

**STATE OF INDIANA
BEFORE THE ALCOHOL AND TOBACCO COMMISSION**

IN THE MATTER OF THE PERMIT OF:)	
)	PERMIT NO. RR45-34043
MARS PROPERTIES MANAGEMENT LLC)	GR45-30692
d/b/a DRAFT HOUSE)	
4825 CENTRAL AVENUE)	
LAKE STATION, IN 46405,)	
<i>Permittee/Appellant.</i>)	

FINDINGS OF FACT, CONCLUSIONS OF LAW & FINAL ORDER

On December 9, 2024, this matter came before the undersigned Mark A. Jones, Commissioner and Hearing Judge of the Indiana Alcohol and Tobacco Commission (“ATC” or “Commission”), for a hearing on Mars Properties Management LLC d/b/a Draft House’s (“Permittee”/ “Draft House”) appeal of the ATC’s denial of the renewal of the above-referenced Permit No. RR45-34043 (the “Permit”). Present for the hearing in addition to the undersigned and Ms. Chew, court reporter, were Jose A. Vega, counsel for Permittee; Rebecca Hartsell, owner of Permittee; Angela Velez, a manager for Permittee; and Ronald Dean Gildersleeve, a patron of Permittee. The matter was taken under advisement at the conclusion of the hearing.

Ms. Hartsell, Ms. Velez and Mr. Gildersleeve were all individually sworn, their testimony was heard, and evidence was received. Notice was taken of the entire ATC file in this matter, including the proceedings and documents before the Lake County Local Alcoholic Beverage Board (“Local Board”/ “LB”); relevant statutes, rules and regulations; and previous relevant orders of the ATC. Following Mr. Vega’s argument, the matter was taken under advisement.¹

PROCEDURAL HISTORY

¹ On December 11, 2024, the ATC received a packet of exhibits along with a hand-written note from Ms. Hartsell that arrived at the ATC’s office via the USPS. The letter included a portion of the statement she read into evidence at the hearing on the 9th and referred to the included exhibits as flyers representing benefits that they have held on behalf of patrons and neighbors. They are not considered herein as they were not presented at the public hearing.

1. On April 18, 2018, the Commission issued the Permit, a beer, wine and liquor permit also known as a “type 210” permit, to Permittee.² (ATC file)

2. Permittee’s most-recent renewal application was heard by the Alcoholic Beverage Board of Lake County (“Local Board” or “LB”) on August 7, 2024, at the conclusion of which the LB recommended approval of the renewal. There were no remonstrators at the Local Board hearing. (ATC file)

3. At its regular meeting on August 20, 2024, the Commission considered the renewal and a request from the ATC prosecutor that the permit extension that had been previously issued in July be revoked. The Commission continued the matter until its regular meeting on September 4, 2024, to allow time for Permittee to respond and submit a corrective action plan. (ATC file)

4. Permittee submitted a corrective action plan on September 3, 2024.

5. On September 4, 2024, the Commission voted to reject the LB’s recommendation and denied the renewal. The Commission also revoked the extension to operate. (ATC File)

6. On September 24, 2024, Permittee filed, by counsel, an appeal of the Commission’s decisions; a *de novo* hearing was held on December 9, 2024; at the conclusion of the evidence and argument, the undersigned took the matter under advisement.

WITNESSES BEFORE THE COMMISSION

1. Ms. Rebecca Hartsell, owner of Permittee.
2. Ms. Angela Velez, an employee of Ms. Hartsell.
3. Mr. Ron Gildersleeve.
4. No one testified before the Commission against the Applicant in this case.

² The Permit was obtained by way of transfer from RR45-33713, which had an annual expiration date of August 18th.

EXHIBITS BEFORE THE COMMISSION

1. Permittee's Exhibit A – a Warranty Deed dated August 16, 2021, for the real property on which the licensed premises is located from Sandy's Draft House to Ms. Hartsell, Michael J. Proctor and Mars Properties Management LLC.
2. Permittee's Exhibit B1 – an electronic receipt from the Indiana Department of Revenue showing payment by Permittee on December 9, 2024.
3. Permittee's Exhibit B2 – a 2023 U.S. Return of Partnership Income for Permittee.
4. Permittee's Exhibit C – an Invoice from Stealth Security Group for additional security equipment at the Draft House.
5. Permittee's Exhibit D – a handwritten "Petition To Re-Open Drafthouse" consisting of twenty (20) pages with handwritten signatures.
6. ATC Exhibit #1 – an anonymous handwritten letter received by the Commission on September 23, 2024, opposing the re-opening of the Draft House.

FINDINGS OF FACT

1. On April 18, 2018, the Commission issued the Permit—a beer, wine and liquor retail restaurant permit—to Permittee.³ (ATC file)
2. On April 25, 2018, the Commission issued a gaming endorsement (GR45-30692) to Permittee for the licensed premises, allowing it to conduct type II gaming operations.
3. On or about February 21, 2019, Indiana State Excise Police ("ISEP") issued a violation to Draft House for falsification of records, and Draft House subsequently admitted to the violation and paid a fine. (ATC file)

³ The Permit was obtained by way of transfer from RR45-33713, which had an annual expiration date of August 18th.

4. On or about December 21, 2022, ISEP issued a violation for operating on an expired permit and service of set-ups, the latter of which included allowing patrons to bring their own “moonshine” liquor into the permit premises. (ATC File; EX-22-013386)

5. Just two days later, on or about December 23, 2022, ISEP issued another violation to Draft House, this time for continuing to operate on an expired permit and an employee working on an expired permit. (ATC File; EX-22-013783)

6. On or about February 21, 2023, Permittee admitted the violation from December 22, 2022, and paid a \$1,500.00 fine. (ATC File; EX-22-013386)

7. On or about April 4, 2023, Permittee admitted the violation from December 23rd, paid a fine of \$1,500 and then served a five-day suspension on April 25, 2023, through April 29, 2023. (ATC File; EX-22-013783)

8. On July 18, 2023, just eight months after their last violation and following a referral from Lake Station Police Department (“LSPD”), ISEP investigated and issued another notice of violation against Draft House, this time for public nuisance. As a part of the basis for the public nuisance violation, ISEP determined:

- A. Draft House had sixty-six (66) calls for service from June 2021 to June 2023, more than twice as many calls for service at other bars in the area (32 calls, 30 calls, 6 calls, and 17 calls).
- B. The calls for service included five fights, three batteries, one operating while intoxicated (OWI) incident, one narcotics investigation, and two reckless or criminal mischief issues.
- C. The fights and batteries frequently involved over-served customers of Draft House.

(ATC File; EX-23-007657)

9. During two of the fight investigations, staff at Draft House told police that they couldn't share the video surveillance with them because they didn't know how to operate the surveillance equipment. (ATC File; EX-23-007657)

10. LSPD also had difficulty investigating at least two of the calls for service because the doors to the Draft House were locked from the inside during business hours. On one visit by LSPD where the doors were so locked, it appeared to the officer(s) that rather than being open to the public for business, two motorcycle clubs—the Invaders and Outlaws—were holding a meeting. (ATC File; EX-23-007657)

11. On August 29, 2023, the ATC Prosecutor placed Permittee on the Proactive Alcohol Compliance Enforcement (PACE) program for one year due to its accumulation of violations and the nature of such violations. (ATC File)

12. On or about December 22, 2023, Permittee admitted to the violation issued on July 18, 2023, paid a \$1,000.00 fine, and its permit was suspended for three days, beginning on January 18, 2024, and continuing through January 20, 2024. (ATC File; EX-23-007657)

13. On February 2, 2024, Permittee was served a notice of violation for conduct that occurred on or about January 28, 2024, which included selling alcoholic beverages after legal service hours, failure to clear bar service after legal hours, and consumption of alcoholic beverages after legal hours. (ATC File; EX-24-000278)

14. On or about April 8, 2024, Permittee admitted the violation from January 28, 2024, and paid a \$3,000.00 fine. (ATC File; EX-24-000278)

15. On June 3, 2024, Ms. Hartsell signed Permittee's Application for Renewal of Retailer or Dealer Alcoholic Beverage Permit, which was received by ATC on or about June 18, 2024. (ATC File)

16. On July 22, 2024, the Commission issued a permit extension to Permittee which authorized Permittee to continue operating at the permit premises through November 12, 2024, while its renewal application was pending. (ATC File)

17. On August 7, 2024, the Local Board voted to recommend approval of the renewal of the Permit for one year only. (LB Hearing; ATC File)

18. On August 10, 2024, LSPD notified ISEP that there had been “an assault with a firearm at Draft House” in which a group of eight-to-ten men arrived at the Draft House on motorcycles, put on masks, and ran into the premises followed by the lone security guard. Two patrons of the bar were wearing colors of the Invaders motorcycle club, and one of the two patrons was immediately targeted and punched by one of the masked men in the larger group, then stomped on and beaten by members of the group. (ATC File; EX-24-002737)

19. Another patron who attempted to break up what had become a mob fight was shot by a member of the larger group. Once the gunshot occurred, the large group of masked men and some patrons left the Draft House on their motorcycles. The security guard, after fighting several masked men, drew a pistol and chased after the group. (ATC File; EX-24-002737)

20. Although only one shot was fired, the patron was shot through the hand and the bullet then entered his chest, and he was taken to the hospital. The man who was beaten was extremely dazed and confused after the fight and had nothing to say about the incident. (ATC File; EX-24-002737)

21. Following the August 10th shooting incident at the premises, a notice of violation was issued to Permittee by ISEP for being a public nuisance and failing to maintain a high and fine reputation.⁴ (ATC File; EX-24-002737).

22. Permittee submitted a corrective action plan on September 3, 2024, which stated it would post signage outside the bar that “discourage[es] members of any motorcycle gang from entering the business”, add more security equipment to the premises, and the doors of the premises would remain locked during business hours. The plan also included a request to continue to operate until January 1, 2025, while Permittee sought to sell the permit. (ATC File)

⁴ The violations remain pending as of the date this Order is executed by the undersigned. (ATC File; EX-24-002737).

23. On September 4, 2024, the Commission voted to overturn the LB's August 7th recommendation and denied the Permittee's renewal application. The Commission also voted to revoke the permit extension which was previously issued on July 22, 2024. (ATC File)

24. On September 9, 2024, Permittee received notice of the Commission's decision to deny its permit renewal.

25. On September 24, 2024, Permittee, by counsel, filed an appeal of the Commission's decision, and a *de novo* appeal hearing was held on December 9, 2024. (ATC File)

26. Mr. Ronald Gildersleeve is a retiree from the mills in Gary, lives alone with his dog and routinely goes to Draft House for meals and social interaction. Draft House provides meals that are affordable for him and other retirees; he considers the other retirees and the employees at Draft House like family. (Hearing Testimony)

27. Draft House frequently holds benefits for those in the community who are ill or injured or otherwise in need of financial assistance. It has raised over \$40,000.00 by holding benefits for those in need and has never charged the recipients for those events. (Hearing Testimony)

28. On August 10, 2024, the day of the shooting incident, Mr. Gildersleeve got to Draft House later than usual and was present when ten to twelve bikers came in, jumped the security guard and started trouble, including the fight and shooting, but he didn't recognize any of the "troublemakers" as regulars. (Hearing Testimony)

29. Ms. Angela Velez is a manager at Draft House, has worked there for seven years and normally works about forty-two hours a week. She usually works 7:00 A.M. to 5 P.M. four days a week, though sometimes she works later and on other days. (Hearing Testimony)

30. Ms. Velez believes the reason that there are so many more police runs to Draft House than other bars in the area is because Draft House does much more business than the others. (Hearing Testimony)

31. At the time, Draft House employed seventeen employees, almost all of whom were single parents, and Draft House's closure has made it tough for Ms. Velez and the others to earn a living.⁵
(Hearing Testimony)

32. Most employees have been at Draft House for years, and the bartender with the shortest term of employment has been there for three (3) years. (Hearing Testimony)

33. Since the shooting incident, Draft House has hired new security staff, added additional security cameras, and installed a buzzer system with two key fobs and a monitor so the bartender can determine who to "buzz in", and placed an "exit panic device" on the front door. The doors are always locked. (Hearing Testimony)

34. As of the date of the appeal hearing, Permittee was current on its taxes. (Hearing Testimony.)

35. Draft House is Ms. Hartsell's livelihood, as it is for many or most of her employees.
(Hearing Testimony)

36. The only shooting that has occurred at Draft House while Permittee has owned it is the one that occurred on August 10, 2024.

37. Between the day after the shooting and the day the Commission withdrew Permittee's extension on September 4, 2024, there were no incidents of violence at Draft House.
(ATC File; Hearing Testimony)

38. Ms. Hartsell collected the names on a twenty-page handwritten "Petition to Re-Open Drafthouse" by sitting in the Draft House parking lot after posting an invitation on Facebook to come and sign the Petition. (Hearing Testimony)

39. No one appeared at the appeal hearing to testify against the renewal or an extension; those testifying in favor were the owner, the manager, and one of Draft House's "regulars".

⁵ On February 10, 2024, while this matter has been under advisement, ATC received a letter from a cook at Draft House asking that it be reopened because his family desperately needs the income. Though it is supportive of Ms. Velez's testimony, the letter will not be considered because it was not presented under oath at the public hearing.

40. Any finding of fact may be considered a conclusion of law if the context so warrants.

CONCLUSIONS OF LAW

1. Any conclusion of law may be considered a finding of fact if the context so warrants.

2. The ATC has jurisdiction over this matter pursuant to Ind. Code § 7.1-1-2-2; I.C.

§ 7.1-2-3-9.

3. Mars Properties Management LLC (d/b/a Draft House) holds permit number RR45-34043 which is a Beer Wine & Liquor – Restaurant (Type 210) permit issued by ATC and is an applicant for renewal of its permit.

4. The Permittee's renewal application was properly submitted pursuant to I.C. § 7.1-3-1-4; I.C. § 7.1-3-19-1 *et seq.*

5. The ATC is commissioned to act upon proper application. *Id.*

6. On August 7, 2024, the Local Board voted to recommend approval of the renewal of Permit for one year, a reduction from the usual two-year period.

7. The Hearing Judge conducted a *de novo* review of the appeal on behalf of the ATC, including a public hearing. (905 IAC 1-36-7; Ind. Code § 7.1-3-19-11.5.)

8. The Hearing Judge may consider as evidence all documents in the ATC File, including the transcript of proceedings and exhibits before the Local Board. (905 IAC 1-36-7(a).)

9. According to I.C. § 7.1-3-19-11:

(a) The Commission shall follow the recommendation of a majority of the members of a local board to grant or deny an application for a retailer's permit of any type, unless, after the commission's review of that recommendation, the Commission determines that to follow the recommendation would be:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

(2) contrary to a constitutional right, power, privilege, or immunity;

(3) in excess of, or contrary to, statutory jurisdiction, authority, limitations or rights;

(4) without observance of procedure required by law; or

(5) unsupported by substantial evidence.

Such review shall be *de novo*.

....
I.C. § 7.1-3-19-11.

10. The Hearing Judge may also consider as evidence Commission orders and any codes and standards that have been adopted by an agency of this state. (905 IAC 1-36-8(e).)

11. “[A] witness’s bias, prejudice or ulterior motives are always relevant in that they may discredit him [or her or] affect the weight of [the] testimony.” (Exhibit #12, *Family Express* at 9 (quoting *Standifer v. State*, 718 N.E.2d 1107, 1110 (Ind. 1999) (quoting *Pfeffercorn v. State*, 413 N.E.2d 1088, 1089 (Ind. Ct. App. 1980)).

12. In determining whether to grant renewal of a permit, the Commission may only consider the Permittee’s reputation and character, whether the permit premises has become a public nuisance, or whether criminal offenses have taken place at the permit premises. (905 IAC 1-27-1, -2, -3, and -5.)

13. Evidence at the appeal hearing was received in accordance with the Indiana Administrative Code and the Commission’s rules. The findings here are based exclusively upon the substantial and reliable evidence in the record of proceedings and on matters officially noted in the proceedings. (905 IAC 1-36-8(e); IC § 4-21.5-3-27(d).)

14. Given the evidence before the Local Board at its hearing on August 7, 2024, its recommendation of a renewal for one year was not arbitrary, capricious, or an abuse of discretion.

15. Given the shooting incident that occurred after the Local Board’s hearing on the renewal application and the hearing judge’s review of the evidence related to that incident, as well as an in-depth review of police runs and complaints by the hearing judge as a result of taking notice of the ATC’s files, the hearing judge now finds that the Local Board’s recommendation is not supported by substantial evidence and therefore not in accordance with the law.

16. The permit premises has become a public nuisance. (I.C. § 7.1-2-6-1, -2; 905 IAC 1-27-1, -2, -3, and -5.)

17. The law and the facts are against the Permittee, Mars Properties Management LLC d/b/a Draft House.

Based on the foregoing, the Commission finds that the evidence in this matter is not in favor of the Permittee and that the appeal by Mars Properties Management LLC d/b/a Draft House, requesting

renewal of permit RR45-34043 and gaming endorsement number GR45-30692 is hereby **DENIED**.

Permittee may seek judicial review of the Commission's determination in accordance with Ind. Code 4-21.5.

Adopted on this 6th day of May, 2025.

DocuSigned by:

Jessica Allen

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Jessica Allen, Chair

Signed by:

James Payne

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James W. Payne, Vice Chair

Signed by:

Marjorie Maginn

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Marjorie Maginn, Commissioner

Signed by:

Mark Jones

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Mark A. Jones, Commissioner