

NEW YORK STATE LIQUOR AUTHORITY
FULL BOARD AGENDA
MEETING OF FEBRUARY 11, 2014
REFERRED FROM: COUNSEL'S OFFICE

2014-00421B

REASON FOR REFERRAL
REQUEST FOR DIRECTION

TIED-HOUSE LAWS AND
SPONSORSHIP RIGHTS

(DECLARATORY RULING)

The Members of the Authority at their regular meeting held at the Zone I New York City office on FEBRUARY 11, 2014 determined:

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January 14, 2014

Chairman Denis Rosen
Commissioner Jeanique Greene
New York State Liquor Authority
317 Lenox Avenue
New York, New York 10027

Re: Declaratory Ruling

Dear Chairman Rosen and Commissioner Greene,

This office represents Buffalo RiverWorks LLC (“RiverWorks”), 278 Main Street, West Seneca, New York 14224. RiverWorks, working in conjunction with Buffalo Mayor Byron Brown, and with the approval of the Buffalo City Counsel, is constructing a new entertainment and recreation center (hereinafter referred to as the “Center”) at 343-359 Ganson Street in the City of Buffalo. The RiverWorks company was founded in 2013 by two prominent Buffalo developers and lifelong Buffalo citizens who have invested in several downtown Buffalo revitalization projects to improve the fiscal outlook for the area. This new project is being constructed on an old industrial site near the Buffalo River. The Center, which will be open to the public and offer state-of-the-art facilities, will gentrify and bring commerce to an area where buildings are in decay, closed, or have been abandoned. RiverWorks will have an indoor arena and recreational center on the property, including two ice and sporting rinks. It will operate the Center, which will have a capacity far exceeding 1,000 persons, and apply for liquor licenses for concession stands and restaurants at the site. Pursuant to the Alcoholic Beverage Control Law and Section 98.1 of the Rules and Regulations of the State Liquor Authority (NYCRR subtitle B), we respectfully request a declaratory ruling as to whether the assignment of the right to sell all sponsorships and advertising signage at the Center, including sponsorships involving manufacturers and wholesalers of alcoholic beverages, would be prohibited under the “tied-house” provisions of ABC Law §101(1)(a) and §106(13), or the “gifts and services” provisions of ABC Law §101(1)(c).

As stated above, RiverWorks has commenced construction at the site. The indoor arena will host a wide-range of cultural events from rock, classic, and symphony concerts, to more intimate events such as the ballet, theater, and gospel choirs. It also will host events such as equestrian competitions, dog shows, art exhibits, boxing matches, and roller derbies. The outdoor area of the complex will have two open-air rinks/fields. RiverWorks will hold hockey, curling, speed and figure skating, lacrosse, and soccer tournaments. It will include competitions among university and semi-professional sports teams from New York, its surrounding states, and the lower Ontario region of Canada. At times, the open air rinks will be open to the general public for an admission fee. The site will offer indoor and outdoor cultural enrichment and recreational events for the public throughout the years; promote business; refurbish the area, and spark the economy in a region of New York which has been suffering for decades. The Center has been approved by the City of Buffalo Planning Commission and has been endorsed by neighboring grass roots organizations Valley Community Association and Old First Ward Community Association. These associations assist in improving the quality of life for local Buffalo residents, including housing, human services, economic redevelopment, and urban renewal.

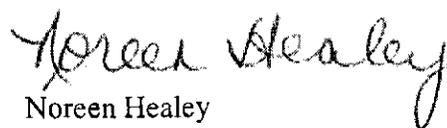
The landlord of the property is Ganson Entertainment LLC ("Ganson"). Ganson is owned by John M. Williams (40%), Michael K. Cam (20%), Earl A. Ketry (20%), and Douglas Swift (20%). Ganson has entered into a ten year lease agreement for the property to RiverWorks. RiverWorks is owned by Earl A. Ketry (75%) and Douglas Swift (25%). In addition, Mr. Ketry holds several retail licenses in New York, including on-premises retail liquor licenses and a restaurant-brewery license in the Buffalo/West Seneca region of New York.

RiverWorks seeks to assign to Buffalo River Marketing LLC ("BRM") the right to sell advertising and obtain sponsors at the Center for events. Maryann Stein is the owner and sole principal of BRM and has experience promoting businesses in this region of New York and Canada. BRM does not have any interest in a liquor license in New York State or elsewhere. It is a separate entity from RiverWorks, and neither Maryann Stein nor BRM have any interest in RiverWorks. None of the principals of RiverWorks are principals or employees of BRM. Other than the assignment of the rights to BRM, there will be no financial or other business ties, directly or indirectly, between any member of RiverWorks and BRM. RiverWorks will obtain a fee from BRM for the assignment of the rights to sell to sponsorships. However, aside from imposing certain quality standards to restrict lewd, obscene, or offensive advertising, RiverWorks will not have control over the agreements that BRM enters into with any potential sponsors, nor will it have control over how a sponsor may advertise. Any fee charged to BRM will be a fixed amount and not be contingent or based upon a percentage basis of sponsorship revenue from advertisers.

Traditionally, alcoholic beverage manufacturers have been involved in the sponsorship of events and the display of signage at venues of this type, and similarly approved structured agreements are operating in New York State. For example, the Barclay Center in Brooklyn and the Bethel Woods Arts Center in Woodstock function under like agreements and structures. Likewise, a new sports center at Syracuse University in Syracuse will operate in a comparable fashion. As in those cases, here, RiverWorks, who will be licensed to sell alcoholic beverages at retail at the Center, is a separate and distinct company from BRM, the assigned company who will sell sponsorships and signage space to sponsors at the Center in Buffalo. As such, RiverWorks is disconnected from any and all potential sponsors who may enter into an agreement with BRM for sponsorships and advertising signage at the Center. In addition, as with the Barclay Center, Bethel Woods, and the Syracuse University sports center, RiverWorks will offer events which traditionally and historically have been of cultural and entertainment value to the public.

It is respectfully requested that the Authority issue a declaratory ruling regarding whether this agreement, to assign the rights as described above to allow for all types of sponsorships at the Center, violates the Alcoholic Beverage Control Laws or the Rules and Regulations of the Authority, including "tied-house" laws (ABC Law §§101[1][a], 106[13]) and the "gifts and services" law (ABC Law §101[1][b]).

Yours truly,



Noreen Healey
Counsel
Phillips Nizer LLP

cc: Jacqueline Flug, Esq.
Counsel
New York State Liquor Authority

NEW YORK STATE LIQUOR AUTHORITY
FULL BOARD AGENDA
MEETING OF FEBRUARY 11, 2014
REFERRED FROM: SECRETARY'S OFFICE

2014-00421C

REASON FOR REFERRAL
REQUEST FOR DIRECTION

2013 LOCAL OPTIONS

(PROPOSED ADVISORY)

The Members of the Authority at their regular meeting held at the Zone I New York City office on FEBRUARY 11, 2014 determined:

STATE OF NEW YORK LIQUOR AUTHORITY

SUBJECT: Local Options: List of Dry Towns and Partially Dry Towns

This advisory shall replace Advisory 2013-2, which is hereby rescinded in all respects.

This advisory brings the status of dry and partially dry towns, as a result of Local Option elections, current to the 2013 election year.

Dry Towns:

<u>County:</u>	<u>Town:</u>	<u>Year on ballot:</u>
Allegany	Caneadea	1986
Chautauqua	Clymer	1974
Cortland	Lapeer	1948
Oswego	Orwell	1998
Steuben	Fremont	1948
	Jasper	1999
Sullivan	Neversink	2012
Tioga	Berkshire	1998
Washington	Argyle	2000

Number of Towns totally dry: 9

Partially Dry Towns:

1. Wet for On-Premises Consumption; Dry for Off-Premises Consumption:

<u>County:</u>	<u>Town:</u>	<u>Year on ballot:</u>
Allegany	West Almond	1973

2. Wet for On-Premises Consumption at a year round hotel with a full service restaurant (which includes the sale of beer for off premises consumption) only; Dry in all other areas:

<u>County:</u>	<u>Town:</u>	<u>Year on ballot:</u>
Delaware	Bovina	2007

3. Wet for Off-Premises Consumption; Dry for On-Premises Consumption:

<u>County:</u>	<u>Town:</u>	<u>Year on ballot:</u>
Cortland	Harford	1997
Delaware	Franklin	2007
Steuben	Caton	1958
	Rathbone	1972
Tioga	Newark Valley	1973
Wayne	Butler	1981
	Rose	1978
Wyoming	Pike	1976
	Wethersfield	1966
Yates	Middlesex	1978

4. Wet for Off-Premises Consumption & Wet for On-Premises Sale by Hotel ONLY:

<u>County:</u>	<u>Town:</u>	<u>Year on ballot:</u>
Tioga	Richford	1949
Wyoming	Orangeville	1975
Yates	Barrington	1967

5. Wet for On-Premises Consumption & Off-Premises Consumption; Dry for Special On-Premises Consumption:

<u>County:</u>	<u>Town:</u>	<u>Year on ballot:</u>
Allegany	Rushford	1984
Cayuga	Sterling	1973
	Throop	1972
Chautauqua	North Harmony	1977
Delaware	Delhi	1977
	Walton	1965
Onondaga	Tully	1974
Otsego	Hartwick	1970
	Oneonta	1970
	Otego	1992
St. Lawrence	Lisbon	1973
Steuben	Prattsburg	1987
	Woodhull	2004
Wyoming	Castile	2002
	Middlebury	1982
Yates	Jerusalem	1968

Starkey

1968

6. Wet for Off-Premises Consumption & Special On-Premises Consumption; Dry for On-Premises Consumption:

County:
Tioga

Town:
Spencer

Year on ballot:
2003

7. Wet for On-Premises Consumption; Wet for Special On-Premises Consumption; Wet for Off-Premises Consumption; Wet for Farm Winery; Dry for On-Premises consumption of beer at race tracks and outdoor athletic fields and stadiums where admission fees are charged:

County:
Wayne

Towns:
Williamson

Year on ballot:
2004

8. Wet for Off-Premises Consumption (beer only - §54); Wet for On-Premises Consumption (beer & wine products only §§55 & 79-b); Dry in all other areas:

County:
Cattaraugus

Towns:
Harmony

Year on ballot:
2006

9. Wet for Off-Premises Consumption; Wet for Special On-Premises Consumption (tavern); Wet for On-Premises Consumption of beer at race tracks and outdoor athletic fields and stadiums where admission fees are charged; Dry for On-Premises Consumption:

County:
Cattaraugus

Town:
Freedom

Year on ballot:
2011

10. Dry for On-Premises Consumption of beer at race tracks and outdoor athletic fields and stadiums where admission fees are charged; Wet in all other areas:

County:
Essex

Town:
Wilmington

Year on ballot:
2011

Number of Towns partially dry: 36