

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

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

**v.**

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

**DBR No.: 25LQ005**

**and**

**Narragansett Casino LLC,  
Intervenor**

**and**

**Hitish Patel, Suresh Patel, Prity Patel, and  
Nayan Patel,  
Intervenors**

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**DECISION**

**I. INTRODUCTION**

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”) to grant a limited (beer and wine) Class BV liquor license (“License”) to Narragansett Casino LLC

("Intervenor").<sup>1</sup> By order dated June 24, 2025, the Department granted the Appellants' motion to stay and stayed the Board's grant of the License to the Intervenor. By order dated July 9, 2025, the undersigned denied the Intervenor's motion to dismiss and granted the motion by Hitish Patel, Suresh Patel, Prity Patel, and Nayan Patel ("Patel Intervenor") to intervene. A hearing was held on August 7 and September 23, 2025 with the parties represented by counsel. Briefs were timely filed by November 21, 2025.

## **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.*

## **III. ISSUE**

Whether the Board appropriately granted the Intervenor's application for License, and whether there is a legal remonstrance pursuant to R.I. Gen. Laws § 3-7-19(a).

## **IV. MATERIAL FACTS AND TESTIMONY**

For ease of reference, it is noted that the Intervenor and Beachcomber were involved in separate litigation regarding the ground lease held by Beachcomber of the property under the Intervenor's building. Beach Street Realty, LLC was the prior owner of Intervenor's building. Beach Street Realty, LLC sought that Beachcomber be ordered to give its assent to the ground lease to the new tenant, the Intervenor. That litigation resulted in an arbitration award finding that Beachcomber "unreasonably withheld consent to assign the aforementioned Ground Lease to Claimants (Beach Street Realty, LLC and Narragansett Casino, LLC)." Intervenor's Exhibit 13 (arbitration award).

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

Kenneth Cusson (“Cusson”) testified on behalf of J.T. He testified he is the secretary of J.T. and the director of business development for Newport Restaurant Group which is wholly owned by Newport Harbor Corporation (“NHC”). He testified he is secretary for NHC and for all of its wholly owned subsidiaries. He testified that J.T. purchased its property from GP Pier Retail, LLC which included 72 exclusive parking spots and other parking spaces in common. He testified the property was formerly the site of the TRIO restaurant and now is the Celeste restaurant. He testified there are 240 seats in the restaurant and not enough parking, so they had to hire valet companies to monitor parking. He testified he signed a J.T. resolution on behalf of the sole shareholder of J.T., NHC, of which he is secretary authorizing J.T. to object to the Intervenor’s application for a liquor license. He testified that NHC authorized the objection based on J.T.’s ownership of the Celeste restaurant property. He testified he was authorized to file an objection to the liquor application and appeared in person before the Town to object to the grant of the liquor license to the Intervenor. Joint Appellants’ Exhibit Three (3) (Cusson signed letter from J.T. dated May 15, 2025 to Town objecting to Intervenor’s liquor application with resolution).

On cross-examination by the Intervenor, Cusson testified there was one (1) resolution issued by J.T. with respect to its objection to the application. He testified that NHC is the sole shareholder of J.T. He testified the officers of J.T. are Michael Lamond (“Lamond”) as president and himself as secretary. He testified he does not have any correspondence or documents executed by the president objecting to the License. He testified that he met with Lamond as a meeting of the officers but there are no minutes. He testified he assumes there is a shareholder agreement, but he did not have a copy with him. He testified there are bylaws for J.T. but he did not have them with him. He testified that he cannot say if bylaws give guidance for meetings without looking at the bylaws. He testified that Lamond is president, and he is the secretary of NHC which is as an

employee stock ownership plan trust with about 1,100 beneficiaries. He testified that NHC has a shareholders' agreement, but he did not have it with him. He testified at NHC's annual meeting held every year in June, he is authorized as secretary to sign corporate documents. He testified that for this resolution, he would have been authorized at the June, 2024 meeting, and the shareholders did not vote then to object to the License. He testified that as an officer, he is authorized to sign the resolution. He testified that outside of parking, he has no other objection to said application. He testified he has spoken to Mr. Hallberg about the application, but he does not remember their first conversation. He testified that he did not speak with SAH about said application.

On redirect examination, Cusson testified that he has been the secretary for both NHC and J.T. since approximately 2015. On re-cross examination by SAH, Cusson testified that as an officer of various entities, he is actively involved and makes decisions daily. He testified the only way a company can voice its activity is through its officers, and a company does not send out a letter for each action that it wants to take. He testified that no one else but he and Lamond have spoken for J.T. for major decisions. He testified that there is a company for property and another company for running the restaurant. On re-cross examination by the Intervenor, Cusson testified that he did not have the documents with him that provide his position as secretary to authorize the resolution and objections. He testified that did not have the bylaws for J.T. or NHC with him.

Scott Hallberg ("Hallberg") testified on behalf of Beachcomber. He testified he is the managing member of Beachcomber and is responsible for the activities of the LLC which is contained in the operating agreement. He testified he has the authority to object to the issuance of the liquor license and discussed that with the members, and they agreed to voice their objection. He testified that Beachcomber either owns or has an easement for parking. Joint Appellants' Exhibit Nine (9) (warranty deed). He testified parking is an issue and a reason he is objecting. He

testified in his opinion, the Intervenor does not have a ground lease with Beachcomber, the Intervenor occupies the building on Beachcomber's land, and the tenancy is still in dispute. He testified he hired Andrews to produce the survey map. Joint Exhibit One (1) (Andrews map).

On cross-examination, Hallberg testified that he is the only one authorized to file documents on behalf of Beachcomber and to object to the liquor license application. He testified there is an operating agreement, but he did not have it with him, and he did not submit the operating agreement to the Town or the Department, but he thinks he gave it to Intervenor's attorney at one time. He testified there are five (5) members of Beachcomber, and they all object to the License but the other members have not objected to the liquor license in writing. He testified he does not need a corporate resolution executed by the members to act as he has sole authority to conduct business on behalf of the LLC based on the operating agreement. He testified that he does not have anything in writing from the other members authorizing him to object to the License. He testified he can act unilaterally for Beachcomber pursuant to the operating agreement. Appellants' Joint Exhibit (8) (written objection citing to section of operating agreement). He testified he has not consented to the liquor license and has not consented to the assignment of lease between Beach Street Realty and the Intervenor. He testified the arbitration award found he was unreasonable to withhold his consent to the ground lease. He testified that parking is his only reason to object. He testified that he has ongoing conversations with SAH about various things including the liquor application. He testified he has a corporate resolution authorizing him to speak on behalf of the company but he did not have it with him and had not provided the Town with it. He testified there are six members of Beachcomber, four (4) with 20% and two (2) with 10% ownership and he was elected the officer as he put the deal together. He testified that he is the managing member with a corporate resolution authorizing him to make the decisions for Beachcomber.

On redirect, Hallberg testified that he cited to the operating agreement in his objection. On further cross-examination, he testified that Beachcomber is a LLC with the purpose to own and operate and rent commercial property commercial condominium space on the Narragansett Pier. He testified that he brought in investors for the company but has a fiduciary duty to each member investing in the company.

Hitash Patel (“Patel”) testified on behalf of SAH. He testified he is the managing member of SAH. He testified that SAH owns the property on the pier and is a hotel, and the property is next to the Intervenor. He testified as to the operating agreement for SAH. Appellants’ Joint Exhibit 12 (SAH operating agreement). He testified he and Suresh Patel are managing members of SAH and have been since the formation of SAH. He testified the operating agreement provides that the managing members make the business decisions for SAH which would include objecting to the Intervenor’s application for liquor license. He testified he and Suresh agreed to object to the application. Joint Appellants’ Exhibit 13 (SAH company resolution authorizing objection to Intervenor’s application for License). He testified the Secretary of State’s (“SOS”) revoked SAH’s authority to do business in Rhode Island because of a tax issue. He testified SAH was able to show the Division of Taxation (“Taxation”) that it did not owe any tax so it received a letter of good standing from Taxation, so it was able to reinstate its authority with the SOS for SAH to do business. Joint Appellants’ Exhibit 14 (SOS certificate of good standing for SAH dated September 22, 2025); and 15 (SOS reinstatement requirements for SAH of letter of good standing from Taxation and annual reports dated September 15, 2025).

On cross-examination, Patel testified he signed an objection to the License that was submitted to the Town. He testified that at that time, SAH was having issues about tax, but he thought SAH was still registered. He testified he was not aware that the SOS had revoked SAH’s

certificate of registration on September 17, 2024. He testified that SAH objects to the application because it believes the Intervenor is encroaching on its property, parking issues, and that Intervenor never provided liability coverage as part of its purchase agreement.

Michael G. Riley (“Riley”), a member of the Intervenor, was called to testify by SAH. He testified that he is the member of the Intervenor. He testified that he did not have a physical copy with him of the Intervenor’s operating agreement, a SOS certificate of good standing for the Intervenor, nor a resolution from the Intervenor authorizing him to proceed with the liquor license application. He testified as to the areas within the Intervenor where they would like to serve liquor. On cross-examination, Riley testified that the Intervenor did not apply to the zoning within the Town nor to the planning board.

## 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, 1049 (R.I. 1994). The Rhode Island 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. Dept. of Environmental Management*, 553 A.2d 541 (R.I. 1989). In cases where a statute may contain ambiguous language, the Rhode Island 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).

A liquor appeal to the Department pursuant to R.I. Gen. Laws § 3-7-21<sup>2</sup> is considered a *de novo* hearing. 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 Department<sup>3</sup> is a "superlicensing board," it has the discretion to hear cases "*de novo* either in whole or in part." *Baginski*, at 268. 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).

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<sup>2</sup> R.I. Gen. Laws § 3-7-21 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.

<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).

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*. 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).

Because of the Department's broad authority over an appeal the parties may rest on the record below or choose to re-try the complete case or choose to supplement the record below. Therefore, a local authority could find a legal remonstrance and if that finding is appealed, the local authority could rest on the record below that such a legal remonstrance exists and if a legal remonstrance exists then no appeal can be heard. *Elmwood Tap v. Daneker*, 82 A.2d 860 (R.I. 1951) (Department without jurisdiction to hear appeal since legal remonstrance established). Nonetheless, since an appeal is *de novo*, the issue of a legal remonstrance can be heard for the first time on appeal. *Meeting Street and MSC Realty v. Providence Board of Licenses*, DBR No. 06-L-0167 (8/8/07).

The Intervenor and Town argued that a *de novo* hearing means that everything at the Department hearing must be as of June 2, 2025 when the matter was heard by the Town. They cited to *Hallene* in support of this argument. *Hallene*, at 925, found as follows:

We conclude then that § 3-7-21 contemplates not an appeal, but a proceeding to transfer or remove a cause from the jurisdiction of a local board to that of the state tribunal that may be invoked whenever a local board acts adversely to the license under consideration. When this provision is properly invoked, it transfers the jurisdiction of

the cause from the local board to the administrator by operation of law, and the cause then pending before the administrator is entirely independent of and unrelated to the cause upon which the local board acted. Error of law or fact inhering in the latter proceeding is without legal consequence on the jurisdiction of the administrator. When it is pending before the administrator on a hearing *de novo*, the cause is precisely the same as when it stood before the local board prior to its removal. The issue therein is the same, and the posture of the parties remains the same as that in which they stood before the local board. In short, the cause, when removed to the jurisdiction of the administrator, stands as if no action thereon had been taken by the local board.

The Intervenor and the Town quote, “the posture of the parties remains the same as that in which they stood before the local board” to argue that, for example, the fact that SAH’s corporate authority was reinstated after the Board hearing is of no consequence for the Department hearing because it had been revoked prior to the Board hearing. They ignored the other parts of that paragraph which explain that when a matter is removed to the Department, it stands as if no action has been taken by the local board. In other words, what happened at the local board is of no consequence. The matter before the Department is “independent” and “unrelated” to the Board’s proceedings. Indeed, *Hallene* makes it clear the Department’s authority is not merely a review but a full *de novo* hearing with the jurisdiction removed from the local authority to the Department.

Thus, the parties are at the same posture as they stood before the Board because the hearing before the Department is as if the Board took no action. It does not follow that for the Department hearing, things are frozen in time at the date of the Board’s hearing because the Department’s jurisdiction is that as if there has been no action by the Board. Since there has been no action by the Board, the Department is not bound by what happened at the Board hearing because its jurisdiction is unrelated and independent. The Intervenor’s and Town’s argument is without merit and ignores the statute, decades of case law, and Department decisions.

In this instance, the Board did not find a legal remonstrance after arguments on the legal remonstrance before the Board. On appeal, the Appellants argued there is a legal remonstrance that bars the granting of the License.

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 its decision but whether the Board presented its case for its decision before the undersigned. The undersigned will make her findings on the basis of the evidence before her and determine whether that evidence justifies the Board's decision.

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).

### **C. 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, location, and parties were before the Department on the same issue of an application by the Intervenor for a Class B liquor license. In the 2023 matter, the Appellants in this matter also objected to the Intervenor's application for a Class B liquor license. In 2023, the Town denied the Intervenor's application for a Class B liquor license. 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>4</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.<sup>5</sup>

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.

In *Elmwood Tap v. Daneker*, 82 A.2d 860 (R.I. 1951), the Rhode Island Supreme Court upheld the Department's 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

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<sup>4</sup> See dismissal on Department's website at <https://dbr.ri.gov/municipal-liquor-appeals-under-3-7-21>.

<sup>5</sup> *Id.* for remand order.

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 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 it could not be determined if the owners of a greater part of the land within 200 feet objected to the granting of 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).

In *Edward W. Smith Estates, Inc. v. O'Dowd*, 174 A.2d 676, 678 (R.I. 1961), the Rhode Island Supreme Court addressed the issue of corporations objecting pursuant to R.I. Gen. Laws § 3-7-19. The Court found as follows:

The petitioners' second contention [legal remonstrance argument] is likewise without merit. They concede that if Edward W. Smith Estates, Inc. and Westerly Shopping Center, Inc. are not proper remonstrants, then the remaining remonstrants represented in the hearing are not the owners of more than one half of the property

within 200 feet of the licensed premises. It is elementary that no stockholder, even if he possesses all of the stock, can speak for the corporation as such. Nor is it material that such a stockholder is an officer. In the absence of official action by its board of directors or such other authority as the charter or by-laws may provide, it cannot be said that a corporation has taken a position such as that claimed by petitioners. Although Edward W. Smith testified that he owned the corporation and was its president and treasurer, he offered no testimony that the corporation had voted to oppose the granting of the license in issue. There was no testimony whatsoever in the matter of Westerly Shopping Center, Inc. other than that given by Smith in support of the written remonstrance signed 'Westerly Shopping Center, Inc. By Madelyn E. Gould President.' However, he admitted having no knowledge as to any action taken by the corporation authorizing its president to record its objection.

The Superior Court in applying *Edward W. Smith* to a legal remonstrance argument pursuant to R.I. Gen. Laws § 3-7-19 found that written objections from the Newport Art Museum and Newport Housing Authority based on a legal remonstrance “lack[ed] the requisite form to make them legally binding because there was no evidence of any corporate action authorizing the executive directors to remonstrate against the granting of a liquor license.” *City of Newport v. Department of Business Regulation*, 1988 WL 1017311 at 2. The Superior Court found the Department was correct in finding that both those objections were “defective in that there was no evidence that the writers of the objections had the requisite corporate authority.” *Id.* at 3.

In *Edward W. Smith*, no one testified on behalf of Westerly Shopping Center, Inc. and instead only a written remonstrance from Westerly Shopping Center, Inc. was filed and signed by “Madelyn E. Gould, President.” There was testimony from Edward W. Smith Estates, Inc. in that Edward W. Smith testified against the license but there was no testimony that said corporation had voted to oppose the license. Therefore *Edward W. Smith* held it could not be found the corporation had taken the position as argued by the petitioners. In the Superior Court case of *City of Newport*, the Court found that there was no evidence (written or oral) supporting the written objections.

Therefore, in this matter, it is necessary to find that the objectors own land within the 200 feet radius of the Appellant’s location and if necessary, that such owners and/or witnesses were

authorized to speak on behalf of the ownership entity. Such evidence could include testimony and/or affidavits that a member of a LLC is authorized to speak on behalf of the LLC or that an officer of a corporation is authorized to speak on behalf of the corporation. In *Elmwood Tap*, there was direct oral testimony from witnesses that either owned the land or were authorized to speak for the owners. It is not expected that police officers will verify ownership within the 200 foot radius like in *Elmwood Tap*, but in order to establish a legal remonstrance there needs to be a finding that those objecting are owners or authorized to speak on behalf of the owners.

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.

#### **D. Arguments**

Specific arguments are addressed in the discussion below.

#### **E. How to Measure a Legal Remonstrance**

The Intervenor and Town argued for notice purposes, the Town used the meaning of “in the range of” for the term, “within.”<sup>6</sup> They argued that in using that definition – “in the range” - the entire parcels in the range of 200 feet should be included. The Intervenor and Town argued the radius should thus include the entire parcels of land for the Pier Townhouse Condominium, Kingstown Road, T & S Realty, etc. Therefore, they argued that many property owners that fall inside the radius but with larger parcels in their entireties did not object.

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<sup>6</sup> The Intervenor and Town cited to various definitions of “within” contained in Merriam-Webster at [www.merriam-webster.com/dictionary/within](http://www.merriam-webster.com/dictionary/within).

It is unclear to the undersigned what the argument about the Town's notice refers to. If the Town gave notice to people beyond the 200 foot radius of the proposed liquor license that does not change the requirements of the notice statute nor of a legal remonstrance.

The argument about the use of "within" is contrary to the plain statutory language regarding calculation the 200 feet radius which has been discussed and explained in numerous Court and Department decisions. *Edward W. Smith, Elmwood Tap, The Castle, 19 Greenough Place. 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>7</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. To include an entire parcel could end up including land that was not even close to being near 200 feet but more importantly, the statute clearly means within or inside the 200 feet radius.<sup>8</sup>

The Intervenor made this same argument about "within" in its opposition to the Appellant's motion stay which was rejected in the Department's decision on the stay of June 24, 2025. Now, the Intervenor and Town argued that the majority of the noticed lots whose lot totals are far greater than the Appellants did not object to the License. However, it is not a majority of lots that would object to the license but is based on the owners of the majority of the land inside the radius. *Supra.* The Intervenor and Town's arguments are contrary to the clear meaning of the statute and decades of case law and Department decisions.

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<sup>7</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>8</sup> While the statute is clear and unambiguous, 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. *Verizon New England, Inc. v. Savage*, 337 A.3rd 689 (R.I. 2025); *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.*

The Intervenor provided a radius map referred to as the Palmer map. Intervenor's Exhibits 17 (Palmer map) and 18 (affidavit).<sup>9</sup> The Appellants provided a different radius map referred to as the Andrews map. Joint Appellants' Exhibit One (Andrews map) and Two (letter). Both maps include the 200 foot radius from the Intervenor's building and do not 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. Those two (2) maps are the maps that will be used to determine whether a legal remonstrance exists.

#### **F. The Objectors**

The Intervenor argued that none of the objectors have the authority to object to the License. As stated above, in order to find a landowner objected, there needs to be a finding that those objecting are owners or authorized to speak on behalf of the owners. Such evidence could include testimony and/or affidavits that a member of a LLC is authorized to speak on behalf of the LLC or that an officer of a corporation is authorized to speak on behalf of the corporation. In *Elmwood Tap*, there was direct oral testimony from witnesses that either owned the land or were authorized to speak for the owners. Such a finding can be based on oral or written testimony or both.

#### **a. SAH**

The Intervenor and Town argued SAH could not object as its corporate entity was revoked as of June 2, 2025. As discussed above, the facts in this case are not frozen as of June 2, 2025. 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. *Supra*.

Patel testified as to and provided the operating agreement for SAH. Appellants Joint Exhibit 12 (SAH operating agreement). He testified that he and Suresh Patel are managing

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<sup>9</sup> Intervenor's Exhibit 18 is the affidavit by Palmer about the Palmer map. After the hearing, the undersigned admitted Intervenor's Exhibit 17 but no mention was made of the affidavit. In order to be clear, the affidavit is admitted as well.

members of SAH. He testified the operating agreement provides that the managing members make the business decisions for SAH which would include objecting to the Intervenor's application for the License. *Id.* (Article II, managing members named; Article VI, management of company performed by managing members). He testified he and Suresh agreed to object to the application. Joint Appellants' Exhibit 13 (SAH company resolution authorizing objection to Intervenor's application for License). He testified the SOS revoked SAH's authority to do business in Rhode Island but SAH's authority has been reinstated. Joint Appellants' Exhibit 14 (SOS certificate of good standing for SAH dated September 22, 2025).

There was written and oral testimony that Patel<sup>10</sup> is a managing members of SAH and has the requisite authority under the operating agreement to object by SAH to the Intervenor's application for the License.<sup>11</sup>

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<sup>10</sup> The Intervenor attacked Patel's credibility arguing that Patel asserted his right against constitutional self-incrimination. However, Patel did not. Patel was asked whether he had a lawsuit pending against the Intervenor's prior owner. He responded he wanted to keep his company information confidential and such information was private. Obviously, litigation is a matter of public record and SAH's attorney then stipulated that said lawsuit was a matter of public record and had been filed in Washington County Court. September 9, 2025 Tr. pp. 120-121. This was not an attempt by Patel to assert his constitutional right against self-incrimination, but rather a misguided understanding of what was confidential for a company. There are no grounds to reject the oral and written testimony that Patel and Suresh Patel are the managing members of SAH and have the authority to and do object to the License.

<sup>11</sup> There is a statutory right of who can appeal a local licensing decision but that does not limit who can appear and testify at a Department hearing. Furthermore, anyone can object at the Department's *de novo* hearing whether they objected at the local hearing or not. R.I. Gen. Laws § 3-7-21; R.I. Gen. Laws § 3-5-19; *Earle v. Pastore*, 511 A.2d 989 (R.I. 1986); *Schneider v. Reynolds*, 134 A.2d 56 (R.I. 1957); and *Moretti v. Division of Intoxicating Beverages*, 5 A.2d 288 (R.I. 1939).

If SAH had not been reinstated, it is still the owner on record, and its owners still own the property. *Friendly Home, Inc. v. Shareholders and Creditors of Royal Homestead Land Co.*, 477 A.2d 934 (R.I. 1984). The Patel Intervenor is the member of the LLC known as SAH. Joint Appellants' Exhibit 12. With the reinstatement of SAH, there was no need for each member to object as the managing members have the authority to object. The Intervenor argued the Patel Intervenor was required to file an objection at the Town hearing and be the owners of the subject property. The Patel Intervenor was not required to file an objection at the Town hearing if they then chose to object at the Department hearing. If only Beachcomber had objected at the Town hearing and then appealed the grant of the License, the Patel Intervenor could have appeared at the Department hearing to argue they owned the property and objected to the License. Obviously, for a legal remonstrance to be found, the objector needs to own property within the 200 foot radius. But it is irrelevant as SAH had its authority reinstated and objected at the *de novo* hearing. It is irrelevant to the finding of a legal remonstrance whether SAH as a revoked entity could appeal the Town's decision to the Department. There was an appeal by Beachcomber and J.T. and as a result SAH testified to its objection at the Department hearing.

**b. Beachcomber**

The Intervenor and the Town relied on *Edward W. Smith* to argue that without a corporate vote and official corporate act, Hallberg does not speak for Beachcomber. In *Edward W. Smith*, the corporation did not vote to oppose the granting of a license. The Court found that in the “absence of official action by its board of directors or such other authority as the charter or by-laws may provide, it cannot be said that a corporation has taken a position.” *Edward W. Smith*, at 288. Beachcomber is a LLC. A corporate vote does not necessarily need to be shown; instead, what is needed to be shown is that under its corporate authority, Hallberg is authorized to speak for Beachcomber.

Hallberg testified he is the managing member and authorized to speak for Beachcomber. He filed an objection to the Intervenor’s application for the License with the Town. In that objection, Hallberg cited to Beachcomber’s operating agreement and the relevant section, §7(b)((1), authorizing the manager to “exercise exclusive control over the management and conduct of business” for Beachcomber. Town certified record (Beachcomber objection submitted to Town).

As noted above, Beachcomber and the Intervenor were involved in litigation regarding the ground lease held by Beachcomber on the property on which the Intervenor is located and the assignment of the ground lease. This litigation resulted in an arbitration award in which it was found that Beachcomber had unreasonably withheld consent to assign the ground lease to the Intervenor (and Beach Street Realty, LLC). Intervenor’s Exhibit 13. The arbitration award discussed Hallberg and conversations that Hallberg had on behalf of Beachcomber with the parties involved in that litigation. Indeed, questions directed to Hallberg at the Department hearing referred to this matter and the withholding on consent. Clearly, Hallberg was acting on behalf of Beachcomber in the ground lease arbitration.

Hallberg testified he is the managing member with the authority to act for Beachcomber. While no copy of the operating agreement for Beachcomber was provided, Hallberg testified to and Beachcomber's objection cited to said agreement. The Intervenor argued that Hallberg failed to show that he had the requisite corporate authority. However, his testimony showed that under the operating agreement, he is the manager of the LLC and acts for Beachcomber. Indeed, he acted for Beachcomber in the issue of consent in the ground lease litigation as he acted for Beachcomber in objecting to the License application.

There was written and oral testimony that Hallberg is the manager of Beachcomber and had the requisite authority under the operating agreement to object on behalf of Beachcomber to the Intervenor's application for the License.

In the alternative, the Intervenor and the Town argued that if Hallberg's authority was accepted, Hallberg had already assented to liquor as a use. For this, they cited to two (2) proposed exhibits (Intervenor's Exhibits Seven (7) and Ten (10)) that were not admitted by the undersigned.<sup>12</sup> They also relied on the ground lease (Intervenor's Exhibit One (1)) to argue the ground lease allows the usage of liquor so that Hallberg consented to such usage.

The Intervenor and the Town also claimed that Hallberg was equitably estopped<sup>13</sup> from objecting to the License as he already consented to it. Again, they cited to an exhibit not admitted

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<sup>12</sup> Proposed Intervenor's Exhibits Seven (7) was a 2012 memorandum by the Town building official regarding the urban renewal area in which the Intervenor is located. Proposed Intervenor's Exhibit Ten (10) was an audio recording of a conversation in 2021 that apparently included Hallberg about the ground lease and what it covers. Neither exhibit was admitted as the former was about prior Town proceedings for that location in 2012 and the latter was unclear of when it occurred and was about the ground lease so was not relevant to this matter.

<sup>13</sup> The Rhode Island Supreme Court has detailed the elements of equitable estoppel as follows:

This Court has clearly indicated what must be present for equitable estoppel to be potentially applicable:

The indispensable elements of an estoppel are, first, an affirmative representation or equivalent conduct on the part of the person against whom the estoppel is claimed which is directed to another for the purpose of inducing the other to act or fail to act in reliance thereon; and secondly, that such representation or conduct in fact did induce the other to act or fail to act to his injury. *Cigarrilha v. City of Providence*, 64 A.3d 1208, 1213 (R.I. 2013) (internal cites omitted).

(Intervenor’s proposed Exhibit Ten (10) audio recording). They also relied on the term, “any use whatsoever” in the ground lease to argue that includes a prior approval by the Town for liquor to argue that Hallberg agreed to a liquor usage.

Beachcomber and J.T. rejected the breach of contract/equitable estoppel claims and argued that liquor is not a “use,” and argued the Intervenor was a not a party to the ground lease as the arbitrator found that the parties to the ground lease are Beachcomber and Beach Realty, LLC.

The undersigned is dubious that somehow Hallberg’s discussion of the ground lease (which was not admitted into evidence) and the ground lease itself would support an equitable estoppel argument that Hallberg somehow induced reliance by the Intervenor to file its liquor application with the Town in 2025 especially after Hallberg objected to the 2023 application by the Intervenor. *Supra*. The Intervenor’s claim that Hallberg already consented to the liquor usage rested on exhibits not admitted in evidence and also on a provision of the disputed ground lease. The applicability of the ground lease is not part of this hearing and is part of the above-referenced arbitration award. Nonetheless, the issue of the ground lease and its requirements are not relevant to this proceeding. Hallberg testified on behalf of Beachcomber that Beachcomber, owner of property within the 200 foot radius, objected to the License. That is the determinative evidence before the undersigned.

**c. J.T.**

The Intervenor and the Town relied on *Edward W. Smith* to argue that without a corporate vote and official corporate act, Cusson does not speak for J.T. In *Edward W. Smith*, the corporation did not vote to oppose the granting of a license. The Court found that in the “absence of official action by its board of directors or such other authority as the charter or by-laws may provide, it cannot be said that a corporation has taken a position.” *Edward W. Smith*, at 288. J.T. needs to show that under its corporate authority, Cusson is authorized to speak for J.T.

Cusson testified that NHC is the sole shareholder of J.T. He testified he is the secretary of J.T. and NHC and at the annual NHC's shareholders' meeting he is authorized to sign documents on behalf of NHC. He testified he signed a J.T. resolution on behalf of NHC to object to the Intervenor's application for a liquor license. He testified that NHC authorized the objection based on J.T.'s ownership of the Celeste restaurant property. He testified that he was authorized to file an objection to the liquor application and appeared in person before the Town to object to the grant of the liquor license to the Intervenor. Joint Appellants' Exhibit Three (3) (Cusson signed letter from J.T. dated May 15, 2025 to Town objecting to Intervenor's liquor application with resolution). He testified he assumed there is a J.T. shareholder agreement and there are byelaws, but he did not have copies with him. He testified that NHC has a shareholders' agreement, but he did not have it with him. He testified at NHC's annual meeting held in June, he is authorized as secretary to sign corporate documents. He testified that as an officer, he is authorized to sign the resolution. Cusson is authorized to sign documents on behalf of NHC which is the sole shareholder of J.T. and he is secretary of both NHC and J.T. so is authorized to act for them.

There was written and oral testimony that Cusson has the requisite authority as secretary for NHC and J.T. to object on behalf of J.T. the Intervenor's application for the License.

**G. Whether a Legal Remonstrance Exists**

There was no dispute that the Appellants' properties in Intervenor's Exhibit 17 (Palmer Map) and Joint Appellants' Exhibit One (1) (Andrews Map) were all within the 200 foot radius. Both maps are accepted as proper radius maps.

The total square feet/land amount within the 200 foot radius and the Appellants' (objectors) land amount and percentage of the total land amount are as follows:

Palmer Map

Total land – 213,434

Beachcomber land – 78,265 or 36.67%

SAH land – 57,989 or 27.17 %

J.T. land – 27,438 or 12.86%

The Appellants own 163,692 or 76.7 % or the radius

Andrews Map

Total land – 213,279.82

Beachcomber land – 78,344.35 or 37% of radius

SAH – land 57,959.39 or 27% of radius

J.T. land – 27,492.51 or 13%

The Appellants own total of 163,796.25 or 77% of radius

Beachcomber, J.T., and SAH own more than a majority of land within the 200 foot radius under either map. It is noted that even without J.T.'s objection, SAH and Beachcomber both still own a majority of the land within the radius under either map.

**H. Other Considerations**

Beachcomber, J.T., and SAH argued the Town failed to abide by local requirements for granting the License in terms of review by the local planning board. Beachcomber and J.T. also argued the Intervenor failed to show the Town that it had the required parking spaces.

These arguments are moot as the Town was without jurisdiction to issue the License due to the legal remonstrance. Additionally, any error of law or fact below is without legal consequence on the jurisdiction of the administrator. *Hallene* at 295.

## **I. Conclusion**

In the matter of a legal remonstrance, there needs to be evidence the person or owner objecting is the owner of the property and in certain situations is authorized to object. This can be done by testimony or some kind of statement such as an affidavit. In this matter, like in *Elmwood Tap*, there was testimony from witnesses (at the Department) and written evidence that the objectors were authorized to speak for the owners. As in *Elmwood Tap*, there was no evidence produced to show otherwise.

On the basis of the proceedings before the undersigned, the Appellants established a legal remonstrance pursuant to R.I. Gen. Laws § 3-7-19 and case law. The legal remonstrance was as follows: Beachcomber, SAH, and J.T. own a majority of the land that objects to the License **or** Beachcomber and SAH own a majority of land that objects to the License.

## **VI. FINDINGS OF FACT**

1. On or about June 2, 2025, the Board granted the Intervenor's Appellant's application for a License.
2. Pursuant to R.I. Gen. Laws § 3-7-21, the Appellants appealed that decision the Board to the Director of the Department.
3. By order dated June 24, 2025, the Department granted the Appellants' motion to stay and stayed the Board's grant of the License to the Intervenor.
4. By order dated July 9, 2025, the undersigned denied the Intervenor's motion to dismiss and granted the motion by the Patel Intervenor to intervene.
5. A hearing was held on August 7 and September 23, 2025 with the parties represented by counsel. Briefs were timely filed by November 21, 2025.

6. The total land amount and objectors' land amount are as follows:

Palmer Map

Total land – 213,434

Beachcomber land – 78,265 or 36.68%

SAH land – 57,989 or 27.17 %

J.T. land – 27,438 or 12.86%

The Appellants own 163,692 or 76.7 % or the radius

Andrews Map

Total land – 213,279.82

Beachcomber land – 78,344.35 or 37% of radius

SAH – land 57,959.39 or 27% of radius

J.T. land – 27,492.51 or 13%

The Appellants own total of 163,796.25 or 77% of radius

7. 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.*

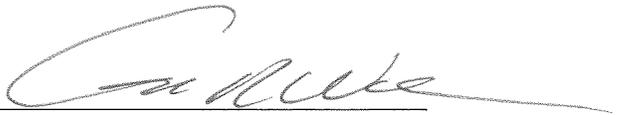
2. The Appellants have established a legal remonstrance pursuant to R.I. Gen. Laws § 3-7-19 for property owners, Beachcomber, SAH, and J.T. and/or property owners, Beachcomber and SAH.

**VIII. RECOMMENDATION**

Based on the above analysis, the Hearing Officer recommends that it be found that a legal remonstrance has been established by Beachcomber, SAH, and J.T. **and/or** by Beachcomber and

SAH, and the Board's decision to grant the Intervenor a Class BV limited license shall be overturned as there is no jurisdiction to grant this liquor license.

Dated: December 16, 2015

  
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:

\*Under either map, Beachcomber, SAH, and J.T. own more than half (a majority) of the land within the 200-foot radius. Even without J.T.'s objection, Beachcomber and SAH own more than half (a majority) of the land within the 200-foot radius. As such, Appellants established a legal remonstrance pursuant to R.I. Gen. Laws § 3-7-19 and case law. A legal remonstrance having been established, the Board's decision to grant the Intervenor a Class BV limited license is reversed as there is no jurisdiction to grant this liquor license.

  X   ADOPT \* Adopt, with addition at the end of Section  
       REJECT VIII of the paragraph in the box to the left  
       MODIFY

Dated: 12/22/2015

  
Elizabeth Kelleher Dwyer, Esquire  
Director

**NOTICE OF APPELLATE RIGHTS**

**THIS DECISION CONSTITUTES A FINAL DECISION 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 22nd day of December, 2025 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: 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, Mancini Carter, The Hanley Building, 56 Pine Street, 3<sup>rd</sup> Floor, Providence, R.I. 02901 and [jmancini@mancinicarter.com](mailto:jmancini@mancinicarter.com), Vincent Indeglia, Esquire, Indeglia & Associates, 931 Jefferson Blvd., Suite 1006, Warwick, R.I. 02886 and [vincent@indegliaw.com](mailto:vincent@indegliaw.com), and Robert Craven, Esquire, and Nicholas Solitro, Esquire Town of Narragansett, 25 Fifth Avenue, Narragansett, R.I. 02882 and 7405 Post Road, North Kingstown,, R.I. 02852 and [bob@robertecraven.com](mailto:bob@robertecraven.com) and [nick@robertecraven.com](mailto:nick@robertecraven.com) and by electronic delivery to Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I. 02920.



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Print: Meredith Cotta