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TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

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Presiding Officer-Midland

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Member-San Antonio

Sherry Cook
Executive Director

Houston - Legal
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Phone: 713.426.7900
Facsimile: 713.862-7478

DATE: June 27, 2016

TO: Hon. Keith Self
Collins County Judge

FAX NO.: (972) 548-4699

TO: Stacey Kemp
County Clerk

FAX NO.: (972) 547-5731

FROM: Edgar Korzeniowski
TABC - Attorney

PHONE: (817) 652-5912 ext.: 2483

RE: Docket No. 639326
Original Application
Yeti Investment – D/B/A Kiranna 101

NO. OF PAGES, INCLUDING COVER SHEET: 4

ADDITIONAL MESSAGE:

Please find the following

1. Request for Hearing
-

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José Cuevas, Jr.
Presiding Officer-Midland

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Member-Colleyville

Melinda S. Fredricks
Member-Conroe

Sherry Cook
Administrator

June 27, 2016

Hon. Keith Self
Collin Co. Judge
2300 Bloomdale Rd., Ste. 4192
McKinney, TX 75071

VIA FACSIMILE
(972) 548-4699

RE: Request for Hearing. *In re Original Application of Yeti Investment LLC, D/B/A Kiranna 101.* TABC Docket No. 639326

Dear Judge Self,

Culleoka Baptist Church, Nina Rettberg, and Trish Donaghey filed a protest of Yeti Investment LLC's Original Application for Wine and Beer Retailer's Off Premise Permit (BQ) for the premises known as Kiranna 101, located at 2452 FM 3364, Princeton, TX 75407.

The Protestant alleges that:

I

The place or manner which the applicant for a retail dealer's license may conduct its business warrants the refusal of a license based on the general welfare, health, peace, morals, safety of the people, and sense of decency of the people, contrary to Tex. Alco. Bev. Code § 61.42 (a)(3), *to wit*:

- a. The proposed location is near Culleoka Baptist Church;
- b. The proposed location may cause an increase in traffic, which may pose unreasonable risk to the safety of parishioners of the Culleoka Baptist Church; and
- c. The proposed location may cause an increase in traffic, which may cause an increase in noise level that is disruptive to church services and functions.

II

The applicant for a retail dealer's license will conduct business in a manner contrary to law or in a place or manner conducive to a violation of the law, contrary to Tex. Alco. Bev. Code § 61.43 (a)(9), *to wit*:

- a. Approving the Applicant's application for retail dealer's license would result in allowing them to operate in a dry area, contrary to Tex. Elec. Code § 501 *et seq.*, and Tex. Loc. Gov't Code § 43 *et seq.*
 - i. The City of Princeton and Collin County unlawfully certified the location of the permises as wet for the sale of wine and beer for off-premises consumption under Tex. Alco. Bev. Code § 61.37(b).
 - ii. The premises at issue is located in a dry unincorporated area of Collin Co. that was unlawfully annexed.
 - iii. Any local option election allowing the sale of alcohol in the City of Princeton is *void ab initio* with respect to the unlawfully annexed territory.

The Commission found that reasonable grounds exist for the protest, and rejected the protested application for a hearing with your office. Tex. Alco. Bev. Code § 61.31(a). Please set the matter for a hearing, and send a notice of hearing¹ to the Applicant, Applicant's Attorney, Protestant and Commission. Tex. Alco. Bev. Code §§ 61.79 and 25.05; Tex. Gov't. Code § 2001.051 and .052.

The Applicant will be required to pay a \$25 hearing fee to the county clerk at the time of the hearing. Tex. Alco. Bev. Code § 61.31(c).

Please note that the Commission will appear solely as a jurisdictional petitioner, and does not take a position on the Applicant's original application. Our role is limited to acting as a mediator, facilitator, subject matter expert, and communicating the status of the matter to all parties. The parties have been previously advised if they need assistance beyond the Commission's stated role, including but not limited to, presenting testimony and evidence at a hearing, they will need to consult with their own private attorney.

¹ The Commission would request that the court take the following circumstances into consideration in scheduling the hearing. The Applicant requests a hearing as soon as possible, whereas Ms. Donaghey requests a hearing sometime in late September in light of her health. The undersigned would also note he is unavailable for a hearing July 8, 2016, July 18 – 21, 2016, August 9, 2016, and August 17-18, 2016 due to other court commitments and continuing legal education.

Please contact our office if you have questions regarding this matter.²

Sincerely,



Edgar Korzeniowski
Texas Alcoholic Beverage Commission
Legal Services Division
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Houston, TX 77008
Phone: (817) 225-7900 EXT 2483
Fax: (713) 862-7478
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EK/dp

- cc: Stacey Kemp, County Clerk, 2300 Bloomdale Rd., Ste. 4192, McKinney, TX 75071 VIA FACSIMILE (972) 547-5731
- Nina Rettberg, Protestant, 102 County Road 1010, Princeton, TX 75407-4921 VIA REGULAR MAIL;
- Brother Roger Berghauer, Protestant, Culleoka Baptist Church, 3052 FM 982, Princeton, TX 75407-5078 VIA REGULAR MAIL
- Trish Donaghey, Protestant (Group Representative), P.O. Box 35, Allen, TX 75013 VIA REGULAR MAIL
- Yeti Investment LLC, Applicant, 2602 Howlite Ln, Rosharon, TX 77583 VIA REGULAR MAIL
- William Dufour, Attorney for Applicant, Law Office of William C. Dufour, 3301 Northland Dr., Ste. 213, Austin, TX 78731 VIA REGULAR MAIL



512-458-2700

~~817-652-5912~~
~~817-2483~~

817-607-2483

² The Commission published a County Judge's Manual, which provides an overview of protest hearings, answers common questions, and includes sample templates for notice of hearing and decision. See <https://www.tabc.state.tx.us/publications/licensing/CountyJudge.pdf>.