

**STATE OF INDIANA
BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION**

IN THE MATTER OF)	
THE PERMIT OF:)	
)	
FLORNDALE, INC.,)	Permit No. RR64-10660
d/b/a JUNKYARD BAR & GRILL)	
2420 DOMBY ROAD)	
PORTAGE, INDIANA 46368)	
)	
Permittee.)	

**ORDER REMANDING CASE TO LOCAL BOARD
FOR REHEARING AND FURTHER INVESTIGATION**

I. Background of the Case

The Permittee, Florndale, Inc., d/b/a Junkyard Bar & Grill (“Permittee”), located at 2420 Dobby Road, Portage, Indiana 46368, permit number RR64-10660, is the Permittee for renewal of a type 210 Alcohol & Tobacco Commission (“Commission”) permit. The application was assigned to the Alcoholic Beverage Board of Porter County (“Local Board”). On May 12, 2005, the Local Board heard the application request and voted 4-0 to deny the application. The Commission adopted the Local Board’s recommendation on May 17, 2005. The Permittee timely appealed the Commission’s decision.

II. Findings and Conclusions Pertinent to Remand

From the review of the entire Commission file, certain facts pertinent to the disposition of the appeal were discovered as follows:

1. The Local Board voted to deny renewal of the Permit pursuant to 905 IAC 1-27-2, which states “[i]f a licensed premises becomes a public nuisance, or the licensed premises becomes the scene of acts or conduct which are prohibited by the Indiana Penal

Code...or by the criminal laws of the United States, the premises shall be subject to the sanctions specified in IC 7.1-2-6-1 through IC 7.1-2-6-14." Local Board Voting Sheet.

2. Public nuisance is defined as "[a]n act or practice, or manner of conducting a business by a permittee contrary to a provision of this title or to a rule or regulation of the commission..." Ind. Code § 7.1-2-6-2.

3. Although Local Board Chairman Edward Fritz ("Fritz") alleged the permit premises is a "menace to the neighborhood, a menace to the city [and] a menace to the police department," the Local Board did not specifically state the actions, practices or manner of conducting business that constitute a public nuisance. Local Board Transcript, Page 32, Line 15.

4. The Local Board reviewed police call records ("Records") as evidence supporting a finding of public nuisance; however, the Commission is not in possession of these Records. Local Board Transcript Page 8, Line 18.

5. The Commission is unable to fully and fairly evaluate the merits of Permittee's appeal without a (i) a copy of the Records; or, (ii) a more detailed report regarding the rationale for the Local Board's findings.

6. The circumstances warrant remand for further investigation and proceedings to permit the Local Board to document the basis for its findings.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the application of the Florndale, Inc., d/b/a Junkyard Bar & Grill, 2420 Dobby Road, Portage, Indiana 46368, No. RR64-10660, is hereby remanded to the Local Board for rehearing and upon completion of its investigation and rehearing on this case, the Local

Board is to make its recommendation to the Commission whether to approve or deny the application.

Dated: _____

U-Jung Choe, Hearing Judge

DISTRIBUTION

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