

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

DIEZCON LLC d/b/a
BALLARD AVENUE PUB
2236 NW MARKET STREET
SEATTLE, WA 98107-4024

LICENSE APPLICANT

LICENSE NO. 407327

LCB NO. 23,973

FINAL ORDER OF THE BOARD

The above-captioned matter coming on regularly before the Board, and it appearing that:

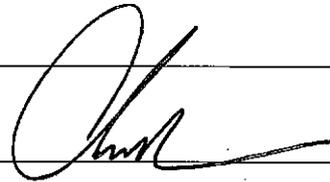
1. The Licensing Director of the Liquor Control Board issued a *Statement of Intent to Approve with Restriction on Liquor License*, dated April 11, 2012, in regard to an application for license modification from a Spirits/Beer/Wine Restaurant/Lounge license to a Nightclub license held by Diezcon, LLC d/b/a Ballard Avenue Pub;
2. Restrictions which were requested by the City of Seattle and approved by the Licensing Director include:
 - a. Submittal and Approval of a Safety Plan
 - b. Training for Security Personnel
 - c. Proof of Occupancy Limit;
3. No hearing request was received from the applicant;
4. The entire record in this proceeding was presented to the Board for final decision, and the Board having fully considered said record and being fully advised in the premises;

NOW THEREFORE; IT IS HEREBY ORDERED that that Board affirms the approval of the License Restrictions referenced in section 2.2 of the Statement of Intent to Approve with Restriction.

DATED at Olympia, Washington this 7 day of May, 2012.

WASHINGTON STATE LIQUOR CONTROL BOARD





Reconsideration. Pursuant to RCW 34.05.470, you have ten (10) days from the mailing of this Order to file a petition for reconsideration stating the specific grounds on which relief is requested. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing or delivering it directly to the Washington State Liquor Control Board, Attn: Kevin McCarroll, 3000 Pacific Avenue Southeast, PO Box 43076, Olympia, WA 98504-3076, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Board's office. RCW 34.05.010(6). A copy shall also be sent to Mary M. Tennyson, Senior Assistant Attorney General, 1125 Washington St. SE, P.O. Box 40110, Olympia, WA 98504-0110. A timely petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on the petition. An order denying reconsideration is not subject to judicial review. RCW 34.05.470(5). The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review.

Stay of Effectiveness. The filing of a petition for reconsideration does not stay the effectiveness of this Order. The Board has determined not to consider a petition to stay the effectiveness of this Order. Any such request should be made in connection with a petition for judicial review under chapter 34.05 RCW and RCW 34.05.550.

Judicial Review. Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

**STATE OF WASHINGTON
WASHINGTON STATE LIQUOR CONTROL BOARD**

In the Matter of Intent to Approve with
Restriction for the privileges of a Nightclub
from:

Diezcon, LLC
Ballard Avenue Pub
2236 NW Market St
Seattle WA 98107-4024

Location Address 2236 NW Market St
Seattle WA 98107-4024

License #407327
UBI # 603 059 001 0001

LCB No. 23,973

**STATEMENT OF INTENT TO
APPROVE WITH RESTRICTION ON
LIQUOR LICENSE**

The authority of the Washington State Liquor Control Board in this proceeding is based on the provisions of Title 66 Revised Code of Washington (RCW) and Title 314 Washington Administrative Code (WAC).

1. LICENSE HISTORY

1.1 The applicant has held a Spirits/Beer/Wine Restaurant Lounge liquor license at this location since January 11, 2011.

Applicant is also currently licensed (all under different LLC's) at:

- License number 362425 since 5/26/99 with two AVN's (issued 03/19/10 and 06/21/11) for sale or service to a minor (AVN's closed)
- License number 362269 since 11/30/09 with no violations
- License number 357979 since 10/28/10 with no violations
- License number 351303 since 09/08/11 with no violations.

Applicant has held liquor licenses at:

- License number 075199 from 5/4/00 to 8/5/10 with one AVN (issued 3/20/10) for sale/service to an apparently intoxicated person (AVN closed).

- License number 365453 from 12/29/09 to 11/30/10 with no violations.
- License number 078646 from 5/17/97 to 6/17/05 with no violations within the last two years of operations.

2. SUMMARY OF RELEVANT FACTS

2.1 Applicant applied for a Nightclub in lieu of a current Spirits/Beer/Wine Restaurant Lounge license on October 13, 2011.

2.2 The City of Seattle requested restrictions be placed on the applicant's nightclub liquor license in accordance with the provisions of RCW 66.24.600(5) and WAC 314-02-039(1). These requested restrictions are consistent with restrictions requested on other nightclubs licensed within the City of Seattle and include:

(1) Submittal and Approval of a Safety Plan:

Licensee shall, at the time of application, submit to, and have approved by the Washington State Liquor Control Board, Licensing Division, a written safety plan that includes:

- The number of security personnel hired by the Licensee, what personal security equipment they will be carrying on the licensed premises (e.g. pepper spray), as well as where and when they will be stationed in the establishment when on duty.
- The Licensee's on-premises procedures for checking patron identification and ensuring only persons twenty-one years of age or older are sold, served, or in possession of alcohol on the licensed premises.
- Procedures for responding to violent, disorderly, and/or criminal activity on the licensed premises.
- Procedures for crowd control and preventing patronage from exceeding the premises' occupancy limit.
- Contact information (phone, email, mailing address) for the designated individual addressing all safety and security issues on the licensed premises.

Failure to submit a security plan or failure to acquire Board approval of a submitted security plan, as required by this restriction, may result in denial of the license application or license renewal. If the Licensee in any way seeks to alter the safety plan after issuance of the license, the new safety plan must be approved by the Board prior to its implementation.

(2) Training for Security Personnel:

Licensee shall have all designated security personnel attend and complete a Seattle Police Department (SPD) security seminar or a substantially equivalent training program within 120 days of the issuance of this nightclub license, or the employee's date of hire, whichever is later. This security training requirement may be waived for an employee who provides evidence to the Board that he is a current or retired law enforcement officer in good standing of this State, another State, or with the federal government or military.

- The content of any security seminar or training program, including all proposed curriculum, training materials, and any examination with an explanation of all examination procedures, must be submitted to and approved by the Board prior to the Licensee's

security personnel attendance

- b. The security training requirement may be waived for an employee if SPD, or any other government entity, fails to make a Board-approved security seminar available for that employee within 120 days of the issuance of the nightclub license or the employee's date of hire, whichever is later.
- c. Licensee shall maintain, on the premises and available for inspection at all times by the Board and its agents, documentation demonstrating that each member of its security staff, who has been employed for more than 120 days, has met the training requirement. Failure to comply with this requirement may result in suspension or revocation of the license, or a demand for other action, at the discretion of the Board.

(3) Proof of the Occupancy Limit:

Licensee shall submit to the Board the occupancy limit for the licensed premises as established and approved by Seattle's Department of Planning and Development and any required, annual, assembly occupancy permit for the licensed premise, approved and issued by the Seattle Fire Department, at the time of application. Licensee shall inform the Board if the occupancy limits for the licensed premise changes. Confirmation that either the occupancy limit for the licensed premise has changed without report to the Board by the Licensee or that a required assembly occupancy permit has not been renewed in any subsequent year after license issuance may result in denial of the license renewal.

- 2.3 The Licensing Director approved the request for restrictions on this nightclub application as being in the public interest and consistent with restrictions placed on other licensed nightclub establishments in the City of Seattle.
- 2.4 Respondent was notified of this restriction request and submitted a statement that appeared to be in disagreement with the restriction request.

3. RELEVANT AUTHORITY AND CONCLUSIONS

- 3.1 The information outlined in paragraph(s) 2.1 through 2.3 constitutes grounds for restriction on the liquor license application under the provisions of RCW 66.24.600 (5) and WAC 314-02-039(1) where the board may consider requests for further restrictions be imposed in the interest of public safety.
- 3.2 In accordance with paragraph 3.1, the Licensing Director intends to issue the nightclub license with the restrictions requested by the City of Seattle.

4. REQUEST FOR INTENT TO APPROVE WITH RESTRICTION

The below-signed Director of Licensing for the Washington State Liquor Control Board, having reviewed the following materials:

- Application Processing Report/License Review signed and dated December 15, 2011 by Sharon A. Hendricks, Manager.
- Restriction request from the City of Seattle dated November 29, 2011.
- Applicant statement dated December 10, 2011.

And based on those materials, having concluded as set forth above, seeks the requested restrictions on the liquor license of Ballard Ave Pub.

DATED this 11th day of April, 2012.



Alan E. Rathbun, Director, Licensing & Regulation Division

The Washington State Liquor Control Board has a policy of providing equal access to its services.

This document was mailed to the following people:

Diezcon, LLC Ballard Avenue Pub 2236 NW Market St Seattle WA 98107-4024	Teresa Eidem Attorney, City of Seattle 700 5th Avenue, Ste 5350 Seattle, WA 98124-4667
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**Washington State
Liquor Control Board**

May 8, 2012

Diezcon LLC, Licensee/Applicant
d/b/a Ballard Ave Pub
2236 NW Market St
Seattle, WA 98107-4024

Alan Rathbun, Licensing Director
WSLCB
3000 Pacific Ave SE
PO Box 43098
Olympia, WA 98504-43098

Teresa Eidem, Legal Assistant
City of Seattle
700 5th Ave Ste 5350
Seattle, WA 98124-4667

RE: FINAL ORDER OF THE BOARD
LICENSEE: Diezcon LLC
TRADE NAME: Ballard Ave Pub
LOCATION: 2236 NW Market St, Seattle, WA 98107-4024
LICENSE NO. 407327-2A
LCB NO. 23,973
UBI: 603 059 833 001 0001

Dear Parties:

Please find the enclosed Declaration of Service by Mail and a copy of the Final Order of the Board in the above-referenced matter, as well as a copy of the Statement of Intent to Approve with Restriction. If you have any questions, please contact me at (360) 664-1602.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin McCarroll".

Kevin McCarroll
Adjudicative Proceedings Coordinator

Enclosures (3)

cc: Tukwila and Seattle Enforcement and Education Divisions, WSLCB
Beth Lehman, Licensing Supervisor, WSLCB

PO Box 43076, 3000 Pacific Ave. SE, Olympia WA 98504-3076, (360) 664-1602 www.liq.wa.gov

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

LCB NO. 23,973

DIEZCON LLC
d/b/a BALLARD AVE PUB
2236 NW MARKET ST
SEATTLE, WA 98107-4024

DECLARATION OF SERVICE BY MAIL

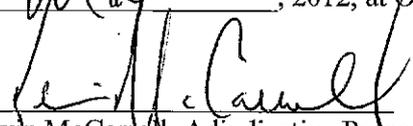
LICENSEE/APPLICANT

LICENSE NO. 407327-2A

I certify that I caused a copy of the FINAL ORDER OF THE BOARD in the above-referenced matter to be served on all parties or their counsel of record by US Mail Postage Prepaid via Consolidated Mail Service for Licensees and Local Authorities; by Office Mail for the Licensing Director, on the date below to:

DIEZCON LLC, LICENSEE/APPLICANT d/b/a BALLARD AVE PUB 2236 NW MARKET ST SEATTLE, WA 98107-4024	ALAN RATHBUN, LICENSING DIRECTOR WSLCB 3000 PACIFIC AVE SE PO BOX 43098 OLYMPIA, WA 98504-43098
TERESA EIDEM, LEGAL ASSISTANT CITY OF SEATTLE 700 5 TH AVE STE 5350 SEATTLE, WA 98124-4667	

DATED this 8th day of May, 2012, at Olympia, Washington.


Kevin McCarron, Adjudicative Proceedings Coordinator