



TOWN OF ACTON
Town Manager's Office
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9612
Fax (978) 264-9630
E-mail djohnson@acton-ma.gov

11/29
⑥

November 23, 2004

DELIVERED BY FAX AND FEDERAL EXPRESS OVERNIGHT MAIL

John J. Murphy, President
Pizza Hut of America, Inc.
14841 Dallas Parkway
Dallas, Texas 75254

Subject: Pizza Hut #611007 – Change of Manager

Dear Mr. Murphy:

The Town of Acton Board of Selectmen held a Public Hearing on November 15, 2004, to consider the request of Pizza Hut for a Change of Manager at the local Pizza Hut (#61107), 273 Great Road, Acton, Massachusetts, in accordance with the provisions of the Alcoholic Beverages Control Commission of Massachusetts. During the hearing, the Board received testimony indicating that Benjamin A. Burton, the individual identified in your "Certified Copy of Action by Unanimous Written Consent of Board of Directors of Pizza Hut of America, Inc." as being "appointed to serve as the Manager of the restaurant ... and ... vested with full authority and control of said premises and of the control of all business therein relative to alcoholic beverages" is not, and will not be, the Manager in control of the premises. The information received from Mr. Burton indicated that another person would continue to function as Manager of the premises and Mr. Burton would be a subordinate to that individual, without control of the premises.

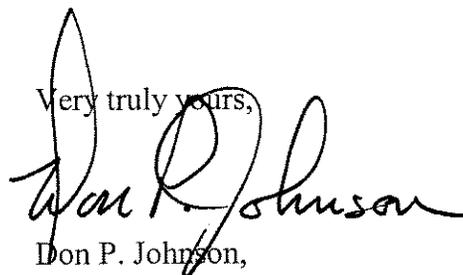
Upon receiving the above information, the Board determined that the requested Change of Manager was not acceptable and continued the Hearing to November 29 at 9:15 PM. The purpose of the continuation, as explained to Mr. Burton, was to give Pizza Hut an opportunity to regroup, if necessary, and make the appropriate adjustments to provide a proper, responsible authority in charge of operations at this location. The Board determined that it would grant Pizza Hut a temporary license to continue the service of alcohol at this location until the re-convened hearing is completed on November 29.

Pizza Hut is encouraged and advised to have any appropriate representation present at the re-convened hearing, including the individual who will have full authority and control of the premises at 273 Great Road and of the conduct of all business therein relative to alcoholic beverages (as specified in Massachusetts General Law, Chapter 138, Section 26). Pizza Hut's representation at this continued hearing will need to be able to thoroughly and authoritatively address the Selectmen's concerns with respect to proper

management and control at this location in order for any Change of Manager or license continuation to move forward.

If you have any questions, please feel free to contact me at (978) 264-9612.

Very truly yours,

A handwritten signature in black ink, appearing to read "Don P. Johnson". The signature is written in a cursive style with a large, prominent initial "D".

Don P. Johnson,
Town Manager

Cc: Kimberlee Miller, Pizza Hut License Specialist
Board of Selectmen

11157 ①
TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9612
Fax (978) 264-9630

Don P. Johnson
Town Manager

October 28, 2004

RE: REQUEST FOR APPOINTMENT AS MANAGER TO REPLACE SHELLY KILLAY

Kimberlee A Miller
Pizza Hut #611007
14841 Dallas Parkway
Dallas, TX 75254

Dear Ms. Miller:

I have scheduled Mr. Burton to meet the Board of Selectmen regarding your request to replace Shelly Killay with Mr. Burton as the Manager of the Acton Pizza Hut, on November 15, 2004 at 7:15 p.m. in room 204 of the Acton Town Hall.

Please call my office at 978-264-9612 to confirm your/his availability of this meeting.

Very truly yours,


Christine M. Joyce
Town Manager's Office

ATTEN: KIM MILLER

**COPY FOR YOUR
INFORMATION**

PUBLIC HEARINGS & APPOINTMENTS

Excerpt of November 15, 2004 Acton Board of Selectmen's Hearing

PIZZA HUT, CHANGE OF MANAGER – Pizza Hut has requested that Shelly Killay be replaced with Benjamin Burton as the Manager on record with regard to their Liquor License on Great Road. Walter asked about his work history with Pizza Hut. The Board was not convinced that Mr. Burton could adequately perform the duties of the Liquor Manager, and was concerned that the General Manager would not be involved with the Liquor License, for religious reasons. **PETER ASHTON** – Moved to Grant a temporary License until to our next meeting on November 29, 2004, at 9:15 P.M. Mr. Burton was asked to provide new paperwork as well as having the General Manager and Regional Manager attend the November 29th meeting with Mr. Burton. **TREY SHUPERT** – Second. **UNANIMOUS VOTE.**

Kim, please make sure that the people noted above are at the meeting at 9:15 PM

Christine Joyce
Town Manager's Office
978-264-9612

972-338-7988

GENERAL LAWS OF MASSACHUSETTS

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE XX. PUBLIC SAFETY AND GOOD ORDER

CHAPTER 138. ALCOHOLIC LIQUORS

ALIENS

Chapter 138: Section 26 Issuance of license and permit to aliens; appointment of local manager or principal representative by foreign corporations

Section 26. No license for the sale of alcoholic beverages or alcohol and no vehicle permit for the transportation thereof shall be issued to any person who is not, at the time of his application therefor, a citizen of the United States, or to any agent of any such person, or to any corporation a majority of whose directors are in fact aliens, and no person not such a citizen shall be appointed as manager or other principal representative of any licensee; provided, that nothing herein shall prevent the granting of a license under section eighteen A to any corporation organized under the laws of a foreign country or the granting of a vehicle permit to such a corporation so licensed.

No corporation, organized under the laws of the commonwealth or of any other state or foreign country, shall be given a license to sell in any manner any alcoholic beverages unless such corporation shall have first appointed, in such manner as the licensing authorities by regulation prescribe, as manager or other principal representative, a citizen of the United States, and shall have vested in him by properly authorized and executed written delegation as full authority and control of the premises, described in the license of such corporation, and of the conduct of all business therein relative to alcoholic beverages as the licensee itself could in any way have and exercise if it were a natural person resident in the commonwealth, nor unless such manager or representative is, with respect to his character, satisfactory to the licensing authorities.

No provision of this chapter shall impair any right growing out of any treaty to which the United States is a party.

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Kimberlee Miller
License Specialist



LAW DEPARTMENT

FILE COPY

Pizza Hut

14841 Dallas Parkway

Dallas, TX 75254

972 338 7700

Direct 972 338 8675

Fax 972 338 7988

October 22, 2004

Town of Acton
Attn: Christine Joyce
472 Main Street
Acton, MA 01720

Via DHL

Re: Pizza Hut #611007 - Change of Manager

Dear Christine:

Enclosed please find the following documents as they relate to a change in manager for our Pizza Hut located at 273 Great Road, Acton, MA:

- Form A - Licensee Personal Information Sheet
- Petition for License Transaction
- Consent of Board of Directors
- Form 43
- Cashier's check for \$200 payable to ABCC, Commonwealth of Massachusetts

Please process this change of manager request as quickly as possible. I understand renewals are coming soon and am hoping this change is in effect so we don't have any delays with that process. Please forward all communication to our office so we may keep apprised of the status.

If you have any questions or require additional information, please do not hesitate to give me a call, at 972/338-8675. Thank you for your assistance in this regard.

Regards,

Kimberlee A. Miller

Enclosures



INTERDEPARTMENTAL COMMUNICATION

DATE: 10/29/04

TO: Police Dept., Board of Health,

FROM: Christine Joyce

SUBJECT: Change of Manager

Enclosed please find a request from Pizza Hut to replace the current Manager with Mr. Benjamin Burton. Please forward your comments as soon as possible.



The Commonwealth of Massachusetts
 The Alcoholic Beverages Control Commission
 239 Causeway Street, Suite 200
 Boston, MA 02114

611007

Telephone: 617- 727-3040
 FAX: 617- 727-1258

FORM A
LICENSEE PERSONAL INFORMATION SHEET

THIS FORM MUST BE COMPLETED FOR EACH:

- A. NEW LICENSE APPLICANT
- B. APPOINTMENT OR CHANGE OF MANAGER
IN A CORPORATION
- C. TRANSFER OF LICENSE (RETAIL ONLY-SEC. 12 & SEC. 15)

(Please check which transaction is the subject of an application accompanying this Form A.)

PLEASE TYPE OR PRINT ALL INFORMATION

ALL QUESTIONS MUST BE ANSWERED AND TELEPHONE NUMBERS PROVIDED OR
 APPLICATION WILL NOT BE ACCEPTED.

1. LICENSEE NAME PIZZA HUT OF AMERICA, INC. d/b/a PIZZA HUT #611027
(NAME AS IT WILL APPEAR ON THE LICENSE)
2. NAME OF (PROPOSED) MANAGER BENJAMIN A. BURTON
3. SOCIAL SECURITY NUMBER 033-68-9617
4. HOME (STREET) ADDRESS 122 BALDWIN ROAD, CARLISLE, MA 01741
5. AREA CODE AND TELEPHONE NUMBER (S): (Give both, your home telephone and a number at which you can be reached during the day).
 DAY TIME # 978/263-5043 HOME# 978/371-2178
6. PLACE OF BIRTH: WORCESTER, MA 7. DATE OF BIRTH: 2/18/82
8. REGISTERED VOTER: YES NO 8A. WHERE?: MA
9. ARE YOU A U. S. CITIZEN: YES NO (BY BIRTH)
10. COURT AND DATE OF NATURALIZATION (IF APPLICABLE): N/A
(Submit proof of citizenship and/or naturalization such as Voter's Certificate, Birth Certificate or Naturalization Papers)

(Over)

11. FATHER'S NAME: TERENCE BURTON 12. MOTHER'S MAIDEN NAME: SANDRA LEE WYTAS

13. IDENTIFY YOUR CRIMINAL RECORD, (Massachusetts, Military, any other State or Federal): ANY OTHER ARREST OR APPEARANCE IN CRIMINAL COURT CHARGED WITH A CRIMINAL OFFENSE REGARDLESS OF FINAL DISPOSITION:
 YES X NO (MUST CHECK EITHER YES OR NO)

IF YES, PLEASE DESCRIBE OFFENSE (S) SPECIFIC CHARGE AND DISPOSITION (FINE, PENALTY, ETC.)
N/A

14. PRIOR EXPERIENCE IN THE LIQUOR INDUSTRY: YES X NO
IF YES, PLEASE DESCRIBE:

N/A

15. FINANCIAL INTEREST, DIRECT OR INDIRECT, IN THIS OR ANY OTHER LIQUOR LICENSE, PERMIT OR CERTIFICATE: YES X NO

IF YES, PLEASE DESCRIBE
N/A

16. EMPLOYMENT FOR THE LAST TEN YEARS (Dates, Position, Employer, Address and if known, Telephone Numbers):

7/28/99-PRESENT GENERAL MANAGER PIZZA HUT 273 GREAT ROAD, ACTON, MA 01720 978/263-5043

17. HOURS PER WEEK TO BE SPENT ON THE LICENSED PREMISES: AVERAGE 50

18. I HEREBY SWEAR THAT UNDER THE PAINS AND PENALTIES OF PERJURY THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

BY: Benjamin A. Burton 10/21/04
PROPOSED MANAGER SIGNATURE DATE
BENJAMIN A. BURTON

11. FATHER'S NAME: TERENCE BURTON 12. MOTHER'S MAIDEN NAME: SANDRA LEE WYTAS

13. IDENTIFY YOUR CRIMINAL RECORD, (Massachusetts, Military, any other State or Federal): ANY OTHER ARREST OR APPEARANCE IN CRIMINAL COURT CHARGED WITH A CRIMINAL OFFENSE REGARDLESS OF FINAL DISPOSITION:

 YES X NO (MUST CHECK EITHER YES OR NO)

IF YES, PLEASE DESCRIBE OFFENSE (S) SPECIFIC CHARGE AND DISPOSITION (FINE, PENALTY, ETC.)

N/A

14. PRIOR EXPERIENCE IN THE LIQUOR INDUSTRY: YES X NO
IF YES, PLEASE DESCRIBE:

N/A

15. FINANCIAL INTEREST, DIRECT OR INDIRECT, IN THIS OR ANY OTHER LIQUOR LICENSE, PERMIT OR CERTIFICATE: YES X NO

IF YES, PLEASE DESCRIBE

N/A

16. EMPLOYMENT FOR THE LAST TEN YEARS (Dates, Position, Employer, Address and if known, Telephone Numbers):

7/28/99-PRESENT GENERAL MANAGER PIZZA HUT 273 GREAT ROAD, ACTON, MA 01720 978/263-5043

17. HOURS PER WEEK TO BE SPENT ON THE LICENSED PREMISES: AVERAGE 50

18. I HEREBY SWEAR THAT UNDER THE PAINS AND PENALTIES OF PERJURY THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

BY: Benjamin A. Burton

PROPOSED MANAGER SIGNATURE

BENJAMIN A. BURTON

10/21/04

DATE

PETITION FOR LICENSE TRANSACTION

THE COMMONWEALTH OF MASSACHUSETTS

10/21/04

CHANGE OF LOCATION

PLEDGE OF STOCK

PLEDGE OF LICENSE

CHANGE OF CORPORATE NAME

CHANGE OF D/B/A

X CHANGE OF MANAGER

CHANGE OF LICENSE TYPE

CORDIALS AND LIQUEURS PERMIT

To the

Licensing Board for the TOWN OF ACTON

The undersigned respectfully petition for

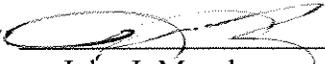
d/b/a PIZZA HUT #611007

Delete as manager – SHELLY KILLAY

and substitute therefor as manager of the above referenced restaurant

BENJAMIN BURTON

PIZZA HUT OF AMERICA, INC.

By  John J. Murphy

President
Title

CERTIFIED COPY OF ACTION BY UNANIMOUS WRITTEN CONSENT
OF BOARD OF DIRECTORS OF
PIZZA HUT OF AMERICA, INC.

I, the undersigned, hereby certify that I am the duly elected, qualified, and acting Secretary of PIZZA HUT OF AMERICA, INC., a Delaware corporation, and as such am the keeper of the corporate records and seal. I further certify that the following is a true and correct copy of an excerpt of the action by the Board of Directors of said Corporation taken by unanimous written consent on October 21, 2004.

BE IT RESOLVED, that BENJAMIN A. BURTON be and he hereby is appointed to serve as the Manager of the restaurant located at the premises known and numbered as Pizza Hut #611007, 273 Great Road, Acton, MA 01720 and in connection therewith, that BENJAMIN A. BURTON be and he hereby is vested with full authority and control of said premises and of the control of all business therein relative to alcoholic beverages as the Corporation itself could in any way have and exercise if it were a natural person resident in Massachusetts.

I further certify that the foregoing resolution is still in full force and effect and is not contrary to the Bylaws or charter of this Corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Corporation this 21st day of October, 2004.

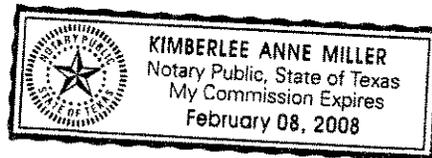
PIZZA HUT OF AMERICA, INC.

By: 
John J. Murphy, President

STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)

Subscribed and sworn to before me this 21st day of October, 2004.


Kimberlee Anne. Miller, Notary Public





TOWN OF ACTON
Health Department
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9634
Fax (978) 264-9630

November 1, 2004

To: Christine Joyce

From: Heather Marceau, Health Agent

A handwritten signature in black ink, appearing to be "H. Marceau", is written over a circular stamp or seal. The signature is cursive and somewhat stylized.

Re: Manager Change – Pizza Hut

The Health Department has reviewed the application for the change in manager at Pizza Hut, 273 Great Road, Acton, MA. At this time, the Health Department has no outstanding issues with this establishment.



INTERDEPARTMENTAL COMMUNICATION

Acton Board of Health - Telephone 978-264-9634 - Fax 978-264-9630

November 12, 2004

TO: Don Johnson, Town Manager

FROM: Doug Halley, Health Director

SUBJECT: Site Plan Special Permit #09/24/04-399
Faulkner Mill Realty, LLC – 4 High Street

The Health Department would advise the Selectmen to withhold any decisions regarding the proposed project connecting to the public sewer system. The current proposal is significantly different from the original sewer connection request the Board acted on. In addition the Sewer Commissioners and DEP must make significant decisions before action can be taken to include this proposed project within the sewer service area.