



may lead to unfairness among competing businesses in the Town is to request the legislature change the statute not to issue a license in violation of the statute.<sup>1</sup>

Considering the pleadings, radius maps, arguments and precedent, Appellants are likely able to show that a legal remonstrance was established, and that the Town was without jurisdiction to grant the liquor license. Thus, Appellants have made a strong showing they will prevail on the merits. With respect to harm to interested parties, Intervenor cited costs it incurred readying a business to open with a liquor license. However, the Town only approved the license on June 2, 2025, and the Intervenor was aware of the legal remonstrance issue at least since 2023<sup>2</sup>. Thus, the prior costs, incurred with no assurance of licensure, would not be a harm resulting from any stay.<sup>3</sup> As observed by the Hearing Officer, there is a public interest in upholding the requirements of the liquor licensing laws, here § 3-7-19 and existing precedent. Considering Appellants' likelihood of success, granting a stay supports that public interest. Neither the Town nor Intervenor presented evidence of any harm to public interest that would result if a stay is granted.

The Hearing Officer's recommended decision is **ADOPTED**.

The parties shall work together to facilitate conducting the full hearing expeditiously.

Dated June 23, 2025



Elizabeth Kelleher Dwyer, Esquire  
Director

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<sup>1</sup> As reflected in subsections (d)(1) – (69) of the statute, over the course of many years, the legislature has enacted amendments authorizing cities/towns to exempt from the statute proposed retailer licenses for specific properties and/or districts. See R.I. Gen. Laws § 3-7-19 (d)(1) – (69).

<sup>2</sup> See *Narragansett Casino LLC v. Town of Narragansett et al.*, DBR No. 23LQ008, Order Re: Appeal (11/21/2023).

<sup>3</sup> Intervenor also argued it would be harmed if it cannot operate during the summer. That is speculative and assumes that Intervenor cannot operate any business without a liquor license. During the Town Council's discussion, the President noted that the Intervenor is operating but that it needs the license so that it can sell liquor. [https://www.youtube.com/watch?v=7bu\\_sNjuzts](https://www.youtube.com/watch?v=7bu_sNjuzts)

### **NOTICE OF APPELLATE RIGHTS**

**THIS DECISION 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 APPROPRIATE TERMS.**

### **CERTIFICATION**

I hereby certify on this 24<sup>th</sup> day of June, 2025, that a copy of the within Decision and Order was sent by first class mail, postage prepaid, and by electronic delivery to the following: Patrick J. Dougherty, Esquire, Dougherty & Associates Law, Inc., 887 Boston Neck Road, Suite #1, Narragansett, RI 02882 and [pjdoughertylaw@verizon.net](mailto:pjdoughertylaw@verizon.net), John O. Mancini, Esquire, Mancini Carter, The Hanley Building, 56 Pine Street, 3<sup>rd</sup> Floor, Providence, RI 02901 and [jmanicini@mancinicarter.com](mailto:jmanicini@mancinicarter.com), Vincent Indeglia, Esquire, Indeglia & Associates, 931 Jefferson Blvd., Suite 1006, Warwick, RI 02886 and [vincent@indegliaw.com](mailto:vincent@indegliaw.com), and Robert Craven, Esquire, Town of Narragansett, 25 Fifth Avenue, Narragansett, RI 02882 and [bob@robertecraven.com](mailto:bob@robertecraven.com) and by electronic mail to Pamela J. Toro, Esquire, Department of Business Regulation, [pamela.toro@dbr.ri.gov](mailto:pamela.toro@dbr.ri.gov).

*Megan Mihara*

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**Beachcomber Properties LLC,  
J.T. O’Connell Realty, and SAH Hospitality  
Appellant,**

**Town of Narragansett, Town Council  
Sitting as Liquor Licensing Committee,  
Appellee**

**Narragansett Casino LLC,  
Intervenor,**

# ORDER RE: MOTION FOR STAY

This matter arose from an appeal and motion for stay filed on June 6, 2025 by Beachcomber Properties, LLC (“Beachcomber”); J.T. O’Connell Realty (“J.T.”), and SAH Hospitality (“SAH”) (collectively, “Appellants”) with the Department of Business Regulation (“Department”) pursuant to R.I. Gen. Laws § 3-7-21 regarding the decision taken on June 2, 2025 by the Town of Narragansett, Town Council Sitting as Liquor Licensing Committee (“Board” or “Town”) granting a Class BV liquor license to Narragansett Casino LLC (“Intervenor”).<sup>1</sup> A remote hearing on the motion to stay was heard on June 13, 2025 before the undersigned who was delegated to hear this matter by the Director of the Department. All parties were represented by counsel.

<sup>1</sup> Narragansett Casino LLC was allowed to intervene in this appeal.

## **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.*

A liquor appeal to the Department pursuant to R.I. Gen. Laws § 3-7-21 is considered a *de novo* hearing. The Department's jurisdiction is *de novo* and the Department independently exercises the licensing function. *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). 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).

## **III. STANDARD FOR ISSUANCE OF A STAY**

Under *Narragansett Electric Company v. William W. Harsch et al.*, 367 A.2d 195, 197 (R.I. 1976), 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." 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). The issue before the undersigned is a motion to stay a Decision which is subject to a *de novo* appeal and does not fall under R.I. Gen. Laws § 42-35-15(c). Nonetheless, 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.

#### IV. LEGAL REMONSTRANCE

The issue in this matter involves the applicability of a legal remonstrance pursuant to R.I. Gen. Laws § 3-7-19 which provides in part as follows:

Objection by adjoining property owners — Proximity to schools and churches.  
(a) Retailers' Class B, C, N and I licenses, and any license provided for in § 3-7-16.8, shall not be issued to authorize the sale of beverages in any building where the owner of the greater part of the land within two hundred feet (200') of any point of the building files with the body or official having jurisdiction to grant licenses his or her objection to the granting of the license, nor in any building within two hundred feet (200') of the premises of any public, private, or parochial school or a place of public worship. In the city of East Providence, retailer's Class A licenses shall not be issued to authorize the sale of beverages in any building within five hundred feet (500') of the premises of any public, private, or parochial school, or a place of public worship.

In 2023, the same building and parties were before the Department on this issue. At that time, the radius map was incorrect as it included the land under the building. The matter was remanded to the Town for further proceedings. The issue of the legal remonstrance was never heard by the Department with the matter being dismissed on May 8, 2024.<sup>2</sup> However, the remand order, *Narragansett Casino LLC v. Town of Narragansett, Town Council*, DBR No.: 23LQ008 (11/21/23) explained how to measure and how to calculate for a legal remonstrance.

R.I. Gen. Laws § 3-7-19 provides that if the owners of the greater part of the land within 200 feet of the building object to the issuance of Class BV liquor license, said license cannot issue. A legal remonstrance is established if the owners of more than half of the square footage of the 200 feet radius object to the granting of certain liquor licenses.

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<sup>2</sup> See dismissal on Department's website at <https://dbr.ri.gov/municipal-liquor-appeals-under-3-7-21>.

In *Elmwood Tap v. Daneker*, 82 A.2d 860 (R.I. 1951), the Rhode Island Supreme Court upheld the Department's<sup>3</sup> finding that it was without jurisdiction to hear an appeal of liquor license denial because a legal remonstrance had been established. In that matter, the Department received in evidence 1) written evidence of the plat showing the streets and boundaries of the lots of land within the 200 feet radius as well as a list of addresses and a written remonstrance of the signatures and addresses of those claiming to be owners of the property objecting to the license; 2) testimony of police officers who interviewed neighbors to confirm ownership and objections; and 3) testimony of a number of people who objected in person to the granting of the application. A tabulation of the square feet demonstrated that the owners of a majority of the land objected to the granting of the license. The appellant in that matter argued that the objectors who appeared in person did not own sufficient land to establish a legal remonstrance. However, the Court found as follows:

In the circumstances herein outlined there was uncontradicted evidence, either direct or by reasonable inference, to warrant the administrator in holding that the objectors had established a legal remonstrance and that therefore he was without jurisdiction by force of the statute. If petitioner deemed the evidence with reference to the areas owned by objectors insufficient as a matter of fact, it was free to produce evidence to the contrary, which it did not do. On the record before us we find no error in the action taken by the administrator. *Id.*, at 862.

In *The Castle, 19 Greenough Place, Inc. v. Mayor of Newport*, 9 A.2d 710 (R.I. 1939), a legal remonstrance was not established because there was no proof that the objectors owned the greater part of the land within a 200 feet radius because there was no evidence of the addresses or any other designation of the property owned or where it was located so that it could not be determined if the owners of a greater part of the land within 200 feet objected to the granting of

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<sup>3</sup> This decision (and others) refers to the Liquor Control Administrator rather than Department. However, that position is now handled by the Department rather than being a specific title within the Department so the undersigned will for clarity refer to the Department in discussing this decision (and others).



the land. In that case, the local licensing authority had erroneously found that a majority of the owners objected to the license rather than determining whether the objectors owned the greater part of the land within the 200 feet radius. See *Prada Lounge, LLC d/b/a Prada Lounge City of Providence, Board of Licenses*, 17LQ003 (8/4/17) *305 Cigar Bar & Lounge, Inc. v. Providence Board of Licenses*, 14LQ058 (2/15/15); and *Meeting Street and MSC Realty v. Providence Board of Licenses*, DBR No. 06-L-0167 (8/8/07).

It should be noted that in determining whether a legal remonstrance exists, the reasons for an objection to the granting of a liquor license do not matter. All that is required under the statute is an objection. In determining an objection, the local authority just needs to calculate the square footage and whether the owners of more than half of the square footage of the land within the radius object to the granting of the license. If a legal remonstrance exists, no license can issue.

## **V. ARGUMENTS**

SAH argued the Town should not have issued the license because there is a legal remonstrance. It argued that based on its radius map, SAH, J.T., and Beachcomber own the greater part of the land in the 200 foot radius and object to the granting of the license. It argued the statute does not say to include land outside of the radius. It argued that, for example, part of the radius includes a town road so that the radius would not include the entire road or all of the town's roads. It argued it had a strong likelihood of success on the merits.

Beachcomber and J.T. argued that there is a difference of only 154.8 square footage between the radius map used by the Appellants as compared to the Intervenor's map. See Palmer affidavit submitted by Intervenor. They argued that both maps show a legal remonstrance. The Appellants also raised issues about the Town's procedures, parking, and the Intervenor's menu.

The Intervenor argued that J.T. holds a class BV liquor license and Beachcomber has two (2) tenants each with a class BV liquor license and SAH, before it closed, held a class BV liquor license so there are already four (4) liquor licenses in the area. It argued that “within” means in the range of so does not mean only the land in the radius. It argued that the parcels within the radius must include all the land of the parcel which includes that land outside of the radius as that is who is given notice. It argued that since part of a school or a church’s land in the radius invokes a legal remonstrance because the church and school is considered to be within the radius, that means the entire parcel should be considered part of the radius. The Intervenor argued that since SAH is now defunct it should be taken out of the equation as objectors. It argued that when the entire parcels are included in the radius calculation, the Appellants do not represent the majority of the land.

The Town argued that after several hours of hearing, it saw this matter as one of fairness in terms of the Intervenor’s business plan and the neighboring liquor licensees. It argued that while the title of the statute states owners, the text speaks of owner so the statute does not apply.

## **VI. 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 Omust 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) (internal 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 (R.I. 1998).

## **B. The Legal Remonstrance**

The Intervenor's and Town's arguments about the statute and the calculations are contrary to the plain statutory language as has been discussed and explained in numerous Court and Department decisions. *Supra*. Quite clearly, the statute only applies to the land that is within the 200 foot radius whether it is a sliver of someone's land or an entire parcel.<sup>4</sup> The statute applies to the greater land mass – in other words, do the owners representing the majority of the land within the 200 feet radius object. The use of the term, “owner” versus “owners” does not change the interpretation of the statute. It would render the statute nugatory and unreasonable to find the only legal remonstrance objector could be one owner who owns greater than 50% of the 200 feet radius.<sup>5</sup> The statute clearly is speaking of that property within the 200 feet radius and the owners thereto.<sup>6</sup>

The Intervenor provided a radius map referred to as the Palmer map. See objection to motion to stay. The Appellants provided a different radius map referred to as the Andrews map. See motion for stay and appeal. Both maps include the 200 foot radius from the Intervenor's building and do not

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<sup>4</sup> The same is true for the radius if it touches school property. If any part of the school property is within the radius, the school is within 200 feet because its property is within 200 feet. The radius is not enlarged to include the school building if the radius only included the playground. In that case, it is the type of property – school property - that is relevant. Here, the property inside the 200 foot radius is the relevant property as well.

<sup>5</sup> When the language of a statute is clear and unambiguous, the statute will be given its plain and ordinary meaning. However, the Court's “plain meaning approach . . . is not the equivalent of myopic literalism, and it is entirely proper for us to look to the sense and meaning fairly deducible from the context.” *Freepoint Solar LLC v. Richmond Zoning Board of Review*, 274 A.3d 1, 8 (R.I. 2022) (citation omitted). As the Rhode Island Supreme Court has further held, “it would be ‘foolish and myopic literalism to focus narrowly on’ one statutory section without regard for the broader context (citation omitted).” *Ryan v. City of Providence*, 11 A.3d 68, 71 (R.I. 2011).

<sup>6</sup> It is a well-recognized principle that a longstanding, practical and plausible interpretation given a statute of doubtful meaning by those responsible for its implementation without any interference by the Legislature should be accepted as evidence that such a construction conforms to the legislative intent. *Trice v. City of Cranston*, 297 A.2d 649 (R.I. 1972). Nonetheless, the statute does not have doubtful meaning, but clearly applies only to the land inside the radius as found by the Rhode Island Supreme Court. *Supra*.

include the land under the building. Both maps include the owners of each parcel and the amount of land – whether part of a parcel or an entire parcel – within the 200 foot radius.

The Intervenor moved to dismiss SAH and argued it is not the appropriate entity as its corporate entity was revoked so it cannot be put forth as an objector. The individual owners of SAH property have moved to intervene. The undersigned is not ruling on either motion as there is still time for objections to be filed. However, the appeal hearing before the Department is *de novo* so whether SAH is a complainant or not, the owners of that parcel – whether SAH or the individual owners - may object at the Department hearing. As the appeal hearing is *de novo*, the Department is not bound by the status of any 200 foot radius owners at the time of the June 2, 2025 Town hearing. The owners of SAH property have moved to intervene noting their objection to the issuance of said license. Therefore, the individual(s) owning that parcel whether as SAH or otherwise object to the granting of the liquor license and will do so before the Department hearing.

The parties raised the other factors in the granting of a stay. The Intervenor argued it would suffer irreparable harm if it cannot operate during the summer. However, the Intervenor just was granted a liquor license and clearly is aware of the legal remonstrance issue. More importantly, there is a public interest in upholding the requirements of the licensing laws, and a license does not exist to be granted when there is a legal remonstrance. There is no discretion allowed.


Beachcomber, J.T., and the SAH owners own more than a majority of land within the 200 foot radius under either map so if their objections are proved, there would be a legal remonstrance.

Therefore, the Appellants have made a strong showing that they will prevail on the merits of their appeal and be able to demonstrate that a legal remonstrance exists so that no liquor license exists to be issued.

## VII. RECOMMENDATION

Based on the foregoing, the Appellants' motion for stay of the granting of the class BV liquor license to the Intervenor by the Town shall be granted.

Dated: JUNE 16, 2025


  
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:

☒ ADOPT  
☐ REJECT  
☐ MODIFY

Dated: June 23, 2025

  
Elizabeth Kelleher Dwyer, Esquire  
Director

A hearing will be scheduled on a mutually convenient date to be determined by the parties.<sup>7</sup>

## NOTICE OF APPELLATE RIGHTS

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<sup>7</sup> Pursuant to R.I. Gen. Laws § 3-7-21, the Appellant is responsible for the stenographer.

### **CERTIFICATION**

I hereby certify on this 24<sup>th</sup> day of June, 2025 that a copy of the within Order and Notice of Appellate Rights were sent by electronic delivery and first class mail, postage prepaid, to the following: Patrick J. Dougherty, Esquire, Dougherty & Associates Law, Inc., 887 Boston Neck Road, Suite #1, Narragansett, RI 02882 and pjdoughertylaw@verizon.net, John O. Mancini, Mancini Carter, The Hanley Building, 56 Pine Street, 3<sup>rd</sup> Floor, Providence, R.I. 02901 and jmancini@mancinicarter.com, Vincent Indeglia, Esquire, Indeglia & Associates, 931 Jefferson Blvd., Suite 1006, Warwick, R.I. 02886 and vincent@indeglialaw.com, and Robert Craven, Esquire, Town of Narragansett, 25 Fifth Avenue, Narragansett, R.I. 02882, and bob@robertecraven.com 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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