day of January, 2009

Pamela S. Olzak

Notary Public, Franklin County
County, Ohio

My commission expires:
July 12, 2009



PAMELA S. OLZAK
Notary Public, State of Ohio
My Commission Expires July 12, 2009

CITY OF TROY

By: _____
Louise Schilling, Mayor

By: _____
Tonni Bartholomew, City Clerk

Witnesses:

Subscribed and sworn to before me
this _____ day of _____, 200____

Notary Public, Oakland
County, Michigan
My commission expires:

A regular meeting of the Liquor Advisory Committee was held on Monday, February 9, 2009 in the Council Board 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
W. Stan Godlewski
Patrick C. Hall
David S. Ogg
Timothy P. Payne
Bohdan L. Ukrainec
Susan Lancaster, Assistant City Attorney
Sergeant Robert Cantlon
Officer James Feld
Pat Gladysz

ABSENT: None

Resolution to Approve Minutes of November 10, 2008 Meeting

Resolution #LC2009-02-001

Moved by Ukrainec

Seconded by Hall

RESOLVED, that the Minutes of the November 10, 2008 meeting of the Liquor Advisory Committee be approved.

Yes: 6 (All)

No: 0

Absent: 0

Agenda Items

1. **Kroger Co. of Michigan** requests to transfer ownership of the escrowed 2008 SDD license only from Perry Drug Stores, Inc. to be held in conjunction with existing SDM license; and transfer location from 805 E. Big Beaver to 2105 W. South Blvd, Troy, MI 48098, Oakland County.

Present to answer questions from the Committee was Tom Frank, real estate manager for The Kroger Company.

This 45,000 square foot store was acquired from Farmer Jack in July, 2007, and they just completed a major remodel. Kroger was approached by Perry Drug Stores approximately one year ago offering for sale several liquor licenses, two of which were in Troy. They understand that the Troy City Ordinance requires that liquor needs to be secured in either a controlled access area or behind a counter. They plan to display the liquor behind the customer service counter. Employee training at all locations will be completed by Friday of this week. It is the Kroger Company policy to conduct internal decoy operations to test their employees.

Resolution #LC2009-02-002

Moved by Ukrainec

Seconded by Hall

RESOLVED, that Kroger Co. of Michigan be allowed to transfer ownership of the escrowed 2008 SDD license only from Perry Drug Stores, Inc. to be held in conjunction with existing SDM license; and transfer location from 805 E. Big Beaver to 2105 W. South Blvd, Troy, MI 48098, Oakland County.

Yes: 6 (All)

No: 0

Absent: 0

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2. **Kroger Co. of Michigan** requests to transfer ownership of the escrowed 2008 SDD license only from Perry Drug Stores, Inc. to be held in conjunction with existing SDM license; and transfer location from 5055 Rochester Rd. to 1237 Coolidge, Troy, MI 48084, Oakland County.

Present to answer questions from the Committee was Tom Frank, real estate manager for The Kroger Company.

This 63,000 square foot store was also acquired from Farmer Jack and is currently undergoing remodeling. In accordance with the Troy City Ordinance, they plan to display the liquor behind the customer service counter. Employee training at all locations will be completed by Friday of this week. It is the Kroger Company policy to conduct internal decoy operations to test their employees.

Resolution #LC2009-02-003

Moved by Ukrainec

Seconded by Hall

RESOLVED, that Kroger Co. of Michigan be allowed to transfer ownership of the escrowed 2008 SDD license only from Perry Drug Stores, Inc. to be held in conjunction with existing SDM license; and transfer location from 5055 Rochester Rd. to 1237 Coolidge, Troy, MI 4804, Oakland County.

Yes: 6 (All)
No: 0
Absent: 0

It is noted that Henry Allemon has elected to not be reassigned to the Liquor Advisory Committee.

Sergeant Cantlon introduced Officer Jim Feld to the Committee. After Sergeant Cantlon's retirement on February 27, 2009, Officer Feld will take over the liquor licensing duties for the Department.

Assistant City Attorney Lancaster advised that the Liquor Violation Hearings commence Wednesday, February 11, 2009.

The meeting adjourned at 7:24 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Secretary II