

ALCOHOL AND TOBACCO COMMISSION  
DECEMBER 20, 2022  
10:00 A.M.

1. Call to Order and Noting of Quorum –
2. Disposition of Minutes –  
December 6, 2022
3. Prosecutor’s Recommendations –  
PAD Forms
4. Hearing Judge’s Recommendations –  
TC15616001 Cloud 9 Smoke and Vapes – Findings of Fact and Conclusions of Law
5. Consideration of Applications -  
413 renewals  
54 news/transfers  
26 carriers  
22 new/renewal carriers  
4 new direct wine sellers
6. Renewal Letters and Waivers of Fees for Letters of Extension -
7. Applications for Discussion –  
RR02-35302 DJZ of Las Vegas, LLC – request removal of catering hall designation  
RR49-39238 Liberty Land Investments LLC – transfer with LB voting 4-0 to approve (continued from 11/15)  
RR49-39161 Taqueria Dona Sofi LLC – transfer with LB voting 4-0 to deny  
RR49-03759 Tad Indy, Inc. – renewal with LB voting 3-1 to approve for transfer only (transfer approved)
8. Inactive Files –  
1 permit not subject to auction
9. Old Business -
10. New Business –
11. Policy Determinations –  
New Non-Rule Policy Document #29 Extensions
12. Announcements -  
2023 Amended Commission Meeting Dates - 1st week of January 2023, Wednesday January 4

3rd week of January 2023, Wednesday January 18  
1st week of May 2023, Wednesday May 3  
1st week of July 2023, Wednesday July 5  
1st week of September 2023, Wednesday September 6  
1st week of November 2023, Wednesday November 8  
4th week of December 2023, Wednesday December 27

### 13. Adjournment

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

DECEMBER 20, 2022

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Allen called the meeting to order and noted the quorum and the attendance. Vice Chairman Payne, Commissioner Maginn, Commissioner Grubb, Deputy Director Kirkman, General Counsel Merritt, and Prosecutor Wignall were present.

#### DISPOSITION OF MINUTES

Vice Chairman Payne moved to approve the minutes from the December 6, 2022 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

#### PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Vice Chairman Payne moved to approve the Parties' Agreed Dispositions, submitted by Prosecutor Wignall. Fifty-four dispositions were submitted with fines totaling \$37,100.00. Commissioner Grubb seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

TC15616001 CLOUD 9 SMOKE AND VAPES – Chair Allen, who sat as hearing judge, noted this entity applied for a tobacco certificate online and indicated the business was within 200 feet of a primary or secondary school. Commission staff reached out for clarification (the new distance should be more than 1,000 feet) and was told the business was not close to a school, so a paper application was sent to the applicant to make the correction. The certificate was issued. After Excise received complaints regarding the location, Excise measured the distance from the business location to the school, which was approximately 266 feet. The Commission held an Order to Show Cause hearing to show cause as to why this certificate should not be revoked. The Chair recommended the certificate be revoked.

Commissioner Grubb moved to uphold the Chair's recommendation. Commissioner Maginn seconded. The motion was unanimously approved.

#### CONSIDERATION OF APPLICATIONS

Commissioner Grubb moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same, pending any escrow hearings, and the inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve and incorporate by reference these lists of permit applications for a new permit or application for changes in location, ownership, or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move

for approval of same, pending final floor plan approval by the Indiana State Excise Police and escrow, if needed, and inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the catering applications. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal carrier applications. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new direct wine seller applications. Commissioner Maginn seconded. The motion was unanimously approved.

### **RENEWAL LETTERS AND WAIVERS OF FEES**

Vice Chairman Payne moved to approve the renewal and fee waived letters of extension issued the preceding weeks. Commissioner Grubb seconded. The motion was unanimously approved.

### **APPLICATIONS FOR DISCUSSION**

RR02-35302 DJZ OF LAS VEGAS, LLC – Chair Allen stated this permittee is requesting the catering hall designation be removed from the permit.

Commissioner Maginn moved to remove the catering hall designation. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-39238 LIBERTY LAND INVESTMENTS, LLC – Chair Allen noted this is a transfer with the local board voting 4-0 to approve.

Commissioner Maginn stated there was concern by the neighborhood associations as to what the business plan was going to be and after discussions, they decided not to remonstrate.

Commissioner Maginn moved to uphold the local board's recommendation to approve the transfer. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-39161 TAQUERIA DONA SOFI, LLC – Chair Allen noted this is a transfer with the local board voting 4-0 to deny for failure to appear at the local board hearing, as required.

Commissioner Maginn moved to uphold the local board's recommendation to deny the transfer. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-03759 TAD INDY, INC. – Vice Chair Payne noted this is a renewal with the local board voting 3-1 to approve. The renewal was previously denied and after discussions were held between the parties, an agreement was signed to allow the filing of a transfer of ownership. The transfer was filed and the renewal (for transfer purposes only) was remanded to the local board. The transfer was approved at the same local board hearing.

Commissioner Maginn stated the local board has had issues with the current owner regarding perjury and business operations, so there was some reluctance in renewing the permit, even for purposes of transferring to a new owner.

Vice Chairman Payne moved to uphold the local board's recommendation to approve the renewal for transfer. Commissioner Grubb seconded. Commissioner Maginn voted to approve. Chair Allen did not vote.

### **INACTIVE FILES**

Commissioner Grubb moved to make one permit inactive. Commissioner Maginn seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business

### **NEW BUSINESS**

No New Business

### **POLICY DETERMINATIONS**

NON-RULE POLICY #29- EXTENSION LETTERS – By consent, the Commission continued this matter to the January 18, 2023 meeting. Chair Allen stated the Commission will allow comments regarding this policy to be submitted prior to January 11, 2023.

### **ANNOUNCEMENTS**

ROUND TABLE DISCUSSIONS- Round table discussions dates are set.

Retailers – December 6 @ 1:30 p.m. via Microsoft Teams

2023 AMENDED COMMISSION MEETING/ESCROW MEETING DATES -

- 1st week of January 2023, Wednesday January 4
- 3rd week of January 2023, Wednesday January 18
- 1st week of May 2023, Wednesday May 3
- 1st week of July 2023, Wednesday July 5
- 1st week of September 2023, Wednesday September 6
- 1st week of November 2023, Wednesday November 8
- 4th week of December 2023, Wednesday December 27

**ADJOURNMENT**

Commissioner Grubb moved to adjourn the meeting. Vice Chairman Payne seconded. The motion was unanimously approved.

Approved this 4<sup>th</sup> day of January, 2023.

  
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JESSICA ALLEN, CHAIR

  
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JIM PAYNE, VICE CHAIRMAN

  
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DALE GRUBB, COMMISSIONER

  
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MARJORIE MAGINN, COMMISSIONER