Washington State
Liquor Control Board

Liquor Control Board Interim Policy #BIP-04-2012

Subject: Relocation of Former State Liquor Stores

Effective Date: September 1, 2012

Ending Date: Upon adoption of rules to implement this policy.

Approved:

Sharon Foster, Board Chairman

Ruthann Kurose, Board Member

Chris Marr, Board Member

Background

Initiative 1183 required the LCB to "*...sell by auction open to the public the right at each state-owned store location of a spirits retail licensee to operate a liquor store upon the premise.*" Furthermore, Initiative 1183 states that "*Holding the rights does not require the holder of the right to operate a liquor licensed business or apply for a liquor license.*" From this statement, it has been determined that;

- **A title owner is not obligated to operate a business, and thus not obligated to seek an agreement with the landlord of the former state liquor store.**

Various factors may prevent agreement between a landlord and prospective lessee including non-compete agreements from other tenants, commercial terms within the lease, and inconsistencies between a lessee's business model and the size or location of the landlords property. The law does not give the Board the authority to require a landlord or prospective lessee to engage in business together.

From these facts it has been determined that;

- **Location alternatives are necessary due to various factors that may prevent a title owner to establish a business at the exact location of the former state liquor store.**

As part of the implementation of Initiative 1183, the LCB auctioned the rights associated with 167 liquor stores. The LCB made bidders aware that property rights were not a part of the auction and that leases, if desired, would have to be negotiated between the auction winner and landlord. Bidders were made aware that they would have four specific options.

1. Exercise their right at the existing location
2. Request approval of an alternate location
3. Sell or transfer their right to another individual/entity
4. Do nothing

A consistent and transparent process is needed for evaluating relocation requests.

Purpose Statement

The purpose of this policy is to outline the principles by which the Board will evaluate relocation requests for title holders of former state liquor store locations.

Policy Statement

The Board will use the following criteria for evaluating requests for the relocation of former state liquor stores;

1. Location alternatives are necessary due to various factors that may prevent a title owner to establish a business at the exact location of the former state liquor store. Examples of circumstances that may accompany a request for relocation include;
    a. The original location is no longer available (occupied by another tenant)
    b. The landlord has non-compete agreements with other tenants which conflict with the title owners planned product offering.
    c. The commercial terms of the lease are deemed unacceptable by the title owner or landlord.
    d. There are inconsistencies between a lessee's business model and the size or location of the landlord's property.
    e. The title owner is unable to reach an acceptable agreement with the landlord of the original location.
2. The new location should be within 1 radius mile (as the crow flies) from the original State store address and not violate a WAC or RCW such as proximity to schools or places of worship.
3. Any subsequent relocation should also be within 1 radius mile (as the crow flies) from the original State store address. This will help to center the liquor store within the original area.
4. There is no limit on the number of relocations requested as long as they meet the Board's criteria.
5. A new location beyond 1 radius mile (as the crow flies) may be considered if the following conditions exist;
    a. The landlord is unable to lease the location to the Title Owner due to non-compete agreement with other tenants AND,
    b. There are no other commercial properties within range regardless of vacancy status AND,
    c. The new location is still determined to be within the general area served by the original location.
6. As geographic and/or economic conditions change, the Board should revisit these criteria to ensure it is effectively guiding decisions in a manner consistent with the Mission of the agency.

Policy Implementation

Effective immediately upon implementation of this policy, all relocation requests received from authorized users of the rights associated with former state liquor store locations, shall be reviewed and decided upon using the content of this policy along with other applicable rules, guidelines, or information as deemed appropriate by the Board.