

TEMPORARY RESOLUTION NO. 145-17

PERMANENT RESOLUTION NO. 144-17

A RESOLUTION TO OBJECT TO THE RENEWAL OF RETAIL LIQUOR PERMIT NUMBER 8772977 FOR THO DO LLC DBA BININGERS DRIVE THRU LOCATED AT 534 EAST MAIN STREET IN THE CITY OF LANCASTER.

BE IT RESOLVED BY COUNCIL OF THE CITY OF LANCASTER, STATE OF OHIO

SECTION 1. That upon notification from the Ohio Department of Commerce, Division of Liquor Control, the City of Lancaster legislative authority objects to the alcohol sales permit renewal for THO DO LLC DBA BININGERS DRIVE THRU (Permit #8772977; Class C-1 and C-2) located at 534 East Main Street in the City of Lancaster. The legal basis for this objection is found in Ohio Revised Code § 4303.292(A). That section permits the Division of Liquor Control to refuse to renew a retail permit when the applicant, or any other business ownership interest, operates a "liquor permit businesses in a manner that demonstrates a disregard for the laws, regulations, or local ordinances of this state or any other state," according to R.C. § 4903.292(A)(1)(b). The City of Lancaster avers that THO DO LLC DBA BININGERS DRIVE THRU has demonstrated a disregard for both the law of this state and the local ordinances of the City of Lancaster by possessing and selling narcotics.

SECTION 2. According to an on-going Fairfield Hocking Athens Major Crime Unit investigation, THO DO LLC DBA BININGERS DRIVE THRU is in possession of, and offering for sale, products containing cannabidiol. Cannabidiol is a Schedule 1 narcotic and therefore, illegal to possess or sell under both the Ohio Revised Code and the Lancaster Codified Ordinances.

SECTION 3. See attached as Exhibit A, the City of Lancaster's Chief Legal Officer's Opinion that this objection is based upon substantial legal grounds within the meaning and intent of R.C. § 4303.292(A).

SECTION 4. That this resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed: 12/11/17 after 1st reading. Vote: Yeas 6 Nays 2

Approved: 12/11/17

Clerk: Jessica Lee Sandy

MT B Beyer
President of Council
David L. Schaffer
Mayor

Second by: [Signature]

OFFERED by: [Signature]

Requested by Law Committee



CITY OF LANCASTER, OHIO
LAW DIRECTOR AND CITY PROSECUTOR
RANDALL T. ULLOM

December 11, 2017

The Ohio Department of Commerce, Division of Liquor Control
Attn: Legal Section
6606 Tussing Road
P.O. Box 4005
Reynoldsburg, Ohio 43068-9005

RE: Chief Legal Officer's Opinion re Objection to Renewal of Permit #8772977 (Class C-1 and C-2), THO DO LLC DBA BININGERS DRIVE THRU

To Whom It May Concern:

As Law Director and City Prosecutor, I am the Chief Legal Officer for the City of Lancaster. It is my opinion that the City of Lancaster's objection to the renewal of permit #24459450010 (Class C-1 and C-2) for THO DO LLC DBA BININGERS DRIVE THRU is based upon substantial legal grounds within the meaning and intent of Ohio Revised Code § 4303.292(A).

Specifically, I would cite to R.C. § 4303.292(A)(1)(b), as the legal grounds for this objection. Under R.C. § 4303.292(A)(1)(b), any person or ownership interest who has operated a liquor permit business "in a manner that demonstrates a disregard for the laws, regulations, or local ordinances of this state or any other state," is subject to non-renewal of the business's alcohol sales permit. Local law enforcement officials have recently provided my office with significant evidence that THO DO LLC DBA BININGERS DRIVE THRU at 534 East Main Street is in possession of, and offering for sale, products containing cannabidiol. Cannabidiol is a Schedule 1 narcotic, and therefore, clearly illegal to possess or sell under the Ohio Revised Code and the Codified Ordinances of the City of Lancaster.

Attached please find Temporary Resolution 145-17, passed by Lancaster's City Council on December 11, 2017, to object to the retail liquor permit renewal for THO DO LLC DBA BININGERS DRIVE THRU based on the business's blatant disregard for both state and local law.

Thank you for your consideration regarding this matter. Please do not hesitate to contact me for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Ullom', with a long horizontal flourish extending to the right.

Randall T. Ullom,
Law Director & City Prosecutor

Encl: 1