



## CITY of NOVI CITY COUNCIL

**Agenda Item 4  
November 13, 2012**

**SUBJECT:** Consideration of resolution requesting State Representative Hugh Crawford or State Senator Mike Kowall to request a State Attorney General Opinion regarding the recent interpretation by the Liquor Control Commission (LCC) that the transfer of on-premises liquor licenses does not require approval of the local unit of government.

**SUBMITTING DEPARTMENT:**

**CITY MANAGER APPROVAL:** 

**BACKGROUND INFORMATION:**

Attached is a draft Resolution that would ask State Representative Hugh Crawford or State Senator Mike Kowall to request an Attorney General opinion regarding the question whether the transfer of an on-premises liquor license from one location to another, including from one community into another community, or from one person to another, requires the formal input of the local unit of government where the transfer is occurring prior to issuance. Apparently as part of an effort to make its operations more efficient, the LCC has issued a bulletin, Bulletin 2012-12, announcing new procedures for the processing at the state level of transfers of liquor licenses. Prior to the issuance of that Bulletin, the City of Novi was informed of any proposed transfer of a liquor license within its boundaries. Under Ordinance Section 3-16 of the City Code, the City would process that request for transfer as it would a request for a new license (i.e., quota license) issued within the City. Bulletin 2012-12 reinterprets existing state statutes as not requiring local legislative approval of transfers of liquor licenses. This would include transfers from one person to another, but would also apply, apparently, to transfers of licenses into the City of Novi from other communities.

For the reasons stated in the attached Resolution, it is not perfectly clear that the LCC's reinterpretation of existing law is correct. Given the significance of the change, and the possibility that some other local government actions might be needed (or at least could be considered) to deal with the change, it would seem that an appropriate formal legal evaluation might be worthwhile. It would further seem that the appropriate entity to carry out that formal analysis would be the State Attorney General's Office.

In order to secure an Attorney General's opinion on an issue, a request must be made by certain elected officials. The attached Resolution asks the City's elected representatives, State Representative Hugh Crawford (who is Chair of the Licensing Committee that works with the LLC) or State Senator Mike Kowall, to request such an opinion.

**RECOMMENDED ACTION:** Approval of resolution requesting State Representative Hugh Crawford or State Senator Mike Kowall to request a State Attorney General Opinion regarding the recent interpretation by the Liquor Control Commission (LCC) that the transfer of on-premises liquor licenses does not require approval of the local unit of government.

	1	2	Y	N
<b>Mayor Gatt</b>				
<b>Mayor Pro Tem Staudt</b>				
<b>Council Member Casey</b>				
<b>Council Member Fischer</b>				

	1	2	Y	N
<b>Council Member Margolis</b>				
<b>Council Member Mutch</b>				
<b>Council Member Wrobel</b>				

**CITY OF NOVI**

**COUNTY OF OAKLAND, MICHIGAN**

**RESOLUTION REGARDING REQUEST FOR ATTORNEY GENERAL OPINION**

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on \_\_\_\_\_, 2012, at 7:00 P.M. Prevailling Eastern Time.

PRESENT: Councilmembers \_\_\_\_\_

ABSENT: Councilmembers \_\_\_\_\_

The following preamble and Resolution were offered by Councilmember \_\_\_\_\_ and supported by Councilmember \_\_\_\_\_.

WHEREAS, the City of Novi currently regulates the transfer of liquor licenses into the City of Novi at new locations, as well as the transfer of licenses among licensees, through Section 3.16 of the City Code.

WHEREAS, the general purpose of such regulation is to provide for the appropriate distribution and location of premises licensed for the sale of alcohol; to establish that the applicant has the character, experience, and financial ability to meet the obligations and business undertakings for which the license is to be issued; to confirm that they fit within the City's Code of Ordinances, including the Zoning Ordinance, as well as the City's Master Plan; to avoid an overabundance of such licensed establishments or an inappropriate concentration of such establishments; and to ensure that the kind and nature of the licensed establishments are consistent with the character of the community.

WHEREAS, for *decades* the State of Michigan applied its laws in a manner consistent with regulations such as the City's relating to transfers. While the State,

through its Liquor Control Commission (LCC), is the body with jurisdiction over the issuance of liquor licenses, it has traditionally read its enabling and/or governing statutory authority as requiring local legislative approval of the issuance of liquor licenses. This reading included all new applications for on premises licenses and transfers of licenses from person to person, or other jurisdictions into the local community.

WHEREAS, in contravention to this longstanding practice, on June 21, 2012, the LCC issued Bulletin 2012-12, detailing various changes to the license application process for transfer of existing on premises liquor licenses. This bulletin was issued without changes in any corresponding state statutory enabling or governing authority related to the LCC. As detailed in Bulletin 2012-12, the LCC now asserts that applications for the transfer of ownership, transfer of interest, or transfer of location of existing licenses do not require approval by the local unit of government. The Bulletin states in relevant part:

An application for a new license, which has not been previously issued by the Commission, requires approval of the local legislative body under MCL 436.1501(2) and the application will not be considered to be complete until such approval is acquired.

**II. Application for transfer of ownership, transfer of interest, or transfer of location of existing licenses**

An application for transfer of ownership of an existing license, transfer of interest in an existing license, or transfer of location of an existing license does not require approval of the local unit of government.

No explanation or analysis of the relevant provisions of the Liquor Code is provided in the bulletin to support the change in the process.

WHEREAS, Bulletin 2012-12 does not take into consideration, for example, the language of Section 501(2) of the Liquor Control Code, which on its face appears to require local legislative review and approval for both new and transferred license applications:

**An application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of 600,000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body is not required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications required by this subsection. (Emphasis added.)**

Nothing in the Liquor Control Code implies, nor does public policy support, allowing a transferee applicant to avoid local legislative review of the applicant's character, experience, and financial ability to meet the obligations and business undertakings for which the license is to be issued in the same manner as an applicant for a new license.

WHEREAS, because Bulletin 2012-12 provides no legal explanation for its conclusion, and given the import of its administrative conclusion, a closer look at the basis for that conclusion is merited. The appropriate agency to do so would be the State's Attorney General, which can advise state entities, such as the Liquor Control Commission, on the proper interpretation of an enabling or governing statute.

NOW, THEREFORE, for the foregoing reasons, the City Council of the City of Novi resolves to request its State Legislative Representative, Hugh Crawford, and State Senator, Mike Kowall, to pose an appropriate question to the Attorney General to the

effect of: **“Does the transfer of an on-premises liquor license require the approval of the local unit of government?”** The City Council hereby directs the City Manager and City Attorney to work with any similarly interested communities to refine and revise the question, if needed and as appropriate, and to forward the request directly to Representative Crawford as soon as possible.

**AYES:**

**NAYS:**

RESOLUTION DECLARED ADOPTED.

\_\_\_\_\_  
Maryanne Cornelius, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Maryanne Cornelius, City Clerk  
City of Novi

**Sec. 3-16. - Transfer of existing licenses.**

The transfer of any existing liquor license covered hereunder shall be subject to application procedure, including payment of application fees, set forth in this article for the granting of a new liquor license. In addition, the transferee or applicant shall furnish any necessary authorization to permit the city access to any and all files which may be in the Michigan Liquor Control Commission's possession regarding that commission's investigation of the transferee as a present licensee, or as a previous licensee, or in which transferee has or has had a partial interest in. In approving the transfer of any existing liquor license, the city council may direct the police department to include within the department recommendation to the liquor control commission the condition that the construction of the building within which the applicant is to utilize the license, or any renovations to said building, be completed and approved in accordance with all applicable statutes, regulations, codes and ordinances.

*(Ord. No. 09-149.09, Pt. I, 12-21-09)*