

**STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RHODE ISLAND**

FabCity Cigar Lounge, Inc. d/b/a	:	
FabCity Cigar Lounge,	:	
Appellant,	:	
	:	DBR No. 22LQ005
v.	:	
	:	
Board of License Commissioners for the	:	
City of Pawtucket,	:	
Appellee.	:	

ORDER RE: MOTION TO MODIFY STAY ORDER

I. INTRODUCTION

This matter arose from a motion for stay and appeal filed on February 10, 2022 by FabCity Cigar Lounge, Inc. d/b/a FabCity Cigar Lounge (“Appellant”) with the Department of Business Regulation (“Department”) pursuant to R.I. Gen. Laws § 3-7-21 regarding the February 9, 2022 decision by the City of Pawtucket, Board of License Commissioners (“Board”) to revoke the Appellant’s Class BV liquor license (“License”). The Board objected to the motion for stay. A conditional stay was issued on February 22, 2022. On March 15, 2022, the Appellant filed a motion to modify the conditional stay order to which the Board objected. On March 24, 2022, the Department issued a second stay order modifying the first order. The February 22 and March 24, 2022 stay orders are incorporated by reference to this order. On May 13, 2022, the Appellant filed a motion to modify the March 24, 2022 stay order to which the Board objected. A hearing on the

motion for stay was heard remotely on May 17, 2022 before the undersigned¹ with the parties represented by counsel.

II. JURISDICTION

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.*

III. MOTION TO MODIFY STAY ORDER

The Appellant requested that the stay order be modified to allow it to open to 1:00 a.m. every night except Sunday nights when it would continue to close at 11:00 p.m. and to keep the two-officer police detail for Friday and Saturday nights. It pointed out that the police detail is a four (4) hour detail so can be on from 9:30 p.m. to 1:30 a.m. so would be there for 30 minutes past closing. Currently, the Appellant is to close at midnight every night but Sunday when it is to close at 11:00 p.m. The Appellant represented that it has continued to lose money so that it will effectively be put out of business without the benefit of a hearing. See Appellant's motion with attached spreadsheet. It also argued that now that a full hearing has been held, it has shown that it is not a danger to the public. And it argued that since it reopened on March 21, 2022, there have been no incidences and it has complied with all orders.

At hearing, the Board represented that it supported the current *status quo* but if closing time was to change, it should only be to 1:00 a.m. on weekdays with a police detail.

IV. RECOMMENDATION

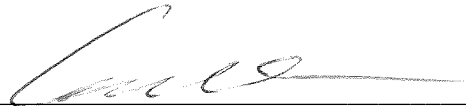
Since the March 24, 2022 second stay hearing, there has been a full hearing. While the matter has not yet been briefed, the undersigned has heard all the testimony and reviewed some (but not all yet) of the relevant surveillance videos. The main issue at hearing is the safety and

¹ Pursuant to a delegation of authority by the director of the Department. Due to the Covid19 pandemic, the hearing was held remotely.

security at closing and the security protocols upon exiting. This is a small venue (approximately 30 seats) with its busy nights being Friday and Saturday nights. Maintaining the police detail on Friday and Saturday nights addresses security concerns for the busy nights.

Based on the foregoing, it is recommended that the stay order be modified to allow a 1:00 a.m. closing every night but Sunday with a police detail (two-person) at night (approximately 9:30 p.m. to 1:30 a.m.) on Friday and Saturday nights and any night before a State holiday and on State holidays. The Appellant shall close at 11:00 p.m. on Sunday nights.

Dated: MARCH 19 2022

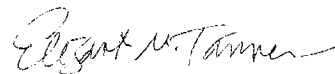

Catherine R. Warren
Hearing Officer

INTERIM ORDER

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

 X ADOPT
 REJECT
 MODIFY

Dated: 05/19/2022


Elizabeth M. Tanner, Esquire
Director

NOTICE OF APPELLATE RIGHTS

THIS ORDER CONSTITUTES AN INTERLOCUTORY ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-15. 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 19th day of May, 2022 that a copy of the within Order was sent by first class mail, postage prepaid and by electronic delivery to the following: Mark P. Welch, Esquire, 141 Power Road, Suite 106, Pawtucket, R.I. 02896, Christopher M. Mulhearn, Esquire, Law Offices of Christopher M. Mulhearn, 1300 Division Road, Suite 304, West Warwick, R.I. 02893 and Frank Milos, Esquire, City Solicitor, 137 Roosevelt Avenue, Pawtucket, R.I. 02860, and by electronic delivery to Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I. 02920.

Diane L. Paravisini
