

Bond Case Briefs

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Cadena Comercial USA Corp. v. Texas Alcoholic Beverage Commission

Supreme Court of Texas - April 28, 2017 - S.W.3d - 2017 WL 1534052 - 60 Tex. Sup. Ct. J. 729

Applicant challenged Texas Alcoholic Beverage Commission's (TABC) order denying its application for wine and beer retailer's off-premise permit.

The 201st Judicial District Court affirmed. Applicant appealed. The Austin Court of Appeals affirmed. Applicant filed petition for review.

The Supreme Court of Texas held that:

- Brewers' stockholders are encompassed by the "tied house" statutes that prohibit overlapping ownership between manufacturing, wholesaling, and retailing segments of the alcoholic beverage industry;
- TABC could impute corporate parent's interests in brewers to applicant in denying applicant a permit to sell alcohol; and
- Applicant failed to show that its right to equal protection was violated.

Within the meaning of the statute prohibiting a person who owns or has an interest in the business of a brewer from owning or having a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer, the phrase "interest in the business of a brewer" broadly encompasses any commercial or economic interest that provides a stake in the financial performance of an entity engaged in the manufacture of alcoholic beverages, including a brewer's stockholders; it is not limited to those actually engaged in the business of brewing beer.

Under the statute prohibiting a person who owns or has an interest in the business of a brewer from owning or having a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer, an "interest in the business of a brewer" exists when a person has a commercial or financial interest—significant or otherwise—that provides a stake in the financial performance of an entity or person engaged in brewing.

Under statute prohibiting a person who owns or has an interest in the business of a brewer from owning or having a direct or indirect interest in the business, premises, equipment, or fixtures of a retailer, Texas Alcoholic Beverage Commission (TABC) could impute corporate parent's interests in brewers to subsidiary in denying subsidiary a permit to sell alcohol.

Subsidiary failed to show that its right to equal protection was violated by decision of Texas Alcoholic Beverage Commission (TABC) to deny subsidiary a permit to sell alcohol based on its corporate parent's interests in brewers; subsidiary did not provide evidence that TABC had granted permit or license to applicant with similarly significant cross-tier investment interest.

