

RESOLUTION 23 of 2022
ACTING ON THE APPLICATION OF JUAN TULA TOMAX
FOR THE PROPOSED INTERMUNICIPAL TRANSFER OF A
PENNSYLVANIA LIQUOR CONTROL BOARD RESTAURANT
LIQUOR LICENSE NUMBER R-7744
TO THE PREMISES AT 701 SOUTH WALNUT STREET
IN THE CITY OF NANTICOKE, LUZERNE COUNTY, PENNSYLVANIA

WHEREAS, Juan Tula Tomax has applied to the City of Nanticoke, Luzerne County, Pennsylvania, for approval of the intermunicipal transfer of a Pennsylvania Liquor Control Board Restaurant Liquor License R-7744, to the premises located at 701 South Walnut Street, Nanticoke City, Luzerne County, Pennsylvania; and

WHEREAS, Section 461 (b.3) of the Pennsylvania Liquor Control Act, 47 P.S. §4-461(b.3), provides in relevant part as follows:

(b.3) An intermunicipal transfer of a license or issuance of a license for economic development under subsection (b.1)(2)(i) must first be approved by the governing body of the receiving municipality when the total number of existing restaurant liquor licenses and eating place retail dispenser licenses in the receiving municipality equal or exceed one license per three thousand inhabitants. Upon request for approval of an intermunicipal transfer of a license or issuance of an economic development license by an applicant, at least one public hearing shall be held by the municipal governing body for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to transfer a license into the municipality or acquire an economic development license from the Pennsylvania Liquor Control Board. The governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an intermunicipal transfer of a license or issuance of an economic development license. The municipality may approve the request. A decision by the governing body of the municipality to deny the request may not be appealed. A copy of the approval must be submitted with the license application. The approval requirement shall not apply to licenses transferred in to a tax increment district created pursuant to the act of July 11, 1990 (P.L. 465, No. 113)⁴, known as the "Tax Increment Financing Act," located in a township of the second class that is located within a county of the second class if the district was created prior to December 31, 2002, and the governing body of the township has adopted an agreement at a public meeting that consents to the transfer of licenses into the tax increment district. Failure by the governing body of the municipality to render a decision within forty-five days of the applicant's request for approval shall be deemed an approval of the application in terms as presented unless the governing body has notified the applicant in writing of their election for an extension of time not to exceed sixty days. Failure by the governing body of the municipality to render a decision within the extended time period shall be deemed an approval of the application in terms as presented; and

WHEREAS, the total number of existing restaurant liquor licenses and eating place retail dispenser licenses in the City of Nanticoke exceeds one license per three thousand inhabitants, as a consequence of which the approval of the City of Nanticoke for the said intermunicipal transfer is required; and

WHEREAS, the City Council of the City of Nanticoke, Luzerne County, Pennsylvania has conducted a Public Hearing for the purpose of receiving comments and recommendations of interested individuals residing within the City of Nanticoke concerning the intent of Juan Tula Tomax to transfer license number R-7744 into the City of Nanticoke; and

WHEREAS, the City Council of the City of Nanticoke, Luzerne County, Pennsylvania desires to render a decision on the application in accordance with the provisions of Section 4-461(b.3) of the Pennsylvania Liquor Control Act, 47 P.S. §4-461 (b.3).

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the City Council of the City of Nanticoke, Luzerne County, Pennsylvania, as follows:

Based on the public hearing held on this date and the information presented to the City, the City Council of the City of Nanticoke votes on the application as follows:

Approved _____

Denied _____

ADOPTED this 19th day of December, 2022, at a Regular Public Meeting following Public Hearing.

ATTEST:

CITY OF NANTICOKE COUNCIL

Jennifer W. Polito, City Clerk

By: _____
WILLIAM BROWN, Council President

YES VOTES: _____

NO VOTES: _____