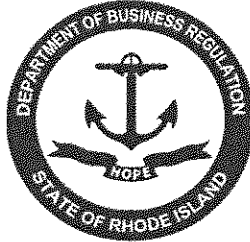


STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
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BULLETIN CL-LC-2015-1

LIQUOR LICENSE APPEAL NOTICE AND STANDARD OF REVIEW

Public Notice of Liquor License Appeal Hearings

The Department of Business Regulation (“Department”) periodically hears appeals from the decisions of local liquor licensing authorities pursuant to R.I. Gen. Laws § 3-7-21. Although the municipalities are required to provide notice by newspaper and by mail to owners of property within 200 feet of a proposed establishment for new liquor license application proceedings pursuant to R.I. Gen. Laws § 3-5-17, there is no legal requirement on the Department to do so for any liquor license appeals.

However, the Department is adopting a policy that the Department will notify interested parties of liquor license appeals by posting notice on its website at <http://www.dbr.state.ri.us/divisions/commlicensing/liquor.php>. The Department recognizes that local citizens have a considerable interest in the legal proceedings surrounding liquor establishments in their neighborhood and would benefit from advanced notice of such proceedings.

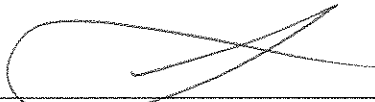
The Department will strive to provide at least forty-eight (48) hours of notice of hearing on appeals filed pursuant to R.I. Gen. Laws § 3-7-21. For emergency stay hearings, the Department will strive to post notice as soon as practicable.

Please note that it will be in the sole discretion of the Hearing Officer whether any person attending the hearing will be allowed to provide testimony or public comment. Please also note, that due to space constraints, the Department cannot guarantee access into the hearing room. If any reasonable accommodation is needed to ensure equal access, service or participation, please contact the Department at 401-462-9551 or email directorofficeinquiry@dbr.ri.gov.

Standard of Review for Liquor Appeal Hearings

Judicial interpretation of R.I. Gen. Laws § 3-7-21, in light of the legislative intent to vest the Department with broad discretion as a “superlicensing authority,” gives the Department the power of “de novo” review. *Hallene v. Smith*, 98 R.I. 360, 363 (R.I., 1964). However, the “DBR can conduct appellate review of the decision of the local board and is not limited solely to de novo review”. *Jake & Ella's, Inc. v. Dep't of Bus. Regulation*, 2002 WL 977812 (R.I. Super., 2002). “[T]he discretion given to the DBR goes as far as to vest the hearing officer with the authority to review the local board partially de novo and partially appellate if he/she sees fit.” *Id.* “[T]he Department, often less familiar than the local board with the individuals and/or neighborhoods associated with the application, will generally hesitate to substitute its opinion on neighborhood and security concerns if there is evidence in the record justifying these concerns.” *Krikor S. Dulgarian Trust v. Providence Board of Licenses*, DBR No. 10-L-0143 (6/14/11) at 6 (quoting *Chapman Street Realty, Inc. v. Providence Board of License Commissioners*, DBR No. LCA-PR-99-26 (4/5/01), at 10).

This rationale supports applying a deferential standard of review to appeals of liquor license application decisions and disciplinary actions. Therefore, the Department will be applying a deferential standard of review to all liquor license appeals from municipal licensing boards.¹ The Department’s role is to provide a fair, transparent and level playing field for businesses and municipalities and that includes having a high threshold for the reversal of decisions made by local licensing boards.



Macky McCleary,
Director

Dated 5/28/15

¹ This policy statement does not affect the Department’s *sua sponte* authority to prosecute liquor license violations even if a municipality elected not to take action on those violations. R.I. Gen. Laws § 3-5-21(a) provides that “[e]very license is subject to revocation or suspension and a licensee is subject to fine by the board, body or official issuing the license, or by the department or by the division of taxation, 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.” For example, the Department has prosecuted several underage drinking cases *sua sponte* where the municipality did not elect to take action on the liquor license.