



City of Grand Island

Tuesday, July 14, 2015

Council Session

Item E-2

Public Hearing on Request from YZ GYZ, LLC dba The Filling Station, 217 E. Stolley Park Road, Suite N for Class “C” Liquor License

Council action will take place under Resolutions item I-2.

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: July 14, 2015

Subject: Public Hearing on Request from YZ GYZ, LLC dba The Filling Station, 217 East Stolley Park Road, Suite N for a Class “C” Liquor License

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

YZ GYZ, LLC dba The Filling Station, 217 East Stolley Park Road, Suite N has submitted an application for a Class “C” Liquor License. A Class “C” Liquor License allows for the sale of alcohol on and off sale 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.

Also submitted with the application was a request from Shauna Forbes, 1314 Marshall Street, Wood River, NE for a Liquor Manager Designation.

After reviewing the Police Department report (see attached) it is recommended that the City Council deny this request based on not qualifying under Nebraska State Statute 53-125 and 53-132.

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** this application.

Sample Motion

Move to **deny** the application for YZ GYZ, LLC dba The Filling Station, 217 East Stolley Park Road for a Class "C" Liquor License based on not qualifying under Nebraska State Statute 53-125 and 53-132.

Grand Island Police Department

Supplemental Report

Date, Time: Sat Jun 27 08:42:00 CDT 2015

Reporting Officer: Vitera

Unit- CID

James Rayburn and Tyson Juhl are applying for a Class C LLC retail liquor license for a business called "The Filling Station." Shauna Forbes is applying to be the liquor manager. On the LLC insert form- 3b, it originally showed that James Rayburn would be a 55% owner, and Tyson Juhl would be a 45% owner. Those figures are scratched out and replaced with 75% for James and 25% for Tyson.

Tyson Juhl owned and operated a bar in Wood River called "The Filling Station." Tyson lost his business in Wood River. He failed to pay property taxes for several years. He defaulted on a \$200,000+ loan from the Hildreth State Bank, and the bank ended up losing the building to an investment company that paid Tyson's debt on the back taxes. Tyson has a history of being delinquent on other financial accounts as well.

Tyson also had trouble at his Wood River bar when Nebraska State Patrol (NSP) Investigator Dan Fiala cited him for not buying alcohol through a wholesaler. Within three hours of being cited by Investigator Fiala, Tyson went out and purchased more alcohol for his bar from retail outlets and totally disregarded the rules and regulations of the Nebraska Liquor Control Commission (NLCC) and what Investigator Fiala had just cited him for.

In December of 2014, Tyson applied for a liquor license for The Filling Station in Grand Island. He was the only person on the application, and he was going to be the liquor manager as well. For the reasons summarized above, the Grand Island Police Department recommended that the council not give local approval to his application, and the council denied his application. Tyson plead his case in front of the NLCC who also denied his application (Please see prior investigation for more details). Six months later, Tyson is again applying for a liquor license for The Filling Station. This time, he has a new company. He brought James Rayburn into it and will also have his girlfriend, Shauna Forbes be the liquor manager. Even though James Rayburn owns 75% of the company, it still appears to be Tyson's bar because the name, location, and theme (antique gas station memorabilia) are the same as his last application.

While perusing through the current application, one of the first things I noticed is that the application has been altered. On page three of Form 100 where it deals with the class of license, "Application Fee \$400 (non refundable)" is redacted. Form 100 page 5 has two redacted areas in the paragraph under

"Applicant Information" dealing with 53-125(5). The word "EVER" is blacked out along with "Include traffic violations." NSP Investigator Fiala and I met with Tyson and James on 7/7/15. Ralph Bradley (their attorney) was also present for some of the meeting. Nobody knew why some of the words in the application were redacted. It was assumed that the NLCC marked it up prior to sending it on to the City of Grand Island.

I also noticed that the applicants stated that they are not borrowing any money to establish and/or operate the business. Under a section asking about experience, James Rayburn listed JR's Mini Mart in Shelton, Wood River C Store, BJ's Liquor and JR's Mini Mart in Gibbon. Tyson Juhl listed Motor Inn in Shelton, Wood River C Store, and The Filling Station in Wood River. James has lived in Central Nebraska since at least 1996, and Tyson has lived in Central Nebraska since at least 2001.

In the convictions section, James listed two separate incidents with traffic convictions along with two dog at large convictions and a conviction for not having a dog vaccinated during the years between 1999 and 2011. Tyson Juhl listed twelve convictions between the years of 1996 and 2013 with convictions ranging from speeding to a couple of DUI's, a couple of MIP's, no operator's license, obstructing (juvenile), and acts declared unlawful.

I checked James and Tyson through Spillman and the Nebraska Criminal Justice Information System (NCJIS). James doesn't have anything out of the ordinary listed in Spillman, and no undisclosed convictions were located in NCJIS. The only minor discrepancy was one of the dog at large convictions listed on the application was listed as a dangerous dog in NCJIS.

The following is copied from my last investigation regarding Tyson's Spillman contacts. "I looked Tyson up in Spillman and found that he has thirty-four documented contacts with the police department and the Hall County Sheriff's Office. The vast majority of those contacts involve him reporting a crime for the C Store or The Filling Station in Wood River. There are a few scattered traffic contacts, some animal complaints against him, a code enforcement call against him, and he also pawned some property a little over two years ago." Since the investigation six months ago, Tyson has two additional contacts in Spillman. He was issued a correction for having a white light to rear and was contacted as a result of having a fire on the deck of his house.

NCJIS doesn't show any additional convictions since my last investigation six months ago. Please refer to my prior investigation for a list of Tyson's criminal convictions. It appears that the current application doesn't have any undisclosed convictions.

I checked a paid law enforcement-only database for James and Tyson. The information shows that James filed for Chapter 7 bankruptcy in 2007 and had a civil judgment against him in 2009. When interviewing James, he called Credit Management and asked if they are trying to collect money from him regarding the civil judgment. He was told that he owed them about \$6 in fees. James also mentioned that the primary reasons he filed for bankruptcy were his business ventures got too big too fast, and he got divorced.

I found that Tyson has a new pending civil suit against him by Credit Bureau Services out of Fremont which was filed on 2/17/15. It appears that a sign company in Grand Island is alleging that Tyson didn't pay them for work they performed. Tyson responded in writing and said that he paid the sign company half of the money up front and was going to pay the other half when the job was completed. He alleges that the job was never completed, so he didn't pay the other half. Please see my prior report for details on Tyson's financial situation including history of delinquent accounts.

I also did a general Internet search on James and Tyson. James' name is common enough, I had trouble attributing anything to him. I did find a facebook page for Tyson that didn't have anything derogatory on the public portion of it. I checked James and Tyson for warrants and also checked their driver's license status. Neither have outstanding warrants, and each has a valid Nebraska driver's license.

I checked James Rayburn and Tyson Juhl's history with their past liquor licenses through the NLCC. James is currently listed as the liquor manager for Abarrotes-Y-Novedades in Gibbon. The license was issued on 9/9/09. James has been the liquor manager the entire time. History of the license shows a sale to minors on 6/30/12 which resulted in a suspension of the license. Other than a couple of citations and suspensions for not renewing the license on time, I didn't see any other violations. James also had a liquor license at JR's Mini Mart in Shelton between 1994 and 2008. While acknowledging that it would be difficult to ensure that your employees at a convenience store are always properly checking ID's, James had his license suspended four separate occasions for selling to minors. James had a JR's Mini Mart in Gibbon between 2002 and 2009. I did not find any violations on that license. I could not find any history for the Wood River C Store or BJ's Liquor in Gibbon with James as the liquor license holder.

Tyson had a license for The Filling Station in Wood River where he had the issues with improperly buying alcohol and was cited twice by NSP Investigator Fiala. It appears he had that license for about one year. Tyson had a license for the Wood River C Store between 2008 and 2013. He had his license suspended for three days in 2010 for not renewing his license on time. He also had a license for the Motor Inn in Shelton in 2007. I found a document dated 10/23/07 saying he is buying out his partner effective 11/1/07. However, there is another document saying that Tyson is selling the business entirely to his partner on 11/5/07. With the ownership discrepancy, I'm not sure how long Tyson actually had this license, but there are no violations associated with it.

I spoke to Grand Island Line Safety Division Chief Fred Hotz on 7/9/15. Fred informed me that The Filling Station in Grand Island has requested three inspections (one for each liquor license application), and each time he went out, little to no progress was made on the violations that Fred said needed to be corrected. He also advised that each inspection has a fee of \$100. Nothing towards the \$300 worth of inspections fees have been paid at this time. When Fred inspected the business on 7/7/15, he initially met with James Rayburn and discussed the violations with him. James told Fred that he needed to talk to Tyson because "this was his deal."

After reviewing the liquor license application, I looked at Shauna Forbes' manager application. She lists the same address on the application as we show for Tyson in Spillman. Her application states that she

has lived in Central Nebraska for at least the last ten years. She has worked for Bandits since 2007 and CPI since 2014. For her convictions, she disclosed a MIP in '96 and a disturbing the peace in 2006.

I searched for Shauna in Spillman and NCJIS. She has an entry in Spillman, but most of what she has been involved in has been in the capacity of being a witness or victim. I didn't see anything that would preclude her from being a liquor manager. Shauna didn't have any undisclosed convictions in NCJIS.

I also checked Shauna through a paid law enforcement-only database which indicates that she filed for Chapter 7 bankruptcy in October of 2007. It also shows that she had a civil judgment against her in 2007, but there was a zero dollar amount and no disposition listed. I called the Hall County Court and found that the reason there is a zero dollar amount in the judgment amount is because Shauna filed for bankruptcy. I was not able to meet with Shauna and ask her why she filed for bankruptcy. I found a facebook page for Shauna with nothing derogatory on the public portion of it. Other than the obvious association with Tyson, Shauna could be a liquor manager.

On 7/9/15, I called James and told him that the police department is going to recommend that the council not give local approval to this application. I informed him that the recommendation for denial is centered around Tyson. I reiterated to James that it appears that his involvement in this process is simply to get Tyson Juhl a liquor license. James acknowledged that if Tyson could have gotten a license without him, he would have. James also said that he does see investment potential in the business, or he wouldn't have gotten involved. He went on to say that if the license doesn't get approved, the only money he will lose will be the application fee for the license and possibly some attorney fees.

James said he was committed to contributing \$10,000 to the business, but most of that was going towards inventory which won't be needed if no license is issued. James was pleasant and had a good attitude. He said if the license isn't approved, he still has a good full time job where he is currently training in Kearney at a Casey's General Store to be the manager of the Casey in Gibbon when it opens. He also confirmed that he is currently the liquor manager at the Abarrotes-Y-Novedades Mexican Restaurant in Gibbon. I told James that it doesn't appear he'll have much time to devote to The Filling Station, and he said he'll be there as much as possible.

In conclusion, this is Tyson Juhl's third attempt to get a liquor license for The Filling Station in Grand Island. The Grand Island Police Department recommended a denial on the first application. A minor reason for that denial was because Tyson didn't disclose the majority of his criminal convictions. Tyson withdrew his application before it went to the council. A couple of months later, he submitted a second application which included all of his criminal convictions. The police department recommended a denial because of Tyson's blatant disregard for the law and his financial irresponsibility. The council, and the NLCC denied his application.

The third application (current) shows that nothing has changed other than Tyson included James Rayburn on paper to help him get the license. The ownership of the company was originally 55% for James and 45% for Tyson. On the advice of their attorney, they changed the split to 75% for James, and 25% for Tyson. Contrary to the numbers, everything points towards this application overwhelmingly belonging to Tyson. The name, theme, and location of the bar are the same as before. Even though

James is a 75% owner, James' only financial contribution to this point is the liquor license application fee and possibly some of the attorney fees. James has a full time job and is also a liquor manager for a restaurant in Gibbon. Tyson's girlfriend is the proposed liquor manager. Other than potential profits for James in the future, this liquor license application, and this business belongs to Tyson; and Tyson has demonstrated that he is not fit and willing to adhere to the rules and regulations of the Nebraska Liquor Control Act which precludes him from receiving a license.

In addition to the reasons stated in my prior investigation which include Tyson's total disregard for the law by purchasing alcohol improperly, being cited for it, and then committing the very same offense less than three hours later, coupled with not paying property taxes for several years and defaulting on his business loan; Tyson has a new civil suit alleging that he didn't pay a local sign company for the work they completed. He also failed to pay for any of his inspections by the Grand Island Fire Department.

The Grand Island Police Department recommends that the council not give local approval to this application because of Tyson's history which shows a pattern of defiance and irresponsibility towards the law and other people's money which has continued through this application process.

The denial is based upon Nebraska State Statute 53-132 which says that the NLCC has to consider if the applicant for a liquor license can conform to the NLCC's rules and regulations. It states in part:

(2) A retail license, craft brewery license, or microdistillery license may be issued to any qualified applicant if the commission finds that (a) the applicant is fit, willing, and able to properly provide the service proposed within the city, village, or county where the premises described in the application are located, (b) the applicant can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity.

Tyson Juhl, doesn't qualify under subsection a, b, or c listed above. Plus, the NLCC has already decided that he shouldn't have a liquor license. The license should also be denied under 53-125. Classes of persons to whom no license issued. It states in part, "No license of any kind shall be issued to ...(2) a person who is not of good character and reputation in the community in which he or she resides..."

Grand Island Police Department

Supplemental Report

Date, Time: Fri Dec 19 10:52:11 CST 2014

Reporting Officer: Vitera

Unit- CID

I Received a Copy of a Class CK (beer, wine, distilled spirits, on and off sale along with catering) Retail Liquor License Application from Tyson Juhl for The Filling Station. In reviewing the application, I noticed that Tyson is the only person listed on the application. He included a report from the Nebraska State Patrol (NSP) to disclose his criminal convictions. He isn't borrowing any money to establish and/or operate the business, he has lived in Shelton and Wood River for at least the last ten years, and he has had three liquor licenses before. One license was for the Motor Inn Bar & Grill in Shelton between 2006 and 2007. Another license was held for the Wood River C Store between 2008 and 2013, and he recently had a license for The Filling Station in Wood River from 2013 until 12/6/14.

I looked Tyson up in Spillman and found that he has thirty-four documented contacts with the police department and the Hall County Sheriff's Office. The vast majority of those contacts involve him reporting a crime for the C Store or The Filling Station in Wood River. There are a few scattered traffic contacts, some animal complaints against him, a code enforcement call against him, and he also pawned some property a little over two years ago.

The NSP information that Tyson included about his criminal convictions included a conviction for MIP and speeding in 2000 and DUI in 2013. A check of the Nebraska Criminal Justice Information System (NCJIS) shows that Tyson has been convicted of:

Buffalo Co	3-1-96	No Valid Operator's License	Guilty plea in court
Buffalo Co	11-20-98	Speeding over 21mph	Transferred to Juv.
		DUI 1st Offense	Transferred to Juv.
		Drive Left of Center	Transferred to Juv.
		Drive on shoulder	Transferred to Juv.
		Obstructing a Peace Officer	Transferred to Juv.

Buffalo Co	1-11-99	Admission to all charges filed on 11-20-98 in Juvenile Court	
Buffalo Co	4-23-00	MIP	Guilty by waiver
Hamilton Co	9-7-00	Speeding 6-10 over	Guilty
Buffalo Co	10-23-00	Acts declared unlawful license	Guilty by waiver driving
Hall Co	08-08-01	MIP	Guilty by waiver
Buffalo Co	09-19-04	No Proof of Insurance	Guilty by waiver
Hall Co	06-05-05	Unlawful Display of Plates	Guilty by waiver
Hall Co	01-18-07	No Proof of Insurance	Guilty by waiver
Dawson Co	01-26-07	Improper/Defective Lighting	Guilty by waiver
Hall Co	08-28-10	Speeding 6-10mph over	Guilty by waiver
Hall Co	05-17-13	DUI 1st Offense	Guilty admit in court

NCJIS also shows that Tyson was involved in the following civil suits:

Phelps co	05-23-05	Tyson vs Brandon Schoenthal	Uncontested Default
Hall Co	02-24-06	Tyson vs Janet Beck	Dismissed by court
Hall Co	06-20-07	Tyson vs Brandon Proctor	Tried to court
Hall Co	06-20-07	Tyson vs Chris Ulrich	Tried to court
Hall Co	03-14-08	Tyson vs Keith Vogt	Settled
Phelps Co	04-16-07	Robert Worman vs Tyson	Dismissed by court
Hall Co	06-24-11	Amber Ottis vs Tyson	Settled/Dismissed by party
Hall Co	09-27-12	Credit Management vs Tyson	Settled/Dismissed by party (Heartland Disposal)
Hall Co	09-08-14	Capital One vs Tyson	Open as of 9-8-14
Hall Co	09-12-14	State Bank of Hildreth vs	Uncontested Default Tyson

Investigator Dan Fiala with the Nebraska State Patrol (NSP), and I met with Tyson at the proposed location of The Filling Station on 12/16/14 at 1000 hours. Investigator Fiala took the lead on this investigation because he had dealt with Tyson before when Tyson had The Filling Station in Wood River. In fact, prior to meeting with Tyson, Investigator Fiala gave me some history on his encounters with Tyson.

Investigator Fiala said that on 1/31/14, he followed up on a complaint he received from an employee at Sam's Club who knew Tyson, knew that Tyson had a liquor license, and knew that he was not supposed to be buying alcohol for his business from Sam's Club. Investigator Fiala gathered receipts and video evidence from Sam's and was told that Tyson purchased large amounts of alcohol on 1/28 and 1/30/14. The reporting party also told Investigator Fiala that she had been in contact with Tyson several times over the past few years where he was purchasing alcohol in large quantities presumably for his business.

Later that day after talking with the reporting party from Sam's Club and gathering evidence, Investigator Fiala spoke to Tyson about the information he had received. Tyson admitted to buying alcohol at Sam's and other retail establishments for his business several times and admitted that he knew it was wrong. Investigator Fiala issued Tyson an administrative citation for the improper purchase of alcohol.

On 5/15/14, Investigator Fiala contacted Tyson at The Filling Station regarding a couple of complaints he had received through the Nebraska Liquor Control Commission (NLCC) about beer bottles being thrown in the alley behind the business and loud noises and fights. While Investigator Fiala was addressing those complaints, he did a premise inspection. Investigator Fiala located and seized several receipts for alcohol purchases from Hy-Vee, Sam's and Wal-mart. Tyson acknowledged that the receipts were for alcohol he purchased for his business but said they were from purchases made prior to Investigator Fiala citing him on 1/31/14.

Also, while doing the premise inspection on 5/15/14, Investigator Fiala discovered that Tyson had one keg of beer in the "freezer" and asked Tyson if he had a keg registration book to which Tyson replied that he did not. Tyson said the keg was for someone who was having a graduation party on Saturday (two days later). Investigator Fiala explained to Tyson that he needed to put a registration sticker on the keg if he sold it to anyone outside the licensed premise.

Investigator Fiala found time to review the receipts five days later on 5/20/14. He discovered that one of the purchases was made approximately three hours after Investigator Fiala had cited Tyson on 1/31/14 for improperly purchasing alcohol. The other receipts were also date and time stamped after 1/31/14. On 5/20/14, Investigator Fiala spoke to Tyson about the receipts he had seized and pointed out to Tyson that the receipts indicated that Tyson went out and purchased alcohol illegally within hours of being cited for that very same thing. Tyson looked down, smiled, and told Investigator Fiala that the receipts were from before he was cited. Investigator Fiala knew Tyson was lying according to the receipts and by Tyson's physical mannerisms (indicating deception) when he made the denial. Investigator Fiala told Tyson that the date and time on the receipts compared to the date and time of the citation proved that Tyson was lying.

Investigator Fiala also discovered that the keg was gone, but there were no stickers missing from the registration book. When asked what happened to the keg, Tyson told Investigator Fiala that he took it to his house for personal use. When Investigator Fiala told Tyson he didn't believe him, Tyson exhibited the same physical mannerisms (looked down and smiled) as he did when he lied before about the

receipts. Investigator Fiala issued Tyson another citation for the improper purchase of alcohol. According to Investigator Fiala, Tyson pled guilty to each citation.

When Investigator Fiala and I met with Tyson on 12/16/14, Investigator Fiala asked Tyson if he ever had any delinquent financial accounts or obligations. Tyson said that he hadn't had any. He was asked a second time, he again said that he hadn't. Investigator Fiala then confronted Tyson about three civil proceedings (mentioned above) against him in Hall County. One involved the State Bank of Hildreth in 2014. When Tyson bought the building for The Filling Station in Wood River, he took out a loan from the State Bank of Hildreth for over \$200,000. According to Tyson, he was current on his loan payments. However, Tyson failed to pay property taxes on the building for four or five years. Tyson said he owed the County over \$20,000.

A business called Vandelay Investments "bought" Tyson's tax liability and paid the taxes. Tyson said that a representative from the Hildreth State Bank named Matt Mundorf could explain the situation better. On 12/17/14, Investigator Fiala and I spoke to Matt over the phone. He confirmed that Tyson owed back taxes and Vandelay Investments bought the debt. He further explained that Vandelay is able to make money by getting the principal plus interest back on their investment. If Tyson or the bank doesn't pay them by a certain time, Vandelay can go after the building at an auction. Vandelay did just that.

Certified mail was sent to Tyson and the State Bank of Hildreth. Tyson had no interest in reimbursing Vandelay, and according to Matt, one of their employees who received the certified letter failed to pass it along; and it went unnoticed. Therefore, the bank wasn't aware of the auction and had no representation present. Vandelay bought the building. The bank lost the building and the money they lent Tyson. When asked why he didn't mention this situation when asked about delinquent accounts, Tyson said he didn't think this situation applied.

Investigator Fiala also asked Tyson about a civil suit against him in 2014 involving Capital One. Tyson said that he has worked out a payment plan with Capital One, and the account is no longer delinquent. When asked why he didn't mention this one, Tyson said he just forgot about it. Tyson was also asked about a civil action against him in 2012 by Credit Management regarding a bill with Heartland Disposal. Tyson said he couldn't remember anything about this.

Tyson was asked about all of the convictions that he failed to disclose. Tyson said he paid for a criminal history report through the state patrol and thought that covered it. Tyson was confronted with the fact that the liquor license application asks the applicant to disclose all convictions including traffic. The instructions are very clear. It's easy to understand when someone forgets to disclose a couple of speeding tickets from years ago, but when Tyson's undisclosed convictions are compared with the state patrol printout, Tyson should have definitely seen the discrepancy. It's hard to sort out, but it appears that Tyson has at least a dozen undisclosed convictions.

In Summary, the Grand Island Police Department recommends that the council NOT give local approval to this application. According to Nebraska State Statute 53-132, the NLCC has to consider if the applicant for a liquor license can conform to the NLCC's rules and regulations. It states in part:

(2) A retail license, craft brewery license, or microdistillery license may be issued to any qualified applicant if the commission finds that (a) the applicant is fit, willing, and able to properly provide the service proposed within the city, village, or county where the premises described in the application are located, (b) the applicant can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity.

Based upon Investigator Fiala's contacts with Tyson Juhl, it doesn't appear that Tyson qualifies under subsection a, b, or c listed above. By lying to Investigator Fiala and breaking the law in the exact same manner three hours after being cited by Investigator Fiala, his failure to abide by the keg regulations after being told how to do it by Investigator Fiala, and his inability to properly manage his finances and debt obligations, Tyson has demonstrated that he is not fit and willing to conform to the rules and regulations of the Nebraska Liquor Control Act. Tyson also technically supplied a false application by not disclosing all of his convictions.

Nebraska Revised Statute 53-125

[Revised Statutes](#) » [Chapter 53](#) » 53-125

[53-124.15](#)

|
[53-126](#)

[Print Friendly](#)

53-125. Classes of persons to whom no license issued.

No license of any kind shall be issued to (1) a person who is not a resident of Nebraska, except in case of railroad, airline, or boat licenses, (2) a person who is not of good character and reputation in the community in which he or she resides, (3) a person who is not a citizen of the United States, (4) a person who has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States, (5) a person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this subdivision on May 18, 1983, shall not prevent any person holding a license on such date from retaining or renewing such license if the conviction or plea occurred prior to May 18, 1983, (6) a person whose license issued under the Nebraska Liquor Control Act has been revoked for cause, (7) a person who at the time of application for renewal of any license issued under the act would not be eligible for such license upon initial application, (8) a partnership, unless one of the partners is a resident of Nebraska and unless all the members of such partnership are otherwise qualified to obtain a license, (9) a limited liability company, if any officer or director of the limited liability company or any member having an ownership interest in the aggregate of more than twenty-five percent of such company would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (1) and (3) of this section, or if a manager of a limited liability company licensee would be ineligible to receive a license under this section for any reason, (10) a corporation, if any officer or director of the corporation or any stockholder owning in the aggregate more than twenty-five percent of the stock of such corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (1) and (3) of this section, or if a manager of a corporate licensee would be ineligible to receive a license under this section for any reason. This subdivision shall not apply to railroad licenses, (11) a person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee, (12) a person who does not own the premises for which a license is sought or does not have a lease or combination of leases on such premises for the full period for which the license is to be issued, (13) except as provided in this subdivision, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such applicant shall become eligible for a liquor license only if the commission finds from the evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if it is shown to the satisfaction of the commission (a) that the licensed business will be the sole property of the applicant and (b) that such licensed premises will be properly operated, (14) a person seeking a license for premises which do not meet standards for fire safety as established

by the State Fire Marshal, (15) a law enforcement officer, except that this subdivision shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization, or (16) a person less than twenty-one years of age.

When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or a person who is mentally incompetent.

Nebraska Revised Statute 53-132

[Revised Statutes](#) » [Chapter 53](#) » 53-132

[53-131.01](#)

|
[53-133](#)

[Print Friendly](#)

53-132. Retail, craft brewery, or microdistillery license; commission; duties.

(1) If no hearing is required pursuant to subdivision (1)(a) or (b) of section [53-133](#) and the commission has no objections pursuant to subdivision (1)(c) of such section, the commission may waive the forty-five-day objection period and, if not otherwise prohibited by law, cause a retail license, craft brewery license, or microdistillery license to be signed by its chairperson, attested by its executive director over the seal of the commission, and issued in the manner provided in subsection (4) of this section as a matter of course.

(2) A retail license, craft brewery license, or microdistillery license may be issued to any qualified applicant if the commission finds that (a) the applicant is fit, willing, and able to properly provide the service proposed within the city, village, or county where the premises described in the application are located, (b) the applicant can conform to all provisions and requirements of and rules and regulations adopted pursuant to the Nebraska Liquor Control Act, (c) the applicant has demonstrated that the type of management and control to be exercised over the premises described in the application will be sufficient to insure that the licensed business can conform to all provisions and requirements of and rules and regulations adopted pursuant to the act, and (d) the issuance of the license is or will be required by the present or future public convenience and necessity.

(3) In making its determination pursuant to subsection (2) of this section the commission shall consider:

- (a) The recommendation of the local governing body;
- (b) The existence of a citizens' protest made in accordance with section [53-133](#);
- (c) The existing population of the city, village, or county and its projected growth;
- (d) The nature of the neighborhood or community of the location of the proposed licensed premises;
- (e) The existence or absence of other retail licenses, craft brewery licenses, or microdistillery licenses with similar privileges within the neighborhood or community of the location of the proposed licensed premises and whether, as evidenced by substantive, corroborative documentation, the issuance of such license would result in or add to an undue concentration of licenses with similar privileges and, as a result, require the use of additional law enforcement resources;

(f) The existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises;

(g) The adequacy of existing law enforcement;

(h) Zoning restrictions;

(i) The sanitation or sanitary conditions on or about the proposed licensed premises; and

(j) Whether the type of business or activity proposed to be operated in conjunction with the proposed license is and will be consistent with the public interest.

(4) Retail licenses, craft brewery licenses, or microdistillery licenses issued or renewed by the commission shall be mailed or delivered to the clerk of the city, village, or county who shall deliver the same to the licensee upon receipt from the licensee of proof of payment of (a) the license fee if by the terms of subsection (6) of section [53-124](#) the fee is payable to the treasurer of such city, village, or county, (b) any fee for publication of notice of hearing before the local governing body upon the application for the license, (c) the fee for publication of notice of renewal as provided in section [53-135.01](#), and (d) occupation taxes, if any, imposed by such city, village, or county. Notwithstanding any ordinance or charter power to the contrary, no city, village, or county shall impose an occupation tax on the business of any person, firm, or corporation licensed under the act and doing business within the corporate limits of such city or village or within the boundaries of such county in any sum which exceeds two times the amount of the license fee required to be paid under the act to obtain such license.

(5) Each license shall designate the name of the licensee, the place of business licensed, and the type of license issued.

