

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

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**Mambo Sushi Restaurant & Lounge LLC :**  
**d/b/a Mambo Sushi Restaurant & Lounge, :**  
**Appellant, :**

**v. :**

**City of Providence, Board of Licenses, :**  
**Appellee. :**

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**DBR No.: 24LQ010**

**ORDER OF DISMISSAL**

This matter arose from an appeal filed by Mambo Sushi Restaurant & Lounge LLC d/b/a Mambo Sushi Restaurant & Lounge (“Appellant”) with the Department of Business Regulation (“Department”) pursuant to R.I. Gen. Laws § 3-7-21 regarding the decision taken on September 12, 2024 by the City of Providence, Board of Licenses (“Board”) to impose sanctions on Appellant’s Class BV liquor license. This appeal was filed on September 30, 2024. On September 30, 2024, the undersigned communicated with the Appellant, the Board, and the City in regard to whether the appeal was timely. By email that day, the Board’s attorney confirmed that the Board’s decision was made on September 12, 2024.<sup>1</sup> In order for the Department to have jurisdiction to hear an appeal, an appeal must be timely filed. Pursuant to R.I. Gen. Laws § 3-7-21,<sup>2</sup> an appeal must be filed within ten (10) days.

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<sup>1</sup> See also <https://providenceri.iqm2.com/Citizens/FileOpen.aspx?Type=15&ID=11565&Inline=True> (Board’s minutes for its September 12, 2024 meeting recording the decision made about the Appellant).

<sup>2</sup> R.I. Gen. Laws § 3-7-21 states in part as follows:

Appeals from the local boards to director. – (a) Upon the application of any petitioner for a license, or of any person authorized to protest against the granting of a license, including those persons granted standing pursuant to § 3-5-19, or upon the application of any licensee whose license has been revoked or suspended by any local board or authority, the director has the right to review the decision of

Ten (10) days from September 12, 2024 was September 22, 2024 which was a Sunday so the ten (10) day appeal from the date of decision ended on Monday, September 23, 2024.<sup>3</sup> The Appellant filed the appeal after September 23, 2024.

The Department has previously ruled that an oral notice of a decision following a hearing is sufficient notice pursuant to R.I. Gen. Laws § 3-7-21. *Certain Property Owners and the Door v. Pawtucket Board of License Commissioners*, LCA-PA-99-12 (5/11/00) upheld by the Superior Court in *Certain Prop. Owners v. Pawtucket Bd. of License Comm'rs*, 2002 R.I. Super. LEXIS 116. In upholding that Department decision, the Court found that “the filing of an appeal application from a decision by a liquor-licensing Board to the Director is jurisdictional. Accordingly, the Director lacks jurisdiction to review de novo a Board's decision if an appeal to the Director is filed too late.” *Id.* at \*7. See also *Garry Crum d/b/a Club Litt v. City of Providence, Board of Licenses*, DBR No.: 14LQ054 (11/6/14) (dismissing an appeal filed pursuant to R.I. Gen. Laws § 3-7-21 for failing to file the appeal within the ten (10) day period).

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any local board, and after hearing, to confirm or reverse the decision of the local board in whole or in part, and to make any decision or order he or she considers proper, but the application shall be made within ten (10) days after the making of the decision or order sought to be reviewed. Notice of the decision or order shall be given by the local or licensing board to the applicant within twenty-four (24) hours after the making of its decision or order and the decision or order shall not be suspended except by the order of the director.

<sup>3</sup> Since the appeal period ended on a Saturday or Sunday or legal holiday, the appeal period runs to the next day that is not a Saturday, Sunday, or holiday which would have been Monday, April 2, 2018. *McAninch v. Department of Labor and Training*, 64 A.3d 84 (RI 2013) addressed the applicability of Super. R. Civ. P 6 Time to the filing of administrative appeals with Superior Court. Rule 6(a) provides as follows:

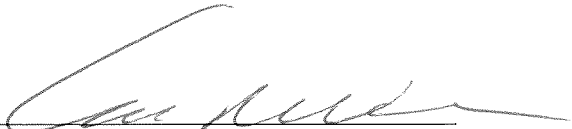
(a) Computation. In computing any period of time prescribed or allowed by these rules, by order of court or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

The Rhode Island Supreme Court found that Rule 6 applied to Superior Court review of administrative decisions as provided for in R.I. Gen. Laws § 42-35-15(b) so that if the 30 day period to file an appeal falls on a Saturday, Sunday, or legal holiday, the period to file runs until the end of the next day which is not Saturday, Sunday, or a holiday (in other words, the next business day). Similarly, the ten (10) day period to file an appeal with the Department fell on a Sunday so that the period to file ran to the Monday, September 23, 2024.

The Board made its decision (orally) on September 12, 2024 so that pursuant to the statute the appeal had to be filed by September 23, 2024. The appeal was filed on September 30, 2024. Thus, the appeal was untimely.

Based on the foregoing, the undersigned recommends that this appeal be dismissed as the Department lacks jurisdiction to hear this appeal since the appeal was not filed within the statutorily required ten (10) days.

Dated: October 15, 2024

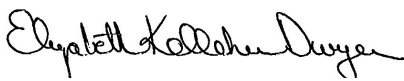
  
Catherine R. Warren  
Hearing Officer

**ORDER**

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

  X   ADOPT  
       REJECT  
       MODIFY

Dated: 10/15/2024

  
Elizabeth Kelleher Dwyer, Esquire  
Director

**NOTICE OF APPELLATE RIGHTS**

**THIS ORDER 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 16th day of October, 2024 that a copy of the within Final Order of Dismissal and Notice of Appellate Rights were sent by electronic delivery and first class mail, postage prepaid, 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 Yoanna Sanchez, 380 Atwells Avenue, Providence, R.I. 02909 and by electronic delivery to Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I. 02920.

*Megan Mihara*  
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