

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

**Moe's Place Inc. d/b/a Passions Lounge,
Appellant,**

v.

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

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DBR No.: 25LQ003

ORDER RE: MOTION FOR STAY

I. INTRODUCTION

This matter arose from a motion for stay filed pursuant to R.I. Gen. Laws § 3-7-21 by Moe's Place Inc. d/b/a Passions Lounge ("Appellant") with the Department of Business Regulation ("Department") regarding an order issued by the City of Providence, Board of Licenses' ("Board") on May 22, 2025 closing the Appellant until a hearing could be held by the Board on May 29, 2025. The Department's jurisdiction only relates to the Class BV liquor license held by the Appellant, and the Board's closing of the Appellant acted as a suspension of the Appellant's liquor license.¹ This matter came before the undersigned on May 27, 2025 in her capacity as hearing officer delegated by the Director of Department.

II. TRAVEL OF MATTER

Based on representations from the parties, the Board convened an emergency hearing regarding the Respondent after there had been a shooting on May 17, 2025 in the vicinity of the

¹Appeals 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) (virtualing license is a separate and distinct license from a liquor license). The Appellant has a Class B liquor license which is conditioned on holding a virtualing license.

Appellant. Said emergency hearing was held pursuant to Providence Charter section 1102.² At the May 17, 2025 emergency hearing, the Appellant was closed for three (3) days. The Appellant voluntarily remained closed pending the scheduled full hearing for May 22, 2025 by the Board.

At the full hearing scheduled for May 22, 2025, the Board planned to review video of the May 17, 2025 incident in executive session; however, the executive session for May 22, 2025 was not noticed in time to be held. As a result, the City requested the hearing be continued for one (1) week until May 29, 2025, and that the Board keep the Appellant closed pending the hearing. The Board scheduled the hearing for May 29, 2025 and kept the Appellant closed pending hearing.

The undersigned listened to the audio of the May 22, 2025 hearing.³ At that time, the City represented the video showed someone inside the club with a gun, and that person then left the club and followed the victim who was shot outside.

The Appellant argued the video had not been reviewed to see how the gun got inside and whether it was a security failing or a set up with security, and there was nothing before the Board that there was an ongoing security issue to keep the club closed for another week.

In addition, the City argued the Appellant was not cooperative since it did not turn over all of the video of the incident but only parts of the video so the police had to obtain a search warrant for the full video from the hard drive. The Appellant argued that it was cooperative and turned over the video immediately and the search warrant was for the hard drive.

² Providence Charter section 1102(3) provides as follows:

Unless otherwise provided by state law, suspend, annul, rescind, cancel or revoke any license issued by the board of licenses for any reason which the board may deem to be in the public interest; provided, however, that no license shall be suspended for more than seventy-two (72) hours or annulled, rescinded, cancelled or revoked unless the licensee shall have been given at least three (3) days' written notice of the action proposed to be taken and of the grounds therefor and the time and place of the hearing. The said licensee shall also be notified of the right to be represented at said hearing by legal counsel.

³ <https://providenceri.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=15174&Format=Agenda> (May 22, 2025 audio of meeting).

The City presented testimony from a Providence Police detective who testified about what video was turned over and why the search warrant was obtained. The City did not present testimony to the Board from someone who had actually seen the video but rather relied on its attorney's representations regarding the video showing the shooter with the gun inside the Appellant.

III. ARGUMENTS

The Appellant argued that it was cooperative with the Board. And it argued that the Board closed it for the week pending the May 29, 2025 hearing because the Board found it was not cooperative. The Appellant disagreed that it was uncooperative and argued that any lack of cooperation was not grounds to keep it closed but rather would go to any potential penalty.

The Board argued that from the Board's perspective, the delay in obtaining the video caused the delay for a full hearing. The City argued that this was a matter of public safety because a gun got inside the club.

IV. STANDARD FOR ISSUANCE OF A STAY

A stay will not be issued unless the party seeking the stay makes a "strong showing" that "(1) it will prevail on the merits of its appeal; (2) it will suffer irreparable harm if the stay is not granted; (3) no substantial harm will come to other interested parties; and (4) a stay will not harm the public interest." *Narragansett Electric Company v. William W. Harsch et al.*, 367 A.2d 195, 197 (1976). Despite the ruling in *Harsch*, the Supreme Court in *Department of Corrections v. Rhode Island State Labor Relations Board*, 658 A.2d 509 (R.I. 1995) found that *Harsch* was not necessarily applicable in all agency actions and the Court could maintain the *status quo* in its discretion when reviewing an administrative decision pursuant to R.I. Gen. Laws § 42-35-15(c). While appeals before the Department do not fall under R.I. Gen. Laws § 42-35-15(c), it is

instructive to note that the *Department of Corrections* found it a matter of discretion to hold matters in *status quo* pending review of an agency decision on its merits.

V. DISCUSSION

A liquor appeal to the Department pursuant to R.I. Gen. Laws § 3-7-21⁴ is considered a *de novo* hearing. The Department's jurisdiction is *de novo* and the Department independently exercises the licensing function. See *A.J.C. Enterprises v. Pastore*, 473 A.2d 269 (R.I. 1984); *Cesaroni v. Smith*, 202 A.2d 292 (R.I. 1964); and *Hallene v. Smith*, 201 A.2d 921 (R.I. 1964).⁵ Because the Department's has such broad and comprehensive control over traffic in intoxicating liquor, its power has been referred to as a "super-licensing board." *Baginski v. Alcoholic Beverage Comm.*, 4 A.2d 265, 267 (R.I. 1939). See also *Board of Police Com'rs v. Reynolds*, 133 A.2d 737 (R.I. 1957). The purpose of this authority is to ensure the uniform and consistent regulation of liquor statewide. *Hallene v. Smith*, 201 A.2d 921 (R.I. 1964).

The Appellant disputed that it was being uncooperative in the investigation into the shooting, and its alleged lack of cooperation was not a reason to close it pending the hearing. The reason to continue the closing pending the full hearing is for public safety. On the record before

⁴ R.I. Gen. Laws § 3-7-21(a) provides 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 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.

⁵ See also R.I. Gen. Laws § 3-2-1 *et seq.*, R.I. Gen. Laws § 3-5-1 *et seq.*, R.I. Gen. Laws § 3-7-1 *et seq.*, and R. I. Gen. Laws § 42-14-1 *et seq.*

voting, the Board expressed safety concerns about the gun inside the club as well as a concern with the lack of cooperation.


In this matter, an error in notice caused the Board not to be able to hold a full hearing on May 22, 2025. Instead of trying to hold the hearing prior to the next scheduled Board meeting, the Board scheduled the meeting for its next scheduled meeting date of May 29, 2025. Of course, the executive session meeting has to comply with the Open Meetings Act so could not be held the next day (and it is noted that Monday, May 26, 2025 was a holiday).

Unlike *Gianco, Inc. d/b/a \$3 Bar v. City of Providence, Board of Licenses*, DBR No. 14LQ043 (8/5/14) (remand order), the Board has scheduled a hearing on this matter. The stay hearing was held two (2) days prior to the Board's scheduled hearing. Thus, a full hearing by the Board shall be held in less than two (2) days.⁶ As a hearing is being held very soon, there are no grounds at this time to grant a stay prior to the Board's May 29, 2025 hearing in light of a gun apparently getting inside the club which presents a public safety issue, and if proven to the Board would result in the very least the imposition of security improvements to protect public safety either ordered by the Board or as part of an agreement between the parties.

VI. CONCLUSION AND RECOMMENDATION

Based on the foregoing, the undersigned recommends the following: The undersigned does not recommend a stay of the suspension of the Appellant's liquor license pending the Board's May 29, 2025 hearing.

Dated: May 27, 2025


Catherine R. Warren
Hearing Officer

⁶ At the stay hearing, the City's counsel indicated it would provide a copy of the video on which the City would be relying on at the May 29, 2025 hearing to the Appellant prior to that hearing.

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

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Dated: May 29, 2025



Elizabeth Kelleher Dwyer, Esquire
Director

NOTICE OF APPELLATE RIGHTS

THIS INTERLOCUTORY ORDER MAYBE REVIEWABLE BY THE SUPERIOR COURT PURSUANT TO R.I. GEN. LAWS § 42-35-15(a) 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 A PETITION DOES NOT STAY ENFORCEMENT OF THIS ORDER.

CERTIFICATION

I hereby certify on this 29th day of May, 2025 that a copy of the within Order and Notice of Appellate Rights was sent by first class mail, postage prepaid and by electronic delivery to the following: Jim Smith, 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.

