

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

**IN RE: ST. PIERRE ENTERPRISES, LLC D/B/A INTERSTATE SHELL
47 BURNHAM LANE
COLCHESTER, VT 05446**

BOARD DECISION

The Liquor Control Board (“Board”) held proceedings in Montpelier on July 9, 2014 to consider whether Raymond St. Pierre, sole member of the above-captioned Second Class Licensee, may transfer the License (as well as ownership and oversight of the underlying LLC) to his spouse, Leslie St. Pierre, so that Mr. St. Pierre may again serve as part-time law enforcement.

The Department of Liquor Control (“DLC”) appeared and was represented by Jacob A. Humbert, Esq., Assistant Attorney General. Mr. and Mrs. St. Pierre appeared on behalf of Licensee. We conclude that the Board lacks authority to approve this proposal under 7 V.S.A. §223 for the following reasons:

1. Licensee holds a Second Class liquor license. Mr. St. Pierre is the only member of the licensed LLC.
2. Mr. St. Pierre had served as a member of law enforcement for many years and wishes to return to work, on a part time basis, in such capacity.
3. He currently refrains from service in law enforcement to stay within the confines of 7 V.S.A. §223, discussed below, so as to not “jeopardize the business.” The Board certainly notes that this matter does not come before us as the consequence of an alleged violation; Mr. St. Pierre is being proactive.
4. Mr. St. Pierre has proposed to transfer the LLC and all aspects of ownership and oversight of the licensed premises to his wife, Leslie St. Pierre. After providing her with requisite training, Mr. St. Pierre “would minimize [his] involvement in the store and limit to “deposits and dailys” (sic) at times the store is not open to the public according to a letter submitted to DLC.
5. The Board is established as the paramount authority in the administration of Vermont’s liquor statutes. *See In Re: Wakefield*, 107 Vt. 180, 190 (1935); *Verrill, Jr. v. Daley, Jr.*, 126 Vt. 444, 446 (1967).
6. The Board’s authority to grant Second Class Liquor Licenses is codified at 7 V.S.A. §222. Granting or denying a liquor license application is typically a discretionary function entrusted to the Board. *See In re DLC Corp.*, 167 Vt. 544, 548 (1998). Limiting our authority, however is 7 V.S.A. §223,

entitled “Licenses to enforcement officer or control board member; exceptions,” which states in relevant part:

No license of any class shall be granted to any enforcement officer or to any person acting in the officer’s behalf.

7. This Board is confined to applying the plain meaning of a statute, especially one that limits our jurisdiction to issue licenses, where the language is clear and unambiguous. *Reed v. Glynn*, 168 Vt. 504, 506, 724 A.2d 464, 465 (1998). Indeed, where legislative intent can be ascertained on its face, as here, the statute must be enforced according to its terms without resort to statutory construction. *Derosia v. Book Press, Inc.*, 148 Vt. 217, 222 (1987). The statute confers no discretion on the Board; it mandates that we shall not issue a license to any enforcement officer or to any person acting in the officer’s behalf. *See Simpson v. Rood*, 2003 VT 39, ¶9 (2003) (mem.) (holding that use of word *shall* in statute indicates that requirement is mandatory).

8. The Board is mindful of and has considered 1946-48 Op. Atty. Gen 210, which reasons that the spouse of an enforcement officer is not necessarily disqualified from holding a License, but leaves as an issue of fact “whether the wife as a licensee will be acting in behalf of her husband.” On the record before us, we find that Ms. St. Pierre would be acting on Mr. St. Pierre’s behalf, though perhaps in a very limited capacity, as a Licensee, despite their good-faith efforts to the contrary.

9. The Board, through his letters and through in-person testimony, finds Mr. St. Pierre to be an honest, hardworking citizen with strong ties to the community and desire to continue serving it. Nothing in our decision should be read to interpret anything to the contrary.

10. Mr. St. Pierre points out that this statute is a longstanding one and that, perhaps the Legislature’s post-prohibition-era concerns are no longer well founded. The statute may have an unintended consequence: depriving the community of a dedicated servant and creating an unnecessary Sophie’s Choice between public service and private enterprise. But, the statute remains in effect and the Board must presume it remains so with good reason.

11. Confined by a statute that prohibits what we are asked to do, Mr. St. Pierre’s remedy is to pursue legislative change.

ORDER

Licensee's request is **DENIED**.

DATED at Essex Junction, Vermont this 29 day of July 2014.

VERMONT LIQUOR CONTROL BOARD

By: Melissa D. Mazza-Paquette
Melissa Mazza-Paquette, Acting Chair

RIGHT TO APPEAL

Within 30 days after copies of this Order have been mailed, either party may appeal to the Vermont Supreme Court by filing a Notice of Appeal with the Department of Liquor Control and paying the requisite filing fee. *See* 3 V.S.A. § 815(a); V.R.A.P. 4 and 13(a).