

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

401 Nightlife, LLC d/b/a Pregame Lounge, Appellant, v.	:	
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	:	
	:	DBR No.: 22LQ006
	:	
City of Cranston, City Council, Safety Services Committee, Appellee.	:	
	:	

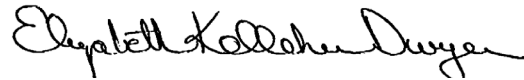
DIRECTOR’S DECISION

The Director modifies the Hearing Officer’s recommended decision with respect to the appeal by 401 Nightlife, LLC d/b/a Pregame Lounge (“Appellant”) of the City of Cranston, City Council, Safety Services Committee’s (“Board” or “City”) April 1, 2022, revocation of Appellant’s Class BV liquor license (“License”) as follows.

Sections I - VII of the Hearing Officer’s recommended decision attached hereto are hereby incorporated herein by reference. Based upon the evidence presented and findings of fact, the Hearing Officer found no violations concluding that the Appellant did not violate R.I. Gen. Laws § 3-5-23 and § 3-5-21 on March 28, 2022. Accordingly, Section VIII is modified by deleting the second sentence requiring Appellant to maintain the police detail.

Notwithstanding the foregoing, Appellant should be mindful of the testimony of its head of security of behavior he found strange and unusual on the night in question. In that connection, nothing herein precludes Appellant from proactively maintaining a police detail, additional

security personnel and improving security measures around early group departures, outside lingering or other occurrences that security personnel find concerning.



Dated: August 17, 2022

Elizabeth K. Dwyer
Interim 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 APPROPRIATE TERMS.

CERTIFICATION

I hereby certify on this **17th** day of August, 2022, that a copy of the within Decision and Order was sent by first class mail, postage prepaid, and by electronic delivery to the following: Nicholas Hemond, Esquire, DarrowEverett, LLP, 1 Turks Head Place, Suite 1200, Providence, RI 02903 nhemond@darroweverett.com and John Verdecchia, Esquire, City Solicitor, 400 Reservoir Avenue, Suite 1C, Cranston, RI 02920 john.verdecchia@verizon.net and by electronic-delivery to Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, RI 02920 pamela.toro@dbr.ri.gov.



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

401 Nightlife, LLC d/b/a Pregame Lounge, :
Appellant, :

v. :

DBR No. 22LQ006

City of Cranston, City Council, Safety :
Services Committee, :
Appellee. :

DECISION

I. INTRODUCTION

On April 1, 2022, the City of Cranston, City Council, Safety Services Committee (“Board” or “City”) revoked the Class BV liquor license (“License”) of 401 Nightlife, LLC d/b/a Pregame Lounge (“Appellant”). Pursuant to R.I. Gen. Laws § 3-7-21, the Appellant appealed the Board’s decision to the Director of the Department of Business Regulation (“Department”). The undersigned was designated by the Director of the Department to hear the appeal. The Appellant filed a motion to stay the revocation to which the Board objected. By order dated April 14, 2022, a conditional stay was issued. A hearing was held on May 18, 2022. The parties rested on the record and made oral arguments.¹

II. JURISDICTION

The Department has jurisdiction over this matter pursuant to R.I. Gen. § 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.*

¹ The undersigned received the stenographic transcript of hearing on July 11, 2022.

III. ISSUE

Whether to uphold or overturn the Board's revocation of the License.

IV. MATERIAL FACTS AND TESTIMONY

This matter involves a shooting incident in the early hours of March 28, 2022 that took place outside the Appellant that involved people who had been inside the Appellant that night. A white suburban car drove by the front of the Appellant and its occupant(s) fired at the Appellant's patrons standing outside in front of the black BMW, and one of those patrons fired back. Board's Exhibit 12 (videos).

At the Department hearing, Detective Robert Lindsay ("Lindsay"), Cranston Police Department, testified on behalf of the Board. He testified that he was asked to conduct the investigation along with Detective Sohn into the shooting outside the Appellant on March 28, 2022. He testified that he obtained videos from the Appellant's owner of the inside that night and obtained videos taken outside taken by a nearby business and a nearby resident. He testified that he also received videos and pictures from the license plate readers situated around the City. He testified that using the plate location system, he was able to identify the people involved in the shootings. He testified that Giovanni Pina ("Pina") was identified as being the operator of the suburban involved in the shooting. He testified Pina was wearing a two-toned jacket and a Chicago White Sox baseball cap backwards and had a beard and entered the club at 12:17:50 a.m. He testified that Travone Bonnett ("Bonnett") was identified as the other person involved in the shooting. He testified that Bonnett was wearing a two-toned coat with patch on the lower portion and a necklace medallion. He testified that Bonnett is clearly seen on video inside the club at 11:34 p.m. but was there prior to that time. He testified that Bonnett was operating the black BMW. He testified that the calls for the shooting came in at 12:24 a.m.

Lindsay testified that in reviewing the videos, he did not see any contact inside the club between Pina and Bonnett. He testified Pina entered the club with two (2) other people, and Bonnett was already inside. He testified a verbal exchange is seen outside on video as Pina walked up the street toward his car, and kept turning and talking and looking toward Bonnett. He testified that Pina went to the white suburban, and the black BMW was parked in front of the Appellant. He testified Pina and two (2) people got into the white suburban parked a couple of blocks away, did a u-turn on the street which is in front of the club, and drove by the black BMW. He testified the shooting started at 12:23 a.m. He testified there was no audio on the video but Bonnett and another person crouched down as the suburban drove by. He testified that when Bonnett exited, he had retrieved something from his car which presumably was a gun. He testified that Bonnett fired in the direction of the suburban after shots were fired from the suburban. He testified that five (5) shell casings were found where Bonnett fired his gun, and two (2) were found in the street.

On cross-examination, Lindsay testified that Pina was in the suburban when the shots were fired but it is not known if he fired the shots. He testified that Pina arrived at the club at 12:17 a.m. so there were six (6) minutes between when Pina went inside the club, and the shooting outside occurred. He testified that it seemed something happened inside because the two (2) groups of people left at the same time. He testified that it could have been anything that made the two (2) groups leave. He testified that there were verbal interactions outside between Pina and Bonnett.

Derek Hall ("Hall") testified on behalf of the Appellant. He testified that he has about five (5) years of experience in security and has worked for the security company that provides security to the Appellant for almost two (2) years with that time being at the Appellant. He testified that he is head of security and that night, there were five (5) security staff including him. He testified the group will meet in advance and go over their stations and plan for the night. He testified that night,

there were two (2) staff on the front door and one (1) guard each on the two (2) other doors, and he was a floater and also checked the parking lot. He testified that the club's capacity is 99. He testified that currently all patrons are wanded, but on the night in question, they conducted pat downs of all patrons. He testified that night no one was ejected, and there were no altercations. He testified that as part of security training, one will look for body language, aggressiveness, or someone being too close for comfort, etc. He testified that night, he saw a group of people get up and leave about 40 minutes before closing which is a peak time so that seemed unusual. He testified that they were not loud or confrontational, but it seemed strange to be leaving so early. He testified that he followed the people outside, and they were just lingering near their car parked in front. He testified they were not loud or obnoxious or confrontational. He testified that only after seeing the video did he see Pina talking back to Bonnett, and it looked like they were "beefing" with each other. He testified that no gestures were made on the video, and they were only talking. He testified that Bonnett had a tab that night, and he assumed Pina paid the cover charge.

On cross examination, Hall testified he receives refresher security training every two (2) years of two (2) hours. He testified that night, he did not see Bonnett the entire time. He testified that when the group of people left, the manager gave him a head nod to check it out, and he was thinking the same thing. He testified that he was worried the group was trying to leave without paying which would then fall on the waitress so he was thinking he could get a license plate number in case. He testified that he was looking out for his team, and they are always on the look out for possible issues.²

² The videos reviewed by the police officers were entered into evidence; however, not all of them were viewable by the undersigned. Board's Exhibits One (1) to Four (4) (police reports); 12 (outside videos); and 13 (inside videos). The undersigned reviewed the videos that she could open but was unable to identify when Pina went into the Appellant. She notified the attorneys that she would rely on the detective's testimony. Indeed, the attorneys do not dispute that there was no physical interaction inside.

V. DISCUSSION

A. **Legislative Intent**

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, “the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2d 541 (R.I. 1989) (citation omitted). In cases where a statute may contain ambiguous language, the Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131, 1134 (R.I. 1998). The statutory provisions must be examined in their entirety and the meaning most consistent with the policies and purposes of the legislature must be effectuated. *Id.*

B. **The Appeal Before the Department**

After the end of prohibition of liquor within the United States, Rhode Island implemented a new system of statewide control of liquor coupled with local authority to grant certain licenses. See P.L. 1933 ch. 2013. The intent of the new system was to eliminate the old unsupervised system of local regulation that resulted in a lack of uniformity and grave abuses that seriously affected the public welfare and instead vested broad powers of control and supervision in a state system. *Baginski v. Alcoholic Beverage Commission*, 4 A.2d 265 (R.I. 1939).

In keeping with the Department’s statewide oversight and mandate to “establish a uniformity of administration of the law for purpose of promoting temperance throughout the state,”

the Department has broad statutory authority to review liquor appeals. *Baginski*, at 268. See *Tedford et al. v. Reynolds*, 141 A.2d 264 (R.I. 1958). *Baginski* held that since the Department³ is a “superlicensing board,” it has the discretion to hear cases “*de novo* either in whole or in part.” *Baginski*, at 268. Thus, an appeal may hear new testimony in part and/or may rely on the hearing before the local licensing authority. However, as the review is *de novo* the parties start afresh during the appeal but the Department has the discretion to review the local authority partially *de novo* and partially appellate as seen fit. *Hallene v. Smith*, 201 A.2d 921 (R.I. 1964). Since the Department is charged with ensuring statewide uniformity, it follows that the statutory scheme grants the Department the authority to revise or alter decisions of local boards. *Id.* Further, since the liquor appeal hearing is a *de novo* hearing rather than an appellate review of what occurred at the municipal level, any alleged error of law or fact committed by the municipal agency is of no consequence. *Id.* *Cesaroni v. Smith*, 202 A.2d 292 (R.I. 1964) (Department’s jurisdiction is *de novo* and the Department independently exercises the licensing function).

The outcome of an appeal is a decision whether to uphold, overturn, or modify a licensing board’s decision. Thus, this appeal is not bound by the Board’s reasons for revocation but whether the Board presented its case for revocation before the undersigned. The undersigned will make her findings on the basis of the evidence before her and determine whether that evidence justifies said revocation.

As the Department has statewide authority and indeed the statutory intent is to ensure statewide consistency, the Department reviews sanctions to ensure statewide consistency and appropriateness in the situation. It also supports progressive discipline barring the rare and extreme event where revocation may be warranted without prior discipline. It also accepts the

³ At that time the alcoholic beverage commission.

principles of comity and deference to the local authorities and their desire to have control over their own town or city. At the same time, pursuant to R.I. Gen. Laws § 3-2-2 and R.I. Gen. Laws § 3-7-21, the Department ensures that tensions between local boards and licensees are settled in a consistent manner. Nonetheless, there is not a mechanical application of sanctions as each matter has its own sets of circumstances. See *C&L Lounge, Inc. d/b/a Gabby's Bar and Grille; Gabriel L. Lopes v. Town of North Providence*, LCA – NP-98-17 (4/30/99). Thus, the unevenness in the application of a sanction does not make it unwarranted in law. *Pakse Market Corp. v. McConaghy*, 2003 WL 1880122 (R.I. Super.) (upholding revocation for a series on infractions). However, a sanction must be proportional to the violation and if there is an excessive variance in a sanction than it will be found to be arbitrary and capricious. *Jake and Ella's* 2002 WL 977812 (R.I. Super.). In reviewing local authorities' decisions, the Department ensures that local authorities' sanctions are not arbitrary and capricious and that statewide such sanctions are consistent and appropriate (otherwise sanctions would be arbitrary).

In order to suspend or revoke a liquor license, there must be a showing that the holder breached an applicable rule or regulation. In order to impose discipline, cause must be found. *Chernov Enterprises, Inc. v. Sarkas*, 109 R.I. 283, 287 (1971) found that cause shall mean, “we have said that a *cause*, to justify action, must be *legally sufficient*, that is to say, it must be bottomed upon substantial grounds and be established by legally competent evidence.” (italics in original).

An appeal proceeding held pursuant to R.I. Gen. Laws § 3-7-21 is considered a civil proceeding. *Board of License Commissioners of Tiverton v. Pastore*, 463 A.2d 161 (R.I. 1983). In civil proceedings, unless otherwise specified, the burden of proof generally needed for moving parties to prevail is a fair preponderance of the evidence. *Jackson Furniture Co. v Lieberman*, 14 A.2d 27 (R.I. 1940). See *Parenti v. McConaghy*, 2006 WL 1314255 (R.I. Super.); and *Manny's*

Café, Inc. v. Tiverton Board of Commissioners, DBR LCA TI-97-16 (11/10/97) (Department decision discusses burden of proof for proceedings held pursuant to R.I. Gen. Laws § 3-7-21). Thus, in order to sanction a liquor license, there must be substantial grounds established by the preponderance of legally competent evidence.

C. Arguments

The Board argued that it does not need to show fault or negligence by the Appellant but rather there must be a nexus between the incident and the business, and there was a connection between the Appellant and the shooting in that the people involved in the shooting went to the Appellant, left, and then engaged in a shoot-out. The City argued there is an onerous burden on a liquor licensee and while it may not be fair, a connection can be made between the shooting and the licensee so that the Appellant is responsible.

The Appellant argued that it is not enough that the shooters were patrons but something more has to be shown in that there has to be some kind of activity for which the licensee is responsible for and from which it can be the fighting arose. *Ciello, LLC d/b/a Luv v. City of Providence, Board of Licenses*, DBR No.: 17LQ008 (9/14/17). The Appellant argued that there was no evidence that anything occurred in the short time that both Bonnett and Pina were inside, and while Bonnett and Pina must have had a beef with each other, that beef did not have its origin inside the Appellant.

D. Whether There Were Violations on March 28, 2022

No one disputes a shoot-out with two (2) shooters is dangerous and criminal and not the type of activity that anyone would want either near a club or elsewhere. However, the issue before the undersigned is purely a legal issue regarding the Appellant's responsibility, if any, for the shoot-out.

a. **Disorderly Conduct**

R.I. Gen. Laws § 3-5-23 states in part as follows:

(b) If any licensed person permits the house or place where he or she is licensed to sell beverages under the provisions of this title to become disorderly as to annoy and disturb the persons inhabiting or residing in the neighborhood . . . he or she may be summoned before the board, body, or official which issued his or her license and before the department, when he or she and the witnesses for and against him or her may be heard. If it appears to the satisfaction of the board, body, or official hearing the charges that the licensee has violated any of the provisions of this title or has permitted any of the things listed in this section, then the board, body, or official may suspend or revoke the license or enter another order.

In revoking or suspending a liquor license, it is not necessary to find that a liquor licensee affirmatively permitted patrons to engage in disorderly conduct. Rather, the Rhode Island Supreme Court held in *Cesaroni* at 295-296 as follows:

[T]he legislature, in enacting the pertinent provision of the statute, intended to impose upon such licensee the obligation to maintain an efficient and affirmative supervision over the conduct of his patrons in his place to such an extent as is necessary to maintain order therein. It is our opinion that as a practical matter a licensee assumes an obligation to affirmatively supervise the conduct of his patrons so as to preclude the generation therefrom of conditions in the neighborhood of like character to conditions that would result from maintenance of a nuisance therein.

It is to be conceded that this imposes upon a licensee an onerous burden in the management of the licensed premises. It is, however, within the authority of the legislature, the liquor traffic being peculiarly within the police power of the state.

Furthermore, the Court found that “disorderly” as contemplated in the statute meant as follows:

The word "disorderly" as used here contemplates conduct within premises where liquor is dispensed under a license that causes either directly or indirectly conditions in the neighborhood in annoyance of or disturbing to the residents thereof. *Id.* at 296.

Thus, a liquor licensee has the “responsibility to control the conduct of its patrons both within and without the premises in a manner so that the laws and regulations to which the license is subject will not be violated.” *Schillers, Inc. v. Pastore*, 419 A. 2d 859 (R.I. 1980). In a denial

of renewal matter, *A.J.C. Enterprises v. Pastore*, 473 A.2d 269, 275 (R.I. 1984) found in discussing the disorderly provisions that “[T]here need not be a direct causal link between incidents occurring outside or nearby a drinking establishment and its patrons. Such a link is established when it can be reasonably inferred from the evidence that the incidents occurred outside a particular establishment and had their origins within.”

A liquor licensee is accountable for violations of law that occur on its premises and outside. *Vitali v. Smith*, 254 A.2d 766 (R.I. 1969). It is not a defense that a licensee is not aware of the violations or provided supervision to try to prevent violation. While such a responsibility may be onerous, a licensee is subject to such a burden by the legislature and accepted such conditions by becoming licensed. *Therault v. O’Dowd*, 223 A.2d 841 (R.I. 1966). See *Scialo v. Smith*, 99 R.I. 738 (R.I. 1965). As the Supreme Court found, “the responsibility of a licensee for the conduct of his patrons within the licensed premises that makes it disorderly within the meaning of the statute is established by evidence showing a toleration or acquiescence in such conduct by the licensee.” *Cesaroni*, at 296. *A.J.C. Enterprises*; *Schillers*; and *Furtado v. Sarkas*, 118 R.I. 218 (1977).

Thus, *Cesaroni* speaks of conduct that occurs within premises where liquor is dispensed under a license that causes either directly or indirectly conditions in the neighborhood that annoy the neighborhood (e.g. disorderly conditions). *A.J.C. Enterprises* speaks of making an inference that the disturbance outside had their origins within the premises. To find disorderly conduct, the case law speaks of the conduct “within” the premises and not the parking lot.

In *Stage Bands, Inc. d/b/a Club Giza v. Department of Business Regulation*, 2009 WL 3328598 (R.I. Super.), a Superior Court case, found direct evidence between the inside events and the shooting outside. In other words, in *Stage Bands*, there did not need to be an inference made of an indirect connection between an inside event and an outside event as permitted by *Cesaroni*

and *A.J.C. Enterprises*. If there is no direct evidence like was found *Stage Bands* between the inside and outside incidences, those Supreme Court cases require that something happened inside – conduct - from which an inference can be made of the connection to the outside activities.

Thus, in *Ocean State Hospitality, Inc. d/b/a Fatt Squirrel v. Providence Board of Licenses*, DBR No.: 16LQ002 (3/31/16), a patron was ejected, and a crowd followed the patron outside and milled around with some dispersing and some staying and then there was violence. With the large crowd of people exiting that club as a result of the ejection, it was reasonable to infer that the violence was connected to the crowd that spilled out of that club. In *The Vault Lounge, LLC v. City of Providence, Board of Licenses*, DBR No.: 16LQ008 (9/14/16), a patron was ejected from a club and then did not leave the area and tried to get back inside so that the club was indirectly responsible for the patron’s shooting 18 minutes after the ejection.

In contrast, in *Moe’s Place, Inc. d/b/a D’Noche v. City of Providence, Board of Licenses*, DBR No. 14LQ022 (6/24/14), two (2) men were ejected for being drunk and belligerent. When they were outside, a car drove by, and the driver fired a gun in the air. The police did not identify a victim or suspects. While the two (2) incidents happened closed together, there was not enough evidence to make a finding that the shooting arose from the disturbance in the club. In *D. Liakos d/b/a Van Gogh v. Providence Board of Licenses*, DBR No.: 16LQ011 (10/31/16), there was no evidence of any disturbance inside the bar that spilled outside where it culminated in the fight. Thus, no inference could be made that the fighting that occurred outside after the patrons exited the club was somehow indirectly related to something that had happened in the club. See also *El Tiburon Sports, Inc. v. Providence Board of Licenses*, DBR No. 06-L-0087 (6/1/07) (no link between licensee and an assault down the street from licensee). In *Vibe Lounge and Hookah Bar, Inc. v. City of Pawtucket, Board of Licenses*, DBR No.: 21LQ004 (9/21/21), there was no evidence

of any disturbance starting inside and spilling outside where it culminated in the fight. In that matter, a patron had been ejected for verbal harassment and returned almost two (2) hours later to shoot a patron after the patron left the licensee.

In *CAG Productions, LP d/b/a Euphoria v. City of Providence, Board of Licenses*, DBR No.: 16LQ022 (4/6/17), patrons were pushing and shoving while exiting so an inference could be made that something happened inside that caused the scuffling upon exiting. The video showed a short and quickly contained disturbance that was quickly dispersed by pepper spray. The area was then calm with police officers walking by so that the stabbing that occurred shortly thereafter could not be linked to the scuffling that took place earlier upon the exiting from the club. In the *Fatt Squirrel*, the shooting and punching were part of the ongoing disturbance. In *CAG*, a link could not be made to the later stabbing but only to the commotion upon exiting.

In this matter, there was no evidence that there was any pushing, shoving, fighting, or even arguing inside between the two (2) shooters or anyone else. Pina went inside and presumably paid the cover charge, and then after less than six (6) minutes left as did the Bonnett group.

In *Ciello d/b/a Luv*, there was a fight in the parking among patrons of the club. However, a review of the inside video of the people involved showed they had no interaction with the incident inside or with each other inside that could lead to an inference that something happened inside. Instead, something happened outside in the parking lot. As that decision concluded,

It could be that the man who threw a punch knew the shooters and did not like one or all of them and saw them inside that night and decided to punch one of them when they got outside. Or it could he saw them all for the first time outside and decided to punch one of them. It could be that the man who threw a punch had never seen any of the shooters before and threw a punch at a stranger because the stranger said something inside or outside or that the man who threw the punch was an idiot and/or drunk. p. 18.

Similarly, it could be that Pina and Bonnet already knew each other and went outside because they had some kind of prior beef.⁴ Or perhaps something happened between them as Pina walked up the street. However, it is not enough that the people who fought outside were the Appellant’s patrons to make the Appellant responsible for their actions. There is a very strict requirement that makes a licensee responsible for actions inside the bar and those outside activities that arise from inside the bar even if the licensee did not know of the actions or tried to supervise its patrons and prevent the activities. However, in order for the Appellant to be responsible there must be some kind of conduct for which the bar is responsible for and from which it can be inferred the fighting arose. *A.J. C. Enterprises and Cesaroni*. See *Salacruz, LLC d/b/a Sky Lounge v. City of Providence Board of Licenses*, DBR No. 14LQ046 (11/25/14); and *El Tiburon Sports Bar, Inc.*

The case law is consistently clear that a liquor licensee is responsible for activity outside that can be directly or indirectly inferred to arise from the “conduct within.” *Cesaroni* at 296. In this matter, there was no evidence that the shooting outside can be linked indirectly or directly to any conduct inside the Appellant. Therefore, there can be no finding that the Appellant violated R.I. Gen. Laws § 3-5-23.

b. Conditions of Licensing

R.I. Gen. Laws § 3-5-21 provides in part as follows:

- Revocation or suspension of licenses – Fines for violating conditions of license.
(a) Every 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 . . . for:
- (1) Breach by the holder of the license of the conditions on which it was issued;
- or
- (2) Violation by the holder of the license of any rule or regulation applicable;
- or
- ***
 - (4) Breach of any provisions of this chapter; or
 - ***

⁴ The police reports indicate that both Pina and Bonnett live in Brockton, Massachusetts, and the Cranston police learned that they both did not get along. City’s Exhibits Two (2) and Four (4) (police reports).

Maintaining enough security and providing security is a condition of liquor licensing. *Ciello, LLC d/b/a Luv*. Recently, *FabCity Cigar Lounge, Inc. d/b/a FabCity Cigar Lounge v. Board of License Commissioners for the City of Pawtucket*, DBR No. 22LQ005 (6/22/22) addressed the issue of conduct inside and outside as related to security. In *FabCity*, there was ongoing tensions between a patron and another group of patrons so that the bar manager separated them. In *FabCity*, there were no physical altercations; however, the conduct and lack of response by the licensee led to security violations. In contrast, Pina and Bonnett never spoke inside let alone had a physical altercation. There was no evidence of a failure of security on March 28, 2022. Indeed, security was proactive and noticed something out of the ordinary so followed the groups outside and checked on them after they left.

c. Conclusion

Based on the foregoing, the Respondent did not violate R.I. Gen. Laws § 3-5-21 and R.I. Gen. Laws § 3-5-23 on March 28, 2022.

Thompson v. East Greenwich, 512 A.2d 837 (R.I. 1986) found that a town may grant a liquor license upon conditions that promote the reasonable control of alcoholic beverages. Conditions can be imposed without the finding of a violation if they are promoting reasonable control of alcoholic beverages. A condition of the stay in this matter has been a police detail on Friday, Saturday, Sunday, and nights before state holiday. A police detail shall be maintained for Friday and Saturday nights and nights before State holidays with a 30 day review by the Board for it to decide whether to continue with such a detail.

VI. FINDINGS OF FACT

1. On April 1, 2022, the Board revoked the Appellant's License.

2. Pursuant to R.I. Gen. Laws § 3-7-21, the Appellant appealed the Board's decision to the Director of the Department.

3. A *de novo* hearing was held on May 12, 2022 with the parties resting on the record. The transcript was received on July 11, 2022.

4. The facts contained in Section IV and V are reincorporated by reference herein.

VII. CONCLUSIONS OF LAW

Based on the testimony and facts presented:

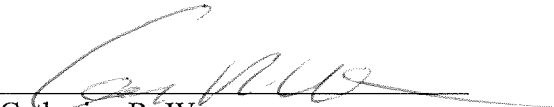
1. The Department has jurisdiction over this matter pursuant to R.I. Gen. § 3-5-1 *et seq.*, R.I. Gen. Laws § 3-7-1 *et seq.*, R.I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

2. The Appellant did not violate R.I. Gen. Laws § 3-5-23 and R.I. Gen. Laws § 3-5-21 on March 28, 2022.

VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends that the Board's revocation of the Appellant's License be overturned, and the stay vacated.⁵ However, a police detail shall be maintained on Friday and Saturday nights and the nights before a State holiday with a 30 day review by the Board to determine if it is still needed.

Dated: July 27, 2022


Catherine R. Warren
Hearing Officer

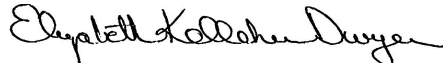
⁵ While the stay is vacated, and the Appellant may resume normal hours of operation, it is noted that a new security plan was required as part of the stay, and that shall be continued to be used.

ORDER

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

_____ ADOPT
_____ REJECT
_____ X MODIFY (attached)

Dated: 8/17/2022



Elizabeth Kelleher Dwyer, Esquire
Interim 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 17th day of August, 2022 that a copy of the within Decision and Notice of Appellate Rights were sent by electronic delivery and first class mail, postage prepaid, to the following: John M. Verdecchia, Esquire, Law Office of John M. Verdecchia, 400 Reservoir Ave., Ste 1C, Cranston, R.I. 02920 and Nicholas Hemond, Esquire, DarrowEverett, LLP, 1 Turks Head Place, Suite 1200, Providence, R.I. 02903, and by electronic delivery to Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I. 02920.

