

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

Perez Smith, LLC d/b/a Paris Bistro,
Appellant,

v.

City of Providence, Board of Licenses,
Appellee.

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DBR No. 24LQ005

DECISION

I. INTRODUCTION

This matter arose from an appeal and motion for a stay filed on May 31, 2024 by Perez Smith, LLC d/b/a Paris Bistro (“Appellant”) with the Department of Business Regulation (“Department”) pursuant to R.I. Gen. Laws § 3-7-21 regarding the decision taken on May 30, 2024 by the City of Providence, Board of Licenses (“Board”) to revoke the Appellant’s extended liquor license (Class BVX) and reduce its hours of operation to midnight for 30 days. A stay hearing was held on June 3, 2024 with an order granting a partial stay issued on June 5, 2024. The hearing was held on June 17, 2024 before the undersigned who was delegated to hear this matter by the director of the Department. The parties were represented by counsel who 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 June 25, 2024.

III. ISSUE

Whether to uphold or overturn the Board's imposition of discipline.

IV. MATERIAL FACTS AND TESTIMONY

At hearing, the parties agreed to add two (2) alleged violations that had not been fully heard by the Board: 1) April 7, 2024 entertainment without a license; and 2) October 14, 2023 entertainment without a license and bottle service. City's Exhibit Two (2) (Board's orders to show cause issued for the alleged violations; police report for April 7, 2024 when police heard music outside the establishment and found music being played inside with photograph of DJ equipment and police report for October 14, 2023 when police observed a DJ inside the premises with a microphone and DJ equipment and ongoing bottle service). It is within the Department's authority to hear additional allegations during a hearing. R.I. Gen. Laws § 3-2-2; *Baginski v. Alcoholic Beverage Commission*, 4 A.2d 265 (R.I. 1939); and *Bourbon Street, Inc. d/b/a Senor Froggs/Sully's Sports Bar v. Newport Board of License Commissioners*, 1999 WL 1335011 (R.I. Super.).

For the conduct that resulted in the extended license revocation, the City submitted a video of the relevant incidences on May 6, 2024 with a print out of the times and actions seen on the video. The parties agreed the Appellant threw the suspect out in the evening for a good reason. A review of the video showed the suspect at about 1:17:31 a.m. – after closing time - walked to the premise's door and kicked it and at 1:17:53 a.m. is holding a gun. The Appellant's staff briefly opened the door but were able to close it on the suspect. Once the door was closed, the staff members rushed away from the door with the bartender crouching behind the bar. The inside area by the door has no one by it at 1:18:11 a.m. except for the bartender behind the bar. At 1:18:58 a.m., "Miguel,"² from the Appellant, walked down the street toward the door holding a gun pointed

² The parties agreed that the owner went outside with a gun. The City's outline of the events on the video refers to the person who went outside with a gun as Miguel.

downwards. [He and other staff members apparently exited the premises via the back door]. He and about six (6) other people surrounded the suspect and voices can be heard. Three (3) of the people have security written on the back of their shirts. Curses words and “what are you doing?” can be heard on the video. At 1:19:39 a.m., Miguel pointed a gun at the suspect. At about 1:22:33 a.m., a car arrived, and three (3) security personnel got out and joined the group on the sidewalk. At that time, there were about ten (10) people there (for the Appellant) and the suspect. The City’s printout of the timing of the actions on the video indicated the owner was holding a knife outside at 1:25:40 a.m.³ At 1:28:50 a.m., the suspect and the owner (apparently Miguel) grasped hands and “I apologize” is heard on the video. The suspect left at 1:29:00 a.m. At 2:18:14 a.m., two (2) people stepped out from the Appellant onto the street. A second later, gun shots are heard as the suspect had returned and fired shots. No one was hurt. City’s Exhibit One (1) (video).

The owner testified at the Board hearing that he told staff to call the police.⁴ It was undisputed that no one from the Appellant called the police that night.

The facts for the May 6, 2024, October 14, 2023, and April 7, 2024 allegations were not disputed by the Appellant.

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

³ However, the parties agreed that the owner was the one with the gun.

⁴ See <https://providenceri.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=14764&Format=Minutes> (audio of Board’s May 23, 2024 meeting).

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 Department⁵ 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

⁵ At that time the alcoholic beverage commission.

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 to the undersigned for revocation. The undersigned will make her findings on 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 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 Appellant argued that it was closed for 25 days and had its hours reduced which is more than enough for these violations so that the extended license should not be revoked.

The City argued that while the owners have been cooperative, they have not operated responsibly, and the Appellant's operations cause problems. The City agreed the Appellant rightfully threw out the patron who returned later with a gun. It argued that while the owner testified that he told his employees to call the police, no one did, and he went outside and escalated the situation, and while the owner and suspect shook hands, the suspect came back later with a gun so that the penalty was appropriate. The Board argued that the extended license is the real issue. It argued the Appellant initially represented it would be a Dominican fusion restaurant, but now are operating a night club in a residential area, and the penalty is appropriate for the violations.

D. Whether There Were Violations on May 6, 2024

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).

The suspect – armed with a gun - tried to get back inside the Appellant after the Appellant closed. When the suspect returned, the owner and staff members went outside – armed themselves (gun, knife) - to confront the suspect rather than staying inside and calling the police. While the owner testified to the Board that he told his staff to call the police, no one called the police. The owners, staff, security were outside for ten (10) minutes confronting the suspect. Indeed, new security joined the group rather than call police. Rather than call the professionals, the police, the owner and staff went outside armed to confront the suspect. Thus, the Appellant chose to escalate a dangerous situation by going outside to confront an armed suspect rather than safely staying inside and calling the police.

Based on the foregoing, on May 6, 2024, the Appellant violated R.I. Gen. Laws § 3-5-23 (disorderly conduct).

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

Maintaining enough security and providing security is a condition of liquor licensing. *Ciello, LLC d/b/a Luv v. City of Providence, Board of Licenses*, DBR No.: 17LQ008 (9/14/17). Here, the Appellant was initially a restaurant but then changed its format to a lounge/nightclub without notifying the Board. However, whether it notified the Board or not, it still is to provide security as a

condition of liquor licensing. Here, there were many security personnel outside and more went to the scene, but the Appellant escalated the situation rather than provide security.

The Appellant is in violation of R.I. Gen. Laws § 3-5-21 for failing to maintain and provide security.

c. October 14, 2023 and April 7, 2024

It was undisputed that on October 14, 2023 and April 7, 2024, the Appellant had entertainment without a license so violated R.I. Gen. Laws § 3-5-21 (conditions of licensing). It was undisputed that on October 14, 2023, the Appellant had bottle service so violated R.I. Gen. Laws § 3-5-21 (conditions of licensing).

d. Change in Business Plan

Previously, the Department has found that a licensee is not obligated to stay with the business plan presented to a board but if a licensee changes its business plan and that causes problems, the local licensing authorities often take a dim view.

As discussed in *Vosler Inc. d/b/a Café Four 12 v. Providence Board of Licenses*, DBR No. 07-L-0001 (3/29/07):

The Department has previously ruled on the issue of a change in business format and disorderly conduct that may arise from such a change and such decisions inform the review of this matter. In *C & L Lounge, Inc. d/b/a Gabby's Bar and Grill; Gabriel Lopes v. Town of North Providence and the North Providence Town Council*, LCA-NP-98-17 (4/30/99), the Department modified the town's revocation of the license to a thirty (30) day suspension.

In *Gabby's*, the licensee's owner represented at its licensing hearing that it would create a family dining atmosphere but at the revocation hearing, he testified that he had to diversify its format. *Gabby's* found that the licensee had adopted a new business format that caused regular disorderly incidents and that it had been warned by the town but had continued to operate with that type of business. The decision found that when a licensee changes its business format, it does so at its own peril and must face the consequences:

There is nothing per se illegal about a licensee changing his business format without Town approval to maximize profits. However, a Town need

not tolerate a business format yielding negative neighborhood conditions it never bargained for, and specifically warned against, at the time of licensure.[footnote omitted] A liquor licensee has the responsibility to follow through on his representations of how he will conduct his business, made at the time of licensure. When a liquor licensee shifts his business format from his representations, he does so at his own peril. In the instant case the result of the shift was volatile disorderly conditions warned against as a condition of licensure. *Gabby's*, at 15. *Vosler*, at 15-16.⁶

However, the Board's 2022⁷ rules and regulations in relation to operations and procedures for licensing state that licensing authorities rely on representations on applications in granting liquor licenses when they may not have granted the license or granted a conditional license with a different business plan. In the 2022 rules, § 25 provides as follows:

Material Misrepresentation and Change of Business Model.

- a. Material Misrepresentation. When the Board of Licenses grants a license, it does so based on a specific presentation regarding business model, management, marketing, security, and nuisance mitigation. If a licensee departs from the business model presented to the Board of Licenses, it may be subject to appropriate sanctions.
- b. Change of Business Model. A licensee may change its business model without applying for a new license, however, it must present the Board of Licenses with a presentation regarding the new business model prior to enactment. Failure to present the Board of Licenses with the new business model may result in a finding of material misrepresentation and corresponding sanctions.

The Board's 2022 rules are not a statute or an ordinance but can be considered for liquor licensing to be a condition of licensing. The Appellant was licensed prior to 2022. Nonetheless, it failed to present its new plan to the Board. And as previously noted by the Department, a licensee changes its format at its own peril and faces the consequences. Indeed, the Department has previously found while the Board may not have specifically placed conditions on an appellant's license, the

⁶ In terms of change of business plans, see *Ice Lounge, Inc. d/b/a Ice Lounge v. The City of Providence Board of Licenses*, DBR No.: 14LQ064 (2/27/15); *Picasso's Pizza and Pub, Inc. d/b/a Score's RI Ultimate Sports Pub v. North Providence Board of License Commissioners*, DBR No. 03-L-0250 (6/3/04); and *Tropics, Inc. d/b/a Club Tropics v. City of Warwick, Board of Public Safety*, LCA-WA-97-05 (2/28/97) (upheld by *Gravino v. City of Warwick and Department of Business Regulation*, 1999 WL 485869 (R.I. Super.)).

⁷ <https://www.providenceri.gov/wp-content/uploads/2022/07/July-2022-Updated-Rules-and-Regs.pdf>.

Board granted a license on the basis of a licensee's representations to the Board. A licensing board must be able to rely on the representations made by applicants regarding their business and the reasons to grant a license thereto. *Vosler*.

A condition of the stay was that the Appellant submit to the Board with its new business plan and a security plan. At hearing, the parties confirmed that the Appellant had complied with this condition of the stay. Nonetheless, the Appellant should have followed that procedure prior to the change in its business format.

E. Prior Discipline

The License was issued on October 8, 2020. There are no other violations except those at issue in this hearing. Board's certified record.

F. The Sanctions

The Board's 2022 rules for licensing provide in part as follows:

16. Violations in the sole control of the Licensee. The Board of Licenses, absent a finding that the Licensee has shown good cause for the violation, shall abide by the following minimum penalties for the following violations which are in the sole control of the Licensee. Beginning with violations that occur on or after January 1, 2020, any violations and/or sanctions shall be recorded as part of the violation history of the licensee and shall be limited to a three (3) year look back period (from the date of the imposition of penalty) for purposes of any progressive discipline imposed by the Board.

- b. Entertainment without a License after 11:00 p.m. on weekdays and 12:00 p.m. on weekends.
 - i. First Violation - Warning.
 - ii. Second Violation - Reduction of hours of operation for a period not to exceed ninety 30 days.

- d. Bottle Service.
 - i. First Violation Warning.

It is undisputed the Appellant had a bottle service violation on October 14, 2023 and had entertainment without a license on October 14, 2023 both of which under the Board's regulations

merit a warning. Under the Board's regulations, the Appellant's second entertainment without a license violation on April 7, 2024 would merit a reduction of hours of operation not to exceed 30 days.⁸ The Board reduced the Appellant's hours for 30 days as part of its discipline for the May 6, 2024 disorderly conduct violation. That discipline was not stayed by the Department order and can also apply to the Appellant's second entertainment without a license violation.

Finally, the issue is what is the appropriate sanction for the disorderly conduct and the security failure violations. From *Cesaroni* in 1964 to *Schillers* in 1980 up until today, a liquor licensee is responsible for activities inside and outside its licensed premises. It does not matter how well a liquor licensee supervises such responsibilities since even the most responsible supervising licensee is still responsible for disorderly conduct. *Therault*.

As discussed above, the sanctions imposed for R.I. Gen. Laws § 3-5-23 vary depending on the type of disorderly conduct. Very serious and egregious violations that involve weapons and/or serious assaults could result in a revocation of license. E.g. *Cardio Enterprises d/b/a Comfort Zone Sports Bar v. Providence Board of Licenses*, DBR No.: 06-L-0207 (3/29/07). A long suspension may be imposed for severe disorderly conduct. E.g. *C & L Lounge, Inc. d/b/a Gabby's*.

In *J. Acqua, Inc. d/b/a Acqua Lounge v. City of Providence, Board of Licenses*, 16LQ014 (11/29/16), the bouncer apparently did not pat down a patron because he knew the patron and that patron brought in a gun. There was a fight and the owner intervened in the fight, and the gun went off into the ceiling. That licensee had two (2) administrative penalties within two (2) years prior to the incident and two (2) separate suspensions for disorderly conduct within two (2) years prior to the incidence. The class BVX license was revoked, and the class BV license was suspended for 60 days.

⁸ There was no evidence that the Appellant was in a zone that does not allow entertainment so that the section applicable from these rules is for the late night entertainment without a license.

In *Moe's Place, Inc. d/b/a D'Noche v. City of Providence, Board of Licenses*, DBR No. 14LQ054 (12/3/14), the licensee had its fourth disorderly conduct violation in less than two (2) years when a patron brought a pocket knife inside the premises despite security pat-downs and stabbed another patron with a pocket knife. In that matter, there were security lapses, and the fight was brief and quickly quelled by staff but the Appellant was responsible for the fight and it was its fourth disorderly violation within two (2) years. Said licensee's extended license was revoked, and its Class BV license was suspended for 60 days.

In *Acqua*, a gun was fired in the ceiling and the licensee had two (2) prior suspensions for disorderly conduct in the prior two (2) years. In *Moe's*, there was a stabbing with a pocket knife which was the fourth disorderly conduct in two (2) years. Both *Acqua* and *Moe's* had their extended licenses revoked as part of progressive discipline.

Here, the Appellant has not had any prior disorderly conduct. However, the Appellant's disorderly conduct came about by the Appellant's owner's own choice to escalate a situation by acting like it was at the OK Corral and going outside armed with a gun and a group of staff members to confront the suspect. In *Moe* and *Acqua*, the licensees had prior disorderly conduct violations and had their extended licenses revoked and BV licenses suspended for 60 days.

The Appellant already was closed for 25 days which can be considered a suspension for the violations. As there has been no other disorderly conduct violations, there is no need for a further suspension of the BV license. However, the licensee's own escalation of the situation by going outside (when the owner and staff were safely inside the building and should have called the police) armed to confront a suspect merits the revocation of the extended BX license.⁹

⁹ As an aside, the Appellant may choose to apply for a new extended hours license after the appropriate statutory period. Presumably, the Board would not look favorably on that application if the Appellant continues to have entertainment without a license and bottle service violations (as well as other violations).

VI. FINDINGS OF FACT

1. On May 30, 2024, the Board revoked the Appellant's extended liquor license and imposed other discipline for a disorderly conduct violation on May 6, 2024.
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 June 17, 2024.
4. The *de novo* hearing also included allegations related to October 14, 2023 and April 7, 2024 that had not been determined by the Board.
5. The Appellant did not dispute the facts alleged on the three (3) different nights at issue.
6. The facts contained in Section IV and V are reincorporated by reference herein.

VII. CONCLUSIONS OF LAW

Based on the testimony and facts presented:

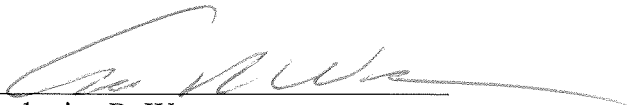
1. The Department has jurisdiction over this matter pursuant to R.I. Gen. § 3-5-1 *et seq.*, R.I. Gen. Laws § 3-7-1 *et seq.*, R.I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*
2. The Appellant violated R.I. Gen. Laws § 3-5-23 on May 6, 2024 by engaging in disorderly conduct.
3. The Appellant violated R.I. Gen. Laws § 3-5-21 on May 6, 2024 by its security failures.
4. The Appellant violated R.I. Gen. Laws § 3-5-21 on October 14, 2023 and April 7, 2024 by having entertainment without a license and on October 14, 2023 by having bottle service.

VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends that pursuant to R.I. Gen. Laws § 3-5-21 and R.I. Gen. Laws § 3-5-23, the Board's decision to revoke the Appellant's BVX License

be upheld, and the Appellant's 25 day closure be considered an already served suspension of the BV license and the 30 day reduced hours also be considered the sanction for the October 14, 2023 and April 7, 2024 violations.

Dated: July 29, 2024

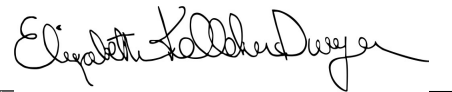

Catherine R. Warren
Hearing Officer

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
 MODIFY

Dated: July 31, 2024


Elizabeth Kelleher Dwyer, 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 31st day of July, 2024 that a copy of the within Decision and Notice of Appellate Rights was sent by first class mail, postage prepaid and by electronic delivery to the following: Mario Martone, Esquire, City of Providence Law Department, 444 Westminster Street, Suite 220, Providence, R.I. 02903; Louis A. DeSimone, Jr., Esquire, 1554 Cranston Street, Cranston, R.I. 02920; and Peter Petrarca, Esquire, Petrarca & Petrarca, 330 Silver Spring Street, Providence, R.I. 02904, and by electronic delivery to Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I. 02920.

Megan Mihara
