



**Town of Wiscasset  
Sale of Consumer Fireworks  
Annual License from the Board of Selectmen**

**Please Note: The Board of Selectmen shall issue a license if they find the applicant: has not been convicted of a Class A, B or C crime; has not through the use of fireworks, Consumer Fireworks or in any other way, created a danger to the general public; and has complied with all federal, state and local laws, ordinances, rules and regulations (12.3.2.3).**

Date: 12-3-23 Map: 411 Lot: 1D

Company Name: BLAIS OUTHAT INC DBA BIG AIS Fireworks OUTHAT

Address: 300 Beth RD + 23B'S WAY

Town/City, State & Zip Code: Wiscasset ME 04578

Phone Number: 207-882-8422 Fax Number: 207-882-5225

Name of Insurer: SCOTTSDALE Fire Co Policy #: 1570098547

State License Number: CFS 14 4 Employees (Please include a copy of State License)

Property Owner's Name: Allen Cohen MEDL# 7946217

Property Owner's Address: PO Box 720

Property Owner's Town/City, State & Zip Code: Boothby HDR, ME 04538

Code Enforcement Officer: Bruce Engert BRUCE ENGERT 12-5-23  
Signature Printed Name Date

To the best of my knowledge and belief, all information on this application, and submitted in support of/with the application, is true and correct and all proposed consumer sales of fireworks activities will conform with this application and the Town of Wiscasset's Ordinance, as applicable.

Company Signature: [Signature] Al Cohen 12-3-23  
Signature Printed Name Date

**\*The applicant shall be responsible for any costs associated with this application including any advertising requirements.**

**Office Use Only**

By vote of the Wiscasset Board of Selectmen: Date: \_\_\_\_\_

Chair Wiscasset Board of Selectmen: \_\_\_\_\_  
Signature Printed Name Date

\_\_\_ Approved \_\_\_ Not Approved \_\_\_ Needs additional information

12/3/2023

ALLEN COHEN

P.O. BOX 720

BOOTHBAY HARBOR, ME. 04538

ATTN: BOARD OF SELECTMEN WISCASSET

I WANT TO STATE THAT I HAVE NOT BEEN CHARGED OR CONVICTED  
OF ANY CLASS A, B, OR C CRIMES.

I HAVE NOT CREATED A DANGER TO THE PUBLIC THROUGH THE  
SALE OF CONSUMER FIREWORKS.

I AM IN FULL COMPLIANCE WITH ALL FEDERAL, STATE AND LOCAL LAWS,  
ORDINANCES, RULES AND REGULATIONS.

A handwritten signature in black ink, appearing to be the name 'Allen Cohen', written in a cursive style.



STATE OF MAINE - DEPARTMENT OF PUBLIC SAFETY  
OFFICE OF STATE FIRE MARSHAL  
45 COMMERCE DR STE 1  
AUGUSTA, ME 04333-0001

## License for Consumer Fireworks Retail Store

License No. CFS14

*In accordance with the provisions of M.R.S.A. Title 8, Chapter 223-A, permission is hereby granted to sell consumer fireworks as follows:*

Expiration Date: 05/17/2024  
Store: BIG AL'S FIREWORKS OUTLET  
Location: 300 BATH RD, WISCASSET, ME 04578  
Owner: BIG AL'S OUTLET INC.  
Owner Address: PO BOX 720, BOOTHBAY HARBOR, ME 04538-0720

A handwritten signature in cursive script, appearing to read "Al", written over a horizontal line.

SIGNATURE OF LICENSEE

A handwritten signature in cursive script, appearing to read "William", written over a horizontal line.

COMMISSIONER OF PUBLIC SAFETY



## NOTICE OF CLEARANCE

### for individuals transporting, shipping, receiving, or possessing explosive materials.

ISSUED TO: BIG ALS OUTLET INC  
 NOTICE DATE: 06/09/2021

Federal Explosives license/permit no.: 6-ME-015-53-4G-00165  
 Expiration Date: July 1, 2024

EXPIRATION DATE: This Notice expires when superseded by a newer Notice which will list all current responsible persons and employee possessors, or when the license or permit expires - whichever comes first.

Explosives License/Permit Type: S3-DEALER OF EXPLOSIVES

- WARNING.** Only those individuals listed below as RESPONSIBLE PERSONS and EMPLOYEE POSSESSORS with a background clearance status of "CLEARED" or "PENDING" are authorized to transport, ship, receive, or possess explosive materials in the course of employment with you.
- "DENIED" STATUS.** If an employee possessor has a background clearance status of "DENIED", you MUST take immediate steps to remove the employee from a position requiring the transporting, shipping, receiving, or possessing of explosive materials. Also, if the employee has been listed as a person authorized to accept delivery of explosive materials, you MUST remove the employee from such list and immediately, and in no event later than the second business day after such change, notify distributors of such change, as stated in 27 CFR 555.33(a).
- CHANGE IN RESPONSIBLE PERSONS.** You MUST report any change in responsible persons to the Chief, Federal Explosives Licensing Center, within 30 days of the change and new responsible persons MUST include "appropriate identifying information" as defined in 27 CFR 555.11. Fingerprints and photos are NOT required, however they will be required upon renewal of the license or permit.
- CHANGE OF EMPLOYEES.** You MUST report any change of employee/possessors to the Chief, FELC, within 30 days. Reports relating to newly hired employees must be submitted on ATF Form 5400.28 for EACH employee.

Premises Address: 298 BATH RD ROUTE 1  
 WISGASSET, ME 04578

Mailing Address:  
 BIG ALS OUTLET INC  
 BIG ALS FIREWORKS OUTLET  
 PO BOX 720  
 BOOTHBAY HARBOR, ME 04538

This 'Notice of Clearance' is provided to you as required by 18 U.S.C. 843(h) and MUST be retained as part of your permanent records and be made available for examination or inspection by ATF officers as required by 27 CFR 555.121. If you receive a Notice subsequent to this Notice, this Notice will no longer be valid.

In accordance with 27 CFR 555.33, Background Checks and Clearances, and 27 CFR 555.57, Change of Control, Change in Responsible Persons, and Change of Employees, ATF's Federal Explosives Licensing Center (FELC) has conducted background checks on the individual(s) you identified as a responsible person(s) and an employee/possessor(s) on your application, or reported after the issuance of your license/permit.

The following is a SUMMARY of the results of the background checks conducted on the individuals you reported as responsible persons and employee/possessors. ATF will be notifying ALL individuals listed on this document of their respective status by separate letter mailed to their residence address.

**PLEASE BE ADVISED THAT IT IS UNLAWFUL FOR ANY PERSON REFLECTING A STATUS OF "DENIED" TO TRANSPORT, SHIP, RECEIVE, OR POSSESS EXPLOSIVE MATERIALS.**

Please carefully review this Notice to ensure that all the information is accurate. If this Notice is incorrect, please return the Notice to the Chief, FELC, with a statement showing the nature of the error(s). The Chief, FELC, shall correct the error, and return a corrected Notice.

Number of RESPONSIBLE PERSON(S) : 2  
 Number of EMPLOYEE POSSESSOR(S): 0

LAST NAME, First Name, Middle Name	Clearance Status
------------------------------------	------------------

**RESPONSIBLE PERSONS:** 2

- |                              |         |
|------------------------------|---------|
| 0001 COHEN, ALLEN STEVEN     | Cleared |
| 0002 WALSH, RAYMOND LAWRENCE | Cleared |

**EMPLOYEE POSSESSORS:** 0

continued

LAST NAME, First Name, Middle Name	Clearance Status
------------------------------------	------------------

6-ME-015-53-4G-00165 expires on date July 1, 2024 BIG ALS OUTLET INC OF BIG ALS FIREWORKS OUTLET, 298 BATH RD ROUTE 1, WISGASSET, ME 04578

# Federal Explosives License/Permit (18 U.S.C. Chapter 40)

U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D.C. 20535

**S. Department of Justice**  
Bureau of Alcohol, Tobacco, Firearms and Explosives

in accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF Correspondence To ATF - Chief, FELC 244 Needy Road Martinsburg, WV 25405-9431	License/Permit Number <div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">6-ME-015-53-4G-00165</div>
Chief, Federal Explosives Licensing Center (FELC) <i>Mama Howard</i>	Expiration Date <div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">July 1, 2024</div>

Name  
**BIG ALS FIREWORKS OUTLET**

Premises Address (Changes? Notify the FELC at least 10 days before the move.)  
**298 BATH RD ROUTE 1  
 WISCASSET, ME 04578-**

Type of License or Permit  
**53-DEALER OF EXPLOSIVES**

<p style="text-align: center;"><u>Purchasing Certification Statement</u></p> <p>The licensee or permittee named above shall use a copy of this license or permit to assist a purchaser of explosives to verify the identity and the licensed status of the licensee or permittee as provided by 27 CFR Part 555. <u>The signature on each copy must be an original signature.</u> A faxed, scanned or e-mailed copy of the license or permit with a signature appended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the FEL. I certify that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."</p>	<p style="text-align: center;"><u>Mailing Address (Changes? Notify the FELC of any changes.)</u></p> <p><b>BIG ALS OUTLET INC                  BIG ALS FIREWORKS OUTLET                  PO BOX 720                  BOOTHBAY HARBOR, ME 04538-</b></p>
--	---

Licensee/Permittee Responsible Person Signature	Position/Title	
Printed Name	Date	ATF Form 5400.14/5400.15 Part I Revised September 2011

Previous Edition is Obsolete    BIG ALS OUTLET INC; 298 BATH RD ROUTE 1; 04578-01; ME-015-53-4G-00165; July 1, 2024; 53-DEALER OF EXPLOSIVES

### Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC) 244 Needy Road Martinsburg, WV 25405-9431	Toll-free Telephone Number: (877) 283-3352 Fax Number: (304) 616-4401 E-mail: <a href="mailto:FELC@atf.gov">FELC@atf.gov</a>	ATF Homepage: <a href="http://www.atf.gov">www.atf.gov</a>
--	--	--

**Change of Address (27 CFR 555.54(a)(1)).** Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. **(The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)**

**Right of Succession (27 CFR 555.59).** (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse, child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for the benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

(Continued on reverse side)

**Cut Here ✂**

**Federal Explosives License/Permit (FEL) Information Card**

License/Permit Name: **BIG ALS OUTLET INC**

Business Name: **BIG ALS FIREWORKS OUTLET**

License/Permit Number: **6-ME-015-53-4G-00165**

License/Permit Type: **53-DEALER OF EXPLOSIVES**

Expiration: **July 1, 2024**

Please Note: Not Valid for the Sale or Other Disposition of Explosives.



U.S. Department of Justice  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
Federal Explosives Licensing Center  
244 Needy Road  
Martinsburg, West Virginia 25405

901090: MH/FLS  
5400  
File Number: 6ME00165

11/01/2021

SUBJECT: RESPONSIBLE PERSON LETTER OF CLEARANCE for:

ALLEN STEVEN COHEN

OWNER  
(207)882-9900

PO BOX 720  
BOOTHBAY HARBOR, ME 04538

and is ONLY valid under the following Federal explosive license/permit:

6-ME-015-53-4G-00165

BIG ALS OUTLET INC  
BIG ALS FIREWORKS OUTLET  
298 BATH RD ROUTE 1  
WISCASSETT, ME 04578

Dear ALLEN COHEN:

You have been approved as a responsible person under the above-listed Federal explosive license or permit. You may lawfully direct the management or policies of the business or operations as they pertain to explosives. You may also lawfully transport, ship, receive or possess explosive materials incident to your duties as a responsible person. **This clearance is only valid under the license or permit referenced above.**

Sincerely,

Marna Howard  
Chief, Federal Explosives Licensing Center (FELC)

FELC Customer Service. If you believe that information on your "Letter of Clearance" is incorrect, please return a COPY of the letter to the Chief, Federal Explosives Licensing Center (FELC), with a statement showing the nature of the error. The Chief, FELC, shall correct the error, and return an amended letter to you.

Mail: ATF  
Chief, FELC  
Attn.: LOC Correction  
244 Needy Road  
Martinsburg, West Virginia 25405

Fax: 1-304-616-4401  
Chief, FELC  
Attn.: LOC Correction

Call toll-free: 1-877-283-3352

WWW.ATF.GOV

ALLEN STEVEN COHEN

Responsible Person Letter of Clearance for:



U.S. Department of Justice  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
Federal Explosives Licensing Center  
244 Needy Road  
Martinsburg, West Virginia 25405

901090: MH/FLS  
5400  
File Number: GME00165

06/09/2021

SUBJECT: RESPONSIBLE PERSON LETTER OF CLEARANCE for:

RAYMOND LAWRENCE WALSH

MANAGER  
(207)522-5856

17 HIXON HILL ROAD  
WOOLWICH, ME 04579

and is ONLY valid under the following Federal explosives license/permit:

6-ME-015-53-4G-00165 BIG ALS OUTLET INC  
BIG ALS FIREWORKS OUTLET  
298 BATH RD ROUTE 1  
WISCASSET, ME 04578

Dear RAYMOND WALSH:

You have been approved as a responsible person under the above-listed Federal explosive license or permit. You may lawfully direct the management or policies of the business or operations as they pertain to explosives. You may also lawfully transport, ship, receive or possess explosive materials incident to your duties as a responsible person. **This clearance is only valid under the license or permit referenced above.**

Sincerely,

Marna Howard  
Chief, Federal Explosives Licensing Center (FELC)

**FELC Customer Service.** If you believe that information on your "Letter of Clearance" is incorrect, please return a COPY of the letter to the Chief, Federal Explosives Licensing Center (FELC), with a statement showing the nature of the error. The Chief, FELC, shall correct the error, and return an amended letter to you.

**Mail:** ATF  
Chief, FELC  
Attn.: LOC Correction  
244 Needy Road  
Martinsburg, West Virginia 25405

**Fax:** 1-304-616-4401  
Chief, FELC  
Attn.: LOC Correction

**Call toll-free:** 1-877-283-3352

WWW.ATF.GOV

RAYMOND LAWRENCE WALSH

Responsible Person Letter of Clearance for:



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/29/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Ryder Rosacker McCue & Huston (MGD by Hull & Company) 509 W Koenig St Grand Island NE 68801	<b>CONTACT NAME:</b> Kristy Wolfe <b>PHONE (A/C No. Ex):</b> 308-382-2330 <b>FAX (A/C No.):</b> 308-382-7109 <b>E-MAIL ADDRESS:</b> kwolfe@ryderinsurance.com													
	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: SCOTTSDALE INS CO</td> <td>41297</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: SCOTTSDALE INS CO	41297	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:
INSURER(S) AFFORDING COVERAGE	NAIC #													
INSURER A: SCOTTSDALE INS CO	41297													
INSURER B:														
INSURER C:														
INSURER D:														
INSURER E:														
INSURER F:														
<b>INSURED</b> Big Als Outlet Inc Big Als Fireworks Outlet PO Box 720 Bnothbay Harbor ME 04538														

**COVERAGES**      **CERTIFICATE NUMBER: 253031577**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	GENERAL LIABILITY			CPS4054465	9/15/2023	9/15/2024	EACH OCCURRENCE	\$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$ 5,000	
							PERSONAL & ADV INJURY	\$ 1,000,000	
							GENERAL AGGREGATE	\$ 2,000,000	
							PRODUCTS - COMP/OP AGG	\$ 2,000,000	
								\$	
	GEN'L AGGREGATE LIMIT APPLIES PER:								
	<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PRO-JECT	<input type="checkbox"/> LOC					\$	
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$	
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$	
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident)	\$	
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$	
								\$	
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR					EACH OCCURRENCE	\$	
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE	\$	
								\$	
	DED	RETENTION \$						\$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS	OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N	N/A				E.L. EACH ACCIDENT	\$	
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$	
							E.L. DISEASE - POLICY LIMIT	\$	

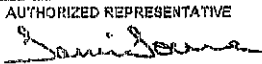
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Regarding the General Liability coverage, Waiver of Subrogation applies to the entities listed below per attached form CG 24 04 when required by written agreement.

Regarding the General Liability coverage, Blanket Additional Insured applies to the entities listed below per attached form GLS-150s when required by written agreement.

Additional Insured per Form CG2013- State of Maine Fire Marshall

Additional Insured per Form CG2011 - Allen & Melissa Cohen

<b>CERTIFICATE HOLDER</b>  Maine State Fire Marshal Office 52 State House Station Licensing & Inspections Division Augusta ME 04333-0164	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
---	--

© 1988-2010 ACORD CORPORATION. All rights reserved.



Regulatory Licensing & Permitting



DEPARTMENT OF PUBLIC SAFETY  
OFFICE OF STATE FIRE MARSHAL  
FIRE MARSHAL'S OFFICE FIREWORKS AND EXPLOSIVES  
**BIG AL'S FIREWORKS OUTLET**

**CONSUMER FIREWORKS RETAIL STORE**

License Number: CFS14  
Status: Active  
First Licensure: 10/10/2012  
Expiration Date: 05/17/2024

Mailing: PO BOX 720  
BOOTHBAY HARBOR, ME 04538-0720

**History**

License Type

CONSUMER FIREWORKS RETAIL STORE  
\*\*\* NOT ACTIVE \*\*\*  
CONSUMER FIREWORKS RETAIL STORE  
\*\*\* NOT ACTIVE \*\*\*  
CONSUMER FIREWORKS RETAIL STORE  
\*\*\* NOT ACTIVE \*\*\*  
CONSUMER FIREWORKS RETAIL STORE  
\*\*\* NOT ACTIVE \*\*\*  
CONSUMER FIREWORKS RETAIL STORE  
\*\*\* NOT ACTIVE \*\*\*  
CONSUMER FIREWORKS RETAIL STORE

Start Date	End Date
05/18/2023	05/17/2024
05/15/2023	05/17/2023
05/17/2021	05/14/2023
05/15/2021	05/16/2021
05/15/2020	05/14/2021
04/11/2020	05/14/2020
04/11/2019	04/10/2020
04/02/2019	04/10/2019
03/27/2014	04/01/2019
10/11/2013	03/26/2014
10/10/2012	10/10/2013

Date: 12/06/2023 02:17:32 PM



**Bernstein, Shur,  
Sawyer & Nelson, P.A.**  
100 Middle Street  
PO Box 9729  
Portland, ME 04104-5029

T (207) 774 - 1200

F (207) 774 - 1127

**To:** Wiscasset Board of Selectmen  
**From:** Mary Costigan  
**Date:** December 15, 2022  
**Re:** Big Al's Consumer Fireworks License Application

---

This memo is a reminder of the standards to be reviewed when considering Big Al's application for the sale of fireworks at the outlet store on Route One, as well as an update on any intervening legal decisions within the past year. As you are aware, the Bryants continue to object to the license on the basis that the storage facility on JB's Way is not properly licensed. Unfortunately, there have been no substantive legal advances this year that provide any further guidance than at this time last year when his current license was issued.

The objections raised by the Bryants center around a court decision related to a license issued by the State Fire Marshal's Office ("SFMO"). In that case, the Court stated that Big Al's also needed a state fireworks license for the JB's Way facility because the state law requires a state license if fireworks are "stored with the intent to sell." Mr. Neagle has submitted a memo on Big Al's behalf that summarizes the efforts to date that Big Al's has taken to obtain a license for the JB's Way facility. He has applied for a license for the JB's Way storage facility and the state has yet to act on it because they first needed to establish a set of regulations to apply. Following a legislative task force, the SFMO recently enacted regulations to govern the licensing of fireworks storage facilities. In the meantime, the SFMO has continued to issue annual licenses for the Route One Facility.

In Wiscasset, a consumer fireworks license is only required for the Route One store. The ordinance does not have the same "possess with intent to sell" language that is in State Law. Therefore, the JB's Way facility does not require a local consumer fireworks license.

The following are the criteria to be reviewed by the Board of Selectmen in issuing the consumer fireworks license for Big Al's Outlet, followed by a checklist for your consideration. Note that in prior years the Board has relied upon the SFMO's actions to determine whether the applicant has complied with state law. The Maine Courts have supported such reliance by the Town on the state agency for determining compliance with state law.

**Wiscasset Ordinance Provisions:**

12.3.2.1 The sale of Consumer Fireworks shall occur only on a lot that is conforming as to lot size and on which retail sales are allowed under the Wiscasset Zoning Ordinance.

12.3.2.2 The sale of Consumer Fireworks shall comply with all federal state and local laws, ordinances, rules and regulations.

12.3.2.3 The sale of Consumer Fireworks requires a conditional use permit from the Wiscasset Planning Board under Article VIII, Site Plan Review; a business license from the Wiscasset Town Clerk under Article IX, Section 9, of the Ordinances of the Town of Wiscasset; and an annual license from the Board of Selectmen. The application for the annual license shall be on a form provided by the Town and require the payment of an application fee in an amount set by the Selectmen that will offset the Town's processing and inspection costs. A public hearing shall be held for the first annual application and may be held for renewal applications.

The Board of Selectmen shall issue a license if they find the applicant:

12.3.2.3.1 has not been convicted of a Class A, B or C crime;

12.3.2.3.2 has not, through the use of Fireworks, Consumer Fireworks or in any other way, created a danger to the general public; and

12.3.2.3.3 has complied with all federal, state and local laws, ordinances, rules and regulations.

#### **State Law:**

Pursuant to state law regarding consumer fireworks (8 M.R.S. §223-A), the Town cannot issue a local permit for the sale of consumer fireworks unless:

- A. The applicant is 21 years of age or older;
- B. The applicant applies for a permit under this subsection on a form prescribed by the commissioner;
- C. The applicant possesses the federal permit required under subsection 1, paragraph A;
- D. The applicant complies with the provisions of subsection 4; and
- E. The application is approved by the municipality's police chief, fire chief and code enforcement officer if those positions exist.

"Subsection 4" referred to in Section D provides as follows:

**4. Storage and handling.** A person authorized to sell consumer fireworks under subsection 1 may store and sell the fireworks only in a permanent, fixed, stand-alone building dedicated solely to the storage and sale of consumer fireworks in accordance with this subsection.

- A. The building must be constructed, maintained and operated, and all consumer fireworks must be stored, in compliance with the requirements of National Fire Protection Association Standard 1124, as adopted by the Office of the State Fire Marshal, relevant building codes, zoning ordinances and other municipal ordinances.
- B. The building may not be less than 60 feet from another permanent building and may not be less than 300 feet from a structure at which gasoline, propane or other flammable material is sold or dispensed.
- C. Cigarettes, tobacco products or lighters or other flame-producing devices may not be permitted in the building.
- D. A person under 21 years of age may not be admitted to the building unless accompanied by a parent or guardian.
- E. Notwithstanding paragraph D, a person at least 18 years of age may handle and sell consumer fireworks if the person is under the direct supervision of a person 21 years of age or older.

### Consumer Fireworks License Review Checklist

1. Is the lot at 300 Bath Road conforming as to lot size? Yes according to code officer
2. Are retail sales allowed at 300 Bath Road under the Wiscasset Zoning Ordinance. Yes Retail sales are allowed on Rt 1 between the Woolwich line and the southern end of Flood Avenue
3. Was Big Al's issued a conditional use permit from the Wiscasset Planning Board? Yes
4. Does Big Al's have a business license from the Wiscasset Town Clerk? Yes
5. Has the applicant been convicted of a Class A, B or C crime? No
6. Has the applicant, through the use of Fireworks, Consumer Fireworks or in any other way, created a danger to the general public? None reported
7. Has the applicant complied with all federal, state and local laws, ordinances, rules and regulations? No known violations or compliance issues
8. Is the applicant 21 years of age or older? Yes
9. Has the applicant applied for a permit from the State Fire Marshal's Office? Yes he is currently licensed/permitted. A copy is in your packet
10. Does the applicant possess the required federal permit? Yes a copy is in your packet
11. Has the application been approved by the Town's police chief, fire chief and code enforcement officer? Application signed by CEO. Police and fire chief approval of the fireworks license are not required by our ordinance
12. Does the applicant comply with the following provisions of state law regarding the storage and handling of fireworks?:
  - A. The building must be constructed, maintained and operated, and all consumer fireworks must be stored, in compliance with the requirements of National Fire Protection Association Standard 1124, as adopted by the Office of the State Fire Marshal, relevant building codes, zoning ordinances and other municipal ordinances. Fire chief and code officer report he is in compliance
  - B. The building may not be less than 60 feet from another permanent building and may not be less than 300 feet from a structure at which gasoline, propane or other flammable material is sold or dispensed. In compliance
  - C. Cigarettes, tobacco products or lighters or other flame-producing devices may not be permitted in the building. No reported compliance concerns
  - D. A person under 21 years of age may not be admitted to the building unless accompanied by a parent or guardian. No reported compliance issues
  - E. Notwithstanding paragraph D, a person at least 18 years of age may handle and sell consumer fireworks if the person is under the direct supervision of a person 21 years of age or older. No reported compliance concerns

# NEAGLE LAW LLC

76 Orchard Road, Cumberland, ME 04021 · (207) 805-4211

Chris Neagle, attorney  
chris@neaglelaw.com

Kelsey Eddy, paralegal  
kelsey@neaglelaw.com

TO: Wiscasset Select Board 

FROM: Chris Neagle, attorney for Big Al's Outlet, Inc., dba Big Al's Fireworks Outlet

DATE: December 8, 2023

RE: Big Al's Outlet, Inc. application for 2023 Fireworks License

## Summary

There have been no significant Court decisions made after our December 7, 2021 memorandum, but more appeals have now been filed.

The Bryants appealed to the Maine Supreme Court from three 2021 Superior Court decisions *denying* the Bryants' appeals of three Select Board decisions made in December of 2019. Briefs have been filed, oral arguments were heard in December of 2022 and a decision is expected soon. This decision will impact all related appeals.

None of the prior court decisions provide any basis for the Select Board to deny the application filed by Big Al's Outlet, Inc. ("BAOI") for a 2023 Fireworks License.

## Prior Decisions on Town Permits

The Bryants have now filed seven Rule 80B appeals in Lincoln County Superior Court against the BAOI and the Town of Wiscasset related to Town permits issued to BAOI beginning in 2015:

1. Dkt. No. AP-15-01. An appeal of the 2015 Planning Board permit for the BAOI warehouse expansion and an independent action raising three other claims including a declaratory judgment on the Maine Fireworks Law. The *Bryants lost all four claims* in two separate Superior Court decisions which were later upheld by the Maine Supreme Court.<sup>1</sup> Among other things, the courts ruled that *the Town of Wiscasset should not interpret Maine fireworks laws or second guess permits issued by the Office of the State Fire Marshal.*

---

<sup>1</sup> See 2017 ME 234

2. Dkt. No. AP-20-01. An appeal of the Town's 2019 Fireworks license issued to BAOI in December of 2019. The Superior Court *ruled against the Bryants* on May 7, 2021. *This decision is being reviewed by the Maine Supreme Court.*

3. Dkt. No. AP-20-02. An appeal of the Town's 2018 Fireworks license issued to BAOI in December of 2019. The Superior Court *ruled against the Bryants* on May 7, 2021. *This decision is also being reviewed by the Maine Supreme Court.*

4. Dkt. No. AP-20-03. An appeal of the Town's 2018 Business License issued to BAOI in December of 2019. The Superior Court *ruled against the Bryants* on May 7, 2021 and April 15, 2022. *This decision is also being reviewed by the Maine Supreme Court.*

5. Dkt. No. AP-21-02. An appeal of the Town Fireworks license issued to BAOI in December of 2020. The appeal is on hold awaiting the decision of the Maine Supreme Court on prior appeals raising the same issues.

6. Dkt. No. AP-21-04. An appeal of the failure of the Town to shut down BAOI's warehouse operations. The appeal is on hold awaiting the decision of the Maine Supreme Court on prior appeals raising the same issues.

7. Dkt. No. AP-22-01. An appeal of Town Fireworks license issued to BAOI in December of 2021. The appeal is on hold awaiting the decision of the Maine Supreme Court on prior appeals raising the same issues.

8. Dkt. No. AP-23-01. An appeal of the Town Fireworks license issued to BAOI in December of 2022. The appeal is on hold awaiting the decision of the Maine Supreme Court on prior appeals raising the same issues.

#### Prior Decisions on OSFM Permits

The Bryants also filed a Rule 80(C) Appeal of a 2019 Office of the State Fire Marshal ("OSFM") Consumer Fireworks Sales Permit issued to BAOI in the Kennebec County Superior Court. Dkt. No. AP-19-18. *The Bryants lost that appeal in Superior Court, too.* On May 7, 2020, the Court ruled that BAOI should have received a separate permit for its warehouse, but also ruled that the *OSFM permit was still valid* because the OSFM never asked BAOI for a permit. ("2020 Order") The Bryants did not appeal that decision so it is final.

BAOI also received OSFM Permits in 2020, 2021, 2022 and 2023 and the Bryants have never filed any 80(C) appeals of those permits.

### The Town Can Rely on the 2023 OSFM Permit

BAOI's 2023 OSFM permit was filed with the 2023 application. The Bryants cannot argue that the OSFM improperly applied Maine law when it issued the permit. The Town cannot question that permit. See Appeal 1 above.

### The Bryants Misled the Board about the 2020 Order

The Bryants have been fond of pointing to the language in the 2020 Order that states that BAOI needs a permit for its warehouse. However, as described above, the 2020 Order ruled that *principles of estoppel* meant that BAOI's 2019 OSFM permit was valid even without a warehouse license. The OSFM had never asked for a warehouse license. The same principle applies to the 2023 OSFM permit.

### The Status of BAOI's Warehouse License

The 2020 Decision stated that BAOI needed an OSFM license for its warehouse. BAOI quickly tried to file an application for a warehouse license but was initially told by the OSFM not to file one. BAOI was eventually allowed to file an application on October 10, 2020. The Bryants have filed a written opposition to the application. The BAOI has yet to act on the application as it works on related regulations. However, the OSFM continues to issue BAOI an annual Consumer Fireworks Sales License.



## Wiscasset Fire Department

51 Bath Road  
Wiscasset, Maine 04578  
207-882-8210  
firechief@wiscasset.org

**Rob Bickford**  
**Fire Chief**

December 8, 2023

This morning, I conducted inspections at Big Al's Fireworks Outlet, located at 300 Bath Rd. in Wiscasset, as well as Big Al's Fireworks Outlet warehouse, located at 2 JB's Way, also in Wiscasset.

The purpose of the inspections was to ensure compliance with the regulations of Mr. Cohen's annual business license renewal.

### **300 Bath Rd. – Retail Store**

I found all exits clearly marked, free of obstructions and accessible. All emergency lights were in working condition. All fire extinguishers were properly mounted, clearly marked and inspected within the past year. The in-house sprinkler and alarm system was in working order, clearly marked and most recently inspected in November of 2023.

### **2 JB's Way - Warehouse**

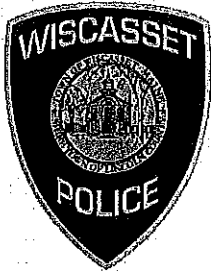
I found all exits clearly marked, free of obstructions and accessible. All emergency lights were in working condition. All fire extinguishers were properly mounted, clearly marked and inspected within the past year. The alarm system was in working order and was being inspected / serviced by Cunningham Security at the time of our inspection.

At this time, I find Mr. Cohen to be in compliance with his business permit, as far as any fire department issues are concerned.

If you have any further questions, please feel free to contact me.

Rob Bickford, Fire Chief  
Wiscasset Fire Department  
51 Bath Rd.  
Wiscasset, Maine 04578  
882-8210 (station)  
350-1802 (cell)





## Wiscasset Police Department

---

51 Bath Road, Wiscasset, ME 04578  
Office (207) 882-8203 Fax (207) 687-7005

Larry Hesseltnie  
Chief of Police

Perry Hatch  
Sergeant

---

To: Dennis Simmons, Town Manager  
From: Larry Hesseltnie, Chief of Police  
Ref: Big Al's Fireworks Outlet  
Dated: 12/13/2023

Dennis,

The Wiscasset Police Department has not received any complaints/incidents involving Big Al's Fireworks Outlet on Bath Road or the storage facility located on JB's Way in Wiscasset.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "LH", is written over a horizontal line. The signature is fluid and cursive.

Larry Hesseltnie  
Chief of Police

5/7/2020

ATTACHMENT A

STATE OF MAINE  
KENNEBEC, ss

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. AP-19-18

Kathleen Bryant and  
Thomas Bryant,

Petitioners

ORDER

v.

State of Maine Department of  
Public Safety, Office of State  
Fire Marshal, Big Al's Outlet, Inc.,  
Allen Cohen, and Melissa Cohen,

See \* on  
pages 6 and 7

Respondents

Before the Court is petitioners' Kathleen Bryant and Thomas Bryant's ("the Bryants'") petition for review of final agency action. M.R. Civ. P. 80C. The Bryants are seeking reversal of the Commissioner of Department of Public Safety's ("the Commissioner's") renewal of Big Al's Fireworks Outlet's consumer fireworks sales license. The Bryants are represented by Attorney Jonathan Pottle. The State Respondents are represented by Assistant Attorney General Kent Avery. Big Al's Outlet, Inc, Allen Cohen, and Melissa Cohen ("the Cohens") are represented by Attorney Chris Neagle.

**BACKGROUND**

The Bryants live at 32 JB's Way in Wiscasset. (R.2.) The Cohens own an abutting parcel of property located at 2 JB's Way. (R. 13, 20-22, 32.) Since 2013, the Cohens have used their JB's Way property to store consumer fireworks which are sold at Big Al's Fireworks Outlet located at 300 Bath Road in Wiscasset. (R. 13, 27-28, 32, 38.) No fireworks are sold to consumers on the JB's Way property. (R. 27-28, 38.) On April 11, 2019 the Commissioner renewed the Cohens' License for Consumer Fireworks Store. (R. 27-28.) The license number is

CFS14 and lists the location as 300 Bath Road, Wiscasset, Maine. (R. 27-28.) On May 10, 2019 the Bryants filed the instant complaint seeking review, pursuant to Rule 80C, of the renewal of the Cohens' consumer fireworks license. (Compl. ¶¶ 24-25.) The Bryants' complaint does not allege any independent claim for relief.

Both the Bryants and the Cohens have been involved in prior litigation concerning the Cohens' fireworks storage. In April 2015, the Bryants filed a complaint in the Lincoln County Superior Court seeking review, pursuant to Rule 80B, of the Town of Wiscasset's approval of the Cohens' application for a permit to construct a fireworks storage structure at the Cohens' JB's Way property. *Bryant v. Town of Wiscasset*, No. AP-15-001, 2016 Me. Super LEXIS 306 (Lin. Cnty. Super. Ct. Sept. 21, 2016). The complaint also contained three independent claims for relief: *Id.* In September 2016, the Superior Court affirmed the Town's decision and ruled in favor of the Town and the Cohens on the Bryants' due process claims. *Id.* In a later decision, the Superior Court dismissed the Bryants' declaratory judgment claim. *Bryant*, No. AP-15-001, 2017 Me. Super LEXIS 117 (Lin. Cnty. Super. Ct. Mar. 20, 2017). On December 19, 2017, the Law Court affirmed the Superior Court's decision on the Bryants' 80B claim and dismissed the Bryants' appeal of the Superior Court's judgment on the Bryants' independent claims. *Bryant v. Town of Wiscasset*, 2017 ME 234, 176 A.3d 176.

### **STANDARD OF REVIEW**

Pursuant to M.R. Civ. P. 80C, when the Superior Court acts in its intermediate appellate capacity, it must review an agency's decision directly for errors of law, abuse of discretion, or findings not supported by substantial evidence in the record. *Doe v. Dep't of Health and Human*

---

• These independent claims were for violation of Federal due process rights; violation of State due process rights; and a declaratory judgment claim.

*Services*, 2018 ME 164, ¶ 11, 198 A.3d 782. The Court will not vacate an agency's decision unless it: violates the Constitution or statutes; exceeds the agency's authority; is procedurally unlawful; is arbitrary or capricious; constitutes an abuse of discretion; is affected by bias or an error of law; or is unsupported by the evidence in the record. *Kroeger v. Dep't of Envtl. Prot.*, 2005 ME 50, ¶ 7, 870 A.2d 566. Questions of law are subject to de novo review. *Id.* (citing *York Hosp. v. Dep't of Health & Human Servs.*, 2008 ME 165, ¶ 32, 959 A.2d 67).

## **DISCUSSION**

### **1. Mootness**

As a threshold matter, the Court notes that the license at issue in this case expired on April 10, 2020. (R. 27.). Although this case could now be considered moot, this appeal concerns a continuing controversy over the Cohens' use of their JB's Way property. Consequently, the Court declines to dismiss this case as moot. *Lynch v. Kittery*, 473 A.2d 1277, 1279 (Me. 1983) (declining to dismiss as moot an appeal of an expired town permit).

### **2. Res Judicata**

In this case, both the Cohen Respondents and the Commissioner argue that the Bryants' 80C appeal is barred by principles of *Res Judicata*. Specifically, these parties argue that the judgment in the earlier lawsuit between the Bryants, the Cohens, and the Town of Wiscasset prevents the Bryants from seeking recovery here. The Court disagrees.

"Collateral estoppel, or issue preclusion, is the prong of res judicata that 'prevents the relitigation of factual issues already decided if the identical issue was determined by a prior final judgment, and . . . the party estopped had a fair opportunity and incentive to litigate the issue in a prior proceeding.'" *Cline v. Me. Coast Nordic*, 1999 ME 72, ¶ 9, 728 A.2d 686 (quoting *Perry v. H.O. Perry & Son Co.*, 1998 ME 131, ¶ 6, 711 A.2d 1303). "[C]ollateral estoppel is applicable to

administrative proceedings," *Id.*, and a 'final adjudication in an administrative proceeding before a quasi-judicial municipal body has the same preclusive effect as a final adjudication in a former court proceeding.'" *Peterson v. Town of Rangeley*, 1998 ME 192, ¶ 11, 715 A.2d 930, 933.

While it appears to be true that the Bryants are making arguments in this case which are similar to those raised in the earlier litigation, the factual issues involved in this case are different than those involved in the earlier 80B action. This is because the issues in this case concern whether the Commissioner abused his discretion, committed an error of law, or made findings which are not supported by substantial evidence. In order to make this assessment, the Court must look to the evidence which was before the Commissioner in 2019. Given that the prior litigation ended in 2017, the Bryants could not have had a fair opportunity in that action to litigate issues relevant to the 2019 license renewal. Consequently, *Res Judicata* does not prevent the Bryants from seeking judicial review in the current matter.

### 3. The Merits

Except for the sale of consumer fireworks under section 223-A, a person may not sell, possess with the intent to sell or offer for sale fireworks. 8 M.R.S. § 223. In order to obtain a license to sell consumer fireworks, an applicant must demonstrate that he (1) is 21 years of age or older; (2) possess a federal permit to sell fireworks and a municipal permit if required; (3) complies with the statutory provisions for storing and handling fireworks; and (4) "has not been convicted of an offense or violated a state, federal or municipal law, rule or regulation involving fireworks or explosives within the 2 years prior to the application." *Id.* § 223-A(1), (3). The Commissioner is the State official tasked with licensing retailers of consumer fireworks. *Id.* §§ 221-A(1), 223-A(3).

The arguments that the Bryants raise in this appeal are all directed at whether the Cohens are properly storing fireworks and whether the Cohens are violating laws, rules or regulations involving fireworks. Specifically, the Bryants argue that (1) the Cohens are selling fireworks without a municipal permit; (2) the Cohens may not store fireworks at a location separate from the fireworks retail store; (3) the State Fire Marshal did not conduct an inspection of the Cohens' fireworks warehouse; and (4) the Cohens' storage of fireworks violates National Fire Protection Association ("NFPA") Standards which have been adopted as law in Maine.<sup>3</sup>

Regarding the Bryants' first argument, the Court notes that a municipal permit to sell fireworks is only required if the municipality has adopted an ordinance provision to that effect. 8 M.R.S. § 223-A(1)(C), (2). If a municipality has not adopted such a requirement, it is not necessary for an applicant for a State license to show that they have obtained a municipal permit. *Id.* The record in this case does not include any ordinance provision showing that the Cohens must obtain a permit from the Town in order to sell fireworks in Wiscasset and the Court may not take judicial notice of municipal ordinances.<sup>4</sup> *Mills v. Town of Elliot*, 2008 ME 134, § 23, 955 A.2d 258. Despite this inadequacy, there is record evidence indicating that a retailer must obtain a municipal permit in order to sell fireworks in Wiscasset. This comes in the form of a Town license to sell consumer fireworks issued to the Cohens on August 27, 2018 and correspondence between the Town and the Cohens regarding the latter's application for an annual license to sell fireworks. (R. 38; Pet. Supp.

---

<sup>3</sup> The Bryants also argue that the Cohens' retail fireworks sales license does not contain sufficient findings of fact and that without such findings judicial review is not possible. The Court disagrees. Judicial review is possible because the Court may review the record to determine if substantial evidence exists which would support a finding that the Cohens' met the legal criteria for obtaining a fireworks license. Moreover, the Bryants' reliance on 1 M.R.S. § 407(1) is misplaced as that provision of law only requires written findings of fact in the case of a conditional approval or denial of a license; the approval of the Cohens' license at issue here was not conditional.

<sup>4</sup> Similarly, the Record contains no ordinance provision showing that a conditional use permit is required for the properties at issue in this case.

R. 251-52.) Because the Cohens received an annual permit to sell fireworks on August 27, 2018, there is record evidence which supports a finding that the Cohens had the appropriate municipal permit when they received their state license less than a year later on April 11, 2019. Consequently, the Bryants' first argument fails.

The Court now turns to the Bryants' second argument. In this case, the Cohens have received a consumer retail fireworks license which authorizes them to sell fireworks at their 300 Bath Road Fireworks store. (R. 27.) The Parties, however, dispute whether this license also authorizes the Cohens to store fireworks, but not sell them, at a location separate from the 300 Bath Road store—in this case, 2 JB's Way. The Bryants take the position that Maine law prohibits the storage of fireworks in a building unless that building is also being used for consumer retail sales of fireworks. The Bryants argue that because the Cohens are storing—but not selling—fireworks at 2 JB's way, the Cohens are violating laws and regulations regarding fireworks and are therefore ineligible to obtain a state consumer retail fireworks license. See 8 M.R.S. § 223-A(3)(D). Both the Cohens and the State Commissioner have taken the position that offsite storage of Fireworks is allowed. (Cohen Br. at 11; R. 106.)

The Court agrees that the State license issued for the Cohens' 300 Bath Road retail store does not also authorize the storage of fireworks in a separate location. Maine law is clear that, "except for the sale of consumer fireworks under [8 M.R.S.] 223-A, a person may not sell, possess with the intent to sell or offer for sale fireworks." 8 M.R.S. 223 (emphasis added). (R. 27.) Section 223-A requires a consumer fireworks retailer to obtain a separate license for each location at which the retailer seeks to sell fireworks. *Id.* § 223-A(3). Further, a retailer who has obtained a license to sell consumer fireworks "may store and sell the fireworks only in a permanent, fixed, stand-alone building dedicated solely to the storage and sale of consumer

(underlining added)

fireworks . . . .” *Id.* § 223-A(4). The clear objective of these provisions is to permit a consumer fireworks retailer to store and sell fireworks only in a single dedicated structure at each location for which the retailer has received a State license. *See Doe v. Reg’l Sch. Unit 26*, 2014 ME 11, ¶ 15, 86 A.3d 600 (courts are not required to adhere to the literal language of a statute if such adherence would thwart the clear legislative objective).

Although it is true that section 223-A(4) uses the conjunctive “and” it would be absurd to conclude that the Legislature intended to require fireworks retailers to comply with fireworks storage and handling provisions in a building where fireworks are being both stored and sold but not in a building where fireworks are only being stored. *See Manirakiza v. Health and Human Services*, 2018 ME 10, ¶ 14, 177 A.3d 1264 (courts “endeavor to construe statutes to avoid an illogical or absurd result”); *see also* 1 M.R.S. 71(2). Consequently, the Court believes that because the fireworks located at JB’s Way are possessed with the intent to sell, the law requires the Cohens to obtain a separate consumer fireworks retail license for their JB’s Way property. \*

Although there is no dispute that the Cohens have not received a consumer fireworks retail license for their JB’s Way facility, it is apparent from the record that the Commissioner believed the Cohens’ storage of fireworks complied with the Law and that the Cohens have acted in reasonable reliance upon and in conformance with the Commissioner’s official interpretation of the law. (R. 106-07.) Consequently, in this case, the Commissioner would have been estopped from using the Cohens’ storage of Fireworks at JB’s Way as a ground for denying the Cohens’ application to renew their license to sell consumer fireworks at their 300 Bath Road store. *See Shackford & Gooch, Inc. v. Kennebunk*, 486 A.2d 102, 106 (Me. 1984).

Explanation from Bryant attorney to Bryants:  
The order makes clear that for those licenses PRIOR to the May 7, 2020, Murphy Order, the Town and SFMO would not have known that Big Al was not in compliance. However, for any licensing after that order, the Town knows that a judge has ruled he is not in compliance. Therefore, there is no way the Town can “believe he is in compliance” as the order makes clear that he is not.



The Bryants' third and fourth arguments are more easily resolved. Contrary to the Bryants' third argument, the Record does contain evidence that the State Fire Marshal's office performed an inspection prior to renewing the Cohens' fireworks license. (R. 28, 39-65.) The Bryants' fourth argument relies on their assertion that the Cohens' storage of fireworks at 2 JB's way violates Chapter 6 of NFPA 1124. Chapter 6, however, has not been adopted as law in Maine. See 8 M.R.S. § 223-A(4) ("all consumer fireworks must be stored, in compliance with the requirements of National Fire Protection Association Standard 1124, *as adopted by the Office of the State Fire Marshal*") (emphasis added); 16-219 C.M.R. ch. 36, § 2 ("This rule incorporates by reference *Chapter 7 . . . of the National Fire Protection Association Standard # 1124*") (emphasis added). In their Brief, the Bryants concede that the State Fire Marshall's Office has not adopted Chapter 6 of NFPA 1124. (Pet'rs' Br. at 12.)

**The Entry is:**

The Decision of the Commissioner of Public Safety's decision to Issue License for Consumer Fireworks Retail Store, License No. CFS14 is **AFFIRMED**.

The clerk is directed to incorporate this order into the docket by reference. M.R. Civ. P.

79(a).

Date: 5/7/2020

  
Justice, Superior Court