

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
PASTORE COMPLEX  
1511 PONTIAC AVENUE  
CRANSTON, RHODE ISLAND

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Gulliver's Tavern, Inc. d/b/a Foxy Lady,  
Appellant,

v.

City of Providence, Board of Licenses,  
Appellee.

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DBR No.: 18LQ028

**THIRD ORDER ON MOTION FOR STAY**

This matter arose from a motion for stay filed on December 20, 2018 by Gulliver's Tavern, Inc. d/b/a Foxy Lady ("Appellant") with the Department of Business Regulation ("Department") pursuant to R.I. Gen. Laws § 3-7-21 regarding the decision taken on December 19, 2018 by the City of Providence, Board of Licenses ("Board") to revoke its Class BVX liquor license and Class N (nightclub) liquor licenses.<sup>1</sup> A hearing on the motion to stay was heard on December 21, 2018 before the undersigned who was delegated to hear this matter by the Director of the Department. The Department has jurisdiction over this matter pursuant to 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.* An order was issued on December 24, 2018 in relation to the Appellant's Class N license granting a conditional stay.

The Appellant holds a B liquor license as well as a BX (extended hours) which is conditioned on a victualing license. The Board revoked the Appellant's victualing license. By order of the Rhode Island Supreme Court dated December 21, 2018, the Court did not grant a stay

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<sup>1</sup> At the Board hearing, the Board also revoked the Appellant's other City licenses, but the Department does not have jurisdiction over those licenses. Appeals to the Department can only relate to the liquor license held by the Appellant. See *El Nido v. Goldstein*, 626 A.2d 239 (R.I. 1993) (victualing license is a separate and distinct license from a liquor license).

of that revocation. The Department's December 24, 2018 stay order only addressed the Class N license.

The Rhode Island Supreme Court by order dated January 3, 2019 entered a stay of the revocation of the victualing license.<sup>2</sup> The Appellant requested that the Department amend its initial stay order to which the City did not object. The Department issued a second order of stay on January 4, 2019 addressing the Class BVX license. This order incorporates by reference the December 24, 2018 and the January 4, 2019 stay orders.

A condition of both stay orders was that the Appellant maintain a police detail on Friday and Saturday nights as well as any openings on the night before a State holiday.

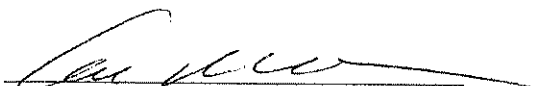
On January 7, 2019, the parties informed the undersigned that due to an issue regarding its ability to obtain a police detail on the required nights that they have agreed to a proposed modification of the police detail condition and requested that the Department modify its stay order to reflect this proposed modification. The parties have agreed that the Appellant must provide additional private security with its own personnel, in the same strength and for the same time period as would have been provided by the police detail.

Based on the foregoing, the condition of the stay to maintain a police detail on Friday and Saturday nights as well as any openings on the night before a State holiday is modified so that instead of a police detail, the Appellant must provide additional private security with its own personnel, in the same strength and for the same time period as would have been provided by the police detail.

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<sup>2</sup> The Rhode Island Supreme Court has held that when a town council acts in a quasi-judicial manner and does not provide for a right of appeal, the proper avenue for appeal is *writ of certiorari* to the Rhode Island Supreme Court. *Cullen v. Town Council of Town of Lincoln*, 893 A.2d 239 (R.I. 2000); and *Eastern Scrap Services, Inc. v. Harty*, 341 A.2d 718 (R.I. 1975).

Dated: 1/8/19

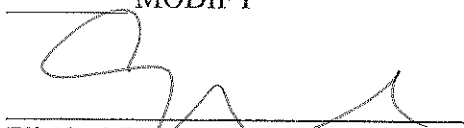
  
Catherine R. Warren  
Hearing Officer

**INTERIM ORDER**

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

ADOPT  
 REJECT  
 MODIFY

Dated: 1/8/19

  
Elizabeth Tanner, Esquire  
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 8<sup>th</sup> day of January, 2019 that a copy of the within Order was sent by email and first class mail, postage prepaid, to the following: Fausto Anguilla, Esquire, 56 Pine Street, Suite 200, Providence, R.I. 02903, James J. Lepore, Esquire, Coia & Lepore, Ltd., 226 South Main Street, Providence, R.I. 02903, Mario Martone, Esquire, City of Providence Law Department, 444 Westminster Street, Suite 220, Providence, R.I. 02903, and Louis A. DeSimone, Jr., Esquire, 703 West Shore Road, Warwick, R.I. 02889 and by electronic delivery to Anthony Traini, Esquire at amt@atrainilaw.com, George Santopietro, Esquire, at gsantopi@coialepore.com, a coloianlaw@gmail.com; drobinson@dgrlaw.necoxmail.com by hand-delivery to Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I. 02920.

