CITY COUNCIL AGENDA REPORT

MEETING DATE: JULY 3, 2012 ITEM NUMBER:

SUBJECT: PREMISE-TO-PREMISE TRANSFER OF A STATE ALCOHOLIC BEVERAGE CONTROL LICENSE TYPE 48 (ON-SALE GENERAL, PUBLIC PREMISE) FOR KINGS TAVERN (FORMER LITTLE KNIGHT)
436 EAST 17TH STREET

DATE: JUNE 21, 2012

FROM: DEVELOPMENT SERVICES DEPARTMENT

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP (714) 754-5611
mel.lee@costamesaca.gov

RECOMMENDATION:

Receive and file the following ABC license request:

1. For Mariner's Fund, LLC, doing business as Kings Tavern, at 436 East 17th Street, a premise-to-premise transfer of a State Alcoholic Beverage Control (ABC) License Type "48" (On-Sale General – Public Premise).

BACKGROUND:

The purpose of this report is to clarify the issue of whether or not a new bar can be established at 436 East 17th Street, the former location of the Little Knight Bar.

Question: Can another bar be established at 436 East 17th Street without a finding for Public Convenience or Necessity (PC or N)?

Short Answer: Yes. According to the State Department of Alcoholic Beverage Control, another bar can be re-established without requiring discretionary approval from the City provided that the new bar operates under the same type of ABC License (Type 48) and the new bar is established within 90 days.

ANALYSIS

On April 23, 2012, Planning Commission approved an application for a premise-to-premise transfer of the existing Type 48 (On-Sale General, Public Premise) Alcoholic Beverage Control (ABC) license for the Little Knight Bar at 436 East 17th Street. The owner, Erik Harriman, is transferring the license to this location to operate a new restaurant within The Triangle Center (Black Knight/Olive Branch Pizza) with this license.

On May 14, 2012, staff received the above application to transfer the same type of license to the former Little Knight location (Attachment 1).

Typically, a premise-to-premise transfer of an ABC license for a bar would be subject to the following per the City Zoning Code and City Council Policy No. 500-8:

1. Approval of a conditional use permit; and
2. A finding for Public Convenience or Necessity (PC or N).

There is a conditional use permit on file for the establishment, the most recent being PA-98-62. Additionally, according to ABC, the applicant is not required to obtain a PC or N finding because the establishment will have the same type of license and is within 90 days of the transfer of the prior license (i.e., the "90 Day Rule" referenced in the attached email from ABC (Attachment 2).

As a result, the City does not have authority under these circumstances to prevent or prohibit the transfer of the license. However, the applicant has agreed to work with staff to upgrade the property (Attachment 3).

MEL LEE, AICP
Senior Planner

PETER NAGHAVI
Director of Economic & Development / Deputy CEO

ATTACHMENTS:

1. ABC License Application
2. Correspondence from ABC
3. Correspondence from Applicant

DISTRIBUTION:

Chief Executive Officer
Assistant Chief Executive Officer
Director of Economic & Development / Deputy CEO
City Attorney
Public Services Director
Transportation Svs. Mgr.
City Clerk (9)
Staff (7)
File (2)

Mariner's Fund, LLC
3334 East Coast Highway, Suite 418
Corona Del Mar, CA 92625

Sheldon Group
901 Dove Street, Suite 140
Newport Beach, CA 92660

ATTACHMENT 1

Department of Alcoholic Beverage Control

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE(S)

ABC 211 (6/99)

TO: Department of Alcoholic Beverage Control
605 W. SANTA ANA BLVD.
BLDG 28, STE 369
SANTA ANA, CA 92701
(714) 558-4101

File Number: **521731**
Receipt Number: **2111665**
Geographical Code: **3004**
Copies Mailed Date: **May 10, 2012**
Issued Date:

Received
City of Costa Mesa
Development Services Department
MAY 14 2012

DISTRICT SERVING LOCATION: **SANTA ANA**

First Owner: **MARINER'S FUND, LLC**
Name of Business: **KINGS TAVERN**
Location of Business: **436 E 17TH ST**
COSTA MESA, CA 92627-3213

County: **ORANGE**
Is Premise inside city limits? **Yes**
Census Tract **0633.02**
Mailing Address: (If different from premises address) **3334 E COAST HWY**
 # 418
CORONA DEL MAR, CA 92625-2328

Type of license(s): **48**

Transferor's license/name: **286088 / SUELAD INC**

Dropping Partner: Yes___ No X

License Type	Transaction Type	Fee Type	Master	Dup	Date	Fee
48 - On-Sale General Public	PERSON-TO-PERSON TRANSFER	P40	Y	0	05/10/12	$1,250.00
48 - On-Sale General Public	PREMISE TO PREMISE TRANSFER	P40	Y	0	05/10/12	$100.00
48 - On-Sale General Public	ANNUAL FEE	P40	Y	0	05/10/12	$876.00
48 - On-Sale General Public	EXCHANGE FEES	P40	Y	0	05/10/12	$100.00
NA	STATE FINGERPRINTS	NA	N	1	05/10/12	$39.00
NA	FEDERAL FINGERPRINTS	NA	N	1	05/10/12	$24.00
					Total	$2,389.00

Have you ever been convicted of a felony? **No**
Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the Department pertaining to the Act? **No**
Explain any "Yes" answer to the above questions on an attachment which shall be deemed part of this application.

Applicant agrees (a) that any manager employed in an on-sale licensed premises will have all the qualifications of a licensee, and (b) that he will not violate or cause or permit to be violated any of the provisions of the Alcoholic Beverage Control Act.

STATE OF CALIFORNIA County of ORANGE Date: May 9, 2012

Under penalty of perjury, each person whose signature appears below, certifies and says: (1) He is an applicant, or one of the applicants, or an executive officer of the applicant corporation, named in the foregoing application, duly authorized to make this application on its behalf; (2) that he has read the foregoing and knows the contents thereof and that each of the above statements therein made are true; (3) that no person other than the applicant or applicants has any direct or indirect interest in the applicant or applicant's business to be conducted under the license(s) for which this application is made; (4) that the transfer application or proposed transfer is not made to satisfy the payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Department or to gain or establish a preference to or for any creditor or transferor or to defraud or injure any creditor of transferor; (5) that the transfer application may be withdrawn by either the applicant or the licensee with no resulting liability to the Department.

Applicant Name(s) — Applicant Signature(s)

MARINER'S FUND, LLC — **See 211 Signature Page**

State of California

Department of Alcoholic Beverage Control

APPLICATION SIGNATURE SHEET *("SIGN ON")*

- This form is to be used as the signature page for applications not signed in the District Office.
- ***Read instructions on reverse before completing.***
- ***All signatures must be notarized in accordance with laws of the State where signed.***

1. OWNERSHIP TYPE (Check one)
- [ ] Sole Owner
- [ ] Partnership
  - [ ] Married Couple
  - [ ] Domestic Partner
- [ ] Partnership-Ltd
- [ ] Corporation
- [x] Limited Liability Company
- [ ] Other

2. FILE NUMBER (If any): 521731

3. LICENSE TYPE: 48

4. TRANSACTION TYPE
- [ ] Original
- [x] Exchange
- [x] Person to Person Transfer
- [x] Premise to Premise Transfer
- [ ] Other

5. APPLICANT(S) NAME (Last, first, middle)

MARINER'S FUND, LLC

6. APPLICANT'S MAILING ADDRESS (Street address/P.O. box, city, state, zip code)

3334 E. Coast Hwy., Ste. 418, Corona Del Mar, CA 92625

RECEIVED
APR 30 2012
Dept. of Alcoholic Beverage Control
Santa Ana Office

7. PREMISES ADDRESS (Street address, city, zip code)

436 E. 17th St., Costa Mesa 92627

APPLICANT'S CERTIFICATION

Under penalty of perjury, each person whose signature appears below, certifies and says: (1) He/She is an applicant, or one of the applicants, or an executive officer of the applicant corporation, named in the foregoing application, duly authorized to make this application on its behalf; (2) that he/she has read the foregoing and knows the contents thereof and that each of the above statements therein made are true; (3) that no person other than the applicant or applicants has any direct or indirect interest in the applicant or applicant's business to be conducted under the license(s) for which this application is made; (4) that the transfer payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Department, (b) to gain or establish a preference to or for any creditor or transferor, or (c) to defraud or injure any creditor or transferor; (5) that the transfer application may be withdrawn by either the applicant or the licensee with no resulting liability to the Department.

I understand that if I fail to qualify for the license or withdraw this application there will be a service charge of one-fourth of the license fee paid, up to $100.

SOLE OWNER

8. PRINTED NAME (Last, first, middle)	SIGNATURE	DATE SIGNED
	X	

PARTNERSHIP/LIMITED PARTNERSHIP (Signatures of general partners only)

9. PARTNER'S PRINTED NAME (Last, first, middle)	SIGNATURE	DATE SIGNED
	X	
PARTNER'S PRINTED NAME (Last, first, middle)	SIGNATURE	DATE SIGNED
	X	
PARTNER'S PRINTED NAME (Last, first, middle)	SIGNATURE	DATE SIGNED
	X	

CORPORATION

10. PRINTED NAME (Last, first, middle)	SIGNATURE	DATE SIGNED
	X	

TITLE
- [ ] President
- [ ] Vice President
- [ ] Chairman of the Board

PRINTED NAME (Last, first, middle)	SIGNATURE	DATE SIGNED
	X	

TITLE
- [ ] Secretary
- [ ] Asst. Secretary
- [ ] Chief Financial Officer
- [ ] Asst. Treasurer

LIMITED LIABILITY COMPANY

11. The limited liability company is member-run [ ] Yes [x] No (If no, complete Item #12 below)

12. NAME OF DESIGNATED MANAGER, MANAGING MEMBER OR DESIGNATED OFFICER (Last, first, middle)

MAROVIC, Mario

13. MEMBER'S PRINTED NAME (Last, first, middle)	SIGNATURE	DATE SIGNED
MAROVIC, Mario	X	4-7-12
MEMBER'S PRINTED NAME (Last, first, middle)	SIGNATURE	DATE SIGNED
	X	

ACKNOWLEDGMENT

ABC-211-SIG

State of California
County of ORANGE)

On APRIL 7, 2012 before me, TONY PACHECO, NOTARY PUBLIC
(insert name and title of the officer)

personally appeared — MARIO MAROVIC —,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

TONY PACHECO
COMM. #1869439
NOTARY PUBLIC - CALIFORNIA
ORANGE COUNTY
My Comm. Expires November 22, 2013

Signature Tony Pacheco (Seal)

ATTACHMENT 2

LEE, MEL

From: Amante, Leonora@ABC [Leonora.Amante@abc.ca.gov]
Sent: Tuesday, June 12, 2012 10:40 AM
To: LEE, MEL
Subject: RE: Type-48 On Sale General Public Premises license

Hi Mel,

As far as ABC's requiring PC or N, the applicant is not required to get a PC or N determination by the governing body due to 90 day rule which is the seller is still operating and with same type license. Thanks

Leonora R. Amante (Nora)
Licensing Representative II
Santa Ana District Office
714-558-6480
714-953-4486 fax
leonora.amante@abc.ca.gov

From: LEE, MEL [mailto:MEL.LEE@costamesaca.gov]
Sent: Monday, June 11, 2012 12:32 PM
To: Amante, Leonora@ABC
Cc: FLYNN, CLAIRE
Subject: RE: Type-48 On Sale General Public Premises license

Nora –

There is a CUP (actually 3) on file for this use. Can I get a confirmation that a PCN finding is not required for this premise-to- premise transfer? I believe the applicant stated there is a 90-day limitation in the ABC regulations.

Let me know if you have any questions.

Thanks,

Mel Lee, AICP
Senior Planner
City of Costa Mesa
77 Fair Drive, Costa Mesa, 92628
Ph. (714) 754-5611 Fax. (714) 754-4856
mel.lee@costamesaca.gov

Description: cid:image00

From: Amante, Leonora@ABC [mailto:Leonora.Amante@abc.ca.gov]
Sent: Friday, May 25, 2012 6:57 PM
To: LEE, MEL
Subject: Type-48 On Sale General Public Premises license

Hi Mel,

Muriner's Fund LLC, DBA: King's Tavern located at 436 E. 17th St., Costa Mesa is applying for a Type-48 license. Does my applicant need to apply for Conditional Use Permit? Please advice. Thank you.

Leonora R. Amante (Nora)
Licensing Representative II
Santa Ana District Office
714-558-6480
714-953-4486 fax
leonora.amante@abc.ca.gov

ATTACHMENT 3

Mariner's Fund, LLC

3334 East Coast Hwy #418 Corona Del Mar, CA
Ph 949.813.5683 Fax 949.272.5158 Mario@LoungeGroup.com

Received
City of Costa Mesa
Development Services Department
JUN 11 2012

June 11, 2012

Re: 436 E. 17th Street- removal of ABC protest and improvements

Dear Mr. Lee:

Thank you for taking the time to meet with me at the site this morning. Per our previous meeting and our follow up meeting this morning, you indicated that the protest of our ABC type 48 license will be removed.

Also, per our meeting today we discussed the following topics:

1. Upon issuance of our License, Mariner's Fund, LLC will be opening for business at the subject location "As Is". The business will be operating with the same terms and conditions as the existing tenant.
2. Mariner's Fund, LLC will be contracting out plans with an architect to propose the following improvements:
    a. The demolition and removal of the detached Dog Groomer Tenant;
    b. Replacing and relocating the square footage of the Dog Groomer tenant to the rear of the Subject Licensed Location at 436 E. 17th Street. The demolition of the existing Dog Groomer Tenant will be contingent on approval to relocate the space to the desired location.
    c. The proposed changes will include: upgraded restrooms, improved kitchen facilities, improved storage facilities and improvements to the general use of the premises to the public.
    d. In addition to the extra square footage the improvements will include screening of the roof equipment where needed and removal of the obsolete satellite equipment.
    e. Mariner's Fund will open discussion with the owners of the Leasehold next door to build a new block wall. Mariner's Fund can not guarantee what the results of that negotiation will be.

Sincerely,

Mario Marovic
Mariner's Fund, LLC
Managing Member