

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

D’Liakos, Inc. d/b/a Monet	:	
Appellant,	:	
	:	
v.	:	DBR No.12LQ102
	:	
The City of Providence Board of Licenses,	:	
Appellee.	:	

DECISION AND ORDER

I. MATERIAL FACTS AND TRAVEL

Following a Show Cause hearing held on August 29, 2012, the City of Providence Board of Licensing (“Board”) issued a decision on September 10, 2012 revoking “all licenses issued to this Licensee,” D’Liakos, Inc. d/b/a Monet (“Appellant”). Board Decision at 5. The Appellant appealed the liquor license revocation decision to the Department of Business Regulation (“Department”). Following a *de novo* hearing, the Department issued a Decision and Order on November 7, 2012, *D’Liakos, Inc. d/b/a Monet v. The City of Providence Board of Licenses*, DBR No. 12LQ088 (referred to throughout the remainder of this decision and order as “Monet I”), reinstating the Appellant’s liquor license, as it stood prior to revocation, subject to the following additional conditions:

1. “Two (2) private security personnel shall be posted in the parking lot in shifts starting fifteen (15) minutes prior to scheduled closing and ending when all patron vehicles have left the parking lot.

2. The security personnel shall wear uniforms clearly bearing the term "Security."
3. Floodlights shall be used to illuminate the parking lot across the street to provide adequate lighting for security purposes.
4. Conditions 1 -3 shall be applicable to nights on which the establishment is operating, not closed. Conditions 1 -3 shall not be applicable to a "private function." "Private function" shall be defined as the paid privilege to exclusive use of the facility to entertain no more than 150 invited guests, *i.e.* a wedding reception, office holiday party, etc."¹

On November 8, 2012, the Board convened "an emergency hearing to consider the Monet I Order which provides for the reinstatement of the liquor license for D'Liakos, Inc., d/b/a Monet with certain conditions as outlined therein." Board Transcript at 2 (admitted into evidence pursuant to R.I. Gen. Laws § 3-7-21(c)). "At that time, the Board [heard] from the Providence Police Department [through testimony of Major Verdi and Commissioner Pare] to consider what other conditions may be necessary to ensure the safety of the public as well as patrons and employee[s] of the club." Id. at 3. At the close of the hearing, the Board made an oral decision mandating a security detail consisting of "three police and a supervisor" at the Appellant's establishment. Id. at 19. The Board also decided to require the Appellant to "reapply for an entertainment license" as well as for its food license, holiday sales license, and valet license. Id. at 11-13.

The Appellant filed a timely appeal of the Board's decision with the Department, to appeal the order that the Appellant "re-apply for its entertainment license" and alleging that "a proper hearing should have been held" prior to imposing the new police detail requirement.² This matter came before the undersigned in his capacity as Hearing Officer sitting as the designee of the Director of the Department of Business Regulation ("Department"). In addition to receiving the Board Transcript into evidence, on

¹ The Board has "instructed the City Solicitor's Office to file an appeal of DBR's decision in order to seek a stay of that decision in the Superior Court." Board Transcript at 10-11.

² D'Liakos Inc.'s Modified Appeal of Actions Taken by the Board at an Emergency Hearing on November 8, 2012 at 2.

November 15, 2012, the undersigned heard oral arguments from counsel for the Appellant as well as the brief testimony of Major Verdi.

II. ISSUES

1. Does the Department have jurisdiction over the Appellant's appeal?
2. Should the Department uphold the Board's decision?

III. JURISDICTION

The Department has jurisdiction to hear appeals of the Board's liquor licensing decisions, subject to relevant provisions of the Rhode Island Administrative Procedures Act, § 42-35-1 *et seq.* Under R.I. Gen. Laws § 3-7-21(a), "the director has the right to review the decision of any local board" "upon the application of any petitioner for a license, or of any person authorized to protest against the granting of a license...or upon the application of any licensee whose license has been revoked or suspended by any local board or authority." Moreover, as the state's "superlicensing authority,"³ the Department has the power of "general supervision of the conduct of the business of...selling beverages." R.I. Gen. Laws § 3-2-2(a). The Department's "powers to take independent action...is also found in G.L.1956 §§ 3-2-2 and 3-5-20, which grant the [Department] general jurisdiction to supervise and enact rules for local boards." *City of Providence Bd. of Licenses v. State of Rhode Island Dept.*, 2006 WL 1073419 (R.I. Super., 2006) (emphasis supplied).⁴ Accordingly, the Department has jurisdiction to review the Board's liquor licensing decision to change the Appellant's license conditions.

³ *Messier v. Daneker*, 81 R.I. 243, 246 (R.I. 1954).

⁴ *See also* § 3-5-21 ("a licensee is subject to [discipline]...by the department...on its own motion, for breach by the holder of the license of the conditions on which it was issued or for violation by the holder of the license of any rule or regulation applicable, or for breach of any provisions of this section.")

The Department lacks jurisdiction over the Board's decision to revoke Appellant's entertainment license or Board's decision to require the Appellant to re-apply for its entertainment license, however. The Department's jurisdiction clearly refers to liquor licenses issued under Title 3 ("Alcoholic Beverages"). *Chernov Enterprises, Inc. v. Scuncio*, 107 R.I. 439, 440 268 A.2d 424, 425 (R.I., 1970) ("Title 3 is the legislation which pertains to alcoholic beverages.") R.I. Gen. Laws § 3-7-7.3 does not confer jurisdiction in the instant case. That section deals exclusively with restrictions on entertainment imposed on Class B licensees as *liquor license conditions*. It is without application to the issuance of a *separate entertainment license* under R.I. General Laws § 5-22-1 *et seq.* ("city councils may license, regulate, and in those cases specifically set forth in 5-22-5, may prohibit and suppress ... shows and performances in their respective towns, conforming to law.")⁵ A licensing authority's decision to revoke, deny, or otherwise take action on a separate entertainment license under § 5-22-5 is not appealable to the Department. *See* R.I. Gen. Laws § 42-14-1 (listing the chapters with which the Department is charged with enforcing to the exclusion of chapter 5-22). Rather, it would appear that the proper venue for appealing the revocation or denial of an entertainment license is by writ of certiorari to the Rhode Island Supreme Court.^{6, 7}

⁵ *See El Nido, Inc. v. Goldstein*, 626 A.2d 239 (R.I., 1993) ("a class-B retailer's license and a victualing-house license confer two distinct privileges on a single licensee").

⁶ *See, e.g., Gimmicks, Inc. v. Dettore*, 612 A.2d 655, 656 (R.I., 1992) ("This matter comes before the Supreme Court on the plaintiff's petition for certiorari to review the decision of the Providence Board of Licenses that denied the plaintiff's application for an out-door-entertainment license.") *See also Cadillac Lounge, LLC v. City of Providence*, 763 A.2d 993 (R.I., 2001); *Cadillac Lounge, LLC v. City of Providence*, 913 A.2d 1039 (R.I., 2007); *Phelps v. Bay St. Realty Corp.*, 425 A.2d 1236, 1239 (R.I., 1981). In contrast, the Board's decision to revoke, deny, or take action on a liquor license on the grounds of entertainment concerns or violations is appealable to the Department, and then to the Superior Court. *See, e.g., Case Dimario, Inc. v. Rhode Island Dept. of Business Regulation*, 2004 WL 1542069 (R.I. Super., 2004).

⁷ It appears from the record that the Board contemplated the distinction between jurisdiction over appeals of liquor and entertainment licenses at the Emergency Hearing: "[I]t's adequate to ask them to reapply for entertainment because the entertainment controls the appellancy is not controlled by DBR, but it's

IV. DISCUSSION

The Department has the broad authority to “confirm or reverse the decision of the local board in whole or in part, and to make any decision or order he or she considers proper” under R.I. Gen. Laws § 3-7-21(a). Although the standard of review of the board’s decision is not explicitly delineated by statute, judicial interpretation of § 3-7-21 in light of the legislative intent to vest the Department with broad discretion as a “superlicensing authority,” imposes a “de novo” review standard. *Hallene v. Smith*, 98 R.I. 360, 363 (R.I., 1964). When the appeal “transfer[s] or remove[s] a cause from the jurisdiction of a local board to that of the state tribunal,” the Department exercises its independent judgment. *Id.* at 365.

On appeal, the Appellant argues that the Board did not hold a “proper hearing” before it changed the Board’s police detail requirement that existed at the time the Board revoked Appellant’s license in August (which such liquor license was reinstated by virtue of Monet I). At the outset, it should be highlighted that nothing in Monet I could be construed as limiting the Board’s power to impose additional conditions to address public safety. Upon review of the transcript of the Board’s hearing, it is evident that the Board misunderstood Monet I.⁸ There is absolutely no language in the Department decision that removed the pre-existing police detail requirements upon reinstatement of the liquor license. Reinstatement of Monet's license logically includes all rights, privileges, and

controlled by this Board and then the Supreme Court.” Testimony of Chairman Annaldo, Board Transcript at 16. The Appellant makes a compelling argument that the Board’s decision to require re-application for an entertainment license is an “end-run” around the Department’s authority to reinstate the liquor license because a nightclub establishment cannot operate without the related, yet distinct, entertainment license, rendering the practical effect of the Department’s decision null and void. However, this argument does not confer jurisdiction on the Department where jurisdiction is statutorily lacking.

⁸ “[I]f you're asking me is the [police] Department comfortable with private security replacing Providence Police Officers as security in charge of security down at that establishment, the answer's unequivocally no.” Testimony of Major Verdi, Board Transcript at 7.

conditions imposed by law or lawfully imposed by the Board at the time the license was revoked by the Board in August. As clearly reflected in Monet I, the conditions imposed by the Department were to address the "disorderly" issues that occurred in the parking lot across the street from the club and are in addition to, not to the exclusion of, any pre-existing conditions.

Immediately prior to the Board's revocation decision, the Appellant was subject to the condition of two detail police officers assigned to the premises on Friday and Saturday nights.⁹ No additional hearing was necessary to validate the continued operation of this pre-existing condition.

The Appellant is not disputing the Board's authority to change the number of detail officers.¹⁰ The Board's authority to impose conditions was clearly delineated by the Rhode Island Supreme Court in *Thompson v. East Greenwich*, 512 A.2d 837 (R.I., 1986). The Superior Court has recognized the validity of a condition requiring a liquor licensee to "hire and pay for a policeman at the establishment four hours per night, seven nights a week." *Musone v. Pawtucket Bd. Of License Com'rs*, 1984 WL 560365 at 3 (R.I. Super., 1984)(discussing *Joseph Roderick, d/b/a JJ'S Pub v. Board of License Commissioners, Town of Bristol, and Louis H. Pastore, Jr., Liquor Control*

⁹ In a settlement agreement addressing an alleged incident on April 26, 2012, the Board and the Appellant agreed to the designation of "three police detail every Friday and Saturday beginning May 12, 2012," "reduced to 2 police detail as of May 31st." See Appellant's Violation History dated September 11, 2012. The undersigned took administrative notice of this document pursuant to Central Management Regulation 2 (Rules of Procedure for Administrative Hearings), 14C. Neither party objected to the inclusion of this document when it was admitted into the administrative record in Monet I.

¹⁰ D'Liakos Inc.'s Modified Appeal of Actions Taken by the Board at an Emergency Hearing on November 8, 2012 at 2.

Administrator, C.A. No. 79-4132). Under certain circumstances, “police presence, particularly on weekend evenings, would deter problems.” *Musone*, *id.*¹¹

In order to exercise its authority to increase the police detail requirement from two officers to three patrolman and a supervisor (*e.g.* sergeant), the Board must take one of three courses: (1) do so pursuant to a neutral and generally applicable ordinance, (2) provide the Appellant with the opportunity for a “meaningful hearing” on the imposition of the requirement, or (3) reach a settlement agreement with the Appellant stipulating to certain conditions.

It should be noted that the Department’s Hearing Officer met with counsel for both parties subsequent to the close of the appeal in *Monet I* and strongly suggested the parties consider negotiating or mediating a settlement agreement.¹² “Mediation with the assistance of a skilled facilitator gives parties an opportunity to explore a much wider range of options, including those that go beyond conventional zero-sum resolutions.” *In re Atlantic Pipe Corp.*, 304 F.3d 135, 140, 145 (1st Cir. 2002). Had the Board discussed the condition of increasing the number of detail officers with the Appellant, and any other safety precautions, a resolution to the satisfaction of both parties may have been reached in the first instance. Such negotiations would have involved the Providence Police Department earlier in the process. Though the Police Department “ha[s] some severe concerns about security at *Monet*,” Commissioner Pare stated that the Police Department

¹¹ See also *Seveney v. Town of Bristol Town Council*, 2006 WL 1892863 at 6 (R.I.Super., 2006) (“[L]ocal bars and restaurants that serve alcohol are a significant factor at the genesis of the ‘drunken hooliganism’ that the Town...is trying to prevent in the future...It is reasonable to conclude that by placing police officers at these establishments, potential problems can be identified and diffused before they threaten the safety of the public...Not only does the mere presence of police officers cause people to consider their actions more carefully, the officers are able to respond much more quickly to situations that endanger the public safety.”)(internal citations omitted).

¹² See *Monet I*, footnote 3.

is “willing to work with the Board and the Club to make sure it's a safe environment.”
Board Transcript at 10.

Instead of participating in constructive mediation or negotiation, the Board took the unusual step of holding a formal public meeting in which it rejected the Department’s suggestion. During the Monet I proceedings, neither the Board nor the Appellant presented the Department with any evidence or argument as to alternative license conditions that would appropriately respond to the incidents in the parking lot of the establishment.¹³ Accordingly, the Department proceeded to issue Monet I to exercise its broad discretion “to make any decision or order he or she considers proper” to address the “disorderly issues” arising in the parking lot used by Monet patron’s that is located across the street from Monet’s establishment. R.I. Gen. Laws § 3-7-21(a). The Department’s imposition of the condition of additional private security in the parking lot is completely consistent with the determination of the Providence Police Department that “[p]rivate security... can supplement...[and] assist” Providence Police officers who have the “institutional knowledge,” “familiar[ity] with the criminal element” and “experience in dealing with certain situations” that was never questioned by the Department.¹⁴

As an alternative course of action, the Board has the option to act through a duly promulgated ordinance and/or resolution that sets forth neutral guidelines for placement of detail officers at Providence establishments. In *Seveney v. Town of Bristol Town Council*, the Rhode Island Superior Court discussed the validity of police detail rules in an action for declaratory judgment. 2006 WL 1892863 (R.I.Super., 2006). The rules

¹³ Though counsel raised the Appellant’s willingness to eliminate Hip Hop night as a condition of reinstatement, the lack of distinguishing details between Hip Hop Night, International Night, and College Night prevented the undersigned from drafting an enforceable license condition to that effect. See Monet I, footnote 67.

¹⁴ Testimony of Major Verdi, Board Transcript at 7.

were upheld because the ordinance “sufficiently articulate[d] [the] legislative purpose-to protect the health, safety and welfare of the public” and the “Resolution provides adequate guidelines for the Chief of Police to effectuate the purpose of the Ordinance while protecting against potential administrative abuse.” Specifically, “[t]he Resolution set[] forth that the Police Chief should assign one officer for every 30 patrons pursuant to capacity, at least one officer to each door used as a means of ingress/egress, and a minimum of two officers at any establishment. Additionally, the Resolution guard[ed] against abuse of the system by affording bar owners the opportunity to appeal to the Town Council when they disagree with the Chief of Police's recommendation and, also, by providing that the Town Council must approve the contracted rate for the officers each year.” Id.

The third way that the Board can lawfully change the police detail requirement is by deciding to do so as a condition on the Appellant’s liquor license, but only after providing an adequate hearing. There are three sources of law that each independently support the Department’s finding that the hearing was procedurally defective: (1) the Providence Code of Ordinances and Home Rule Charter¹⁵ (2) the Administrative Procedures Act and the case law applying the Act to municipal licensing decisions, and (3) the due process clause under the state and federal constitutions.¹⁶

First, under Providence Code of Ordinances Sec. 18½-1, the Providence Commissioner of Public Safety is authorized to “review and decide upon the necessity

¹⁵ Providence’s charter and ordinance are accessible at www.municode.com

¹⁶ “Often the agency, its administrative judges or officials must confront constitutional questions,” “giving the court the benefit of the agency's reasoning.” 4 Admin. L. & Prac. § 11:11 (3d ed.) “Nonetheless courts have dominant authority over constitutional questions” and are “free to conduct *de novo* review of an administrative resolution of a constitutional issue.” Id.

of police detail officers.” However, “[p]rior to any order by the commissioner, he or she shall notify the owner/operator of the premises under review of the same and shall offer the owner-operator an opportunity to present any evidence which he or she believes to affect the commissioner's decision.” Id., 18½-1(d).

In the instant case, Commissioner Pare’s determination was incorporated as a condition in the Board of Licensing’s decision on the liquor license. However, the Board failed to provide notice and an opportunity for a hearing in violation of the cited ordinance. Counsel for the Appellant represented to the undersigned that the Board did not provide notice of the Emergency Hearing; rather, the Appellant apparently came to know of it from a media source. Neither did the Board give the Appellant a meaningful opportunity to present evidence to the Board. Even if the Board gave permission to do so, it would not be a meaningful opportunity to do so without adequate notice to enable the Appellant, through counsel, to prepare such evidence.

The Board holds Emergency Hearings pursuant to its authority under the Providence Home Rule Charter Section 1101(b)(3). *See* Appellee’s Memorandum of Law in Support of Its Objection to Appellant’s Motion for Stay, submitted in the matter of Monet I. The Charter requires a follow-up hearing for which the Appellant has been given “at least three (3) days' written notice of the action proposed to be taken and of the grounds therefor and the time and place of the hearing” in order for the Board to enforce permanent closure or suspension longer than seventy-two (72) hours. While this provision does not explicitly apply to decisions regarding imposition of new license conditions, it represents a policy determination that three (3) days' written notice is

reasonable in the context of final liquor licensing decisions following “emergency” orders.¹⁷

The second supporting source of law is found in *Gimmicks, Inc. v. Dettore*, a case in which the Rhode Island Supreme Court held that the lawful procedure necessary to support a local licensing decision is a “full and fair hearing as required under the Administrative Procedures Act, G.L.1956 (1988 Reenactment) §§ 42-35-9 through 42-35-14.” 612 A.2d 655, 660 (R.I., 1992).¹⁸ See Board of Licenses FAQs (online)(“The Board is governed by the State Administrative Procedures Act.”).¹⁹ The “full and fair hearing” requirement is satisfied when the party whose license is at issue is given the opportunity to be “represented by legal counsel,” “to subpoena witnesses and documents,” “to present witnesses,” to “conduct cross-examination of the [opposing] witnesses,” “to object to the admission of evidence,” and “to make a closing argument.” Id. In the instant case, though the Appellant was represented by counsel who presented a closing argument,²⁰ the Appellant was not afforded the opportunity to present witnesses on its own behalf or to cross-examine opposing witnesses.

¹⁷ The Board apparently determined that the Department’s reinstatement order was an “emergency” precipitating the Emergency Hearing. The validity of that determination is not essential to outcome of this appeal, however.

¹⁸ Though *Gimmicks* deals with a hearing required to support a decision to deny an entertainment license, the principles articulated therein are as equally applicable to the hearing required in the instant case. Like hearings denying, granting, or revoking a license to do business, hearings that change conditions substantively alter a party’s rights and responsibilities in the conduct of its business.

¹⁹ <http://www.providenceri.com/license/faqs>

²⁰ Counsel for Appellant made the following argument: “Mr. Chairman, you made the recommendation to appeal, and that is the next step. And with all due respect to you and the Board, you just in open public held a Emergency Hearing for absolutely nothing, zero, nothing. You didn't need to do it. The next step is the appeal. There's 30 days to appeal. My client could open if he wanted to, pending the appeal. He is not going to do that. Instead the Board decided to grandstand in the public, because that's what I'm going to call it; and ask the Major without notifying us whether or not we wanted to bring in any experts. Because what you're doing is soliciting expert testimony because there's no question he's an expert in the field. And you held an impromptu hearing for some reason when the DBR has made a determination. They have overruled your Board. I take great umbrage in what this Board just did.” Board Transcript at 13-14.

Finally, the Rhode Island Supreme Court has specifically stated that a liquor licensee has “a property interest in its business and its continuation which entitles it to the benefits of due process.” *28 Prospect Hill St., Inc. v. Gaines*, 461 A.2d 923, 925 (R.I., 1983)(citing *Tillinghast v. Town of Glocester* 456 A.2d 781 (R.I., 1983)). See also *S & S Liquor Mart, Inc. v. Pastore*, 497 A.2d 729, 736 (R.I., 1985); *Burton v. Lefebvre*, 72 R.I. 478, 53 A.2d 456 (1947). Due process requires the Board to give the Appellant adequate notice of “any hearing concerning its continued retention of a license.” *28 Prospect Hill St., id.* The notice must contain “reasonable particularity of the charges it will be called upon to meet.” *Id.* Furthermore, “[i]t is well established that due process...requires the opportunity to be heard at a meaningful time and in a meaningful manner.” *Millett v. Hoisting Engineers' Licensing Division*, 119 R.I. 285, 296 (1977). At a minimum, the Appellant should have the right “to confront or cross-examine adverse witnesses;” denial of that right is “fatal to the constitutional adequacy of the procedures.” *Goldberg v. Kelly*, 397 U.S. 254, 268, 90 S. Ct. 1011, 1021, 25 L. Ed. 2d 287 (1970)(discussing procedural due process under the federal Constitution).

Remand is an appropriate remedy where the Board fails to satisfy procedural requirements before rendering its decision. *Cousins Tavern, Inc. v. Emin*, 1988 WL 1017284, FN 3 (R.I. Super., 1988). (“In finding that due process requirements do [apply] and that said requirements were not met in the instant action, it would appear that the [Department] should have remanded the issue.”) Past department precedent supports remand to cure procedural defects.²¹ For example, in *JD/Hallmark Properties v. City of Providence, Board of Licensing*, the Department remanded the grant of a liquor license

²¹ Remand is not strictly required, however. The Department has great discretion to render an independent *de novo* decision that is “unaffected by any error inhering in the exercise of the licensing function by a local board acting within its territorial jurisdiction.” *Cesaroni v. Smith*, 98 R.I. 377, 379-380 (R.I., 1964)

transfer application back to the Board where it was alleged that the Board failed to comply with the procedural requirement of providing notice to potential objectors pursuant to R.I. Gen. Laws § 3-5-17, § 3-5-16.6, and Commercial Licensing Regulation 8, Rule 3. The Department explained that without compliance with procedural requirements, “the Board’s hearing was incomplete and its decision to grant the transfer was premature;” however, the procedural defect could be “remedied by remanding the matter back to the Board.”²²

V. Findings of Fact

1. Sections I-IV of this decision and order are incorporated herein as findings of fact.

VI. Conclusions of Law

1. The Department has jurisdiction over the Board’s decision to change license conditions, but not to review the separate entertainment license. R.I. Gen. Laws § 3-7-21, § 3-5-21, and § 3-2-2.
2. The Appellant is entitled to a hearing before the Board changes the police detail requirement that existed at the time the Board revoked Appellant’s liquor license in August (such pre-existing conditions were reinstated by the issuance of Monet I). At said hearing, the Appellant is entitled to be represented by legal counsel, to subpoena witnesses and documents, to present witnesses, to conduct cross-examination of the [opposing] witnesses, to object to the admission of evidence, to make a closing argument, and a minimum of three (3) days written notice setting forth the reasons for the hearing with reasonable particularity.

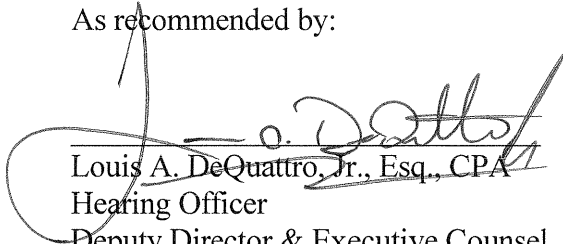
²² Citation to this case is by analogy only; the requirements of notice to potential objectors do not apply to a hearing to determine conditions upon reinstatement, but only to hearings on new and transfer applications.

VII. Recommendation

It is recommended that the Appellant's claim regarding the entertainment license be dismissed. It is also recommended that the Board's decision to increase the police detail requirement be remanded to the Board for a hearing in which the Appellant is given the rights to be represented by legal counsel, to subpoena witnesses and documents, to present witnesses, to conduct cross-examination of the opposing witnesses, to object to the admission of evidence, to make a closing argument, and is provided with a minimum of three (3) days written notice setting forth the reasons for the hearing with reasonable particularity. It is further recommended that the Board clarify the allocation of the cost of any detail condition it imposes at said hearing and the placement of any detail officer with respect to the parking lot. The Board's decision on remand may be appealed to the Department.

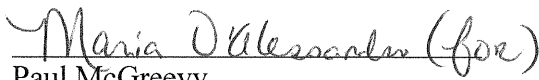
As recommended by:

Date: 11/20/12


Louis A. DeQuattro, Jr., Esq., CPA
Hearing Officer
Deputy Director & Executive Counsel

I have read the Hearing Officer's recommendation and I hereby (circle one) adopt, reject or modify the recommendation of the Hearing Officer in the above-entitled Decision and Order of Remand.

Date: 11/20/12


Paul McGreevy
Director

Entered as an Administrative Order No.: 12-063 this 20th day of November, 2012.

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.

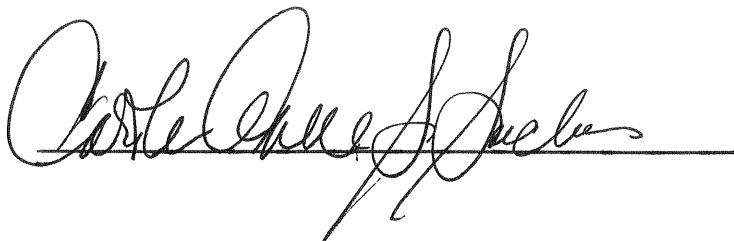
CERTIFICATION

I hereby certify on this 20th day of November, 2012 that a copy of the within Order and Notice of Appellate Rights was sent by e-mail and first class mail, postage prepaid to -

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and by email to Maria D'Alessandro, Deputy Director, Securities, Commercial Licensing and Racing & Athletics

A handwritten signature in black ink, appearing to read "Sergio Spaziano", is written over a horizontal line.