

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

October 26, 2015

RECEIVED

OCT 26 2015

TABC HOUSTON
LEGAL DEPT.

Sherry Cook
Administrator
Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, Texas 78731

VIA REGULAR MAIL

RE: SOAH Docket No. 458-15-5345; Texas Alcoholic Beverage Commission vs. Mad Dog Saloon NP d/b/a Mad Dog Saloon NP

Dear Ms. Cook:

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.

Sincerely,

A handwritten signature in black ink that reads "Lindy Hendricks".

Lindy Hendricks
Administrative Law Judge

LH/mr
Enclosure

- xc Ramona Perry, Texas Alcoholic Beverage Commission, 427 W. 20th Street, Suite 600, Houston, TX 77008 - VIA REGULAR MAIL
Emily Helm, General Counsel, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731 - VIA REGULAR MAIL
Judith Kennison, Senior Attorney, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731 - VIA REGULAR MAIL (with Certified Evidentiary Record and 1 Hearing CD/s)
Albert Van Huff, Attorney at Law, 1225 North Loop West, Suite 640, Houston, TX 77008 - VIA REGULAR MAIL
Kelli Kaczewski, Hudson Independent School District and Board of Trustees, 315 North Church Street, Nacogdoches, TX 75961 - VIA REGULAR MAIL

**DOCKET NO. 458-15-5345
(TABC CASE NO. 633393)**

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Jurisdictional Petitioner	§	BEFORE THE STATE OFFICE
	§	
	§	
	§	
HUDSON INDEPENDENT SCHOOL DISTRICT AND BOARD OF TRUSTEES, THE COALITION, INC., AND CONCERNED CITIZENS Protestants	§	
	§	
	§	
	§	OF
	§	
v.	§	
	§	
ORIGINAL APPLICATION OF MAD DOG SALOON NP D/B/A MAD DOG SALOON NP (N), Respondent	§	
	§	
	§	
ANGELINA COUNTY, TEXAS	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Mad Dog Saloon NP (Respondent or Mad Dog Saloon) filed an application with the Texas Alcoholic Beverage Commission (Commission) for a Private Club Registration Permit for the premises known as Mad Dog Saloon NP, located at 6180 Ted Trout Drive, Hudson, Angelina County, Texas.¹ Hudson Independent School District and Board of Trustees, the Coalition, Inc., and Concerned Citizens (Protestants) 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 Commission deny the requested permit.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Notice and jurisdiction were not contested and are discussed only in the Findings of Fact and Conclusions of Law. The hearing on the merits convened on September 25, 2015, at

¹ Ted Trout Drive is also known as Highway 94.

2020 North Loop West, Suite 111, Houston, Texas, before ALJ Lindy Hendricks. Staff was represented by attorney Ramona M. Perry. Respondent was represented by attorney Al Van Huff. Hudson Independent School District (HISD) and the Board of Trustees (collectively, Protestants) appeared and were represented by attorney Kelli H. Karczewski. The record closed at the conclusion of the hearing. The Coalition, Inc., and concerned citizens did not appear at the hearing but presented 155 signed protest forms in opposition to Respondent's application.

II. DISCUSSION AND ANALYSIS

A. Applicable Law

Protestants have the burden of proof to establish, by a preponderance of the evidence, that the permits should not be issued. 1 Tex. Admin. Code § 155.427. Texas Alcoholic Beverage Code (Code) § 11.46(a)(8) provides that an original permit may be denied if “the place or manner in which the applicant may conduct his business warrants the refusal of a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency.”

B. Arguments and Evidence of Staff

TABC staff did not take a position on the application and appeared solely as a jurisdictional petitioner. Staff offered into evidence Respondent's application for a Private Club Registration Permit.² Staff also presented 155 signed protest forms, received by the Commission in opposition to Respondent's application.³

C. Arguments and Evidence of Protestants

Protestants contend that the place or manner in which Applicant would operate

² TABC Ex. 1.

³ TABC Ex. 2.

Mad Dog Saloon would be against the general welfare, health, peace, morals, and safety of the community.

1. Mary Ann Whiteker

Ms. Whiteker has been the superintendent of HISD for 22 years and testified to the following:

a. HISD Main Campus

HISD has 2,816 students enrolled in four campuses consisting of a primary, elementary, middle, and high school.⁴ Primary school is Pre-K to 2nd grade with approximately 200 students. Elementary school is 3rd to 5th grade with approximately 680 students. These two campuses are located off Highway 94, approximately 500 to 600 feet west of the main campus.

The main campus is at 6735 Ted Trout Drive and houses approximately 680 students in the middle school and 800 students in the high school. The campus is located on the south side of Highway 94 and is accessed via three driveways without traffic signals along Highway 94. The main campus also contains the high school gymnasium, soccer field, baseball and softball fields, tennis courts, and a park with five youth fields.⁵

b. Distance from Main Campus to Mad Dog Saloon

Mad Dog Saloon applied for a Private Club Registration Permit for the premises located at 6180 Ted Trout Drive on the north side of Highway 94. When Superintendent Whiteker heard about the application, she asked HISD's police chief to measure the distance from the main campus to the Mad Dog Saloon. From the eastern property line of the main campus beside the youth fields to the driveway of the proposed business, Chief Michael Daniel measured 789 feet.

⁴ Protestants Ex. 3.

⁵ Protestants Exs. 4 and 8 (Appendix B).

c. Highway 94

Highway 94 is a 4-lane undivided highway with a center turn lane.⁶ The speed limit is 55 miles per hour. There are no lights on Highway 94 in front of the main campus, past Mad Dog Saloon, until the traffic light at the intersection with Highway 706. Highway 94 is heavily trafficked by log haulers, fuel tankers, and many other 18-wheelers. Every morning and afternoon, Highway 94 is backed up from the main campus to Highway 706 with hundreds of students and parents arriving or leaving. During those times, the speed limit is reduced from 55 to 35 miles per hour.

d. Hazardous Condition

Superintendent Whiteker testified that the location of HISD's campuses was declared a "hazardous condition" as defined by the Texas Education Agency.⁷ She explained that not all schools located on a highway are classified as dangerous. However, in HISD's case, Highway 94 is the sole ingress and egress for their campuses. Only a fence separates the middle and high schools from Highway 94. Because of its characterization as a hazardous condition, HISD obtained additional state funding to bus students who live within a 2-mile radius of the schools and who would traditionally be "walkers."

e. Traffic

Traffic is an issue around the main campus. HISD issued 258 parking permits to students who drive their own cars to the main campus. Additionally, there are 211 staff members who park at the main campus and 27 school buses. Due to the volume of traffic, HISD hired four police officers to help direct traffic during morning and afternoon peak hours and extracurricular events.

⁶ Protestants Ex. 8 at 1.

⁷ Protestants Ex. 6. According to the Texas Education Agency, "a hazardous condition exists where no walkway is provided and students must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or other comparable condition."

HISD also hired a company to conduct a traffic study of the main campus. The data was obtained by counting cars traveling on Highway 94 and those entering or exiting the main campus during morning drop-off and afternoon pick-up times. The traffic study recommended that HISD create a new entrance east of the youth parks in order to loop more traffic through the campus and off the highway.⁸ The proposed entrance would be closer to Mad Dog Saloon. According to Superintendent Whiteker, the queue of cars would still back up past Mad Dog Saloon but not to Highway 706.

f. Extracurricular Activities and Number of Participants

Superintendent Whiteker testified that there are athletic practices and games after school, every day, beginning at 4:00 p.m. and ending as late as midnight. Students in practice will generally leave around 5:30 to 6:00 p.m. Games can let out as late as 11:00 p.m. to midnight. There are evenings when multiple events overlap each other. During basketball games, the 2,000 seats in the gymnasium are filled and all four parking lots are full.

Superintendent Whiteker testified that HISD’s main campus is unique because the park with youth fields is located on the school property and is the location of all HISD youth activities as well as all extracurricular activities. Protestants offered Exhibit 7, and Superintendent Whiteker testified to the following:

SCHOOL ATHLETIC EVENTS	Start Date	End Date	High School Athletes	Middle School Athletes	Time	Attending Event	After-School Practice	Location
Cross Country	Aug 20	Nov 14	40	80	Early morning and late afternoon	200	Daily	Park and Campus
Basketball	Oct 21	Feb 26	57	82	5-10 p.m.*	1200-1500	Daily	3 gyms
Soccer	Nov 30	Mar 18	70		6-10 p.m.*	200	Daily	1 Field
Tennis	Jan 5	Apr 6	22		During school			2 Double courts
Softball	Jan 22	May 6	27		5-9 p.m.*	150-250	Daily	1 Field
Baseball	Jan 29	May 13	28		5-9 p.m.*	150-250	Daily	1 Field

⁸ Protestants Ex. 7.

YOUTH ATHLETIC EVENTS	Start Date	End Date	Students	Ages	Time	Attending Event	After- School Practice	Location
Little Dribblers Basketball	Nov 20	Mar 17	250	5-13	After school 5-10 p.m.	Parents/ Extended Families	Daily	3 Gyms
Diamond Sports	Mar 1	May 26 All Stars July	600	4-13	After school 5-10 p.m.	Parents/ Extended Families	Daily	5 Youth Fields
YOUTH FALL SEASON- SELECT TEAMS								
Baseball	Sept	Dec	30	9-13	After school 5-10 p.m.	Parents/ Extended Families	Daily and Sunday Afternoon	2 Youth Fields
Softball	Sept	Dec	25	9-13	After school 5-10 p.m.	Parents/ Extended Families	Daily and Sunday Afternoon	2 Youth Fields

* Later if returning from out-of-town game.

g. Safety Concerns

Superintendent Whiteker is concerned about the safety of HISD students, parents, staff, and the community. The safety issue is based on the location of the proposed business being in close proximity to the main campus. The sole ingress and egress for HISD and the proposed business is Highway 94 which has a speed limit of 55 miles per hour and no streetlights or traffic device between the school and Mad Dog Saloon. The highway is travelled by young, inexperienced drivers as well as 18-wheeler trucks, including log haulers and fuel tankers. Mad Dog Saloon has a tall, aluminum fence stretching along the driveway of the proposed business to the highway, blocking the view of the driveway for drivers on Highway 94. She believes that the application is contrary to the general welfare, health, and safety of the students because the place of operation is at a dangerous location.

2. Chief Daniel

Chief Daniel had been with the Angelina County Sheriff's Office since 1998 and was later a lieutenant with the City of Hudson. While at the City, he was assigned to patrol HISD for 2 years. Nine years ago, Chief Daniel became HISD's chief of police when HISD created its own police force. HISD has two other police officers, Charles Lawrence and Bryan Holley. Chief Daniel testified regarding traffic and the proposed business as follows:

a. Traffic Control And Highway 94

In addition to general duties, all three officers work traffic control before and after school, and during extracurricular activities. According to Chief Daniel, the traffic is heavy during morning hours. A queue forms from the main campus all the way to Highway 706. The traffic backs up again to Highway 706 when parents pick up students after school and athletic games.

Two officers are posted on Highway 94, blocking a lane of the highway to allow school traffic to exit the campus eastbound onto Highway 94. The third officer works on campus to empty the three parking lots around the gymnasium.

Highway 94 is very dark at night with no lights, and the speed limit is 55 miles per hour. Chief Daniel stated that if the officers were not on the highway, no one could leave the campus because it is very dangerous. He testified that it is unsafe even for the officers to be on the highway. In his 11 years working with HISD, Chief Daniel has worked several wrecks in the area and believes it would be worse if the officers were not directing traffic.

b. Location of Proposed Business

Chief Daniel measured the distance from the property line of the school to the property line at the driveway of the proposed business and found it be 789 feet. A long barrier fence stretches along the driveway of the proposed business to where it meets

Highway 94. Chief Daniel testified there is a sharp curve on Highway 94 just before the highway meets the driveway.

Chief Daniel deemed the situation dangerous because the fence creates a restricted view in a very dark area with a sharp curve. He is further concerned that many children, including young drivers, are coming in and out of the school late at night around 10:00 to 11:00 p.m. when games let out. Chief Daniel testified that the proposed location is unsafe given the fact that there is no lighting on the highway, a sharp curve, the restrictive fence, and a high number of people coming and leaving the school late at night, including children who are just starting to drive.

3. HISD Officer Bryan Holley

Officer Holley has been on the HISD police force since 2013. Prior to working for HISD, Officer Holley was a deputy constable for 22 years with Angelina County Sheriff's Office. His duties at HISD include providing protection and traffic safety for students, staff, and parents.

Officer Holley contacted several law enforcement agencies to obtain reports regarding alcohol-related incidents on Highway 94 in Angelina County and Trinity County.⁹ He explained that the reports referenced only clubs located within a 3 to 4 mile radius of the main campus. He testified that he is familiar with traffic, crashes, and DWI's on Highway 94, based on his law enforcement experience. He explained that Highway 94 is trafficked by 18-wheelers, log haulers, and student drivers. Officer Holley testified he has seen many accidents at the curve and even before the curve at the intersection. He has seen many wrecks with drunk drivers who pick up speed and cannot manage the curve, running off the road or causing an accident.

Officer Holley has great concern that the ingress and egress from the club being in close proximity to the school will be dangerous for people coming in and out of the school. He describes the combination of "a club with alcohol and its proximity to the school is oil and water. They need not be mixed." Based on his 22 years of law enforcement experience in

⁹ Protestants Ex 10.

Angelina County, he believes that putting a club in a school zone “changes the school zone to a danger zone.”

4. City of Hudson Police Chief Jimmy Casper

Chief Casper has been with the City of Hudson for 8 years and chief of police for 5 years. He was with the Angelina County Sheriff’s Office before joining the City. He provided the statistical reports regarding traffic incidents and DUI’s on Highway 94.¹⁰

Chief Casper testified that there is a high volume of traffic at the school during peak a.m./p.m. hours and during baseball and basketball season. He stated that most of the community attends activities, day and night, at the school.

D. Evidence and Arguments of Respondent

1. Marvin Douglas Page, Jr.

Mr. Page owns the eight acres of land on which the proposed club would sit. He has lived in a house on the property for 15 years. He built a cabinet shop on the premises 12 years ago. Eight years ago, the cabinet shop was converted into a “man-cave” which has since been used as a club for “gatherings,” hosting friends and charitable events.¹¹ Because Mr. Page plans to retire, he is seeking a private club registration permit to help cover the expenses of maintaining the club.

Mr. Page stated Mad Dog is his nickname. Despite its name, he explained the club would not be a wild or rowdy biker bar. He expects the club’s members to be professional working class people. The club would have rules and policies, including a strict dress code, no profanity, and no motorcycle idling. He intends to employ three people at the club, two bartenders and a waitress. Employees must be TABC seller-server trained. The club’s policy would not allow

¹⁰ Protestant Ex. 7 at 2.

¹¹ Respondent Exs. B and C.

sales of alcohol to minors or intoxicated persons. Minors would not be allowed in the club even if accompanied by parents. The policy would further require designated drivers.

The club currently has 15 members ranging in age from 40 to 82. The proposed private club will have no more than 70 to 80 members. However, Mr. Page testified he would allow as many members as deemed safe by the Fire Marshal. People who enter the club must complete an application to become a member of the private club. According to Mr. Page, a person will become a member if the person “passes the dress code and is sober.”

The hours of operation will be weekdays from 4:30 p.m. to midnight, and weekends from noon to midnight. He testified that opening at 4:30 p.m. would not conflict with school hours. The club will serve hot meals as required by TABC for a private club.

There is currently one driveway used for the club. If his permit is granted, Mr. Page intends to add a second entrance in order to have separate driveways for entering and exiting. He would also add more parking and lighting at the end of the driveway. Mr. Page testified that there is approximately 20 to 30 feet from the edge of the fence to the highway, and that the fence does not obscure the view of the highway. He stated that the curve is “slight.” He is able to see traffic all the way to the traffic light at Highway 706.

Mr. Page and his brother took measurements from the front door of the club to the front door of the middle and high schools.¹² Because of the protest, Mr. Page testified, they twice measured “the distance from the driveway of his property to the point of the ball field and directly across the street to the property line” of the school and found it to be 1,007 feet.

Mr. Page testified he would not jeopardize the safety of the children or school. He has two grandsons, ages 10 and 11, attending the school. He stated that he is willing to address any concerns of the Board of Trustees.

¹² Respondent Exs. I and J.

2. Vernon Page

Mr. Page measured the distance from the driveway of the property, past the youth fields, to the first entrance of the school to be 1,749 feet. He stated the club has been used for gatherings but is costly to maintain. If the permit is granted, he will be the manager of the club. He anticipates the club members will be between 40 and 60 years old. The club will have policies which he believes will be stricter than TABC regulations. He and his brother intend to operate the club in a manner that would not contribute to the DWIs on the highway. He also explained that the curve on the highway is “slight” and there is no obstruction of view up to Highway 706.

3. Angie Stone

Ms. Stone has known the Page brothers for 3 years and has attended several gatherings at the club. She has never seen anyone “falling down drunk” in the club. She testified people get together for a good time and dancing. According to Ms. Stone, no one is allowed to leave the club intoxicated and rides are provided if needed. She does not believe the manner of operation would negatively affect the school. When exiting the driveway, Ms. Stone stated her view is not obstructed and she is able to see cars coming from the left. She does not see any potential safety hazard.

E. Analysis

Protestants 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. Specifically, Protestants argued that location of the business presents a safety hazard to nearby students and the general public.

In order to deny an alcoholic beverage permit to a fully qualified applicant who proposes to operate a lawful business in a location for which the permit sought is not prohibited by charter

or ordinance of the city, some unusual condition or situation must be shown so as to justify a finding that the place or manner in which the applicant may conduct its business warrants a refusal of a permit.¹³ In this case, the ALJ finds an unusual situation or circumstance exists.

The evidence shows that Mad Dog Saloon is located on Highway 94, approximately 1,000 feet east of the HISD main campus of the middle and high schools.¹⁴ Highway 94 is the sole ingress and egress for Mad Dog Saloon and the main campus. Mad Dog Saloon has a tall, aluminum barrier fence along its driveway to Highway 94. There is a curve on Highway 94 before the driveway of Mad Dog Saloon. The speed limit is 55 miles per hour. There are no lights on the highway between the main campus and Mad Dog Saloon. The highway is heavily trafficked by log haulers, fuel tankers, and many other 18-wheelers. During morning and afternoon hours, traffic is backed up on the highway from the main campus, past the driveway of Mad Dog Saloon, to Highway 706. A fence separates the middle and high schools from Highway 94. Because of these conditions, the location of the main campus was declared a “hazardous condition.”

The evidence shows that the main campus is unique because it contains a park and hosts all HISD youth and extracurricular activities. These activities take place year round on a daily basis. Students, parents, and members of the community leave the events anywhere from 5:00 p.m. to midnight, the same time patrons of Mad Dog Saloon would be arriving at or leaving the establishment.

Respondent’s witnesses offered testimony that the fence does not obstruct their view of the highway and that the curve is only slight. Protestants offered the testimony of Chief Daniel and Officer Holley who have collectively over 40 years of law enforcement experience in Angelina County. These officers have worked accidents, DWIs, and DUIs on Highway 94 and

¹³ *TABC v. Twenty Wings, LTD. et al*, 112 S.W.3d 647, 650 (Tex. App. - Ft. Worth 2003); *TABC v. Mikulenka*, 510 S.W.2d 616, 619 (Tex. Civ. App. – San Antonio 1974, no writ); and *Bavarian Properties, Inc. v. TABC*, 870 S.W.2d 686, 689 (Tex. App. – Ft. Worth 1994, reh’g overruled).

¹⁴ The distance from Mad Dog Saloon’s driveway to HISD’s park and youth fields was 789 feet as measured by Chief Daniel and 1,007 feet according to Mr. Marvin Page. Mr. Vernon Page measured 1,743 feet from the driveway, past the youth fields, to the first main entrance on the campus.

testified that safety is a primary concern because of the speed limit, no lighting, and young drivers. They testified that the combination of young drivers, a dark highway with a curve, and patrons leaving a bar after drinking alcoholic beverages creates a dangerous situation. Therefore, even if there is no obstruction for patrons exiting the bar, the fence and curve could create an obstruction for oncoming traffic which may consist of many young, inexperienced drivers.

Respondent testified as to manner of operation; however, Protestants did not protest the application based on the manner of operation. Additionally, the manner of operation does not alleviate the safety concerns of the location.

Based on the evidence, the ALJ finds the location of Mad Dog Saloon poses an unusual situation or circumstance which warrants the refusal of the original application. The ALJ finds that granting a permit to an establishment that will serve alcoholic beverages to 80 members plus guests would result in increased traffic congestion and increased probability of persons driving under the influence of alcohol, which would result in an increased danger to students and a hazard to the general public. Adding drivers who have consumed alcohol to a hazardous, dark stretch of highway that is trafficked by young, inexperienced drivers alongside 18-wheelers could increase the risk of accidents. The ALJ finds that granting the permit would add additional hazards to the existing "hazardous condition" faced by HISD's students, parents, staff, and community.

III. RECOMMENDATION

The ALJ recommends that Respondent's original application for a Private Club Registration Permit be denied.

IV. FINDINGS OF FACT

1. Mad Dog Saloon NP (Applicant) has filed an original application with the Texas Alcoholic Beverage Commission (TABC) for a Private Club Registration Permit for the premises known as Mad Dog Saloon NP, located at 6180 Ted Trout Drive in Hudson, Angelina County, Texas.

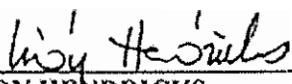
2. Protests to the application were filed by Hudson Independent School District (HISD) and Board of Trustees (collectively, Protestants).
3. The Coalition, Inc., and concerned citizens did not appear at the hearing but presented 155 signed protest forms in opposition to Respondent's application.
4. On August 19, 2015, TABC Staff issued a notice of hearing informing the parties of the time, date, and location of the hearing on the application; the applicable rules and statutes involved; and a short, plain statement of the matters asserted.
5. On September 25, 2015, a public hearing was convened in Houston, Texas. Administrative Law Judge (ALJ) Lindy Hendricks presided. Applicant was represented by attorney Al Van Huff. TABC's Staff was represented by staff attorney Ramona M. Perry. Protestants HISD and the Board of Trustees appeared and were represented by attorney Kelli H. Karczewski.
6. Mad Dog Saloon is located at 6180 Ted Trout Drive, also known as Highway 94, approximately 1,000 feet east of the HISD main campus of the middle and high schools.
7. Highway 94 is the sole ingress and egress for Mad Dog Saloon and the main campus.
8. The speed limit on Highway 94 is 55 miles per hour.
9. There are no lights on Highway 94 between the main campus and Mad Dog Saloon.
10. There is a curve on Highway 94 before the driveway of Mad Dog Saloon.
11. Mad Dog Saloon has a tall, aluminum barrier fence along its driveway to Highway 94.
12. The fence and curve could create an obstruction for oncoming traffic which may consist of many young, inexperienced drivers.
13. Highway 94 is heavily trafficked by log haulers, fuel tankers, and many other 18-wheelers.
14. During morning and afternoon hours, traffic is backed up on Highway 94 from the main campus, past the driveway of Mad Dog Saloon, to Highway 706.
15. A fence separates the middle and high schools from Highway 94.
16. The location of the HISD main campus was declared a "hazardous condition" by the Texas Education Agency.
17. The main campus is unique because it contains a park and is the location of all HISD youth and extracurricular activities. These activities take place year round on a daily basis.

18. Students, parents, and members of the community leave the events anywhere from 5:00 p.m. to midnight, the same time patrons of Mad Dog Saloon would be arriving at or leaving the establishment.
19. The combination of young drivers, a dark highway with a curve, and patrons leaving a bar after drinking alcoholic beverages creates a dangerous situation.
20. Granting a permit to an establishment that will serve alcohol to 80 members plus guests would result in increased traffic congestion and increased probability of persons driving under the influence of alcohol, which would result in an increased danger to students and a hazard to the general public.
21. Granting the permit would add additional hazards to the existing "hazardous condition" faced by HISD's students, parents, staff, and community.

IV. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this case pursuant to Texas Alcoholic Beverage Code Chapters 1 and 5 and Sections 6.01, 11.46, and 32.01.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Government Code chapter 2003.
3. Notice of the hearing was provided as required by the Administrative Procedure Act, Texas Government Code Sections 2001.051.-052.
4. Based on the findings of fact, a preponderance of the evidence shows that the place in which Applicant proposes to conduct its business warrants the refusal of a permit based on the general welfare, peace, morals, and safety of the people and on the public sense of decency. Tex. Alco. Bev. Code § 11.46(a)(8).
5. Based on the foregoing findings and conclusions, Applicant's original application for a Private Club Registration Permit for Mad Dog Saloon at 6180 Ted Trout Drive, Hudson, Angelina County, Texas, should be denied.

SIGNED October 26, 2015.



LINDY HENDRICKS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

DOCKET NO. 633393

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE TEXAS
COMMISSION,	§	
Jurisdictional Petitioner	§	
	§	
HUDSON INDEPENDENT SCHOOL	§	
DISTRICT AND BOARD OF TRUSTEES,	§	
THE COALITION, INC. AND CONCERNED	§	
CITIZENS, Protestants	§	
	§	
V.	§	ALCOHOLIC
	§	
ORIGINAL APPLICATION OF MAD DOG	§	
SALOON NP, INC., D/B/A MAD DOG	§	
SALOON NP, Respondent/Applicant Applying	§	
for N Permit	§	
	§	
	§	
	§	
ANGELINA COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-15-5345)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 30th day of December, 2015, the above-styled and numbered cause.

After proper notice was given, this case was heard by the State Office of Administrative Hearings (SOAH), with Administrative Law Judge Lindy Hendricks presiding. The hearing convened on September 25, 2015 and the SOAH record closed the same date. The Administrative Law Judge made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on October 26, 2015. The 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. No exceptions were filed.

After review and due consideration of the Proposal for Decision, I adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained in the Proposal for Decision, and incorporate those Findings of Fact and Conclusions of Law into this Order as if such were fully set out and separately stated herein.

All motions, requests for entry of Proposed Findings of Fact and Conclusions of Law, and any other requests for general or specific relief submitted by any party are denied unless specifically adopted herein.

IT IS THEREFORE ORDERED that Respondent's original application for permit be **DENIED**.

This Order will become **final and enforceable** on the 23rd day of January, 2016, **unless a Motion for Rehearing is filed by the 22nd day of January, 2016.**

SIGNED this the 30th day of December, 2015, at Austin, Texas.



Sherry K-Cook, Executive Director
Texas Alcoholic Beverage Commission

CERTIFICATE OF SERVICE

I certify that the persons listed below were served with a copy of this Order in the manner indicated below on this the 30th day of December, 2015.



Martin Wilson, Assistant General Counsel
Texas Alcoholic Beverage Commission

Lindy Hendricks
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
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