Interoffice - Memorandum

To: Judith C. Boyko, Township Administrator

From: Colonel Erik D. Niehaus

Date: August 23, 2013

RE: **BUSINESS ITEM: MOTION NOT TO OBJECT TO TREX, D1 LIQUOR PERMIT FOR J GUMBO'S WEST CHESTER LLC DBA J GUMBOS, 6096 WEST CHESTER ROAD**

At this time, I would like to ask the Trustees to not object to a TREX, D-1 permit for J Gumbo's West Chester LLC, 6096 West Chester Road. The owner of J. Gumbo's West Chester LLC currently holds a D-3 liquor permit at their other restaurant, Gone Gumbo LLC DBA J. Gumbo's Finneytown, which they would like to transfer to J. Gumbo's West Chester LLC because liquor sales are very low at the Finneytown location and would be greater at the West Chester location. The TREX permit allows a transfer of a liquor permit from one county to another county. J. Gumbo's West Chester LLC has applied for the TREX permit.

Previously on the May 14, 2013 Trustee agenda, a motion was brought before the Board and approved to consider a letter of acknowledgement for requested TREX permit transfer for J. Gumbo's West Chester LLC at 6096 West Chester Road. At this time, we are asking for approval to not object to the TREX, D1 liquor permit for J. Gumbo's West Chester LLC at 6096 West Chester Road.

8/5/13

POLICE NOTIFICATION

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD
P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005

TO

4179370 PERMIT NUMBER	TREX TYPE	J GUMBOS WEST CHESTER LLC DBA J GUMBOS 6096 WEST CHESTER RD WEST CHESTER TWP WEST CHESTER OH 45069
06 01 2013 ISSUE DATE		
07 30 2013 FILING DATE		
D1 PERMIT CLASSES		
09 948 A F10266 TAX DISTRICT RECEIPT NO.		

FROM 08/01/2013

3274700 PERMIT NUMBER	TYPE	GONE GUMBO LLC DBA J GUMBOS FINNEYTOWN 879 W GALBRAITH RD SPRINGFIELD TWP CINCINNATI OH 45231
06 01 2013 ISSUE DATE		
07 30 2013 FILING DATE		
D1 PERMIT CLASSES		
31 936 TAX DISTRICT RECEIPT NO.		

This notice is sent to you in compliance with Section 4303.26 of the Ohio Revised Code and will serve as official notification of the filing of a permit application.

Depending on the applicant's business entity, enclosed please find a copy of the pending applicant's ownership disclosure form 4029 (Non Profit Entity Disclosure), Form 4030 (Stockholder Disclosure), Form 4031 (Partnership Disclosure), or Form 4032 (Limited Liability Company Disclosure) which lists those individuals who will have an interest in the above captioned permit.

In some instances, the Division will require a background check to be completed by your agency. If enclosed, please complete the Personal History Police Check(s), and return it/them in the enclosed postage paid envelope. If needed, we will submit the forms once received from the applicant at a later date for completion.

The chief police officer of each political subdivision may appear and testify in person or through a representative at any hearing held on the advisability of the issuance or transfer of a permit. However, Section 4303.26 O.R.C. DOES NOT give the police officer the right to request a hearing. If a hearing is desired, the chief police officer should contact the legislative authority (City or Village Council, or Board of County Commissioners, or Board ofTownship Trustees) and have that entity request a hearing.

The police department may submit any information to the Division relevant to the issuance or transfer of the permit, even if a formal hearing is not requested and conducted. This should be done by a separate letter with supporting documentation. The Division appreciates your statements and concerns regarding the pending application.

Licensing Section

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

WEST CHESTER TOWNSHIP POLICE DEPT
9577 BECKETT ROAD, SUITE 500
WEST CHESTER OHIO 45069

WEST CHESTER POLICE DEPARTMENT
LIQUOR PERMIT INVESTIGATION

Date application received: **08/05/13**	Report date: **08/08/13**
4179370 Liquor Permit Number	**Trex,D3** Type of Permit Requested
Applicant 1: **Sara Braun** Name **8497 Shuman Lane** Address **Cincinnati, Ohio 45231** City, State, Zip Code	Local law enforcement history: **none**
Applicant 1: _____ Name _____ Address _____ City, State, Zip Code	Local law enforcement history:
Applicant 1: _____ Name _____ Address _____ City, State, Zip Code	Local law enforcement history:
Applicant 1: _____ Name _____ Address _____ City, State, Zip Code	Local law enforcement history:

Description of projected location: **6096 West Chester Road. This location is in the strip mall at the corners of West Chester and Muhlhauser Roads. This store was occupied by the Corner Stone Café.**

Diagram/Map attached: No

Description of projected business operation: **J Gumbo's West Chester LLC is a restaurant serving cajun style food. The hours of operation are going to be for the entire week from 11 A.M. until 10 P.M. The establishment will have a seating capacity for seventy patrons.**

Public institutions within 500 feet of projected site (May object to permit issue) ex. Schools, Churches, Libraries, Public Playgrounds and Township Parks Additional Institutions should be listed in the investigator's narrative.	
1. **No public institutions within 500 feet**	
Name of Institution	Distance
2.	
Name of Institution	Distance
3.	
Name of Institution	Distance

Impact on surrounding business: **There are several businesses in the area with liquor permits.**

Investigator's narrative: **I have spoken with Ms. Braun. She advises she owns a restaurant in Finneytown, called J Gumbo's. Ms. Braun is transfering the permit for this restaurant via a Trex permit to the location in West Chester. Ms. Braun is also applying for a new D-3 permit for the West Chester Restaurant.**

Objecting to Liquor Permit? No If yes, please explain reason for objection:

John Morgan #120
Investigator Name/ ID#

§ **4303.292.** Grounds for refusal to issue, transfer or renew permit

(A) The division of liquor control may refuse to issue, transfer the ownership of, or renew, and shall refuse to transfer the location of any retail permit issued under this chapter if it finds:

(1) That the applicant, any partner, member, officer, director, or manager thereof, or any shareholder owning ten per cent or more of its capital stock:

(a) Has been convicted at any time of a crime which relates to fitness to operate a liquor establishment;

(b) Has operated liquor permit businesses in a manner that demonstrates a disregard for the laws, regulations, or local ordinances of this state or any other state;

(c) Has misrepresented a material fact in applying to the division for a permit;

(d) Is in the habit of using alcoholic beverages or dangerous drugs to excess, or is addicted to the use of narcotics.

(2) That the place for which the permit is sought:

(a) Does not conform to the building, safety, or health requirements of the governing body of the county or municipality in which the place is located. As used in division (A)(2)(a) of this section, "building, safety, or health requirements" does not include local zoning ordinances. The validity of local zoning regulations shall not be affected by this section.

(b) Is so constructed or arranged that law enforcement officers and duly authorized agents of the division are prevented from reasonable access to rooms within which beer or intoxicating liquor is to be sold or consumed.

(c) Is so located with respect to the neighborhood that substantial interference with public decency, sobriety, peace, or good order would result from the issuance, renewal, transfer of location, or transfer of ownership of the permit and operation thereunder by the applicant.

(d) Has been declared a nuisance pursuant to Chapter 3767. of the Revised Code since the time of the most recent issuance, renewal, or transfer of ownership or location of the liquor permit.

(B) The division of liquor control may refuse to issue or transfer the ownership of, and shall refuse to transfer the location of any retail permit issued under this chapter if it finds:

(1) That the place for which the permit is sought is so situated with respect to any school, church, library, public playground, or hospital that the operation of the liquor establishment will substantially and adversely affect or interfere with the normal, orderly conduct of the affairs of those facilities or institutions.

(2) That the number of permits already existent in the neighborhood is such that the issuance or transfer of location of a permit would be detrimental to and substantially interfere with the morals, safety, or welfare of the public, and, in reaching a conclusion in this respect, the division shall consider, in light of the purposes of Chapters 4301., 4303., and 4399. of the Revised Code, the character and population of the neighborhood, the number and location of similar permits in

the neighborhood, the number and location of all other permits in the neighborhood, and the effect the issuance or transfer of location of a permit would have on the neighborhood.

(C) The division of liquor control shall not transfer the location or transfer the ownership and location of a permit under division (B)(3)(b) of section 4303.29 of the Revised Code unless the permit is transferred to an economic development project.

(D) The division of liquor control shall refuse to issue, renew, transfer the ownership of, or transfer the location of a retail permit under this chapter if the applicant is or has been convicted of a violation of division (C)(1) of section 2913.46 of the Revised Code.

(E) The division of liquor control shall refuse to transfer the ownership of or transfer the location of a retail permit under this chapter while criminal proceedings are pending against the holder of the permit for a violation of division (C)(1) of section 2913.46 of the Revised Code. The department of job and family services shall notify the division of liquor control whenever criminal proceedings have commenced for a violation of division (C)(1) of section 2913.46 of the Revised Code.

(F) The division shall refuse to issue, renew, or transfer the ownership or location of a retail permit under this chapter if the applicant has been found to be maintaining a nuisance under section 3767.05 of the Revised Code at the premises for which the issuance, renewal, or transfer of ownership or location of the retail permit is sought.