


ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 01/26/09
Item No.: 11.c

Department Approval

City Manager Approval



Item Description: Public Hearing to Consider the Transfer of an Off Sale Liquor License to Roundy's (Rainbow Foods)

BACKGROUND

Roundy's Supermarkets Inc., operating under the name of Rainbow Foods, has expressed an interest in obtaining an off-sale liquor license for their new grocery store located at 1201 W. Larpenteur Avenue. The store opened late last year.

Recognizing that the City permits a maximum of ten off-sale liquor licenses all of which are currently in use, Roundy's has been in discussions with an existing license holder to transfer the operation of their liquor store to Roundy's location. State Statute 340A.412 and City Code Chapter 302.07B, allow for the transfer of an existing license with City Council consent. The City Code reads as follows:

Person and Premises Licensed; Transfer: Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Before a transfer is approved, the transferee shall comply with the requirements for a new application. Any transfer of fifty percent (50%) or more of the stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior City Council approval is a ground for revocation of the license. (Ord. 972, 5-13-1985)

The attached letter from legal counsel representing Cellars Wines & Spirits of Roseville II, indicates that they have entered into an agreement with Roundy's to transfer their license. They are requesting that the transfer be made effective March 2, 2009.

After consulting with the City Attorney, the Council is advised to first make a determination on whether Roundy's has satisfied the requirements for licensure. If the Council concludes that it does, then the Council should take action on transferring the license.

As recently as July, 2008 Roundy's did submit an application for their new grocery store location and Staff concluded that it was a permitted use and that they had satisfied all provisions of State Statute and City Code – pending an available license. Representatives from Roundy's and Cellars Wines & Spirits will be in attendance at the Hearing.

31 **POLICY OBJECTIVE**
32 State Statute and City Code permit the transfer of a liquor license with City Council consent. Roundy's has
33 satisfied all requirements to qualify for the license.

34 **FINANCIAL IMPACTS**
35 Not applicable.

36 **STAFF RECOMMENDATION**
37 City Staff recommends the City Council approve the transfer of the off-sale liquor license held by Cellars
38 Wines & Spirits of Roseville II to Roundy's, effective March 2, 2009.

39 **REQUESTED COUNCIL ACTION**
40 Motion to approve the transfer of the off-sale liquor license held by Cellars Wines & Spirits of Roseville II
41 to Roundy's, effective March 2, 2009.

42 Prepared by: Chris Miller, Finance Director
43 Attachments: A: Letter from Cellars Wines & Spirits of Roseville II.
B: Roundy's Off-Sale Liquor License Application



THUE LAW FIRM, LTD.

3300 Edinborough Way, Suite 400
Edina, MN 55435

952/896-0145
952/896-0013 fax

January 12, 2009

Mr. Christopher K. Miller
Finance Director
2660 Civic Center Drive
Roseville, MN 55113

VIA E-MAIL AND U.S. MAIL

Re: Application for off-sale liquor license for RBF, LLC, and proposed Transfer of
Off-Sale Liquor License by Cellars Wines & Spirits of Roseville II, Inc.
Our File No.: 08-5043

Dear Mr. Miller:

I am writing to you with respect to the above-entitled matter, as counsel for the Cellars Wines & Spirits of Roseville II, Inc., a Minnesota corporation (hereinafter "The Cellars"). Our client is a current licensee of an off-sale liquor license issued in Fall, 2004 by the City of Roseville (hereinafter "City") for premises located at 1149 Larpenteur Avenue, Roseville, MN 55113. It is our understanding that RBF, LLC, a Wisconsin limited liability company, and wholly owned subsidiary of Roundy's Supermarkets, Inc. (hereinafter "RBF") has submitted an Application for Off-Sale Liquor License to the City to operate an off-sale liquor store to be located at 1201 Larpenteur Avenue, Roseville, Minnesota (hereinafter "Application").

The Cellars and RBF have entered into a definitive agreement that provides for, among other items, to transfer the existing off-sale liquor license issued to The Cellars by the City on the condition that the City approves the pending Application and approval of transfer of the existing off-sale liquor license of The Cellars to RBF. The Cellars' understands that the Roseville City Council will proceed through the steps required in Roseville City Code, Section 302.01 *et. seq.*, with respect to the submitted Application and proposed transfer. We understand that the City shall place this on its Roseville City Council Agenda and conduct a public hearing on Monday, January 26, 2009, to consider the Application and transfer. This letter is to advise the City of the foregoing agreement reached between the parties.

It is my further understanding that representatives of the parties shall make a joint appearance before the Roseville City Council on January 26, 2009, to respond to any questions

the City may have with respect to Application of RBF and proposed transfer by The Cellars of its off-sale liquor license to RBF following the actions of the City taken on the Application of RBF. If the parties requests are approved by the City, the parties would request that the effective date of the transfer be March 2, 2009.

If you should have any questions concerning any of the foregoing, please feel free to contact the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel D. Thue", written in a cursive style.

Daniel D. Thue

DDT/cbh

cc: The Cellars Wines & Spirits of Roseville II, Inc.
Andy Jacobson, Esq.



Minnesota Department of Public Safety
ALCOHOL AND GAMBLING ENFORCEMENT DIVISION
 444 Cedar St., Suite 133, St. Paul, MN 55101-5133
 (651) 201-7507 FAX (651)297-5259 TTY(651)282-6555
 WWW.DPS.STATE.MN.US



APPLICATION FOR OFF SALE INTOXICATING LIQUOR LICENSE

No license will be approved or released until the \$20 Retailer ID Card fee is received

Workers compensation insurance company. Name Old Republic Insurance Co. Policy # mwc 11539100
 Licensee's MN Sales and Use Tax ID # 60496143 To apply for a MN sales and use tax ID #, call (651) 296-6181
 Licensee's Federal Tax ID # 30-4530010

If a corporation, an officer shall execute this application If a partnership, a partner shall execute this application.

Licensee Name (Individual, Corporation, Partnership, LLC) <u>RBF, LLC of Wisconsin</u>	Social Security # <u>N/A</u>	Trade Name or DBA <u>Rainbow Foods #8802 (liquor)</u>
License Location (Street Address & Block No.) <u>1201 W. Larpenteur Avenue</u>	License Period From <u>9/30/08</u> To <u>12/31/08</u>	Applicant's Home Phone # <u>414-231-5000</u>
City <u>Roseville</u>	County <u>Ramsey</u>	State <u>MN</u>
		Zip Code <u>55113</u>
Name of Store Manager <u>Bruce Kautzman</u>	Business Phone Number <u>651-488-1825</u>	DOB (Individual Applicant) <u>N/A</u>

If a corporation or LLC state name, date of birth, Social Security # address, title, and shares held by each officer. If a partnership, state names, address and date of birth of each partner. Please see attached

Partner Officer (First, middle, last)	DOB	SS#	Title	Shares	Address, City, State, Zip Code

- If a corporation, date of incorporation 4/29/03, state incorporated in Wisconsin, amount paid in capital \$50 mil. If a subsidiary of any other corporation, so state RBF Holdings, Inc. and give purpose of corporation holding company. If incorporated under the laws of another state, is corporation authorized to do business in the state of Minnesota? Yes No
- Describe premises to which license applies; such as (first floor, second floor, basement, etc.) or if entire building, so state. First floor space adjacent to liquor store
- Is establishment located near any state university, state hospital, training school, reformatory or prison? Yes No If yes state approximate distance. _____
- Name and address of building owner: Reinhart Real Estate Group, Inc.
201 Main Street, Suite 800, Lacrosse, WI 54601
Has owner of building any connection, directly or indirectly, with applicant? Yes No
- Is applicant or any of the associates in this application, a member of the governing body of the municipality in which this license is to be issued? Yes No If yes, in what capacity? _____
- State whether any person other than applicants has any right, title or interest in the furniture, fixtures or equipment for which license is applied and if so, give name and details. N/A
- Have applicants any interest whatsoever, directly or indirectly, in any other liquor establishment in the state of Minnesota?
 Yes No If yes, give name and address of establishment. Please see attached

8. Are the premises now occupied or to be occupied by the applicant entirely separate and exclusive from any other business establishment? Yes No
9. State whether applicant has or will be granted, an On sale Liquor License in conjunction with this Off Sale Liquor License and for the same premises. Yes No Will be granted
10. State whether applicant has or will be granted a Sunday On Sale Liquor License in conjunction with the regular On Sale Liquor License. Yes No Will be granted
11. If this application is for a County Board Off Sale License, state the distance in miles to the nearest municipality. N/A
12. State Number of Employees 5-7 (approximately)
13. If this license is being issued by a County Board, has a public hearing been held as per MN Statute 340A.405 sub2(d)? N/A
14. If this license is being issued by a County Board, is it located in an organized township? **If so, attach township approval.**

1. State whether applicant or any of the associates in this application, have ever had an application for a liquor license rejected by any municipality or state authority; if so, give dates and details. NO
2. Has the applicant or any of the associates in this application, during the five years immediately preceding this application ever had a license under the Minnesota Liquor Control Act revoked for any violation of such laws or local ordinances; if so, give dates and details. NO
3. Has applicant, partners, officers, or employees ever had any liquor law violations or felony convictions in Minnesota or elsewhere, including State Liquor Control penalties? Yes No If yes, give dates, charges and final outcome.
4. During the past license year, has a summons been issued under the Liquor Civil Liability Law (Dram Shop) M.S. 340A.802. Yes No If yes, attach a copy of the summons.

This licensee must have one of the following: (ATTACH CERTIFICATE OF INSURANCE TO THIS FORM.)

Check one

- A. Liquor Liability Insurance (Dram Shop) - \$50,000 per person, \$100,000 more than one person; \$10,000 property destruction; \$50,000 and \$100,000 for loss of means of support.
- or
- B. A surety bond from a surety company with minimum coverage as specified in A.
- or
- C. A certificate from the State Treasurer that the licensee has deposited with the state, trust funds having market value of \$100,000 or \$100,000 in cash or securities.

I certify that I have read the above questions and that the answers are true and correct of my own knowledge.

Print name of applicant & title <u>Edward G. Kitz, VP/Secretary/Treasurer</u>	Signature of Applicant <u>Edward G. Kitz</u>	Date <u>7/7/08</u>
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REPORT BY POLICE/SHERIFF'S DEPARTMENT

This is to certify that the applicant and the associates named herein have not been convicted within the past five years for any violation of laws of the State of Minnesota or municipal ordinances relating to intoxicating liquor except as follows:

Police/Sheriff's Department	Title	Signature

County Attorney's Signature

PS 9136-(2006)

IMPORTANT NOTICE

All retail liquor licensees must have a current Federal Special Occupational Stamp. This stamp is issued by the Bureau of Alcohol, Tobacco, and Firearms. For information call (651)726-0220