

TOWNSHIP OF EAST LAMPETER

Lancaster County, Pennsylvania

RESOLUTION NO. 2025-12

**A RESOLUTION OF THE EAST LAMPETER TOWNSHIP
BOARD OF SUPERVISORS, COUNTY OF LANCASTER,
COMMONWEALTH OF PENNSYLVANIA, DENYING THE
TRANSFER OF PLCB LICENSE NO. R19030 INTO EAST
LAMPETER TOWNSHIP FROM EPHRATA TOWNSHIP,
LANCASTER COUNTY, PENNSYLVANIA.**

WHEREAS, Act 141 of 2000, hereinafter the "Act," which amends the Commonwealth of Pennsylvania's Liquor Code, authorizes the Pennsylvania Liquor Control Board to approve, in certain instances, the transfer of restaurant liquor licenses across municipal boundaries within the same county, regardless of the quota limitations provided for in Section 461 of the Liquor Code if, as in East Lampeter Township, sales of liquor and malt or brewed beverages are legal in the municipality receiving the license; and

WHEREAS, the Act requires the receiving municipality to issue a resolution approving the inter-municipal transfer of the liquor license from outside the receiving township to within its borders prior to submission of an application for such transfer to the Pennsylvania Liquor Control Board; and

WHEREAS, amendments to the Liquor Code stipulate that, prior to adoption of a resolution by the receiving municipality, at least one hearing be held for the purpose of permitting interested parties to state their concerns regarding the transfer of the liquor license into the receiving municipality; and

WHEREAS, an application for transfer filed under the Act must contain a copy of the resolution adopted by the municipality approving the transfer of the liquor license into the municipality.

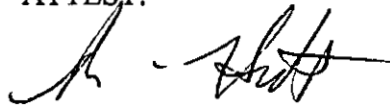
NOW, THEREFORE, BE IT RESOLVED that, VS Old Philadelphia Pike, LLC has requested the approval of the East Lampeter Township Board of Supervisors, Lancaster County, Pennsylvania for the proposed transfer of Pennsylvania Liquor License Number R19030 by VS Old Philadelphia Pike, LLC to facilities within East Lampeter Township to be located at 2453 Old Philadelphia Pike, Lancaster, East Lampeter Township, Lancaster County, Pennsylvania from Sun Vape & Smoke Shop, Inc., located at 887 East Main Street, Ephrata Township, Lancaster County, Pennsylvania; and

BE IT FURTHER RESOLVED that, the East Lampeter Township Board of Supervisors, Lancaster County, Pennsylvania held a public hearing to receive testimony and comments on the proposed liquor license transfer; and

BE IT FURTHER RESOLVED that, the East Lampeter Township Board of Supervisors denies, by adoption of this Resolution and for the reasons stated in the accompanying Decision, the proposed transfer of Pennsylvania Liquor License No. R19030 into East Lampeter Township by VS Old Philadelphia Pike, LLC.

DULY ADOPTED this 12th day of May, 2025, by the Board of Supervisors of East Lampeter Township, Lancaster County, Pennsylvania.

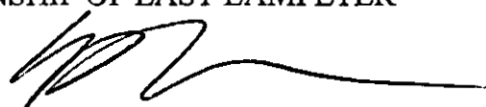
ATTEST:



~~(Assistant)~~ Secretary

TOWNSHIP OF EAST LAMPETER

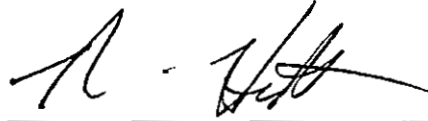
By:



(Vice) Chairman
Board of Supervisors

[TOWNSHIP SEAL]

I, Ralph M. Hutchison, Secretary of the Board of Supervisors of East Lampeter Township, hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted at a legally constituted meeting of the Board of Supervisors of East Lampeter Township held on May 12, 2025, at which meeting a quorum was present and voted in favor thereof.

A handwritten signature in black ink, appearing to read 'R. Hutchison', is written over a horizontal line.

Ralph M. Hutchison, Secretary

BEFORE THE BOARD OF SUPERVISORS OF
EAST LAMPETER TOWNSHIP

IN RE:

REQUEST OF VS OLD PHILADELPHIA :
PIKE, LLC FOR APPROVAL OF AN :
INTERMUNICIPAL TRANSFER OF A :
LIQUOR LICENSE TO 2453 OLD :
PHILADELPHIA PIKE :

DECISION

The Board of Supervisors of East Lampeter Township conducted a hearing at a special meeting of the Board on Monday, April 21, 2025. During the hearing, the Board took testimony on the application of VS Old Philadelphia Pike, LLC ("Applicant") to transfer a Restaurant Liquor License from Ephrata Township, Lancaster County, to 2453 Old Philadelphia Pike, East Lampeter Township, Lancaster County ("Property") for the purpose of utilizing the license as part of a convenience store. The Applicant was represented at the hearing by John P. Rodgers, Esquire. By correspondence dated March 6, 2025, counsel for the Applicant waived the forty-five (45) day time requirement for a decision on the transfer application.

Notice of the hearing on the application was duly advertised on April 7 and April 14, 2025. Supervisors Demme, Meyer and Rutt participated in the hearing and decision. The hearing was closed on April 21, 2025 and the Board announced its intention to render a decision at its regular meeting on May 12, 2025.

During the hearing, Applicant submitted testimony and exhibits through its principal, Sukhjinder Singh Bhaag. The Township submitted testimony and exhibits through its manager, Ralph Hutchison, concerning the number of liquor licenses within the Township and neighboring municipalities and the various requirements of the Pennsylvania Liquor Control Board ("PLCB").

The Board of Supervisors determines that the following facts were established at the hearing:

1. The license in question is a restaurant liquor license to be transferred from Ephrata Township, Lancaster County, Pennsylvania.

2. VS Lancaster, LLC is the owner of the Property. Sukhjinder Singh Bhaag and Vishal Patel are the members of VS Lancaster, LLC.

3. The Property contains a convenience store and gas station owned by Racetrack 2453, Inc. The owners of Racetrack 2453, Inc. are Mr. Bhaag and Mr. Patel.

4. Applicant is the proposed owner of the liquor license. Mr. Bhaag is the sole member of the Applicant.

5. Racetrack 2453, Inc. previously submitted an application for a liquor license transfer which this Board denied on October 21, 2024 following a hearing.

6. Applicant and Racetrack 2453, Inc. have the same registered address of 4497 Briarwood Drive, Narberth, Pennsylvania, which is also Mr. Bhaag's personal residence.

7. Mr. Bhaag formed Applicant (VS Old Philadelphia Pike, LLC) after the decision was issued on Racetrack 2453, Inc.'s decision.

8. The Property is located at the corner of Airport Drive and Old Philadelphia Pike and approximately one block from Leola Elementary School.

9. The building on the Property contains approximately 2,600 square feet of space in total. The convenience store contains 2,400 square feet. Applicant is proposing to license 1,155 square feet for the sale of alcohol. The Property also has a gas fueling station.

10. Applicant's Exhibit 2 is a floor plan for the store delineating the area to be licensed to sell alcohol.

11. Applicant is proposing to sell beer which will only be displayed for sale in the six-door cooler. The other coolers in the store will have frozen foods, soda, and milk products.

12. Applicant also intends to sell malt beverages, but not wine.

13. The floor plan shows seating for 30 individuals in the portion of the store to be licensed for alcohol sales.

14. The store will have four cash registers with two reserved for the convenience store sales and the other two reserved for the sale of alcoholic beverages.

15. The convenience store is open 24 hours a day. Alcohol may be purchased Monday through Saturday, 7 am to 2 am, and Sunday, 9 am to 2 am.

16. Applicant's Exhibit 4 is a menu of the type of pre-made "grab and go" food that will be available for purchase including pre-made breakfast sandwiches, hot and cold subs, pizza and salads.

17. No food will be prepared on-site. Food will be warmed by the customer in a microwave by the coffee station or by a store employee in a back room and then transferred to a warmer. Cold food will be available in an open cooler near the seating area.

18. Employees will be bound by the Applicant's "Employee Policy and Procedures" pertaining to the sale and consumption of alcohol on the Property offered as Applicant's Exhibit 5.

19. Applicant will limit on-site consumption of alcohol to one beer per customer. No one will be allowed to leave the premises with an open container.

20. Minors will be permitted to sit and eat in the store, if accompanied by an adult.

21. Twenty-four (24) cameras are on-site to permit the owner to view the entire premises.

22. Applicant's Exhibit 6 is the proposed parking plan. There are currently nine (9) parking spaces on the site. Mr. Bhaag suggested eight (8) parking spaces are needed for the licensed portion of the Property and six (6) parking spaces are needed for the unlicensed area, but he did not know the required dimensions for parking spaces under the Township's Zoning Ordinance. The parking plan does not show the current or proposed locations of the dumpster and clothing collection bin.

23. The interior and exterior plans were not prepared by a licensed architect.

24. Trucks making deliveries to the store park on the Airport Drive side of the building in the area marked on Exhibit 6 for parking. Mr. Bhaag anticipates that deliveries of alcohol will only take place once every other week even though three different vendors will be making deliveries.

25. Applicant intends to use the BARS Program to train employees.

26. Mr. Bhaag owns three other convenience stores and gas stations. None of these stores are licensed to sell alcohol.

27. Mr. Bhaag is at the Property only one day per week.

28. Mr. Bhaag completed a two-hour basic online course through servingalcohol.com as a "Responsible Alcohol Manager" on the same day as the hearing. No employees have received any training in alcohol sales.

29. Mr. Bhaag has not consulted with the East Lampeter Township Police Department regarding security issues related to the addition of alcohol to the store.

30. Township Exhibits 1 and 2 set forth liquor license requirements by license type and liquor licensee food guidelines. According to the Township's Exhibit 2, the Pennsylvania Liquor Code and Regulations specify "that a restaurant must be habitually and principally used for the

purpose of providing food to the public.” Food-related requirements for restaurant licensees include maintaining “dishes and silverware sufficient to serve 30 or more patrons at one time” and having “available for consumption on the licensed premises food sufficient for 30 people.”

31. The Township has adopted non-binding guidelines in Resolution 2015-14 (Township Exhibit 3) for decisions on applications for intermunicipal transfers and economic development liquor licenses, which sets forth a number of criteria which can be used to help evaluate proposed transfers. The Resolution addresses both the total number of licensed establishments within the Township and the ratio of licenses per population, both within the Township and within neighboring municipalities.

32. Based upon the 2020 census, East Lampeter Township has 17,776 residents.

33. According to the Township’s Exhibit 4, there are currently twenty-two (22) active liquor licenses within East Lampeter Township. Consequently, there is one active license for approximately every 808 Township residents.

Based upon the testimony offered at the hearing, the Board of Supervisors concludes as a matter of law as follows:

1. As a preliminary matter, the Board of Supervisors takes administrative notice of its prior decision dated October 21, 2024 denying the liquor license transfer application of Racetrack 2453, Inc. No appeal was taken from that decision.

2. Applicants VS Old Philadelphia Pike, LLC and Racetrack 2453, Inc. have the same registered address and Mr. Bhaag is a principal in each business. The Property at issue and the general plans for the sale of alcohol remain the same in this case. The only fact that has changed is the name of the corporate entity applying for the transfer.

3. Applicant VS Old Philadelphia Pike, LLC was formed after the issuance of the Racetrack 2453, Inc. decision and for the sole purpose of taking a second bite at the apple.

4. The Board of Supervisors recognizes that it has broad, although not unfettered, discretion to deny intermunicipal license transfers. *Weis Mkts., Inc. v. Lancaster Twp.*, 248 A.3d 622, 631 (Pa. Commw. Ct. 2021). The Pennsylvania Commonwealth Court has held that a municipality must support a determination denying an intermunicipal license transfer with some supporting evidence that an intermunicipal transfer would have an adverse effect on the Township and its residents. *Id.* at 632.

5. The Board concludes that insufficient evidence was offered by Applicant to support the approval of the intermunicipal transfer of the liquor license. In particular, the Board concludes that the inexperience and lack of training of Applicant's personnel in the management of a store with a liquor license would have an adverse effect on the Township and its residents. Mr. Bhaag testified that, despite owning three other convenience stores, he has no experience with running stores involving liquor licenses. No credible evidence has been submitted by the Applicant to demonstrate knowledge of the requirements of the Pennsylvania Liquor Code with the lone exception of the two-hour online course taken by Mr. Bhaag right before the hearing. Mr. Bhaag presented inconsistent knowledge as to the types of alcoholic beverages that will be sold on the Property. The Property is located in close proximity to an elementary school. Finally, Mr. Bhaag testified that he has not consulted with the East Lampeter Township Police Department regarding security issues that may arise from the sale or consumption of alcohol on the Property.

6. Despite the attempt to depict licensed and unlicensed areas within the store on Applicant's Exhibit 2, the testimony of Mr. Bhaag demonstrated that patrons would need to cross through the licensed portion of the store to access the cold food items and coolers selling non-

alcoholic products. Alcoholic beverages, however, are to be stored in coolers in the non-licensed portion of the store.

7. Applicant has not offered sufficient evidence to support a finding that adequate parking exists at the Property to accommodate the convenience store, the gas station, and the amount of seating required in connection with the liquor license. The exterior plan was not prepared by a licensed professional and the measurements on the plan demonstrate insufficient space for the proposed number of parking spaces.

8. Applicant has failed to offer sufficient evidence that it can meet the Licensee Food Guidelines from the PLCB. No evidence of the use of dishes and silverware or food sufficient to serve 30 or more patrons at one time was offered by the Applicant at the hearing.

9. The Applicant's lack of preparedness to operate and maintain a safe environment for the sale of alcohol will have an adverse effect on the Township and its residents.

10. In Resolution 2015-14, this Board has recognized the risks to the Township's welfare with excessive alcohol consumption and underage drinking and the relationship between these risks and the availability of alcohol in the surrounding area. Resolution 2015-14 establishes a framework to balance individual freedoms against the wellbeing of society and sets a target ratio of liquor licenses providing alcohol in a retail fashion to the population that should be equal to the average of the ratio within comparable municipalities, plus or minus 20%.

11. Generally, the Pennsylvania Liquor Code establishes a quota of one license for the retail sale of liquor, wine, malt and brewed beverages for every 3,000 inhabitants. That quota is applied to counties, but reflects a general guideline.

12. According to the Township's Exhibit 4, there are currently twenty-two (22) active liquor licenses within East Lampeter Township. Consequently, there is one active license for

approximately every 808 Township residents, which reflects a number of licenses which is greatly in excess of the general guideline of one for every 3,000 residents.

13. The per capita number of existing liquor licenses in the Township per Township Exhibit 4 is comparable to the per capita number of licenses available in neighboring municipalities. Exhibit 4 demonstrates existing adequate availability of alcohol to Township residents.

14. The Applicant has not provided compelling evidence of any community benefits that would be derived by allowing the addition of a new outlet to purchase alcohol within the Township.

NOW THEREFORE, for the reasons set forth above, the application to transfer Restaurant Liquor License R19030 from Ephrata Township, Lancaster County, to East Lampeter Township, Lancaster County, is hereby denied.

Decision made this 12th day of May, 2025, by a vote of 3-0.

BOARD OF SUPERVISORS OF
EAST LAMPETER TOWNSHIP

By: [Signature]
Ethan Demme, Chairman

By: [Signature]
Corey Meyer

By: [Signature]
Roger Rutt

Attest:

[Signature]
(Asst.) Secretary

[TOWNSHIP-SEAL]

The undersigned certifies that a copy of this Decision on an Application for Liquor License Transfer has been served by First Class Mail, postage prepaid, upon the Applicant, c/o John P. Rodgers, Esquire, 1170 Highway 315, Suite 1, Plains, Pennsylvania 18702.

Date:

5/12/24



(Asst.) Secretary