

STATE OF MICHIGAN
COURT OF APPEALS

CAPRI ENTERPRISES, INC.,

Plaintiff-Appellant,

v

TOWNSHIP BOARD OF THE CHARTER
TOWNSHIP OF BROWNSTOWN, and
MICHIGAN LIQUOR CONTROL COMMISSION,

Defendants-Appellees.

UNPUBLISHED
January 31, 1997

No. 189411
Wayne Circuit Court
LC No. 95-518811-CZ

Before: Jansen, P.J., and Young and R.I. Cooper,* JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order denying plaintiff's motion for reconsideration of the court's order dismissing plaintiff's complaint to show cause why defendants' decision not to renew plaintiff's liquor license should not be declared null and void. We affirm.

Plaintiff argues that the trial court erred in finding that defendants denied the renewal of plaintiff's liquor license within the bounds of rudimentary due process of law. We disagree.

In *Bundo v Walled Lake*, 395 Mich 679, 686; 238 NW2d 154 (1976), the Michigan Supreme Court interpreted the relevant portion of the Michigan Liquor Control Act, MCL 436.17(3); MSA 18.988(3), to require the MLCC to revoke or deny renewal of a liquor license when the local legislative body requests such action and has given proper notice and hearing to the licensee. However, the Supreme Court in *Bundo* qualified the local government units' broad power to control the traffic of alcoholic beverages by holding that such power "does not permit local legislative bodies to act arbitrarily and capriciously and further, when the local bodies conduct themselves in such a manner their actions are reviewable by the courts." *Id.* at 700-701. Further, the Supreme Court found that the holder of a liquor license has a property interest in the license entitled to due process of law. *Id.* at 695.

* Circuit judge, sitting on the Court of Appeals by assignment.

Accordingly, to ensure that local governments did not act in an arbitrary and capricious manner, and to ensure that liquor license holders were not denied due process of law, the Supreme Court set forth procedural safeguards. *Id.* at 696-697. The Supreme Court found the “rudimentary” due process afforded to liquor license holders consisted of notice of the proposed action and the reasons for the action, a hearing in which the licensee may present evidence and testimony and confront adverse witnesses, and a written statement of findings on the part of the body taking the action. *Id.* Further, in *Roseland Inn, Inc v McClain*, 118 Mich App 724, 731-732; 325 NW2d 551 (1982), this Court added that due process in such a case requires that licensee be given notice of what criteria would result in local body’s initiation of nonrenewal/revocation proceedings.

Here, we conclude that the elements of rudimentary due process, as set forth in *Bundo, supra* at 696-697, as well as that set forth in *Roseland, supra* at 731-732, were met. The record indicates that the Board provided plaintiff with notice of its proposed action, via a written letter, and stated its reasons therein. Further, plaintiff was provided a hearing, where it was represented by counsel, in order to defend its position and present evidence. Finally, plaintiff was provided a written statement of the Board’s findings of fact for its ultimate decision to recommend nonrenewal of plaintiff’s liquor license, via the Board’s resolution to the MLCC. These findings coincide with reasons set forth in Township Ordinance No. 258, which explains the criteria the Board uses to recommend nonrenewal. Specifically, these findings included plaintiff’s failure to place the liquor license into active operation in the fourteen years plaintiff held the license, and plaintiff’s failure to obtain a certificate of occupancy for the premises where the license would be used, due to building and fire code violations. Accordingly, we hold that plaintiff was not denied due process and the Board’s decision was not arbitrary or capricious. See *Bundo, supra* at 696-697, 703 n 17; *Roseland, supra* at 731-732.

Further, because the record indicates that the MLCC predicated its decision not to renew plaintiff’s liquor license on the Board’s recommendation and findings, we conclude that the MLCC’s decision was supported by competent, material, and substantial evidence on the record as a whole. See *Reusser v Liquor Control Commission*, 200 Mich App 26, 29; 503 NW2d 709 (1993).

Affirmed.

/s/ Kathleen Jansen
/s/ Robert P. Young, Jr.
/s/ Richard I. Cooper