



DAVE YOST

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December 20, 2023

Via Kiteworks E-Mail

Ken Payne at VFW7490.1@gmail.com

Lisa Noble at VFW7490.1@gmail.com

Gary Meredith at VFW7490.1@gmail.com

Re: **Notice of Intent to Reject and Opportunity for Hearing
Veterans of Foreign Wars #7490**

Members and Operatives:

Enclosed please find a Notice of Intent to Reject and Opportunity for Hearing to Veterans of Foreign Wars #7490. Please read it carefully as the information contained within concerns Veterans of Foreign Wars #7490's bingo license. Be advised if you would like to request a hearing on this matter, **you must do so within 30 days of service of this Notice.**

Thank you for your time and attention to this matter.

Very respectfully,

DAVE YOST
Ohio Attorney General

Daniel W. Fausey
Section Chief
Ohio Attorney General's Office
Charitable Law Section

Enclosures

CC: Bret Baker
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Charitable Law Section
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**OHIO ATTORNEY GENERAL
CHARITABLE LAW SECTION**

IN THE MATTER OF:

December 20, 2023

Veterans of Foreign Wars #7490
7459 Columbus Road
Louisville, OH 44641

EIN: 34-1422530
Bingo License No.: 0212-48

**NOTICE OF INTENT TO REJECT APPLICATION FOR 2023 BINGO LICENSE AND
OPPORTUNITY FOR HEARING**

INTRODUCTION & JURISDICTION

Notice is hereby given that, pursuant to Ohio Revised Code (“R.C.”) Section 2915.08(F), the Attorney General intends to reject the 2023 Bingo License Application submitted by Veterans of Foreign Wars #7490 (“VFW #7490”). In accordance with the provisions of R.C. Sections 119.06 and 119.07, you are hereby notified that you are entitled to a hearing.

VFW #7490 was issued bingo license no. 0212-48 in or before 2003. The organization has been authorized to conduct bingo for subsequent years. On or about May 25, 2023, VFW #7490 filed a 2023 Charitable Bingo License Application (the “Application”). On or about October 24, 2023, VFW #7490 updated the Application.

VFW #7490 was issued a 2023 Temporary Permit (the “Temporary Permit”) on May 25, 2023. The issuance of the Temporary Permit does not grant any rights to VFW #7490 other than those granted in R.C. 119.06 and does not prohibit the Attorney General from rejecting VFW #7490’s application. R.C. 2915.08(D).

Upon information and belief, on or about August 14, 2023, the Internal Revenue Service posted notice that VFW #7490’s federal income tax-exempt status was revoked on or about May 15, 2023.

Notice is hereby given that the Attorney General intends to reject the 2023 Bingo License Application submitted by VFW #7490 for the following reasons:

COUNT 1

Only a “charitable organization” may apply for a license to conduct bingo and, if licensed, actually conduct bingo. R.C. 2915.08(A)(1), R.C. 2915.07(A).

To qualify as a “charitable organization” that is eligible to apply for a license and conduct bingo, VFW #7490 must be exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code or be a volunteer rescue service organization, volunteer firefighter’s organization, veteran’s organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(c)(4), (c)(7), (c)(8),

(c)(10), or (c)(19) of the Internal Revenue Code. R.C. 2915.01(H).

VFW #7490 does not meet the definition of “charitable organization” in R.C. 2915.01(H), because it does not have the required tax-exempt determination from the IRS. On or about May 15, 2023, the Internal Revenue Service revoked VFW #7490’s 501(c)(8) tax-exempt determination. As of today, the organization’s tax-exempt status has not been reinstated by the IRS. Because it is not a “charitable organization,” VFW #7490 is neither eligible to obtain a license to conduct bingo nor is it eligible to conduct bingo.

The attorney general intends to reject VFW #7490’s application to conduct bingo because it fails to meet the requirements of R.C. 2915.08 because it is not a “charitable organization”.

LAWS AND RULES

An applicant for a bingo license “shall, at all times, have the burden of demonstrating to the attorney general, by clear and convincing evidence, that the applicant is eligible, qualified, and suitable to be granted and retain the license or endorsement for which application is made under the applicable standards and requirements of Chapter 2915. of the Revised Code and” O.A.C. 109:1. O.A.C. 109:1-4-02(B). “Licensees have a continuing obligation to demonstrate suitability to hold a license or endorsement by complying with Chapter 2915. of the Revised Code, [O.A.C. 109:1], and all federal, state, and local laws relating to the suitability of the licensee.” O.A.C. 109:1-4-02(E).

Ohio Revised Code section 2915.08(F)(2) states “If any of the following applies to an organization, the attorney general may refuse to grant a license to the organization, may revoke or suspend the organization's license, or may place limits, restrictions, or probationary conditions on the organization's license for a limited or indefinite period, as determined by the attorney general:

- (a) The organization fails or has failed at any time to meet any requirement of section 109.26, 109.31, or 1716.02, or sections 2915.07 to 2915.15 of the Revised Code, or violates or has violated any provision of sections 2915.02 or 2915.07 to 2915.13 of the Revised Code or any rule adopted by the attorney general pursuant to this chapter.
- (b) The organization makes or has made an incorrect or false statement that is material to the granting of the license in an application filed under this section.
- (c) The organization submits or has submitted any incorrect or false information relating to an application if the information is material to the granting of the license.
- (d) The organization maintains or has maintained any incorrect or false information that is material to the granting of the license in the records required to be kept pursuant to section 2915.10 of the Revised Code, if applicable.
- (e) The attorney general has good cause to believe that the organization will not conduct bingo in accordance with sections 2915.07 to 2915.15 of the Revised Code or with any rule adopted by the attorney general pursuant to this chapter.”

Ohio Revised Code section 2915.08(F)(3) further states, “If the attorney general has good cause

to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to, or committed theft or any other type of misconduct related to, the organization or any other charitable organization that has been issued a bingo license under this chapter, the attorney general may refuse to grant a license to the organization, may impose limits, restrictions, or probationary conditions on the license, or may revoke or suspend the organization's license for a period not to exceed five years."

Finally, under R.C. 2915.08(F)(4), "The attorney general may impose a civil fine on an organization licensed or permitted under this chapter for failure to comply with any restrictions, limits, or probationary conditions on its license, and for failure to comply with this chapter or any rule adopted under this chapter, according to a schedule of fines that the attorney general shall adopt in accordance with Chapter 119. of the Revised Code."

OPPORTUNITY FOR HEARING AND HEARING PROCEDURES

Pursuant to the Administrative Procedure Act, Ohio Revised Code Section 119.07, an Applicant who has been issued a Notice of Intent may request a hearing before the Charitable Law Section of the Office of the Ohio Attorney General within thirty (30) days of the time of the service of the Order or Notice. **The request for a hearing must be received by the Charitable Law Section of the Office of the Ohio Attorney General within thirty (30) days of the service of this Notice.**

The Applicant may appear in person, by his or her attorney, or by such other representative who is permitted to practice before the Ohio Attorney General's Office. The Applicant may present evidence and examine witnesses appearing for and against the Applicant or may present a position, argument and contentions in writing in lieu of appearing at the hearing. A hearing may be continued on motion of either the Attorney General or the Applicant, if the Attorney General so approves.

Failure to request a hearing within the time prescribed may result in the Attorney General issuing an adjudication order regarding the application without conducting a formal hearing in the matter.

Requests for a hearing upon the Notice of Intent to Reject and Opportunity for Hearing must be submitted to the undersigned at the address listed below.

Very respectfully yours,

DAVE YOST
ATTORNEY GENERAL



Daniel W. Fausey
Section Chief
Ohio Attorney General's Office
Charitable Law Section
30 E. Broad Street, 25th Floor
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