

**DOCKET NO. 596262**

IN RE BRIDGLYN CORP	§	BEFORE THE
D/B/A GOOD LUCK DRIVE-IN #4	§	
LICENSE NO. BE451199	§	
PERMIT NO. FB451200	§	TEXAS ALCOHOLIC
	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-02-0390)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this 12th day of December 2001, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Robert F. Jones, Jr. The hearing convened and adjourned on November 15, 2001. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on November 20, 2001. This Proposal For Decision was properly served on all parties who were given an opportunity to file Exceptions and Replies as part of the record herein. As of this date no exceptions have been filed.

The Assistant Administrator of the Texas Alcoholic Beverage Commission, after review and due consideration of the Proposal for Decision, Transcripts, and Exhibits, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge, which are contained in the Proposal For Decision and incorporates those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated herein. All Proposed Findings of Fact and Conclusions of Law, submitted by any party, which are not specifically adopted herein are denied.

**IT IS THEREFORE ORDERED**, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that License No. BE451199 and Permit No. FB451200 are herein **CANCELED FOR CAUSE**.

**This Order will become final and enforceable on January 2, 2002**, unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties by facsimile and by mail as indicated below.

WITNESS MY HAND AND SEAL OF OFFICE on this the 12<sup>th</sup> day of December 2001.

On Behalf of the Administrator,



Randy Yarbrough, Assistant Administrator  
Texas Alcoholic Beverage Commission

TEG/bc

The Honorable Robert F. Jones, Jr.  
Administrative Law Judge  
State Office of Administrative Hearings  
VIA FACSIMILE (817) 377-3706

Bridglyn Corp.  
d/b/a Good Luck Drive-In #4  
**RESPONDENT**  
1722 N. Hall St. #200  
Dallas, Texas 75204-3902  
**CERTIFIED MAIL/RRR NO. 7000 1530 0003 1929 0378**

Timothy E. Griffith  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division  
Dallas District Office

DOCKET NO. 458-02-0390

TEXAS ALCOHOLIC BEVERAGE  
COMMISSION

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BEFORE THE STATE OFFICE

VS.

OF

BRIDGLYN CORP. D/B/A  
GOOD LUCK DRIVE-IN #4  
DALLAS COUNTY, TEXAS  
(TABC CASE NO. 596262)

ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

The Staff of the Texas Alcoholic Beverage Commission (Staff) sought to cancel the beer retailer's on-premise license and food and beverage certificate held by Bridglyn Corp. d/b/a Good Luck Drive-In #4 (Respondent). Staff alleged that Respondent had made false statements in its original and renewal license applications. The Administrative Law Judge (ALJ) finds that the allegations against Respondent are true, and recommends cancellation of the license and certificate.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

There were no contested issues of notice or jurisdiction in this proceeding. Those matters are set out in the findings of fact and conclusions of law without further discussion.

On November 15, 2001, a hearing convened before ALJ Robert F. Jones Jr., State Office of Administrative Hearings (SOAH). The Texas Alcoholic Beverage Commission (TABC) was represented at the hearing by Timothy E. Griffith, TABC Staff Attorney. Respondent did not appear. Evidence was received and the record was closed on November 15, 2001.

**II. EVIDENCE**

Respondent was issued beer retailer's on-premise license BE451199 and food and beverage certificate FB451200. Respondent's licensed premises are located at 2642 Malcolm X Boulevard, Dallas, Dallas County, Texas. Respondent stated in its March 23, 1999, application that:

- 1) its business was not located within 300 feet of a public school, measured from the nearest property line of the public school to the nearest property line of the premises;
- 2) its business was not located within 1,000 feet of a public school, measured from the nearest property line of the public school to the nearest property line of the premises; and
- 3) its business was not located within 1,000 feet of a public school, measured from the front door of its premises to the nearest property line of the public school.

Respondent repeated the statement that its business was not located within 300 feet of a public school in its renewal application of April 10, 2000.

TABC Compliance Officer Donald Hons testified that the Billy E. Dade Learning Center (the Learning Center) is located at 2801 Park Row Avenue, at Park Row's intersection with Malcolm X Boulevard, in Dallas, Dallas County, Texas. The Learning Center was formerly known as the John Henry Brown Learning Center, and is a Dallas Independent School District Elementary School. The Learning Center has been at the Park Avenue address continuously since before March 1999. Officer Hons testified as to the matters set out in Findings of Fact Numbers 2 to 7.

### III. DISCUSSION

TABC may cancel an original or renewal retail dealer's on- or off-premise license if the licensee "made a false statement or a misrepresentation in his original application or a renewal application." TEX. ALCO. BEV. CODE ANN. § 61.71(a)(4) (Vernon 2001)(the Code). A food and beverage certificate "expires on the expiration of the primary retail dealer's on-premise license." § 69.16(d) of the Code. Officer Hons' measurements demonstrate the falsity of the statements made by Respondent in its original and renewal applications.

The ALJ recommends cancellation Respondent's license and certificate.

### IV. FINDINGS OF FACT

1. The Texas Alcoholic Beverage Commission (TABC) issued Respondent beer retailer's on-premise license BE451199 and food and beverage certificate FB451200.
2. Respondent's licensed premises are located at 2642 Malcolm X Boulevard, Dallas, Dallas County, Texas.
3. The Billy E. Dade Learning Center (the Learning Center) is located at 2801 Park Row Avenue, at Park Row's intersection with Malcolm X Boulevard, in Dallas, Dallas County, Texas.
4. The Learning Center was formerly known as the John Henry Brown Learning Center, and is a Dallas Independent School District Elementary School.
5. The Learning Center has been at the Park Avenue address continuously since before March 1999.
6. The nearest property line of Respondent's licensed premises is 251 feet from the nearest

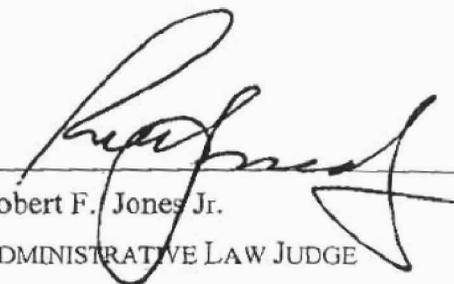
- property line of Learning Center.
7. The front door of Respondent's premises is 375 feet from nearest property line of the Learning Center.
  8. Respondent stated in its March 23, 1999, application for a retail permit that:
    - a) its business was not located within 300 feet of a public school, measured from the nearest property line of the public school to the nearest property line of the premises;
    - b) its business was not located within 1,000 feet of a public school, measured from the nearest property line of the public school to the nearest property line of the premises; and
    - c) its business was not located within 1,000 feet of a public school, measured from the front door of its premises to the nearest property line of the public school.
  9. Respondent stated its business was not located within 300 feet of a public school in its renewal application of April 10, 2000.
  10. Respondent's statements in its original and renewal applications, as found in Nos. 8 and 9, were false.
  11. On October 11, 2001, Staff issued a notice of hearing notifying all parties that a hearing would be held and informing the parties of the time, place, and nature of the hearing, of the legal authority and jurisdiction under which the hearing was to be held, giving reference to the particular sections of the statutes and rules involved, and including a short, plain statement of the matters asserted.
  12. On November 15, 2001, a hearing convened before ALJ Robert F. Jones Jr., State Office of Administrative Hearings (SOAH). The Texas Alcoholic Beverage Commission (TABC) was represented at the hearing by Timothy E. Griffith, TABC Staff Attorney. Respondent did not appear at the hearing. Evidence was received and the record was closed on November 15, 2001.

#### V. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission (TABC) has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. §§ 61.71(a)(4) & 69.16(d) (Vernon 2001)(the Code).

- 2. The State Office of Administrative Hearings has jurisdiction over all matters relating to conducting a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. §2003.021 (Vernon 2001).
- 3. Respondent received notice of the proceedings and hearing, pursuant to TEX. GOV'T CODE § 2001.051 and 1 TEX. ADMIN. CODE §§ 155.25(d)(3) and 155.27.
- 4. Based on Findings of Fact Nos. 2 - 10, Respondent made false statements in its original and renewal license applications.
- 5. Based on Conclusion No. 4, Respondent's beer retailer's on-premise license BE451199 should be canceled.
- 6. Based on Conclusion No. 5, Respondent's food and beverage certificate FB451200 should be canceled.

SIGNED November 20, 2001.



Robert F. Jones Jr.  
 ADMINISTRATIVE LAW JUDGE  
 STATE OFFICE OF ADMINISTRATIVE HEARINGS