



City of Grand Island

Tuesday, July 22, 2008

Council Session

Item E1

**Public Hearing on Request from Harold E. and Kathy Carmichael,
Jr. dba OK Liquor, 305 West Koenig Street for a Class "D"
Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: July 22, 2008

Subject: Public Hearing on Request from Harold E. and Kathy Carmichael, Jr. dba OK Liquor, 305 West Koenig Street for a Class “D” Liquor License

Item #'s: E-1 & I-1

Presenter(s): RaNae Edwards, City Clerk

Background

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

Declared Legislative Intent

It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:

- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
- (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
- (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

Discussion

Harold E. and Kathy Carmichael, Jr. dba OK Liquor, 305 West Koenig Street have submitted an application for a Class “D” Liquor License. A Class “D” Liquor License allows for the sale of alcohol off sale only inside the corporate limits of the city.

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments.

After review of the Police Department report (see attached) it is recommended that the City Council deny the application of Harold E. and Kathy Carmichael, Jr. based on the findings found under Part II, Chapter 2, Section 010.01 “Falsification of Application”. Kathy Carmichael failed to disclose her convictions of selling tobacco to a minor and a speeding violation.

There was also information not included in the application on page four, question number 11 as to reason for termination of any license previously held. On June 8, 2008, OK Liquor License D-15914 was cancelled by the Nebraska Liquor Control Commission. Due to the past history of the Carmichael’s (see attached) it is recommended this application be denied.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

Recommendation

Based on the Nebraska Liquor Control Commission’s criteria for the approval of Liquor Licenses, City Administration recommends that the Council deny the application.

Sample Motion

Move to deny the application from Harold E. and Kathy Carmichael, Jr. dba OK Liquor, 305 West Koenig Street for a Class “D” Liquor License based on the findings under Part II, Chapter 2, Section 010.01 of the Nebraska Liquor Control Rules and Regulations “Falsification of Application” and past history of violations. (This motion should include dates of violations.)

INTEROFFICE
MEMORANDUM
Police Department



*Working Together for a
Better Tomorrow. Today.*

DATE: July 17, 2008

TO: RaNae Edwards, City Clerk

FROM: Dave Vitera, Sergeant, Police Department

RE: Application for Liquor License
OK Liquor, 305 W Koenig
Harold E Carmichael and Kathy D Carmichael, Owners

The Grand Island Police Department received a copy of a Retail Class D Liquor License Application from OK Liquor. Harold and Kathy Carmichael are listed as the applicants in the partnership. Harold and Kathy Carmichael just had their Retail Class D Liquor License (15914) for OK Liquor cancelled on June 8, 2008. The Carmichael's have a history of selling alcohol and tobacco to minors.

In reviewing their current application, I noticed that all of the convictions listed were for Harold. Kathy did not disclose any convictions. I checked Spillman and found that Kathy was found guilty of selling tobacco to a minor on March 19, 2005. I checked NCJIS and found that Kathy has been convicted of speeding on June 6, 2002 in Hamilton County.

Kathy's failure to disclose her convictions technically makes the application false according to the Nebraska Liquor Control Act (Part II Chapter 2 Section 010.01). The application clearly asks, "Has anyone who is a party to this application, or their spouse, ever been convicted of or plead guilty to any charge." It further states that a charge includes federal, state, local law, ordinance, or resolution."

In addition to submitting a false application, it appears that the Carmichael's left out some information. On page four of the application, question number 11 asks, "Also, list reason for termination of any license(s) previously held." No explanation is listed for the cancellation of their previous license.

In conclusion, since the Carmichael's just had their license cancelled one month ago, they submitted a technically false application, and they have a history of selling alcohol and tobacco to minors; the Grand Island Police Department does not recommend that a new license be issued to OK Liquor.

DV/rk *Dave Vitera*



License Information

Number: 15914 **Suspended Date:** 02/20/2006
Category: Retail **Suspended Days:**
Ownership: Partner **Expiration Date:** 04/30/2009
Class: D **Type of Beverages:**

Exemptions:

Trade Information

Trade Name O K LIQUOR
Trade Address 1 305 W KOENIG
City, State, Zip Code GRAND ISLAND, NE 68801
County 08

Individual Applicant Information

Name: CARMICHAEL JR, HAROLD
E

Bond Information

Company: **Start Date:**
Number: **Cancel Date:**

Restrictions:

Partner Information

Partner 1
Name: CARMICHAEL,
KATHY D

Title:

Shares: 1077952576

Description

IRREGULAR-SHAPED ONE STORY BLDG WITH BASEMENT
APPROX 40' X 24'

History

Description: NEW APPLICATION **Date Effective:** 07/21/1988

Description:	STATUTORY TIME	Date Effective: 07/25/1988
Description:	FIRE APPROVE	Date Effective: 08/05/1988
Description:	AG. APPROVE	Date Effective: 08/09/1988
Description:	LOCAL APPROVE	Date Effective: 08/17/1988
Description:	INV. REV. FINAL	Date Effective: 08/19/1988
Description:	ISSUE LICENSE	Date Effective: 09/08/1988
Description:	RENEW APP.	Date Effective: 04/13/1989
Description:	ENF. WARNING	Date Effective: 02/10/1990
Description:	RENEW APP.	Date Effective: 04/06/1990
Description:	RENEW APP.	Date Effective: 03/13/1991
Description:	RENEW APP.	Date Effective: 03/20/1992
Description:	CORRECT LICENSE	Date Effective: 03/20/1992
Description:	RENEW APP.	Date Effective: 04/12/1993
Description:	CORRECT LICENSE	Date Effective: 04/12/1993
Description:	RENEW APP.	Date Effective: 04/11/1994
Description:	CORRECT LICENSE	Date Effective: 04/11/1994
Description:	SELL ALC/MINORS	Date Effective: 08/30/1994
Description:	SUSPEND LICENSE	Date Effective: 11/30/1994
Description:	PAY FINE	Date Effective: 12/22/1994
Description:	ENF. WARNING	Date Effective: 01/19/1995
Description:	RENEW APP.	Date Effective: 04/19/1995
Description:	CORRECT LICENSE	Date Effective: 06/22/1995
Description:	CORRECT LICENSE	Date Effective: 04/24/1996
Description:	RENEW APP.	Date Effective: 04/24/1996

Description:	CORRECT LICENSE	Date Effective: 04/28/1997
Description:	RENEW APP.	Date Effective: 04/28/1997
Description:	SELL ALC/MINORS	Date Effective: 08/06/1997
Description:	FAIL/USE ID BK	Date Effective: 08/06/1997
Description:	CITE	Date Effective: 11/06/1997
Description:	SUSPEND LICENSE	Date Effective: 11/26/1997
Description:	PAY FINE	Date Effective: 12/22/1997
Description:	ENF. INSPEC.	Date Effective: 02/20/1998
Description:	ENF. WARNING	Date Effective: 02/20/1998
Description:	CORRECT LICENSE	Date Effective: 04/27/1998
Description:	RENEW APP.	Date Effective: 04/27/1998
Description:	ILLEGAL ACT	Date Effective: 02/18/1999
Description:	RENEW APP.	Date Effective: 04/20/1999
Description:	CORRECT LICENSE	Date Effective: 04/20/1999
Description:	CITE	Date Effective: 05/05/1999
Description:	CITE	Date Effective: 06/08/1999
Description:	SUSPEND LICENSE	Date Effective: 06/28/1999
Description:	RENEW APP.	Date Effective: 04/24/2000
Description:	CORRECT LICENSE	Date Effective: 04/24/2000
Description:	RENEW APP.	Date Effective: 04/23/2001
Description:	CORRECT LICENSE	Date Effective: 04/23/2001
Description:	RENEW APP.	Date Effective: 04/17/2002
Description:	LEASE	Date Effective: 04/17/2002
Description:	ENF. INSPEC.	Date Effective: 02/12/2003
Description:	RENEW APP.	Date Effective: 04/18/2003
Description:	LEASE	Date Effective: 04/18/2003

Description:	SELL ALC/MINORS	Date Effective: 05/09/2003
Description:	SUSPEND LICENSE	Date Effective: 10/02/2003
Description:	PAY FINE	Date Effective: 10/24/2003
Description:	RENEW APP.	Date Effective: 04/19/2004
Description:	LEASE	Date Effective: 04/19/2004
Description:	RENEW APP.	Date Effective: 03/31/2005
Description:	LEASE	Date Effective: 03/31/2005
Description:	SELL ALC/MINORS	Date Effective: 09/30/2005
Description:	ENF. INSPEC.	Date Effective: 10/26/2005
Description:	SELL ALC/MINORS	Date Effective: 01/14/2006
Description:	CITE	Date Effective: 01/20/2006
Description:	MISC. DOCUMENT	Date Effective: 02/09/2006
Description:	SUSPEND LICENSE	Date Effective: 02/10/2006
Description:	SELL ALC/MINORS	Date Effective: 04/09/2006
Description:	FILED	Date Effective: 04/09/2006
Description:	LEASE	Date Effective: 04/12/2006
Description:	RENEW APP.	Date Effective: 04/12/2006
Description:	SERVICE ED COMP	Date Effective: 04/26/2006
Description:	ENFCMT INFRMTN	Date Effective: 06/18/2006
Description:	LEGAL MISC DOC	Date Effective: 06/21/2006
Description:	LEGAL MISC DOC	Date Effective: 06/21/2006
Description:	LEGAL MISC DOC	Date Effective: 06/22/2006
Description:	LEGAL MISC DOC	Date Effective: 06/22/2006
Description:	CITE	Date Effective: 06/22/2006

Description:	LEGAL MISC DOC	Date Effective: 07/17/2006
Description:	DISMISS	Date Effective: 07/28/2006
Description:	MEETING	Date Effective: 07/31/2006
Description:	CITE	Date Effective: 07/31/2006
Description:	LEGAL MISC DOC	Date Effective: 09/26/2006
Description:	HEARING COSTS	Date Effective: 12/01/2006
Description:	APP/HEARING	Date Effective: 12/01/2006
Description:	APPEAL	Date Effective: 12/01/2006
Description:	CANC/SUS STAYED	Date Effective: 03/09/2007
Description:	CANC/SUS STAYED	Date Effective: 03/09/2007
Description:	CANCEL BY ORDER	Date Effective: 03/12/2007
Description:	RENEW APP.	Date Effective: 04/18/2007
Description:	LEASE EXTENDED	Date Effective: 04/18/2007
Description:	ENF. INSPEC.	Date Effective: 11/30/2007
Description:	ENF. WARNING	Date Effective: 11/30/2007
Description:	LEGAL MISC DOC	Date Effective: 03/07/2008
Description:	LEGAL MISC DOC	Date Effective: 04/03/2008
Description:	LEASE	Date Effective: 04/29/2008
Description:	RENEW APP.	Date Effective: 04/29/2008
Description:	AFFIRMED	Date Effective: 06/02/2008
Description:	LEGAL MISC DOC	Date Effective: 06/06/2008
Description:	CANCEL BY ORDER	Date Effective: 06/09/2008