

12 January 2022

Natick Select Board
13 East Central Street
Natick, MA 01760

Re: Alcohol policies

Dear members of the Select Board:

I understand that the Board, in conjunction with the Town Administrator, is reviewing the town's alcohol policies and I would like to share my thoughts and research on this matter.

In 2016, I investigated opening an *enotica* or a "tapas and wine bar," albeit not a "bar" or tavern as defined in MGL Chapter 138, in downtown Natick. It would be a place where people could socialize over small plates and choose from an extraordinary wine list. The enotica would offer $\frac{1}{4}$ and $\frac{1}{2}$ pours of wine, to encourage people to step out of their comfort zone and to learn more about wine. I researched menus, similar business models, and of course, alcohol licensing in Natick. I learned about the 35% alcohol to food sales rule, and had been told by a resident (erroneously, as it turns out) that the policy was the reason that Maxwell's 148 closed.

I contacted the former chair of the Select Board (or BOS) which had enacted this rule and asked the rationale. Mr. Ostroff pointed out that the policy is a way to enforce a ban on a bar or tavern opening. I told him of my business concept and asked what would happen if my alcohol to food ratio exceeded the 35%. He explained that I would need to ask for a waiver from the Select Board, which "they routinely grant."

It is ludicrous to think that I (or any business owner) would invest \$100,000 in a buildout, only to depend on the whims of an elected Select Board to grant a waiver or exception to an alcohol policy. I also think that granting waivers and exceptions is a good way for the town to be sued for discriminatory behavior. I do not know whether in fact the Board grants waivers, or reviews accounting reports. I based my decision on not further exploring this idea, at least in Natick, on the written alcohol policies and on my conversation with this former chair of the BOS.

I think it is sufficient to state in its alcohol policy that Natick will not issue an on-premise (Section 12) license to a tavern, as defined in MGL Chapter 138, Section 1—no "bars" allowed. In my view, the current alcohol to food ratio unnecessarily limits the types of businesses that can open, the *enotica* is one example. I remember enjoying dinner at Maxwell 148 and I can assure you that the wine portion of the bill exceeded 35% every time, a reflection on their fine wine list (and not over imbibing).

Lastly, in the fall of 2020, Mormax Corporation, d/b/a BJs Wholesale Club appealed a decision of the Framingham Board of License Commissioners denying the transfer of a license from

Route 9 Wine & Spirits to BJs. Route 9 Wine & Spirits (incidentally the same owner as that of the former Kentucky Wine & Spirits) sought to sell his license for \$500,000 to Mormax. The purchase and sale agreement only listed the license: no inventory, trade name, goodwill, equipment, furnishings or fixtures. The city denied the transfer on the basis (in part) that Route 9 Wine & Spirits did not *own* the license it sought to sell. The city did. The ABCC upheld Framingham's decision, as the statutory language is clear that there is no right to a liquor license, that the town owns the license, and the local licensing board has the authority to grant, revoke, suspend licenses "with a view only to serve the public need." I would like to see Natick adopt this posture so as to avoid bidding wars for existing licenses and encourage diverse economic development.

I urge the Select Board to simplify the town's alcohol policy to attract and retain a diverse range of dining options and am happy to volunteer to assist in this matter.

Respectfully yours,



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cc: Mr Jamie Errickson