

EXHIBIT 1

(December 31, 2025 Final Oder granting
Petition's renewal application for its
liquor-by-the-drink license)

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

MPC Harden, LLC, d/b/a 5 Points Saloon,

Petitioner,

v.

South Carolina Department of Revenue,

Respondent,

and

Coley Frank Adams,

Intervenor.

Docket No. 24-ALJ-17-0420-CC

ORDER

RECEIVED

Mar 20 2026

SC Court of Appeals

APPEARANCES: For Petitioner: John R. Alphin, Esquire and
Whitney B. Harrison, Esquire
For Respondent: Dana R. Krajack, Esquire
For Intervenor: Richard A. Harpootlian, Esquire and
Andrew R. Hand, Esquire

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a request for contested case hearing filed on December 12, 2024, by MPC Harden, LLC, d/b/a 5 Points Saloon (Petitioner). Petitioner challenged the denial issued by the South Carolina Department of Revenue (Department) of on-premises beer and wine permit (Permit), and a business liquor by the drink license (License) renewal pursuant to sections 61-4-525 and 61-6-1825 of the South Carolina Code (2022).¹ The Permit was later granted by the Department as only the License was protested.²

¹ Specifically, section 61-4-1825(B) provides: "Upon receipt of a timely filed protest, the department shall determine the protestant's intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department may not issue the permanent permit but shall forward the file to the Administrative Law Court."

² The protest form, admitted into evidence, verified that the license and/or permit being protested was on the renewal of the liquor by the drink license for Petitioner.



Prior to a hearing on the merits of this matter, the Protestant Coley Frank Adams (Intervenor), filed a Motion to Intervene, which this Court granted on March 6, 2025.³ Subsequently, Petitioner filed a Motion in Limine to exclude Intervenor from offering evidence it received following a Motion to Compel granted by this Court. Petitioner’s Motion in Limine sought to exclude Intervenor from offering evidence or argument that (1) Petitioner is not “primarily engaged in the preparation and serving of meals,” and (2) Petitioner’s food-to-alcohol sales percentages.⁴ The Court held a hearing on the Motion in Limine on September 10, 2025.

After proper notice, the Court held a hearing on the merits on September 23, 2025, at the ALC in Columbia, South Carolina. Counsel for Petitioner, John R. Alphin and Whitney B. Harrison; Counsel for the Department, Dana R. Krajack; and Counsel for the Intervenor, Richard A. Harpootlian and Andrew R. Hand; were present along with representative for Petitioner, Max Minnillo, and Intervenor, Coley Frank Adams. Petitioner’s one witness and the Intervenor testified at the hearing. The Department did not call any witnesses and stated but for the protest it would have granted the License.⁵

FINDINGS OF FACT

Having observed the witnesses and exhibits presented at the hearing and taking into consideration the burden of persuasion of Petitioner, Respondent, and Intervenor, the Court makes the following Findings of Fact:

³ The basis of the motion was that Intervenor had filed a protest to the renewal of Petitioner’s liquor by the drink license which caused the denial of that license, and he wished to intervene in this case to press his position and conduct discovery “regarding the availability and frequency of food service at Petitioner’s establishment, as well as the volume of food sales relative to the volume of alcohol sales.” Intervenor’s protest likewise asserted that Petitioner’s establishment did not comply with either the statutory or constitutional requirement that a liquor by the drink license holder be “engaged primarily and substantially in the preparation and serving of meals.” See S.C. Const. art. VIII-A; S.C. Code Ann. § 61-6-1610. Notably, during the hearing on the merits, the Intervenor did not provide any specific testimony as to food service and he testified he had not been inside the establishment.

⁴ Petitioner filed this motion to prevent Intervenor from introducing any arguments or evidence relating to this issue arguing that the determination of compliance with this requirement falls squarely within the investigative authority delegated to the South Carolina Law Enforcement Division and the enforcement authority statutorily and solely vested in the Department. The Court heard arguments from all parties on this issue and granted Petitioner’s motion at the hearing finding that such a determination is an enforcement issue exclusive to the Department and, pursuant to the holding of the Court of Appeals in *S.C. Dep’t of Revenue v. Sandalwood Social Club*, not a private right of action to be prosecuted or enforced by citizens bringing a claim under the Department of Revenue’s regulatory scheme. See *Sandalwood*, 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012).

⁵ In the Court’s oral ruling on the Motion in Limine, the Court noted the Department was permitted to introduce evidence that fell within the regulatory authority of the Department.

License Application

Petitioner is seeking the renewal of its License for the business located at 812 Harden Street, Columbia, South Carolina. Petitioner is a limited liability company whose members include Max Minnillo (Minnillo). Petitioner applied for the renewal of its License on July 9, 2024. On July 22, 2024, the Department issued a denial notice based upon the valid public protest. Petitioner timely challenged the denial on October 10, 2024. Subsequently, on November 19, 2024, the Department issued its final determination finding that Petitioner's renewal application should be denied. The Department determined the location met all the statutory requirements for licensure, thus the only remaining issue in dispute are the public protests filed pursuant to section 61-6-1825.

Suitability of Location and Intervenor's Concerns

The proposed location for the License is currently operating as a restaurant known as 5 Points Saloon. The proposed location currently holds a Permit and is seeking to renew its License. 5 Points Saloon had one principal testify at the hearing, Minnillo. Minnillo testified as to the policies and compliance efforts of 5 Points Saloon. Minnillo testified that he, as the owner, entered into an agreement in 2021 as to both the Permit and the License granted to Petitioner. As part of this agreement 5 Points Saloon must have forensic identification card scanners, cameras, along with a number of other things. Minnillo signed a new agreement on May 6, 2024, entitled the "Voluntary Agreement as to License/Permit Conditions and Restrictions" (Restriction Agreement), and these stipulations are attached to the Permit, and he indicated the same stipulations would attach to the License, should it be granted. The Restriction Agreement revised the agreement entered into in 2021 and includes updated stipulations and conditions.⁶ Minnillo indicated that 5 Points Saloon is currently operating under the 2024 revised agreement with respect to its Permit.

Intervenor, who currently resides in Richland County, testified that he currently lives in close proximity to Five Points. Adams testified to his observations and concerns about the community in general, along with general comments regarding Petitioner, its location, and broader safety concerns related to college aged students consuming alcohol and the havoc in his

⁶ The Restriction Agreement contains fifteen (15) stipulations and conditions including: using an effective identification system to clearly identify if each person admitted to the premises is of age to drink alcohol, scanning the identification of every person entering the premises, maintaining security camera footage for a rolling seven (7) day period, working with law enforcement to encourage compliance walk-throughs, and if 5 Points Saloon advertises, a substantial portion of its advertising must be devoted to food. The Restriction Agreement further provides for enhanced penalties should any of the terms be violated.

neighborhood that ensues. He testified regarding his belief that there is a significant neighborhood disruption linked to alcohol sales at this location and other locations in the Five Points area. On cross examination, Adams was unable to tie a single incident he complained about directly to any action or inaction of the Petitioner. The Intervenor testified regarding the general history of the Five Points District, his visits to certain businesses in the area such as the pharmacy and the post office, but he could not testify as to his direct experience with 5 Points Saloon. He indicated he attempted to visit the establishment prior to the hearing but has not gone inside the establishment. In fact, he visited the establishment outside of its hours of operation.

It is clear that the Intervenor's concerns are sincere, as he indicated the sale of alcohol at this establishment could have an adverse impact on the area in general. However, the Court notes that law enforcement did not provide a protest in this matter nor was any law enforcement present at the hearing to testify against the renewal of the License. Furthermore, if the sale of alcohol is conducted and operated as set forth in the Restriction Agreement the Court finds that the proposed location for the License is suitable. Moreover, if a significant change occurs as a result of Petitioner receiving this License, the location would no longer be suitable, and the community and/or the Department could properly bring an action to prohibit the renewal of Petitioner's License. Additionally, the Restriction Agreement provides for ramifications should Petitioner not abide by the conditions. Specifically, the Restriction Agreement provides that a violation of any of the 15 stipulations and conditions "shall be deemed a violation of the permit and license."

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Court concludes the following as a matter of law:

The Court is vested with jurisdiction over this case. S.C. Code Ann. §§ 1-23-600 (2005 & Supp. 2025) and 61-2-260 (2022). Specifically, section 61-2-260 grants the ALC the authority to hold contested case hearings in matters governing alcoholic beverages. S.C. Code Ann. § 61-2-260. "[T]he issuance or granting of a license to sell beer or alcoholic beverages rests in the sound discretion of the body or official to whom the duty of issuing it is committed . . ." *Palmer v. S.C. Alcoholic Beverage Cntrl. Comm'n*, 282 S.C. 246, 248, 317 S.E.2d 476, 477 (Ct. App. 1984); see also S.C. Code Ann. § 61-2-80 (2022). Further, the weight and credibility assigned to evidence presented at the hearing is within the province of the trier of fact. *S.C. Cable Television Ass'n v. S. Bell Tel. & Tel. Co.*, 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992). The trier of fact, who

observes a witness, is in the best position to judge the witness' demeanor and veracity and to evaluate the credibility of his testimony. *Woodall v. Woodall*, 322 S.C. 7, 10,471 S.E.2d 154, 157 (1996); *Wallace v. Milliken & Co.*, 300 S.C. 553, 556, 389 S.E.2d 448, 450 (Ct. App. 1990). Additionally, the standard of proof in administrative proceedings is a preponderance of the evidence unless otherwise specified. S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2025); *see also Anonymous v. State Bd. of Med. Exam'r*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1988). "A preponderance of the evidence is evidence which convinces the fact finder as to its truth." *Pascoey v. Wilson*, 416 S.C. 628, 640, 788 S.E.2d 686, 693 (2016) (citing *Gorecki v. Gorecki*, 387 S.C. 626, 633, 693 S.E.2d 419, 422 (Ct. App. 2010)). An applicant for a beer and wine permit has the burden of proving it meets all the statutory requirements for licensure. 48 *C.J.S. Intoxicating Liquors* § 186 (November 2025 Update) (citations omitted).

Suitability of Location and Intervenor's Concerns

Articles 4 and 6 of Title 61 of the South Carolina Code (2022 & Supp. 2025) generally set forth the requirements for the issuance of a beer and wine permit and liquor license. A license for the sale and consumption of beer, wine, and liquor is not a contract or property right. *Feldman v. S.C. Tax Comm'n*, 203 S.C. 49, 26 S.E.2d 22, 25 (1943). Rather, it is a privilege granted in the exercise of the State's police power to be used and enjoyed so long as the holder complies with the restrictions and conditions governing them. *Id.* In South Carolina, the requirements for beer and wine permits are set forth in section 61-4-520 of the South Carolina Code (2022), and the requirements for liquor licenses are separately set forth in section 61-6-1820 of the South Carolina Code (2022).

An alcohol beverage permit or license may be denied if the proposed location is not suitable. *See Schudel v. S.C. Alcoholic Beverage Control Comm'n*, 276 S.C. 138, 276 S.E.2d 308 (1981). A suitable location is not statutorily defined, but broad discretion is vested in the trier of fact to determine the fitness or suitability of a proposed location requesting a permit. *See Fast Stops, Inc. v. Ingram*, 276 S.C. 593, 281 S.E.2d 118 (1981). Regarding the suitability of the location, the Court may consider any evidence that shows adverse circumstances of the location as to determining whether a proposed location is suitable. *Kearney v. Allen*, 287 S.C. 324, 326, 338 S.E.2d 335, 337 (1985); *Palmer*, 282 S.C. at 249, 317 S.E.2d at 478 (citing *Smith v. Pratt*, 258 S.C. 504, 189 S.E.2d 301 (1972)). The determination of whether a proposed location is suitable involves various considerations related to the nature and operation of the proposed business as

well as its impact on the surrounding community. *Kearney*, at 326-27, 338 S.E.2d at 337; *Schudel*, 276 S.C. at 138, 276 S.E.2d at 308. “The determination of suitability [of location] is not solely a function of geography. It involves an infinite variety of considerations related to the nature and operation of the proposed business and its impact on the community wherein it is to be situated.” *Kearney*, at 326-27, 338 S.E.2d at 337 (citation omitted).

Qualifying members of the public may formally object to the issuance of a liquor by the drink license by tendering a valid protest to the Department. S.C. Code Ann. §§ 61-4-1825 (2022); *see also* S.C. Code Regs. 7-201 (2011). The mere fact a permit or license is protested, however, is not a sufficient reason, by itself, to deny an application. *See* 48 C.J.S. *Intoxicating Liquors* § 194 (November 2025 Update). Rather, in the absence of a sufficient reason to deny the application, “[a]n applicant who meets, or complies with, the statutory requirements is entitled to the issuance of a license or permit. . .” *Id.* Thus, “[g]ood cause must be shown for the denial of a license.” *Id.* “A license may properly be refused where a statutory ground for refusal exists, provided there is a reasonable basis for believing in its existence . . .” *Id.* Additionally, in making its determination, the Court must consider whether the testimony in opposition to the granting of a permit or license is based on opinions, generalities, and conclusions, or whether the case is supported by facts. *See Smith v. Pratt*, 258 S.C. 504, 508, 189 S.E.2d 301, 302 (1972); *see also Taylor v. Lewis*, 261 S.C. 168, 171, 198 S.E.2d 801, 802 (1973).

Conclusion

While it is clear the Intervenor’s concerns are sincere, the Intervenor did not establish sufficient evidence to deny Petitioner’s renewal application. His concerns, broadly speaking, are premised on the position that the renewal of the License will exacerbate the concerns and issues raised. The Court is respectful of the Intervenor’s concerns; however, the Intervenor’s testimony was largely opinionated and unsubstantiated. *See Smith*, 258 S.C. at 508, 189 S.E.2d at 302. Although the Intervenor expressed concerns with the issuance of the License, he did not provide the Court with sufficient reason or factual support to deny the application. The Intervenor failed to show that he had any direct interaction with this establishment. In this instance, without probative evidence to show that this location is unsuitable, there is no sufficient legal basis for the Court to deny the issuance of the License. Notably absent from the record is evidence of any criminal activity or reports from SLED. The strain upon law enforcement’s ability to adequately

protect the community is a factor in evaluating a permit. *Moore v. South Carolina Alcoholic Beverage Control Com'n*, 308 S.C. 160, 417 S.E.2d 555 (1992).

Moreover, the Department did not make a determination that the location was unsuitable and reiterated at the hearing but for the protest it would have granted the License. In sum, Petitioner meets the statutory requirements for holding a liquor by the drink license. There is no reasonable good cause for denial. Furthermore, the evidence admitted did not reflect that the issuance of the License for 5 Points Saloon would be detrimental to the general welfare of the community or adversely affect the public interest. *See Kearney*, 287 S.C. at 327, 338 S.E.2d at 337.

The Court is authorized to grant the issuance of a permit and may likewise place restrictions or conditions on the permit or license. *See Feldman v. S.C. Tax Commission*, 203 S.C. 49, 26 S.E.2d 22 (1943). The arguments proffered do not constitute a sufficient basis upon which to deny Petitioner's renewal application. However, the Court does find it necessary to reiterate that the License shall be operated in a manner consistent with the Restriction Agreement. The Restriction Agreement and its accompanying conditions are necessary to ensure that the location continues to be suitable and to assuage the concerns of the Intervenor.

ORDER

IT IS THEREFORE ORDERED that the Department shall **GRANT** Petitioner's renewal application for its liquor by the drink license for its business located at 812 Harden Street, Columbia, South Carolina, subject to the conditions set forth in the Restriction Agreement.

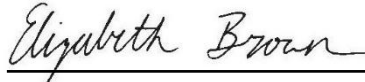
AND IT IS SO ORDERED.

December 31, 2025
Columbia, South Carolina

The Honorable Crystal M. Rookard
South Carolina Administrative Law Judge

CERTIFICATE OF SERVICE

I, Elizabeth Brown, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Elizabeth Brown
Judicial Law Clerk

December 31, 2025
Columbia, South Carolina