

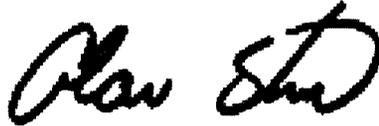


**IT IS THEREFORE ORDERED** by the Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1 of the Commission Rules, that **Respondent's original application is hereby DENIED.**

This Order will become final and enforceable on October 22, 2009 unless a Motion for Rehearing is filed **before** that date.

By copy of this Order, service shall be made upon all parties by in the manner indicated below.

**SIGNED** this the 28th day of September, 2009, at Austin, Texas.



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Alan Steen, Administrator  
Texas Alcoholic Beverage Commission

ADMINISTRATIVE LAW JUDGE  
State Office of Administrative Hearings  
6333 Forest Park Road, Suite 150-A  
Dallas, Texas 75235  
**VIA FACSIMILE TO (214) 956-8611**

Chandler Rockin D Saloon And Dance Social Club Inc.  
d/b/a Rockin D Saloon And Dance  
**RESPONDENT**  
1958 Hwy 315 South  
Chandler, TX 75758  
**VIA U.S. REGULAR MAIL**

Clyde Burluson  
**ATTORNEY FOR RESPONDENT**  
1533 W. Alabama, Suite 100  
Houston, TX 77006  
**VIA FACSIMILE TO (713) 521-7365**

Mark Jordan  
Henderson County Sheriff  
**PROTESTANT**  
206-A N. Murchison  
Athens, TX 75751  
**VIA FACSIMILE TO (903) 677-6344**

J.R. "Ronny" Brownlow  
Retired, Henderson County Sheriff  
**PROTESTANT**  
627 Winchester  
Chandler, TX 75758  
*VIA U.S. REGULAR MAIL*

Clearview Point Home Owners Association  
O. B. Hampton, President  
21834 South Shore Drive  
Chandler, TX 75758  
*VIA U.S. REGULAR MAIL*

West Lake Baptist Church  
Attn: Eric Peyton, Pastor  
**PROTESTANT**  
1439 FM 315 South  
Chandler, TX 75758  
*VIA U.S. REGULAR MAIL*

Herman Vibrock  
**PROTESTANT**  
6029 S. Cape Dr.  
Chandler, TX 75758  
*VIA U.S. REGULAR MAIL*

Pamela Pena  
**PROTESTANT**  
1928 FM 315  
Chandler, TX 75758  
*VIA U.S. REGULAR MAIL*

Sandra K. Patton  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division  
Dallas Enforcement Division  
Longview Enforcement Division

DOCKET NO. 458-09-0401

<b>TEXAS ALCOHOLIC BEVERAGE COMMISSION,</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>Jurisdictional Petitioner</b>	§	
<b>and Protestant</b>	§	
	§	
<b>HENDERSON COUNTY SHERIFF,</b>	§	
<b>WEST LAKE BAPTIST CHURCH,</b>	§	
<b>CLEARVIEW POINT</b>	§	
<b>HOMEOWNER'S ASSOCIATION,</b>	§	
<b>HERMON VIBROCK, PAMELA PENA,</b>	§	
<b>AND OTHER CONCERNED CITIZENS</b>	§	<b>OF</b>
<b>Protestants</b>	§	
	§	
<b>V.</b>	§	
	§	
<b>ORIGINAL APPLICATION OF</b>	§	
<b>CHANDLER ROCKIN D SALOON AND</b>	§	
<b>DANCE SOCIAL CLUB INC., D/B/A</b>	§	
<b>ROCKIN D SALOON AND DANCE,</b>	§	
<b>Respondent</b>	§	
	§	
<b>HENDERSON COUNTY, TEXAS</b>	§	
<b>(TABC CASE NO. 569060)</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

PROPOSAL FOR DECISION

Chandler Rockin D Saloon and Dance Social Club, Inc, d/b/a Rockin D Saloon and Dance (Respondent) filed an application with the Texas Alcoholic Beverage Commission (Commission) for a Private Club Registration Permit and Beverage Cartage Permit for Rockin D Saloon and Dance, 1958 Hwy 315 South, Chandler, Henderson County, Texas. Protestants, including Commission Staff (Staff), protested the application based on the general welfare, health, peace, morals, and safety of the people, and on the public sense of decency. The Administrative Law Judge (ALJ) recommends that the requested permits be denied by the Commission.

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roadway. Granting Respondent's application would, in their opinion, increase the number of intoxicated drivers on the roadway, making FM 315 even more unsafe.

Sherry Nugent, Carmen Matlock, and Martha Beeler offered comments regarding the negative effect that drunk driving has on individuals and the community.

Don Baker, a representative of the West Lake Shores Church of Christ, presented his opposition to Respondent's application on behalf of himself and other members of the church.

## **2. Public comment in support of Respondent's application**

Public comment in support of Respondent's application was offered by the following speakers:

Tommy Dykes stated that Respondent's establishment has been operating as a "bring-your-own-bottle" (BYOB) establishment for approximately one year. It is a place where people can play dominoes and cards, visit with friends, and dance. He stated that 90 percent of the current customers are 65 years of age or older and that the establishment has had a positive effect in the community, having raised money in the past for needy people. In addition, he stated that 22 private clubs already exist in Henderson County, and, if Respondent's application is granted, it would be more highly regulated by the Commission than it currently is as a BYOB establishment.

A.G. Malloi and Kim Mobley both commented that drinking and driving will occur whether Respondent's application is granted or not. In their opinion, granting Respondent's application might actually make the roadways safer because, since Respondent's establishment is local, area residents would not have so far to drive to drink.

Roy Nuckolls commented that highway improvements have been made to FM 315 near Respondent's location, and that he supports Respondent's application because he would like to have

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a place to go for good music and dancing.

Connie Rushing, a Commission-trained bartender, stated that she, as a bartender at Respondent's establishment, would work to make Respondent's establishment the best she could for everyone.

Joe Windham, a musician who has performed at Respondent's establishment, commented he has never seen anyone leave Respondent's premises intoxicated. In his experience, Respondent's management asks patrons to leave before they become intoxicated or instructs them to quit drinking. He likewise commented that drinking and driving will occur whether Respondent's application is approved or not.

Stephanie Dykes opined that prescription medications impair drivers to the same extent as alcoholic beverages.

Margie Shaver commented that Respondent's establishment is not intended to be a "sleazy bar," but is, instead, designed to be a place for music, entertainment, and visiting with friends. She further commented that in her opinion drugs are a bigger problem than alcohol.

Roy Emory, 90 years old, stated he has lived in this area for 50 years, has never seen a wreck in front of Respondent's location, and supports the application because he likes to go to clubs. Keith Auld commented that he supports Respondent's application because he likes to dance.

## **B. Protestant's Evidence and Contentions**

### **1. Petitioner's Application, Affidavits, and Petitions**

Staff offered into evidence Respondent's application for a Private Club Registration Permit and Beverage Cartage Permit for Chandler Rockin D Saloon and Dance Social Club, Inc, d/b/a

Rockin D Saloon and Dance. (TABC Ex. No. A-1). Staff also presented 23 signed affidavits and 20 pages of petitions containing approximately 336 signatures received in opposition to Respondent's application. (Protestant Ex. A-2).

## 2. Witnesses

### a. Kevin Hanes

Kevin Hanes, a Major with the Henderson County Sheriff's Office, testified that Respondent's establishment is located on FM 315, a high-volume two-lane highway that lacks improved shoulders. He characterized FM 315 between Respondent's location and Chandler, Texas, as "very dangerous," stating that on a scale of 1 to 10, with 10 being "extremely dangerous," the portion of FM 315 near Respondent's establishment is a "7 or 8." Although improvements have been made to area roadways in recent years, those improvements are either two or three miles north of Respondent's location or several miles south. In his opinion, more than 30 motor vehicle crashes occur on that portion of FM 315 each year, and, as a result, the Henderson County Sheriff's Office opposes Respondent's application because of public safety reasons.

He also testified that the sheriff's office has received several complaints concerning Respondent's establishment over the past years, ranging from loud noise to illegal gambling, and that Elizabeth Dykes<sup>1</sup> was recently charged with a criminal offense for illegal gambling. Her criminal case, as of the date of the hearing, was pending.

### b. Jane Wilson

Jane Wilson, a 27-year resident of the area, testified that Big Eddy Road, which leads into a subdivision of over 100 houses and is the most convenient and often-used roadway for entering and

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<sup>1</sup> Elizabeth Dykes, as shown elsewhere in the evidence, is co-owner, with her husband, of Respondent's establishment and the property upon which the establishment is located.

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leaving the subdivision, dead-ends in a T-intersection at FM 315 directly in front of Respondent's establishment. She testified that no highway improvements have been made to FM 315 within one-half mile on either side of Respondent's establishment, and any improvements that have been made are approximately five miles south of Respondent's location or two and one-half to three miles north. She testified she has seen accidents occur within one-half mile of Respondent's location and that improvements made to other roadways in the area have actually increased the amount of traffic on FM 315. In her opinion, given Respondent's location at the intersection of FM 315 and Big Eddy Road and the amount of traffic in that area, driving would become more dangerous if Respondent's application was granted.

**c. Olin Boles**

Olin Boles, the interim pastor of the West Lake Baptist Church, testified that his church is located at 1438 FM 315 approximately one-half mile from Respondent's location. The church has activities scheduled nearly every evening and on Sundays. The entrance to the church parking lot is on FM 315, which he described as a two-lane road with major traffic and no shoulders. In his opinion, this area is a primarily residential, and a private club would not be conducive for creating or maintaining a wholesome environment in which to raise a family.

**d. Mike Matlock**

Mike Matlock, pastor of Forest Grove Baptist Church, testified that his church is located on the corner of FM 315 and Forest Grove, approximately one-half mile from Respondent's location. He testified that traffic on FM 315 in that area is very heavy and that a number of accidents have occurred in front of the church.

**e. O.B. Hampton**

O.B. Hampton, president of Clearview Point Home Owners Association, testified that

approximately 22 families live in this home owners association, and that Big Eddy Road, which has more than 100 homes on it, is the main entry into the subdivision. He testified that FM 315 has had no improvements made to it within approximately 1.4 miles of Respondent's location, and that recent improvements made to FM 3506, which intersects with FM 315 approximately five miles from where Big Eddy Road meets FM 315, has increased the amount of traffic on FM 315. In addition, the 1.25 mile stretch of FM 315 directly in front of Respondent's location is the only passing area on FM 315 between Chandler and FM 3506, which means traffic speeds up in front of Respondent's location. Accordingly, he opposes Respondent's application because FM 315 is already unsafe, and adding alcohol-impaired drivers would only make things worse.

**f. Don Thomas**

Don Thomas, a member of the West Side Volunteer Fire Department, testified that the fire department has jurisdiction over approximately five miles of FM 315, including that portion which runs in front of Respondent's establishment. He testified that approximately 20 to 30 accidents have occurred on this five mile stretch over the last "couple of years." In his opinion, the general condition of the roadway is "not as good as one would like," with the surface of the roadway deteriorating and the roadway slippery and dangerous in inclement weather. In addition, approximately 80 - 90 percent of the road only has a one-foot wide margin of pavement separating the roadway from the bar ditch, which ranges in depth from one to four feet. Based on these facts, he would prefer that Respondent's permits not be granted.

**g. Pamela Pena**

Pamela Pena testified she has lived next door to Respondent's establishment, approximately 300 feet away, for nine and one-half years. She testified that Elizabeth Dykes and her husband own Respondent's establishment and the property on which it is located, and that next to Respondent's establishment, on the same property and also owned also by the Dykes, is a building she referred to as the "gambling house." She testified that illegal gambling occurred in this building until recently,

when it was closed down by law enforcement officers. The gambling was of such common knowledge, that, on average, four people a week came to her door between 10:00 p.m. and 2:00 a.m. looking for the "gambling house."

She further testified that Respondent's establishment is frequently noisy at night, and that she has complained repeatedly to the sheriff's office about the noise.

**h. Mary Ellen Wallace**

Mary Ellen Wallace testified she has been a resident of the Park Side Shores subdivision since 1975. She stated that Respondent's establishment is situated on a heavily populated, one-and one-half mile stretch of FM 315, in which are located three churches, two dangerous "S" curves, and approximately 400-500 residents. She further testified that no road improvements have been made in the immediate vicinity of Respondent's location.

**i. Marcus Stokke**

Marcus Stokke, an enforcement agent with the Commission, testified that Elizabeth Dykes and her husband own Respondent's establishment and the property on which it is located. A separate building, also owned by the Dykes and located on the same property approximately 88 feet from Respondent's establishment, is the "gaming room." Agent Stokke testified that he once entered the "gaming room" and observed, on that occasion, approximately 30-40 eight-liner machines on the premises. While he testified that eight-liner machines are not illegal to own *per se*, they can become illegal if they make pay-offs and are used for gambling purposes. Given the proximity of the gaming room to Respondent's establishment and their shared ownership by the Dykes, Agent Stokke considers the gaming room and Respondent's establishment as all part of the same premises.

He further testified that Elizabeth Dykes and her husband have a reputation in the community and with law enforcement officials for illegal gambling. Accordingly, he believes that Respondent's

application listing Amber Rushing as the applicant and Amber and Wayne Rushing as officers is a subterfuge. He opined that Ms. Dykes may have believed the application would be granted if Ms. Dykes was not listed as an officer, and so, therefore, listed Amber and Wayne Rushing on the application because the Rushings meet all the Commission requirements as officers. That this is a subterfuge is apparent, in Agent Stokke's opinion, because the Rushings have no significant financial investment in the club and own no property associated with the club, while the Dykes, who own Respondent's property and have invested a significant amount of money into Respondent's establishment, have, according to this application, turned the club over to the Rushings to receive its profits, while leaving Ms. Dykes earning merely \$10.00 an hour managing the club. Agent Stokke testified this is a business arrangement he has never seen before, and one which does not make sense to him, unless the Rushings are merely a subterfuge and the Dykes, as the real parties in interest, intend to be the true owners and run the club accordingly.

Agent Stokke admitted, however, that in subterfuge cases the identity of the actual party in interest is deliberately hidden, since a subterfuge is only necessary where the actual party in interest is not eligible to be associated with the establishment. In the instant case, however, Respondent's application openly shows that Ms. Dykes has contracted with Respondent's officers to operate the club, a fact Agent Stokke admitted was "unusual."

In addition, Agent Stokke testified that FM 315 has "issues" with safety, and that traffic, in his opinion, has nearly doubled since the new improvements have been made on other roadways in the area. Because of the safety concerns and Respondent's proximity to churches, he opposes Respondent's application, even apart from the alleged subterfuge.

### **C. Respondent's Evidence and Contentions**

#### **1. Amber Maloy**

Amber Maloy (Rushing), a listed officer on Respondent's application, testified that

Respondent's establishment is intended to be a place to gather and listen to music. She stated that Elizabeth Dykes' proposed association with the establishment as the manager is not meant to be long-term, and that her involvement is merely to teach Ms. Maloy how to run the establishment until a different manager can be hired. Due to Ms. Dykes' current poor health, however, Ms. Maloy does not believe Ms. Dykes is now able to perform those duties for the club.

In addition, Ms. Maloy testified that highway improvements have been made to FM 315 in recent years; FM 315 is not, in her opinion, a high traffic area; and she has driven on that road for many years without ever having a wreck.

## 2. Elizabeth Dykes

Elizabeth Dykes testified she is an owner of the property where Respondent's establishment is located, and that her association with the establishment is not intended to be long-term.

## IV. ANALYSIS

Protestant argued that Respondent's application should be denied because the place in which Respondent may conduct its business warrants the refusal of the application based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency. TEX. ALCO. BEV. CODE ANN. § 11.46(a)(8).

The appropriateness of a place for the proposed sale of alcoholic beverage sales was raised in *Dienst v. Texas Alcoholic Beverage Commission*, 536 S.W.2d 667 (Tex.Civ.App 13 Dist., 1976, no writ) where the mayor, chief of police, sheriff, and property owners from three subdivisions opposed the permits on the grounds that granting the permits would create a probable increased traffic hazard. The appellate court affirmed the denial of the permits, holding that "an unusual condition or situation would be present, that is, the locating of the lounge at this busy intersection in the middle of a residential area would cause an increased traffic hazard and would require an increase in police

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assistance.” *id.*, at 671.

In *Helms d/b/a The Thirsty Turtle v. Texas Alcoholic Beverage Commission*, 700 S.W.2d 607 (Tex. App.—Corpus Christi 1985, no writ) the evidence included approximately 94 letters of protest from property owners, as well as opposition by the mayor, chief of police, sheriff, members of the board of a nearby public school, and church members who opposed the permits on the grounds that granting the permits would increase traffic congestion and increase the probability that persons would be driving under the influence of alcohol in the immediate area. Although the applicant met all procedural requirements for receiving a permit for the business, the business was located in a wet area, and the evidence included a petition of approximately 450 persons in favor of the application, the denial of the application was affirmed on appeal because “the immediate area in which the proposed licensed premises is located is made up primarily of churches, schools and residences;” “there are a number of church, civic and social activities held on the premises of the church which take place daily from early in the morning until late in the evening ... involving young children, adults and elderly people;” and granting the permit would result in “increased traffic congestion and the increased probability of persons driving under the influence of alcohol in the immediate area” which would “result in an increase in danger to area children and residents and a hazard to the general public.” (*id.*, at 611-612.)

In the instant case, the evidence shows that approximately 400-500 residents live in the area near Respondent’s establishment; approximately 336 petition signatories and 23 affiants — an overwhelming percentage of the local population — oppose Respondent’s application; FM 315 passing in front of Respondent’s establishment is heavily-traveled; vehicles speed up on FM 315 at Respondent’s establishment in order to pass other traffic; FM 315 has no improved shoulders; FM 315 is lined with a bar ditch ranging in depth from one to four feet; Maj. Kevin Hanes of the Henderson County Sheriff’s Office considers FM 315 between Respondent’s location and Chandler, Texas, “very dangerous;” Big Eddy Road, the primary ingress and egress for subdivisions in the area, funnels directly onto FM 315 straight across from Respondent’s establishment; the Henderson County Sheriff’s office opposes Respondent’s application for safety reasons; highway improvements

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made in the area have increased the amount of traffic on FM 315 without improving FM 315 itself near Respondent's location; West Lake Baptist Church is located approximately one-half mile from Respondent's location on FM 315 and has activities scheduled nearly every evening and on Sundays; representatives from a homeowner's association and three local churches oppose Respondent's application; and the number of alcohol-impaired drivers will likely increase on FM 315 if Respondent's application is granted.

The evidence set forth above supports a finding that an unusual condition or situation exists that warrants a refusal of Respondent's application based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency.<sup>2</sup>

#### V. RECOMMENDATION

The ALJ recommends that Respondent's application for a Private Club Registration Permit and Beverage Cartage Permit for Rockin D Saloon and Dance, 1958 Hwy 315 South, Chandler, Henderson County, Texas, should be denied.

#### VI. FINDINGS OF FACT

1. Chandler Rockin D Saloon and Dance Social Club, Inc, d/b/a Rockin D Saloon and Dance filed an application with the Commission for a Private Club Registration Permit and Beverage Cartage Permit for Rockin D Saloon and Dance, 1958 Hwy 315 South, Chandler, Henderson County, Texas.
2. Respondent's establishment is located on FM 315, a high-volume, two-lane highway without improved shoulders. For approximately 80-90 percent of FM 315 the roadway is separated from a bar ditch by only approximately one foot of unimproved shoulder. The bar ditch ranges in depth from one to four feet.
3. The surface of FM 315 is deteriorating and the roadway is slippery and dangerous in

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<sup>2</sup> Protestant also argued that Respondent's application should be denied because the application is a subterfuge. In that the above finding is dispositive of the issues in this matter, no additional discussion of Respondent's alleged subterfuge need be addressed further herein.

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inclement weather.

4. No highway improvements have been made in the last five years to FM 315 within one-half mile of Respondent's establishment. All improvements made to FM 315 or other roadways in the area within the last five years are no closer than approximately five miles south of Respondent's location or two and one-half to three miles north.
5. Improvements made to FM 3506 within the last five years have increased the amount of traffic on FM 315.
6. The Henderson County Sheriff's Office requested that Respondent's application not be granted because of concerns for the safety of drivers traveling on FM 315 near Respondent's establishment.
7. Approximately 400-500 people live in the vicinity of Respondent's establishment.
8. More than 100 homes are located on Big Eddy Road, which funnels traffic directly onto FM 315 across from Respondent's establishment.
9. Approximately 336 signatures on a 20-page petition were received by Staff in opposition to Respondent's application. Twenty-three signed affidavits were also received by Staff requesting that Respondent's application not be granted.
10. The Clearview Point Home Owners Association, comprising 22 homes, requested that Respondent's application not be granted.
11. West Lake Baptist Church is located on FM 315 approximately one-half mile from Respondent's location. The entrance to the church parking lot is on FM 315. The church has activities scheduled nearly every evening and on Sundays. The minister of West Lake Baptist Church requested that Respondent's application not be granted.
12. Forest Grove Baptist Church is located on FM 315 within one-half mile of Respondent's establishment. The minister of Forest Grove Baptist Church requested that Respondent's application not be granted.
13. Granting Respondent's application would increase the likelihood of intoxicated drivers traveling on FM 315.
14. A Notice of Hearing dated October 15, 2008, was issued by Staff notifying Respondent of the protests received against Respondent's application and informing the parties of the nature of the hearing, the statutes and rules involved, and the legal authorities under which the hearing was to be held.

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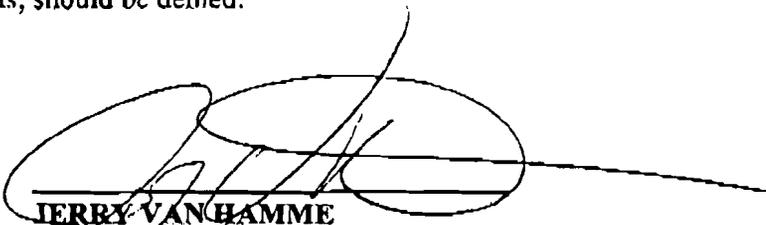
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15. A Continuance Order, Order No. 3, was issued by SOAH on May 11, 2009, informing the parties of the time and place of the hearing.
16. On June 24, 2009, a public hearing was held before Jerry Van Hamme, ALJ, State Office of Administrative Hearings, at the Brownsboro High School Little Theater Auditorium, 13942 SH 31E, Brownsboro, Henderson County, Texas. Protestants were represented by Sandra Patton, attorney. Respondent was represented by Clyde Burleson, attorney. The record was closed on that date.

#### VII. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. Subchapter B of Chapter 5, §§ 6.01 and 11.46(a)(8).
2. The State Office of Administrative Hearings has jurisdiction to conduct the hearing in this matter and to issue a proposal for decision containing findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Proper and timely notice of the hearing was effected on all parties pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001, and 1 TEX. ADMIN. CODE § 155.401.
4. An unusual condition or situation exists, given the place in which Respondent will conduct its business, that warrants the refusal of the permits based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency. TEX. ALCO. BEV. CODE ANN. § 11.46(a)(8).
5. Respondent's application with the Commission for a Private Club Registration Permit and Beverage Cartage Permit for Rockin D Saloon and Dance, 1958 Hwy 315 South, Chandler, Henderson County, Texas, should be denied.

SIGNED August 19, 2009.



**JERRY VAN HAMME**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**DALLAS OFFICE**  
**6333 Forest Park Road Suite 150a**  
**Dallas, Texas 75235**  
**Phone: (214) 956-8616**  
**Fax: (214) 956-8611**

DATE: **08/19/2009**

NUMBER OF PAGES INCLUDING THIS COVER SHEET: **17**

REGARDING: **PROPOSAL FOR DECISION**

DOCKET NUMBER: **458-09-0401**

**JUDGE JERRY VAN HAMME**

**FAX TO:****FAX TO:**

J.R. RONNY BROWNLOW	VIA REGULAR MAIL
MARK JORDAN	(903) 677-6344
PAMELA PENA	VIA REGULAR MAIL
HERMAN VIBROCK	VIA REGULAR MAIL
O.B. HAMPTON	VIA REGULAR MAIL
CLYDE W. BURLESON	(713) 521-7365
SANDRA K. PATTON (TEXAS ALCOHOLIC BEVERAGE COMMISSION)	(713) 426-7965
ERIC PEYTON	VIA REGULAR MAIL
ALAN STEEN (TEXAS ALCOHOLIC BEVERAGE COMMISSION)	(512) 206-3203
LOU BRIGHT GENERAL COUNSEL (Alcoholic Beverage Commission, Texas)	(512) 206-3498

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# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

August 19, 2009

Alan Steen  
Administrator  
Texas Alcoholic Beverage Commission  
5806 Mesa Drive  
Austin, Texas 78731

**VIA FACSIMILE 512/206-3203**

**RE: TEXAS ALCOHOLIC BEVERAGE COMMISSION, Jurisdictional Petitioner  
and Protestant HENDERSON COUNTY SHERIFF, WEST LAKE BAPTIST  
CHURCH, CLEARVIEW POINT HOMEOWNER'S ASSOCIATION  
HERMON VIBROCK, PAMELA PENA , Protestants VS.  
ORIGINAL APPLICATION OF CHANDLER ROCKIN D SALOON AND  
DANCE SOCIAL CLUB INC., D/B/A ROCKIN D SALOON AND DANCE  
SOAH DOCKET NO. 458-09-0401**

Dear Mr. Steen:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Van Hamme", written over a horizontal line.

Jerry Van Hamme  
Administrative Law Judge

JVH/lan  
Enclosure

Xc: Sandra Patton, Staff Attorney, Texas Alcoholic Beverage Commission, VIA FACSIMILE 713/426/7965

6333 Forest Park Road, Suite 150A ♦ Dallas, Texas 75235  
(214) 956-8616 Fax (214) 956-8611  
<http://www.soah.state.tx.us>

Lou Bright, Director of Legal Services, Texas Alcoholic Beverage Commission, VIA  
FACSIMILE 512/206-3498

Clyde W. Burleson, Attorney for Respondent, VIA FACSIMILE 713/521-7365

Mark Jordan, Protestant, VIA FACSIMILE 903/677-6344

J.R. Ronny Brownlow, Protestant, VIA REGULAR MAIL

Eric Peyton, Protestant, VIA REGULAR MAIL

O.B. Hampton, Protestant, VIA REGULAR MAIL

Herman Vibrock, Protestant, VIA REGULAR MAIL

Pamela Pena, Protestant, VIA REGULAR MAIL.