

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
 DEPARTMENT OF BUSINESS REGULATION
 JOHN O. PASTORE COMPLEX
 1511 PONTIAC AVENUE
 CRANSTON, R.I. 02920

DL Enterprises d/b/a East Bay Tavern
Appellant,

v.

East Providence City Council,
Appellee.

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DBR No. 14LQ019

DECISION ON RECONSIDERATION

On April 10, 2014, the East Providence City Council acting in its capacity as the East Providence Board of Licensing (“Board”) imposed a 30 day suspension of DL Enterprises d/b/a East Bay Tavern’s (“Appellant”) Class B liquor license (“License”). Pursuant to R.I. Gen. Laws § 3-7-21, the Appellant appealed this decision by the Board to the Director of the Department of Business Regulation (“Department”). A decision on this appeal was issued by the Department on May 23, 2014 reducing the 30 day suspension to five (5) days to be served on 31st day after said decision. The parties agree the suspension is due to begin on June 22, 2104.

On or about June 19, 2104, the Department received the Appellant’s motion for reconsideration¹ requesting that the Appellant be given credit for two (2) days already served by

¹ Section 19 of *Central Management Regulation 2 – Rules of Practice and Procedure in Administrative Hearings Before the Department of Business Regulation* (“CMR2”) which provides as follows:

At any time after the issuance of a final order of the Director any Party may, for good cause shown, by motion petition the Director to reconsider the final order. The petitioner shall file his/her motion within twenty (20) days of the issuance of the final order and shall set forth the grounds upon which he/she relies. The Director may grant the motion for reconsideration within his/her discretion and shall order such relief as he/she deems appropriate under the circumstances.

The Department shall not entertain a motion for reconsideration filed more than twenty (20) days after entry of the final decision, unless the Hearing Officer finds good cause to entertain such motion.

Appellant after the Board's initial imposition of the 30 day suspension. Thus, the Appellant moves that the decision be amended to reflect that two (2) days suspension has been served so that the Appellant only needs its License to be further suspended for three (3) days to meet the five (5) day suspension.

The City objected to the motion for reconsideration and argued that it is not the fault of the City or Department if the Appellant was closed while filing its appeal. The City took the position that even if the Appellant had been closed for two (2) days that was no reason to reduce the five (5) day suspension.

The Department has jurisdiction over this matter pursuant to R.I. Gen. Laws § 3-2-1 *et seq.*, R.I. Gen. Laws § 3-5-1 *et seq.*, R.I. Gen. Laws § 3-7-1 *et seq.*, R. I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

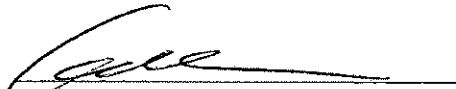
The undersigned was delegated by the Director to rule on the appeal and to make a recommendation to the Director.

It should be noted that under the Department rules that the Appellant's motion is out of time. The Department will consider giving credit for time served in issuing suspensions and has done so. However, the issue of time served was not raised at hearing. The days alleged to be served have not been confirmed by testimony or evidence.

Based on the forgoing, the undersigned recommends as follows:

That the five (5) day suspension be served in its entirety beginning this Sunday, June 22, 2014.

Dated: 6/20/14

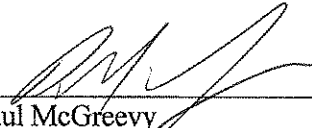

Catherine R. Warren
Hearing Officer

ORDER

I have read the Hearing Officer's Order and Recommendation in this matter, and I hereby take the following action with regard to the Order and Recommendation:

ADOPT
 REJECT
 MODIFY

Dated: 20 June 2014



Paul McGreevy
Director

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

I hereby certify on this 20th day of June, 2014, that a copy of the within Order was sent by first class mail, postage prepaid to William Maaia, Esquire, Law Offices of William C. Maaia & Associates, 349 Warren Avenue, East Providence, RI 02914
wcm@maaiaw.com and

Robert E. Craven, Esquire, City of East Providence, Assistant Solicitor, 7405 Post Road, North Kingston, RI 02852
bob@robertcraven.com and

by hand-delivery to Maria D'Alessandro, Deputy Director, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Building 68, Cranston, Rhode Island.

