

**OFFICE OF THE
WASHINGTON STATE LIQUOR CONTROL BOARD
Board Meeting /November 9, 2005**

The regular meeting of the Washington State Liquor Control Board was called to order at 10:00 a.m., on Wednesday, November 9, 2005 in the Board conference room, 3000 Pacific Avenue SE, Olympia, Washington, by Board Member Roger Hoen. Board Member Vera Ing was present. Tony Kim, Administrative Assistant to the Board summarized the minutes.

Policy & Legislative Division – Board Decision Regarding Expedited Rule Making Request from the Washington Wine Institute; Pam Madson, Rules Coordinator

The Washington Wine Institute (WWI) asked the Washington State Liquor Control Board (LCB) to repeal or revise its rule defining the terms and conditions of a wine shipper's license under Washington's reciprocity law. The Institute further asserts that this change could take place under expedited rule making.

The Board had an opportunity to hear from the WWI and LCB staff on this issue at a Board work session on November 1, 2005.

The issue is whether the LCB can change its rules regarding reciprocity to allow Washington's wineries to ship wine directly to New York consumers and allow New York's wineries to ship wine directly to Washington consumers.

The WWI stated in a letter to the Board and in their presentation to the Board that Washington law could be interpreted so that Washington's reciprocity law and New York's law are reciprocal.

- Reciprocity can be interpreted broadly to mean simply that wineries in each state are allowed to ship wine directly to consumers in the other state regardless of the additional criteria like payment of taxes or the charging of fees.
- That means that the Board's rule on reciprocity needs to be changed and that can be done by an expedited rule making process.

The WWI made the following points:

- California and Oregon, both reciprocal states with similar statutes to that of Washington, have issued letters saying that the laws of New York and their respective states are reciprocal.
- States are reevaluating their direct shipping laws and are moving to eliminate reciprocity and impose fees for permits and the collection of taxes on wineries shipping into a state.
- Washington is proposing to move to a permit fee and tax collection model. LCB along with the WWI are working on legislation for the up-coming session.
- The Legislature recognizes the importance of the Washington wine industry and that it should be in the forefront of interstate commerce.

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LCB staff recommended that any change in the interpretation of Washington's reciprocity law requires action by the Legislature.

- The law includes as part of reciprocity that no taxes be imposed on sales by out-of-state wineries.
- Rules that further define what reciprocity is cannot be changed by an expedited rule making process because reasons to change the rule do not fit the criteria for expedited rule making.

LCB staff made the following points:

- Washington's reciprocity law is in effect until changed by the Legislature.
- Washington does not charge a fee for its wine shipper's license and no taxes are collected on sales made by out-of-state wineries
- New York charges a fee of \$125 for a permit and requires that the out-of-state winery collect taxes on the transaction.
- New York also requires that the out-of-state winery include a letter from its liquor control agency that its state laws are reciprocal to that of New York.

The Board accepted the position of LCB staff that reciprocity is required until changed by the Legislature. New York law and Washington law are not currently reciprocal. Even if we agreed that a different interpretation of reciprocity could be made by changing the rules adopted by the Board, the expedited rule making process is not appropriate under these circumstances.

- No law or court decision requires a rule change
- Other expedited rule making criteria do not apply.

Conclusion: Based on the information presented to the Board, on November 9, Board members Roger Hoen and Vera Ing determined that expedited rule making is not appropriate to change Washington's reciprocity law before action by the Legislature. WWI's request was denied. In Board member Hoen's comments, he noted that Chairman Long and LCB staff had contacted New York Liquor Authority officials to explore the possibility of New York waiving its fee and tax requirements so that New York could be considered a reciprocal state under Washington's current law. New York officials stated that they did not have the discretion to do so.

Retail Services division – Liquor Store Relocation, Store #092, Tacoma

Suzanne Lewis, Store Leasing Manager

The lease for Store No. 092, located in Evergreen Plaza at 5225 Tacoma Mall Boulevard, Tacoma, expired on September 30, 1994 and has been on a month-to-month extension since then.

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BACKGROUND

Store #092 has been in a retail strip center near Tony Roma's restaurant since October 1989. The store has never been very profitable due to the heavy traffic along Tacoma Mall Boulevard and the difficulty in accessing the store during the busiest times of the day. Due to this, the store serves a large number of licensee accounts that pick up their orders in the morning and afternoons, normally prior to the heavy traffic times. With the low retail sales, Store #092 is very near the bottom of the list of stores to be relocated to more profitable sites. Due to the long-time low rent, the profit rate at the current site was 8.4% in FY2005 while profit rates for other Tacoma stores ranged from 9.8% to 15.2%. Several potential relocation sites have been identified over the years but didn't work out for various reasons. In fact, the 80th & Hosmer site has been presented to staff by various RE agents for more than 10 years. Due to nearly unworkable utility easements on the site, it had not reached the full development stage until recently.

PROPOSAL – 80TH & HOSMER ST.

The Lessor, Thom McKee of West Willow-Tacoma LLC, represented by Jeff Rosen of Seattle Pacific Realty, Inc., has proposed a ten (10) year lease in a new 5,767 square foot space. The new rental rate will be \$11,534.00 per month, or \$24.00 per square foot per year, during Years 1-3, \$12,572.00 per month, or \$26.16 per square foot per year, during Years 4-6 and \$13,701.43 per month, or \$28.51 per square foot per year, during Years 7-9, and \$14,936.53 per month, or \$31.08 per square foot per year, during Year 10.

The Board will pay its pro rata share of any property tax increases over the base year which shall be defined as the year in which the property and improvements are fully assessed.

The Lease may not be terminated during the initial ten (10) years of the lease term, except pursuant to Paragraph 2, if applicable, or if Lessor(s) is in default under this agreement and fails to cure such default within 30 days after receipt of written notice of the default. The Board has the option to renew the lease for an additional 10 year term with rent to be negotiated at least 270 days prior to expiration of the current lease.

The Lessor has agreed to construct the premises per the Board's "General Specs...", including a fire sprinkler system if required to avoid a firewall. He has also agreed to provide additional exterior lighting and a rolldown metal screen over the storefront windows to discourage possible break-ins.

Lessor will provide and maintain 2 lighted, individually-lettered signs on the building exterior as well as the Board's lenses in the lighted pylon sign. He has also agreed to the provisions of Appendix A, "Areas of Responsibility".

SALES HISTORY

Recent sales history for Store No. 092 is as follows:

	<u>Retail Sales</u>	<u>Class H Sales</u>	<u>Gross Sales</u>
FY2005	\$1,150,435	\$988,703	\$2,139,138
FY2004	\$1,128,872	\$950,707	\$2,079,579
FY2003	\$1,058,219	\$999,784	\$2,058,003

Sales/sq ft: FY04 = \$446 (average for all state liquor stores was \$650 for FY04)
NOTE: Retail sales only increased by 2% in 2005 and remain far below the minimum standard of \$1.8 million per year. Class H sales comprise over 46% of sales.

Profitability: FY04 = 8.4% while the average profit for all state stores was 11.3%.

NOTE: Relocation with no sales increase would = 4.2% profit rate. However, we anticipate an increase in retail sales to at least \$1.8 million during the first year with projected sales increases of at least 10% per year. At that rate, the profit percentage would be 7.7% in Year 1, 8.6% in Year 2, 9.3% in Year 3, 9.6% in Year 4, and 10.2% in Year 5. This also assumes no increase in Class H sales.

ADDITIONAL DATA:

Current rental rates for new construction in the Tacoma area are in the mid-\$20s per square foot + triple net charges and tenant improvements.

Comparable lease rates in area:

#189 Puyallup-South Meridian – 5,600sq ft @ \$11,200.00/mo, or \$24.00/sq ft/yr, in Yrs 1-5 \$12,880.00/mo, or \$27.60/sq ft/yr, in Yrs 6-10

NOTE: Store #189 is now under construction in a small strip center and is next to a grocery anchored center with good visibility very similar to the proposed 80th & Hosmer site.

Neighboring Stores:

#122 72nd & Pacific

6,000 square feet	11/1/97 – 10/31/07
Years 1-5 \$6,250.00	\$12.50/sq ft/yr + tax increases
Years 6-10 \$7,000.00	\$14.00/sq ft/yr “

#161 South 38th Street (3 blks west of Pacific)

5,522 square feet	10/01/00 – 03/31/06 (1 yr extension)
\$5,298.00	\$11.51/sq ft/yr + tax increases

#084 72nd & Portland

4,235 square feet	04/01/00 – 03/31/05 (month to month)
\$3,529.00	\$10.00/sq ft/yr + tax increases

#068 Lakewood

4,913 square feet	03/01/03 – 02/28/13
Years 1-3 \$8,085.98	\$19.75/sq ft/yr + tax increases

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Years 4-6	\$8,700.00	\$21.25/sq ft/yr	“
Years 7-10	\$9,314.23	\$22.75/sq ft/yr	“

SUMMARY

Summary of the lease proposal for Store #092:

<u>Current Rent</u>	<u>Proposed Rent-#1</u>	<u>Change</u>
4,661 sq ft	5,767 sq ft	+1,106 sq ft
\$4,242.41	\$11,534.00 Yrs 1-3	+172%
\$10.92/sq ft/yr	\$24.00/sq ft/yr	+120%
	\$12,572.00 Yrs 4-6	+9%
	\$26.16/sq ft/yr	
	\$13,701.43 Yrs 7-9	+9%
	\$28.51/sq ft/yr	
	\$14,936.53 Yr 10	+9%
	\$31.08/sq ft/yr	

Ms. Lewis recommended approval of the Lease Proposal for relocation to the West Willow development at 80th & Hosmer.

Board Member Ing moved for approval. Board Member Hoen seconded the motion, and it was passed.

Retail Services division – Contract Liquor Store Manager Selection, #657, Washougal; Linda Lenz, Secretary Administrative

Washougal is a community located near Vancouver. The population as of 2004 was 10,770 and increasing. The nearest stores are CLS #656 in Camas, 4 miles away and State Liquor Store #168 in Vancouver, 8.3 miles away. Gross sales for FY 2005 were \$1,462,727 and commission was \$122,833.

40 applications were requested for this recruitment and 6 were completed and returned. 6 were scheduled for interviews, but only 5 were interviewed due to a no-show of one applicant. A Panel consisting of: Eddie Cantu, District Manager; Earl Hill, District Manager, and Bill DiLorenzo, Audit & Loss Prevention Manager, conducted the interviews. After the interviews were conducted the selected candidate was Shelby Piersol.

Shelby has attended Mt. Hood Community College, and other studies including Design Edge Services and seminars as a human resource manager with Interconnectix. She also performed work-study at the U.S. Attorney’s office in Portland, Oregon. She has owned and operated a bookstore in Gresham, Oregon

for the last 5 years. She has experience in accounting, inventory control, merchandising and customer relations.

Shelby has plans to rent a 1,440 square foot location in the Washougal Evergreen Marketplace. She has plans to have an on-site food and wine expert, better signage, more attractive store, expanded hours, better parking, and enhanced wine selection.

Shelby has been involved in the community and her personal references were good.

Ms. Lenz recommended the selection of Shelby Piersol as the new Contract Manager for Washougal effective December 1, 2005.

Board Member Ing moved for approval. Board Member Hoen seconded the motion, and it was passed.

Retail Services division – Contract Liquor Store Manager Selection, #511, Long Beach; Charles O'Donnell, District Manager

The Long Beach Contract store is located on S-103. It is approximately 12 miles from CLS #664 in Ocean Park and 6 miles from CLS #605 in Ilwaco. This is a coastal resort community of approximately 1,350 people. The gross sales for Long Beach in FY 2005 were \$698,88 and the commission was \$71,624.

21 applications were requested for this recruitment and 11 were completed and returned. Of those 11 only four met all the criteria and were interviewed. A Panel consisting of: Charles O'Donnell, District Manager; Jonathan Harkness, District Manager, and Brian Thomas, District Manager, conducted the interviews. After the interviews were conducted the selected candidate was Gwen Morgan.

Gwen has had extensive retail experience. She has operated a gift shop and gallery in Long Beach for the last 12 years. She has had experience with POS systems, security, and financial reporting required. In the past she was the Executive Assistant to the Director of King County Metro, and prior to that was a stewardess with United Airlines.

Gwen has lived in Long Beach for over twenty years. She intends to continue to operate from the present liquor store location, and will update many of the interior fixtures and the layout. She also has intentions of expanding the operating hours.

Gwen has a long time connection to the community. Her references were excellent.

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Mr. O'Donnell recommended the selection of Gwen Morgan as the new Contract Manager for CLS #511, Long Beach effective December 1, 2005.

Board Member Ing moved for approval. Board Member Hoen seconded the motion, and it was passed.

Board – Approval of Minutes

Board Member Ing reviewed the minutes of September 6, September 21, and November 2. Board Member Ing moved for approval. Board Member Hoen seconded the motion, and it was carried.

The Meeting was adjourned at 10:40 A.M.

Merritt D. Long
Chairman

Vera Ing
Board Member

Roger Hoen
Board Member