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To: Honorable Detroit City Council

From: David Whitaker, Director 
Legislative Policy Division

Date: July 9, 2024

RE: REQUEST FOR REPORT CONCERNING PROCESS FOR REVOCATION OF
LIQUOR LICENSES

Council Member Angela Whitfield-Calloway requested the Legislative Policy Division (LPD) provide a report concerning the process for revocation of liquor licenses in the city of Detroit. In response, we offer the following.

A March 2024 Performance Report of the Michigan Liquor Control Commission's Selected Operational Processes and Operational Systems from the office of the Michigan State Auditor General, list the city of Detroit as having over 200 liquor licenses issued for off premises consumption in excess to the amount currently allowed. According to the report, there are 421 Specially Designated Distributor licenses (SDD's) issued when 214 are allowed according to the city's population numbers.

SDDs are defined by MCL 436.1111(14) as a business licensed to sell at retail spirits in the original package for consumption off the premises. SDD licenses are generally held in conjunction with Specially Designated Merchant licenses (SDM), which allow for the sale of beer and wine for consumption off-premises.

The information contained in the AG's report is somewhat confusing and can be quite alarming for anyone concerned with the over proliferation of liquor stores in our community. Therefore, prompting the question, of how can we stop the flood of SDD's in our city and is there a process for revocation of these licenses?

In cities, incorporated villages, or townships, only 1 specially designated distributor (SDD) license shall be issued by the commission for every 3000 population, or fraction thereof. ¹

According to the State of Michigan Bureau of Licensing and Regulatory Affairs (LARA), Local Government Units (LGUs) do not have the authority to suspend or revoke liquor licenses issued by the Michigan Liquor Control Commission (MLCC). The large number of licenses issued in the city of Detroit versus the number allowable can be directly attributed to our city's population decline. Currently, the city of Detroit's population is approximately 630,000, when at one time, the population was almost two million.

The Michigan Constitution and Michigan Liquor Control Code (CODE) vests the MLCC with the sole authority to issue liquor licenses and, conversely, suspend or revoke liquor licenses, subject to the provisions of the Code. Local Government Units (LGUs) do not have the authority to revoke liquor licenses under the Code. It is also important to note that revocations are rare. The MLCC has over 20,000 licensed retailer businesses in Michigan. On average, MLCC only revokes 8-12 licenses a year, almost exclusively due to a violation of the Code. Revocation is not commonly used as most violations can be remedied through fines and suspensions. Furthermore, in any violation matter, whether or not it involves revocation due process must be afforded to the licensee. ²

However, there are a few ways LGUs can work with the MLCC toward the revocation of a license; ³

- a. Submitting violation reports for problem locations. This is not a quick solution for revoking a license and it does not address the number over the quota, but it does address problem locations. The option to revoke a license is always an option as a penalty for a violation of the Code under MCL 436.1903(1). We often hear about a location that is a problem but for which we have not received any violation reports, which makes revoking a license more difficult initially. However, a record of violations makes the revocation of a license more feasible. Some violations rise to the level of revocation from the start, but if they are not reported, we cannot take action (outside of violations our investigators report).
- b. Object to renewal for on-premises licensees (e.g. bar, restaurant, hotel, club). Each year at least 30 days prior to the license renewal deadline of April 30, pursuant to MCL 436.1501(2), LGUs may object to the renewal of an on-premises license if the reason is outlined in the local ordinance and is a remediable reason and a hearing on the matter has been conducted on the local level (see *Roseland Inn v, McClain*, 118 Mich App 725). The MLCC would also have to conduct a hearing upon receipt of the objection to renewal.
- c. Request revocation of on-premises licenses. Any time of the year, pursuant to MCL 436.1501(2), LGUs may request the revocation of an on-premises license if the reason is outlined in the local ordinance and is a remediable reason and a hearing on the matter has been conducted on the local level (see *Roseland Inn v, McClain*, 118 Mich App 725). The MLCC would also have to conduct a hearing upon receipt of the request to revoke the license.
- d. Request the revocation of an off-premises licensee (e.g. liquor store, party store, grocery store) for excessive sales to minors. Pursuant to MCL 436.1501(3), an LGU may request the revocation of an off-premises license (SDD or SDM or combination of SDD/SDM) if the licensee has been cited and found responsible for three (3) violations of the Code for selling alcoholic liquor to a minor in a 12-month period. Moreover, a licensee that has three (3) sale to

¹ MI ADMIN Code R. 436.1141

² David Marvin, Michigan Liquor Control Commission, Executive Services Division

³ *id.*

minor violations within two (2) years will already be subject to a mandatory penalty hearing that requires a mandatory suspension or revocation of a license. These are surprisingly uncommon.

Licenses that are not in active operation must be placed into escrow by the licensee. Due to the property interest a licensee holds in a license, the license is not cancelled once it is no longer in active operation because, in most cases it can be sold and transferred to another licensee (often liquor licenses have significant financial value to the licensee). A licensee cannot hold a license in escrow for more than five (5) years. Each year after the fifth year, the licensee must show good cause as to why the MLCC should approve an additional year. The licensee must continue to renew the license while it is in escrow. Escrowed licenses still count against the LGU quota, so having them in escrowed status only creates a situation where they are not being actively used, but it does not reduce the overall number of licenses issued for the quota.⁴

Currently there are 20 SDD licenses and 56 on-premises (Class C, Tavern, B-Hotel) licenses in escrow that were originally issued from the Detroit quotas.⁵ According to LARA, they cannot contemplate a way that a LGU could effectively reduce the number of active licenses given the due process and property interest protections afforded to licensees.

Additionally, it might help to know, retail licenses for both on-premises and off-premises may be transferred between LGUs within the same county. The transferred licenses count against the quota from which it was originally issued even if it is located and actively being used in another LGU. Of the 419 SDD licenses issued from the Detroit quota, 62 have been transferred to other LGUs. Conversely, there are 13 SDD licenses currently issued in Detroit that were transferred into Detroit from another LGU.⁶

The MLCC legally **cannot** issue any new SDD licenses in the City of Detroit because the quota does not allow any more new ones. The MLCC can only approve the transfers of existing SDD licenses that were issued under the quota when the quota limits were higher. The SDD quota is, for all intents and purposes, the moratorium on new license issuance. If a license is revoked through the regular channels (generally a violation of the Code) or a license is not renewed, then that license ceases to exist and the MLCC cannot issue a new one to take its place unless the total issued quota of licenses drops below the number that is allowed, which currently stands at 214. However, the MLCC cannot arbitrarily revoke licenses above the quota that were issued when it was higher, just to reduce the number to or below the current allowable number.

If you have any further questions, please do not hesitate to contact our office.

⁴ id.

⁵ id.

⁶ id.