

Re: Foodies Duxbury, LLC
d.b.a.: Foodies Duxbury Market
Premise: 46 Depot Street
City/Town: Duxbury, MA 02332
License: W & M Package
Heard: December 3, 2008

DECISION

This was an appeal hearing from the action of the Licensing Board of the Town of Duxbury in denying the Licensee's request to amend the description of the licensed premises by amending the condition on the license.

FACTS

1. Foodies Duxbury Market was granted a Wine & Malt Package Store license in August of 2007.
2. The Licensee restricted Foodies Market to selling its alcohol to a 522 square feet section of the store.
3. On September 29, 2008 a hearing was held on Foodies Market's request to amend the description of the licensed premises.
4. On October 7, 2008 the licensee was notified by the Local Board of the denial of the request to amend the description of the licensed premises.
5. The decision cited the reason for denial was difficulty in measuring compliance when the product was scattered throughout the store.

DISCUSSION

At the hearing, Town Counsel indicated to the Commission the Town feared it would not be able to easily tell what was and was not part of the 522 square foot licensed area if it was changed from its current rectangular location. The Licensee expressed a willingness to provide a plan, which would visually establish the licensed areas throughout the store.

The Commission therefore remands the matter back to the Local Board with the recommendation to allow the licensee to present a plan, which visually establishes the perimeters of the licensed areas requested. The licensed areas must not exceed 522 square feet.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Robert H. Cronin, Commissioner _____

Eddie J. Jenkins, Chairman _____

Dated in Boston, Massachusetts this 7th day of January 2009.

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty days of receipt of this decision.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Robert L. Allen, Jr., Esq.
Robert S. Troy, Esq.
File