

Date May 7, 2012

**RESOLUTION SCHEDULING PUBLIC HEARING ON APPEAL FOR RELIEF
FROM MORATORIUM BY TONY DASSAN TO ALLOW SALE OF ALCOHOLIC
LIQUOR FOR OFF-PREMISES CONSUMPTION AT THE BP SERVICE STATION
AT SE 14th AND MAURY STREETS**

WHEREAS, on April 9, 2012, by Roll Call No. 12-0572, the City Council established a temporary moratorium extending until June 26, 2012, on the commencement of any new business and on the conversion of any existing business to one selling alcoholic liquor for off-premises consumption, from any business premises which is operated as a Limited Food Sales Establishment, Limited Retail Sales Establishment, Gas Station/Convenience Store or Liquor Store; and,

WHEREAS, Roll Call No. 12-0572 further provides that any party may, by written application to the City Clerk request relief from the effect of the moratorium where necessary to avoid undue hardship; and,

WHEREAS, on April 23, 2012, Tony Dassan, through counsel, filed an application with the City Clerk seeking relief from the moratorium to allow the PB Service Station at SE 14th and Maury Street to engage in the business of selling alcoholic liquor for off-premises consumption.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. The City Council shall consider the application from Tony Dassan seeking relief from the moratorium at a public hearing to be held on May 21, 2012, at 5:00 p.m., in the Council Chambers, at which time the City Council will hear both those who favor and those who oppose granting the requested relief.
2. The City Clerk is hereby authorized and directed to cause public notice of the hearing in the accompanying form to be given by publication in the Des Moines Register on May 10, 2012, and by transmitting a copy of this resolution and of the notice to Alfredo Parrish, as attorney for Mr. Dassan.

MOVED by _____ to adopt.

FORM APPROVED:


Roger K. Brown, Assistant City Attorney

C:\Rog\Zoning\Moratorium\2012 Liquor\Dassan\RC Appeal set hrg.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

Mayor

City Clerk

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PARRISH KRUIDENIER DUNN BOLES GRIBBLE
PARRISH GENTRY & FISHER L.L.P.
LAWYERS

ALFREDO PARRISH
ELIZABETH KRUIDENIER
ANDREW J. DUNN
MATTHEW M. BOLES
CHARLES E. GRIBBLE
ERIC KENYATTA PARRISH
TAMMY WESTHOFF GENTRY
THOMAS G. FISHER JR.
MARGARET R. STUART

BRANDON BROWN
JENNIFER OETKER
BENJAMIN D. BERGMANN
ADAM C. WITOSKY
LUKE M. DESMET*
ROBERT P. MONTGOMERY
OF COUNSEL
*ALSO LICENSED IN ILLINOIS

2910 GRAND AVENUE · DES MOINES, IOWA 50312-4205
(515) 284-5737 · (800) 532-1405 · FAX (515) 284-1704 · PARRISHLAW.COM

Sent via Facsimile – Original Mailed

April 23, 2012

Honorable Frank Cownie
Mayor
400 Robert D. Ray Drive
Des Moines, Iowa 50309

MR. Jeffrey Lester
City Attorney
400 Robert D. Ray Drive
Des Moines, Iowa 50309

Ms. Diane Rauh
City Clerk
400 Robert D. Ray Drive
Des Moines, Iowa 50309

RE: BP Station
Southeast 14th Street

Dear Mayor Cownie, Mr. Lester and Ms. Rauh:

I represent Tony Dassan who owns a service station on Southeast 14th Street. Mr. Dassan has been the owner of the station for some time. He currently holds a beer license that is both current and active. At one point, the station had a liquor license. Mr. Dassan had leased the building to a tenant who had the liquor license but did not pay Mr. Dassan his adequate fee for the lease. Mr. Dassan had to take the business back over. The individual who owned the liquor license on Southeast 14th turned the liquor license in without notifying Mr. Dassan. Mr. Dassan wanted to take over the liquor license but did not file it promptly.

Currently, Mr. Dassan is aware of the fact the city has imposed a moratorium on the issuance of liquor license. However, we are aware that the city has indicated that we may file a written application to the city clerk requesting relief from the effect of this moratorium when necessary to avoid an unnecessary hardship. We are making this application for you to consider in order for Mr. Dassan to avoid an unnecessary

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hardship. It was Mr. Dassan's intent to obtain a liquor license. He qualifies for the liquor license and has been granted one in the past at other locations. The Southeast 14th Street store has no violations. Mr. Dassan would stay in compliance and is ready, willing and able to obtain the liquor license. We are asking that you consider this an exception to the moratorium and would allow Mr. Dassan to obtain a liquor license in order to avoid an unnecessary hardship.

I am providing to you the financial information on USA Petroleum, L.L.C. This is the name of the company under which Mr. Dassan is operating his business at Southeast 14th Street. It is a gas station, retail outlet for snacks and also sells hard liquor and beer.

From July of 2011 through September 2011, with both the liquor license and beer license in existence, the business was doing very well. In October, because the liquor license was lost, the sales were reduced dramatically. Based upon the current financial numbers, the business is losing four thousand dollars (\$4,000.00) to six thousand dollars (\$6,000.00) every month. This prevents Mr. Dassan from being able to pay off Iowa State Bank and the Small Business Administration. Both of the loans are current at this time. It is because Mr. Dassan is borrowing money from other income and paying into the business at Southeast 14th Street.

Mr. Dassan has invested heavily into the business. As a matter of fact, Mr. Dassan bought a new diesel pump and made other major repairs. He has spent approximately thirty thousand dollars (\$30,000.00) to thirty five thousand dollars (\$35,000.00) in repairs. This is to upgrade the business and keep it in good condition.

Currently, Mr. Dassan's company is paying seventeen thousand dollars two hundred forty three dollars (\$17,243.00) every six months for property taxes. The total is thirty four thousand four hundred and eighty six dollars (\$34,486.00). The building is valued at approximately four hundred sixty five thousand five hundred and three dollars (\$465,503.00). He is not in a position to continue to pay the property taxes unless he receives some relief and is allowed to obtain a liquor license.

Mr. Dassan will not be able to continue paying the SBA and Iowa State Bank unless immediate relief is giving for him to obtain a liquor license to increase his income.

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I am submitting to you copies of his confidential financial information from Mehar Associates, P.L.C. Would you please review this and let me know your thoughts if Mr. Dassan can qualify as a hardship case and allow him to obtain the hard liquor permit to go along with his beer permit.

Thank you for your consideration and we look forward to having this matter placed upon the city council in order for us to present additional information to justify Mr. Dassan's business qualifying as a hardship.

Thank you for your continued cooperation.

Sincerely,

PARRISH KRUIDENIER DUNN BOLES
GRIBBLE PARRISH GENTRY & FISHER L.L.P.

BY: 
Alfredo Parrish
aparrish@parrishlaw.com

AP:ly

Enclosures: Financial documents from Mehar Associates, P.L.C.

Copy to: Tony Dassan

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Mehar Associates, PLC
CPAs & Business Consultants
1450 Boyson Road, Suite C-5
Hiawatha, Iowa 52233
Tel (319) 298-2898
Fax (319) 538-0098

Facsimile

Confidential

April 20, 2012

To: Tony
1-515-412-1024

From:
Edward

Pages:

Reply-

Urgent-

Review- X

Comments:

This facsimile and all attachments transmitted with it may contain legally privileged and confidential information intended solely for the use of the addressee. If the reader of this facsimile is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying, or other use of this facsimile is strictly prohibited. If you have received this facsimile in error, please notify the sender immediately by telephone (319-298-2898), and destroy all copies and backups thereof. Thank you.

Income Loss Statement
July 2011 through February 2012

	July - Sep 11	Oct - Dec 11	Jan - Feb 12	TOTAL
Ordinary Income/Expense				
Income				
Gas Sales	490,112.71	345,957.89	188,599.89	1,860,741.09
Inside Sales	321,046.15	199,983.82	103,890.13	1,145,950.07
Total Income	811,158.86	545,941.71	292,490.02	3,006,691.16
Cost of Goods Sold				
Gas Purchase	508,350.12	358,561.25	189,411.77	1,923,234.51
Inside Purchase	201,548.53	130,361.08	70,180.14	733,999.32
Total COGS	709,898.65	488,922.31	258,591.91	2,657,233.83
Gross Profit	101,260.21	57,019.40	32,898.11	349,457.33
Expense				
Automobile Expense	600.00	600.00	400.00	2,800.00
Bank Service Charges	1,425.00	1,425.00	950.00	6,650.00
Cleaning & Maintenance	450.00	450.00	300.00	2,100.00
Gas, Electricity & Water	4,200.00	4,200.00	2,800.00	19,600.00
Insurance	3,000.00	3,000.00	2,000.00	14,000.00
Mortgage	30,000.00	30,000.00	20,000.00	140,000.00
Licenses and Permits	1,500.00	1,500.00	1,000.00	7,000.00
Office Supplies	229.74	479.38	46.34	1,464.58
Payroll Expenses	18,150.00	18,150.00	12,100.00	84,700.00
Professional Fees	750.00	750.00	500.00	3,500.00
Property Tax	8,625.00	8,625.00	5,750.00	40,250.00
Repairs	1,050.00	1,050.00	700.00	4,900.00
Security Systems	450.00	450.00	300.00	2,100.00
Telephone	600.00	600.00	400.00	2,800.00
Waste Management	450.00	450.00	300.00	2,100.00
Total Expense	68,479.74	68,729.38	45,546.34	319,964.58
Net Ordinary Income	32,780.47	-11,709.98	-12,648.23	29,492.75
Net Income	32,780.47	-11,709.98	-12,648.23	29,492.75

Notes :
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USA PETROLEUM L.L.C
 Income Loss Statement
 July 2011 through February 2012

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	July - Sep 11	Oct - Dec 11	Jan - Feb 12	TOTAL
Ordinary Income/Expense				
Income				
Gas Sales	460,112.71	345,857.89	186,989.89	1,860,741.08
Inside Sales	321,046.15	198,983.82	103,890.13	1,145,850.07
Total Income	811,158.86	544,841.71	282,480.02	3,004,991.18
Cost of Goods Sold				
Gas Purchase	609,360.52	354,581.25	189,411.77	1,823,234.51
Inside Purchase	201,540.53	(30,381.08)	70,180.14	733,999.32
Total COGS	798,888.85	488,922.31	259,591.91	2,867,233.83
Gross Profit	101,269.21	57,019.40	32,888.11	349,457.33
Expense				
Automobile Expense	900.00	600.00	400.00	2,900.00
Bank Service Charge	1,425.00	930.00	930.00	6,650.00
Cleaning & Maintenance	450.00	450.00	300.00	2,100.00
Gas, Electricity & Water	4,200.00	4,200.00	2,800.00	19,600.00
Insurance	3,000.00	3,000.00	2,000.00	14,000.00
Mortgage	30,000.00	30,000.00	20,000.00	140,000.00
License and Permits	1,500.00	1,500.00	1,000.00	7,000.00
Office Supplies	229.74	479.38	48.34	1,464.58
Payroll Expenses	18,150.00	18,150.00	12,100.00	84,700.00
Professional Fees	750.00	750.00	500.00	3,500.00
Property Tax	8,625.00	8,625.00	5,750.00	40,250.00
Repairs	1,050.00	1,050.00	700.00	4,900.00
Security Systems	450.00	450.00	300.00	2,100.00
Telephone	600.00	600.00	400.00	2,800.00
Waste Management	450.00	450.00	300.00	2,100.00
Total Expense	68,478.74	68,739.38	45,646.34	319,064.58
Net Ordinary Income	32,780.47	-11,709.86	-12,648.23	28,492.75
Net Income	32,780.47	-11,709.86	-12,648.23	28,492.75

- Notes:
1. July thru Sep business had license and business was doing alright.
 2. Oct - business lost the license and sales went down drastically.
 3. Based on above numbers, business is losing 4K to 6K every month.
 4. All the above numbers are actuals. Rounding off - just to keep the things simple and business takes deduction only when actually makes payments. But here, spread out evenly thru out the year.
 5. All the above numbers are operational expenses only. Nothing included as major repairs or any major purchase.
 6. For example business bought new diesel pump and spent another 20-35,000, not included here.
 7. It means if you add Depreciations and Amortizations, losses are way higher than reflecting in statement.