



CITY COUNCIL ACTION REPORT

July 30, 2009

TO: John Szerlag, City Manager

FROM: Gary Mayer, Chief of Police
 Captain Gerard Scherlinck, Services Division
 Lieutenant Michael Lyczkowski
 Sergeant Russel Harden
 Officer James Feld

SUBJECT: Application for merger of ownership of Drury Hotels Company LLC.

Background:

- Drury Hotels Company, LLC (A Nevada Limited Liability Company) requests to transfer ownership through merger of 2009 B-Hotel licensed business, located at 575 W Big Beaver, Troy, MI, Oakland, MI 48084, from Drury Inns, Inc. to Drury Hotels Company, LLC (Limited Liability Company) (Step 1) {MLCC Request #491090}.
- Troy City Council approved DDC Hotels, Inc. (A Missouri Corporation) request to transfer ownership of 2008 B-Hotel and SDM Licensed Business, located at 575 West Big Beaver, Troy, Michigan 48084, Oakland County, from Drury Hotels Company, LLC (A Nevada Limited Liability Company); and request for a new Official Permit (Food) (Step 2). {MLCC Request #491095} on June 15, 2009.
- MLCC inadvertently provided incorrect resolution wording in the initial request placed before City Council. The attached resolution corrects the oversight.

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."

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

This Agreement, made this day of April, 2009, 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 DDC Hotels, Inc 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 Drury Hotels Company, LLC license to be located at 575 W Big Beaver, 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, Chapter No. 98 and Chapter No. 101, 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.
4. 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.

LICENSEE AUTHORIZED REPRESENTATIVE

Witnesses: *Rinda E. Cohen* By: *Timothy M. Drury*
Cheryl A. Kern Timothy M. Drury, President

Subscribed and sworn to before me this 29th day of April 2009
 Notary Public, City of St. Louis County, MO
 Acting in the County of St. Louis
 My commission expires: 4-14-2011



DANA L. BRACKEEN
 My Commission Expires
 April 14, 2011
 St. Louis City
 Commission #07426531

Dana L. Brackeen
 Dana L. Brackeen

CITY OF TROY

Witnesses: _____ By: _____
 _____ Louise Schilling, Mayor
 _____ By: _____
 _____ Tonni Bartholomew, City Clerk

Subscribed and sworn to before me this _____ day of _____ 200 ____
 Notary Public, _____ County, MI
 Acting in the County of Oakland
 My commission expires: _____



DANA L. BRACKEEN
 My Commission Expires
 April 14, 2011
 St. Louis City
 Commission #07426531

Carlin, Edwards, Brown & Howe, PLLC

Attorneys & Counselors at Law

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

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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 2, 2009

Ms. Tonni L. Bartholomew, Clerk
City of Troy
500 W. Big Beaver Road
Troy, MI 48084

Re: Drury Inn & Suites
575 W. Big Beaver
Troy, MI 48084

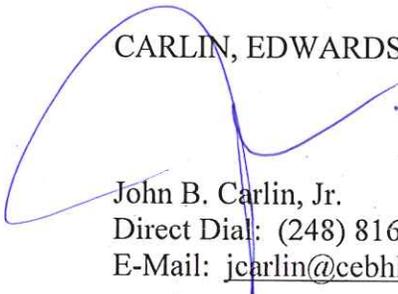
Dear Clerk Bartholomew:

Enclosed herewith please find the Agreement Regarding Liquor License Request that has been signed by Timothy Drury on behalf of DDC Hotels, Inc.

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: jcarlin@cebhlaw.com

Enclosures

cc: Officer James M. Feld, Troy Police Department (w/encl.)
transfer ownership --08-0488\



JENNIFER M. GRANHOLM
GOVERNOR

NIDA R. SAMONA
CHAIRPERSON

STATE OF MICHIGAN
LIQUOR CONTROL COMMISSION
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
STANLEY "SKIP" PRUSS, DIRECTOR

DATE: July 21, 2009
REQ # 491090

Troy City Council
500 West Big Beaver Road
Troy MI 48084-5285

Local Governing Body:

This is with reference to DRURY HOTELS COMPANY, LLC (A NEVADA LIMITED LIABILITY COMPANY)'s request to transfer ownership through merger of 2009 B-Hotel licensed business from Drury Inns, Inc., located at 575 W Big Beaver, Troy MI 48084, Oakland County (Step 1).

Please be advised that we have received local resolution.

However, the resolution is not acceptable as it does not contain the correct request. Our office erroneously sent the resolution with the incorrect wording; we apologize for the inconvenience. However, a resolution with the correct information is needed to proceed with this request.

We request that you complete and sign the enclosed resolution and return it to this office as soon as possible.

Mail your response to:

**MICHIGAN LIQUOR CONTROL COMMISSION
LICENSING DIVISION
P.O. BOX 30005
LANSING, MICHIGAN 48909-7505**

If you have any questions, please call the Licensing Division (517) 636-0204.

ljt
Enclosure



Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

LOCAL APPROVAL NOTICE

[Authorized by MCL 436.1501]

FOR MLCC USE ONLY

Request ID # 491090

Business ID # 216101

July 21, 2009

TO: Troy City Council
500 West Big Beaver Road
Troy MI 48084-5285

APPLICANT: DRURY HOTELS COMPANY, LLC (A NEVADA LIMITED LIABILITY COMPANY)

Home Address and Telephone No. or Contact Address and Telephone No.:

Drury Industries, Inc. (A Nevada Corporation), 721 Emerson, Suite 400, St. Louis MO 63141
(314) 587-3126

Contact: John B. Carlin, Jr., Carlin, Edwards, Brown & Howe, PLLC), 2855 Coolidge Highway, Suite 203, Troy MI 48084 (248) 816-3210

The MLCC cannot consider the approval of an application for a new or transfer of an on-premises license without the approval of the local legislative body pursuant to the provisions of MCL 436.1501 of the Liquor Control Code of 1998. For your information, local legislative body approval is also required for DANCE, ENTERTAINMENT, DANCE-ENTERTAINMENT AND TOPLESS ACTIVITY PERMITS AND FOR OFFICIAL PERMITS FOR EXTENDED HOURS FOR DANCE AND/OR ENTERTAINMENT pursuant to the provisions of MCL 436.1916 of the Liquor Control Code of 1998.

For your convenience a resolution form is enclosed that includes a description of the licensing application requiring consideration of the local legislative body. The clerk should complete the resolution certifying that your decision of approval or disapproval of the application was made at an official meeting. **Please return the completed resolution to the MLCC as soon as possible.**

If you have any questions, please contact the Licensing Division at (517)636-0204.

**PLEASE COMPLETE ENCLOSED RESOLUTION AND RETURN
TO THE LIQUOR CONTROL COMMISSION AT ABOVE ADDRESS**

ljt

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 through merger of 2009 B-Hotel licensed business located at 575 W Big Beaver, Troy MI 48084, Oakland County, from Drury Inns, Inc. to DRURY HOTELS COMPANY, LLC (A NEVADA LIMITED LIABILITY COMPANY) (Step 1).

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)

SEAL

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

(Mailing address of Township, City or Village)

F-4 Standard Purchasing Resolutions**b) Standard Purchasing Resolution 10: Travel Authorization and Approval to Expend Funds for Council Member Travel Expenses – 111th Michigan Municipal League Convention**

Resolution #2009-06-189-F-4a

RESOLVED, That Troy City Council **AUTHORIZES** Council Members to attend the 111th Michigan Municipal Convention on September 22 – 25, 2009 at the Radisson Plaza Hotel in Kalamazoo, MI, in accordance with accounting procedures of the City of Troy.

c) Standard Purchasing Resolution 2: Bid Award – Lowest Bidder Meeting Specifications – Utility Vehicle

Resolution #2009-06-189-F-4c

RESOLVED, That Troy City Council hereby **AWARDS** a contract to purchase one (1) new Kubota Model RTV900W6-H utility vehicle to the lowest bidder meeting specifications, Weingartz Supply Company of Utica, MI, at an estimated total cost of \$16,364.00, including all necessary set-up, preparation, and delivery.

F-5 Approval of Request from DDC Hotels, Inc. for Transfer of Ownership of 2008 B-Hotel and SDM Licensed Business, Located at 575 West Big Beaver from Drury Hotels Company, LLC, and Request for New Official Permit (Food)**a) License**

Resolution #2009-06-189-F-5a

RESOLVED, That Troy City Council hereby **CONSIDERS** for **APPROVAL** the request from DDC Hotels, Inc. (A Missouri Corporation), to transfer ownership of 2008 B-Hotel and SDM Licensed Business, located at 575 West Big Beaver, Troy, MI 48084, Oakland County, from Drury Hotels Company, LLC (A Nevada Limited Liability Company); and the request for new official permit (food); and

BE IT FURTHER RESOLVED, That Troy City Council hereby **RECOMMENDS** issuance of this license.

(b) Agreement

Resolution #2009-06-189-F-5b

WHEREAS, The Troy City Council deems it necessary to enter agreements with applicants for liquor licenses for the purpose of providing civil remedies to the City of Troy in the event licensees fail to adhere to Troy Codes and Ordinances;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** an agreement with DDC Hotels, Inc. (A Missouri Corporation), to transfer Ownership of 2008 B-Hotel and

SDM Licensed Business, located at 575 West Big Beaver, Troy, MI 48084, Oakland County, from Drury Hotels Company, LLC (A Nevada Limited Liability Company); and a new official permit (food), and hereby **AUTHORIZES** the Mayor and City Clerk to execute the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

F-6 Approval of Request for Recognition as a Nonprofit Organization Status from Mary Lou DiSessa, Board Member of Springhill Housing Corporation

Resolution #2009-06-189-F-6

RESOLVED, That Troy City Council hereby **APPROVES** the request from Springhill Housing Corporation, asking that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining a charitable gaming license as recommended by City Management.

F-7 Appointment of SOCRRA Representative and Alternate Representative

Resolution #2009-06-189-F-7

RESOLVED, That Troy City Council hereby **DESIGNATES** Brian P. Murphy as the SOCRRA Representative and Timothy L. Richnak as the Alternate SOCRRA Representative for the term beginning July 1, 2009 and expiring on June 30, 2010.

F-1b Address of "F" Items Removed for Discussion by City Council and/or the Public

F-4 Standard Purchasing Resolutions

a) Standard Purchasing Resolution 3: Exercise Second Year Renewal Option – Sidewalk Replacement and Installation Program

Resolution #2009-06-190
Moved by Eisenbacher
Seconded by Beltramini

WHEREAS, On August 20, 2007, a contract to complete the Sidewalk Replacement and Installation Program for 2007/08 with an option to renew for two additional one-year periods was awarded to the low total bidder, Viking Construction, Inc. of Warren, Michigan (Resolution #2007-08-250-E-4e);

WHEREAS, On August 11, 2008, Troy City Council exercised the first option to renew for the 2008/2009 construction season with Viking Construction under the same prices, terms, and conditions (Resolution #2008-08-254-F4c); and

WHEREAS, Viking Construction has agreed to exercise the second one-year option to renew the contract under the same pricing, terms and conditions as the original contract;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **EXERCISES** the second one-year option to renew the contract with Viking Construction to provide sidewalk replacement and installation for the 2009/10 construction season under the same prices, terms, and conditions as

A regular meeting of the Liquor Advisory Committee was held on Monday, June 8, 2009 in the Council Board Room of Troy City Hall, 500 West Big Beaver Road. Committee member Patrick Hall called the meeting to order at 7:05 p.m.

ROLL CALL:

PRESENT: W. Stan Godlewski
Patrick C. Hall
Andrew Kaltsounis
David S. Ogg
Timothy P. Payne
Bohdan L. Ukraineec
Susan Lancaster, Assistant City Attorney
Officer James Feld
Pat Gladysz

ABSENT: Max K. Ehlert, Chairman

Resolution to Excuse Committee Member Ehlert

Resolution #LC2009-06-007
Moved by Ukraineec
Seconded by Kaltsounis

RESOLVED, that the absence of Committee member Ehlert at the Liquor Advisory Committee meeting of June 8, 2009 BE EXCUSED.

Yes: 6
No: 0
Absent: Ehlert

Resolution to Approve Minutes of April 13, 2009 Meeting

Resolution #LC2009-06-008
Moved by Payne
Seconded by Kaltsounis

RESOLVED, that the Minutes of the April 13, 2009 meeting of the Liquor Advisory Committee be approved.

Yes: 6
No: 0
Absent: Ehlert

Agenda Items

- 1. DDC Hotels, Inc.** (A Missouri Corporation) requests to transfer ownership of 2008 B-Hotel and SDM Licensed Business, located at 575 West Big Beaver, Troy, Michigan 48084, Oakland County, from Drury Hotels Company, LLC (A Nevada Limited Liability Company); and requests a new Official Permit (Food) (Step 2). {MLCC Request #491095}

Present to answer questions from the Committee were attorney John Carlin and hotel general manager Tracy Thomas.

The Drury family has owned 140 hotels in the United States for many years. For estate planning purposes, the hotels will be split between two sons in the family. With regard to the Troy location, DDC Hotels, Inc. will become the owner and licensee and Drury Inns, Inc. will remain as hotel management. The current staff will not change.

Officer Feld stated that the Police Department has no concerns in this matter.

Resolution #LC2009-06-009

Moved by Ukraineec

Seconded by Payne

RESOLVED, that DDC Hotels, Inc. (A Missouri Corporation) be allowed to transfer ownership of 2008 B-Hotel and SDM Licensed Business, located at 575 West Big Beaver, Troy, Michigan 48084, Oakland County, from Drury Hotels Company, LLC (A Nevada Limited Liability Company); and receive new Official Permit (Food).

Yes: 6
No: 0
Absent: Ehlert

-
- 2. Han Mi Mart, Inc.** 5060 Rochester, Troy, Michigan 48085, Oakland County requests to transfer ownership of escrowed 2008 SDD and SDM licensed business from B&K Investment Group. {MLCC Request #474731}

Present to answer questions from the Committee were Hyun Jung Kim and Young Jin Kwon, owners of the business.

The owners stated that they have been in business for 2-1/2 years. Their clientele is 80%-90% Korean, with the balance mainly consisting of Chinese and Japanese and they plan to sell Asian liquors.

Officer Feld stated that the Police Department has no concerns in this matter.

Resolution #LC2009-06-010

Moved by Ogg

Seconded by Hall

RESOLVED, that Han Mi Mart, Inc. 5060 Rochester, Troy, MI 48085, Oakland County be allowed to transfer ownership of escrowed 2008 SDD and SDM licensed business from B&K Investment Group.

Yes: 6
No: 0
Absent: Ehlert

Tabled Items

M & M Troy, Inc.

There was a brief discussion regarding M & M Troy, Inc. Officer Feld stated that the owner has submitted drawings to the Police and Fire Departments. The Fire Department is currently reviewing the plans to determine if they meet with approval. The Building Department has approved the final inspections.

Assistant City Attorney Lancaster reviewed Chapter 101 of the City Ordinance with the Committee:

4. City Council Approval; Gas Stations and/or Businesses with Fuel Pumps.

a. Both of the following shall be established for any applicant seeking City Council approval for a liquor license for a gas station and/or a business with fuel pumps:

1) The site of payment and selection of alcoholic liquor shall be at least 50 feet from that point where motor fuel is dispensed; and

2) The applicant must establish that one or both of the following conditions exist and will continue to exist:

(i) The applicant or licensee is located in a neighborhood shopping center composed of one or more commercial establishments organized or operated as a unit which is

related in location, size, and type of shop to the trade area that the unit serves, which provides not less than 50,000 square feet of gross leasable retail space, and which provides five private off-street parking spaces for each 1,000 square feet of gross leasable retail space; and/or

- (ii) At all times, the applicant or licensee maintains a minimum inventory on the premises of not less than \$250,000.00 (at cost) of those goods and merchandise customarily marketed by approved types of businesses, excluding alcoholic liquor and motor vehicle fuel.*
- A) Services, prizes, offers, contests, coupons, and other items which require purchase before a cash value attaches shall not be considered inventory.*
- B) The applicant or licensee shall allow inspection of the inventory at the licensed premises during regular business hours by the Director of Building and Zoning or his/her designee, the Treasurer or Finance Director or his/her designee, or the Troy Police Department.*
- C) Upon a verbal or written request of the City, the applicant or licensee shall produce documents and/or records of the cost of inventory on the premises on a specific date. If the applicant or licensee fails to produce such documents or records, or if the documentation presented does not contain enough information to determine if the inventory is based on cost, within 3 days of the request, then there shall be a rebuttable presumption that the inventory on that specific date was below the \$250,000 minimum requirement of this Chapter, which can be raised in any legal proceeding.*
- b. Failure to satisfy the requirements of sub-section 1) and sub-section 2), as set forth above, will result in a denial recommendation from the Troy City Council. In the event that a gas station or business with gas pumps is granted a liquor license by the State of Michigan, the failure to continuously satisfy the requirements of sub-section 1) and sub-section 2), as set forth above, will result in a recommendation for revocation or other adverse action against the liquor license.*

Officer Feld indicated that this item will most likely appear on next month's Agenda.

Informational Items

Officer Feld briefly updated the Committee regarding the Informational Items:

Southwest Dining, Inc.

This Class C license has been placed in a “hold status”.

Cameron Mitchell Restaurants, LLC

Plans for outdoor service area have been put on hold.

Clawson-Troy Elks Lodge No. 2169

Building has been sold.

Granite City Restaurant Operations, Inc.

Plans to build this restaurant have been cancelled for economic reasons.

The meeting adjourned at 7:50 p.m.

Patrick C. Hall, Committee Member

Patricia A. Gladysz, Secretary II