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Judicial Review of Beer Board Action

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Reference Number: CTAS-379

Any applicant who complies with the conditions and provisions of T.C.A. § 57-5-105 must be issued the necessary permit and in the event the permit is denied, the applicant is entitled to have the denial reviewed before the chancery or circuit court. T.C.A. § 57-5-105(e). The procedure for judicial review of beer board actions, including the denial, suspension or revocation of a beer permit, or imposition of a civil penalty, is set out in T.C.A. § 57-5-108. The action of the beer board is reviewed when a dissatisfied party files a statutory writ of certiorari in the circuit or chancery court in the county where the beer board is located. Immediately upon the grant of the writ of certiorari, the beer board is required to cause to be made, certified and forwarded to the court a complete transcript of the proceedings of the beer board. The proceedings will be a trial de novo, meaning that the court will hear all evidence and will not rely on the record of the proceedings before the beer board. The judge to which the petition for certiorari is addressed has the authority to supersede, stay or enjoin the beer board's order of revocation, suspension, or imposition of a civil penalty, upon a showing of good cause on the part of the petitioning party. Any party dissatisfied with the decree of the trial court may appeal the decision, and the case will be heard upon the transcript of the records from the trial court. If a final judgment is entered by the trial court superseding the revocation or suspension order, and the cause is appealed by the beer board, the final judgment of the trial court will remain in force until final appellate disposition of the case. T.C.A. § 57-5-108.

A beer permit applicant may seek review from the circuit or chancery court before the final decision of the beer board in certain limited situations. For instance, if a beer board needlessly prolongs an application for a beer permit, the beer board has, in effect, denied the application so that the applicant may seek court review. City of Murfreesboro v. Fortner, 570 S.W.2d 859 (Tenn. 1978). While action by the beer board tabling an application for a permit until the beer board's next quarterly meeting is not generally an "order" as used in the statute allowing review by the circuit or chancery court by writ of certiorari of any order of any agency, if a beer board tables an application for reasons completely extraneous to the qualifications of an applicant (e.g., building set-back) such that further pursuit of a permit through administrative channels would be futile, then the courts should grant the writ. McCarter v. Goddard, 609 S.W.2d 505 (Tenn. 1980).

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