

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

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<b>L &amp; T LLC d/b/a Sakonnet Liquors, Appellant,</b>	:	
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<b>v.</b>	:	
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<b>Tiverton Town Council, Appellee,</b>	:	<b>DBR No.: 25LQ006</b>
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	:	
<b>and</b>	:	
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<b>East Horizon, Inc. d/b/a Hot Shot Liquors, Intervenor.</b>	:	
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**DECISION**

**I. INTRODUCTION**

This matter arose from an appeal and stay filed by L & T LLC d/b/a Sakonnet Liquors (“Appellant”) with the Department of Business Regulation (“Department”) pursuant to R.I. Gen. Laws § 3-7-21<sup>1</sup> regarding the decision taken by the Tiverton Town Council (“Tiverton” or “Board” or “Town”) on June 9, 2025 to deny the Appellant’s application for a Class A liquor license to be put in the lottery with the other applicant for the only available Class A liquor license in Tiverton. The matter was remanded by the Department to Tiverton for further consideration by order dated

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<sup>1</sup> R.I. Gen. Laws § 3-7-21 provides 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those persons granted standing pursuant to § 3-5-19, or upon the application of any licensee whose license has been revoked or suspended by any local board or authority, the director has the right to review the decision of any local board, and after hearing, to confirm or reverse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.

July 16, 2025. After the remand, on August 25, 2025, the Board again denied the Appellant's application for a Class A liquor license to be put in the lottery with the other applicant for the only available Class A liquor license in Tiverton. As a result, the Appellant continued its appeal. On September 25, 2025, the other applicant, East Horizon Inc. d/b/a Hot Shot Liquors ("Intervenor"), was allowed to intervene in this matter. A hearing was held on October 15, 2025 with the parties represented by counsel. Briefs were timely filed by December 1, 2025.

## **II. JURISDICTION**

The Department has jurisdiction over this matter pursuant to R.I. Gen. § 3-2-1 *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.*

## **III. ISSUE**

Whether to uphold or overturn the Board's decision to deny the Appellant's entry into the lottery for the Class A liquor license.

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

The number of Class A liquor licenses available in a town or a city is dependent on population pursuant to R.I. Gen. Laws § 3-5-16. Due to Tiverton's change in population, it is now allowed to have four (4) Class A liquor licenses rather than only three (3). It currently has three (3) Class A liquor licenseholders. It received two (2) applications for the one (1) new Class A license. Both applicants appeared at the Board hearing on June 9, 2025 when it was planned to hold a lottery. However, prior to the lottery, a councilor raised the issue of Patrick Burns', the Appellant's owner, criminal history and his fitness for a license. As a result, the Board voted to only go forward with one (1) application and granted the Class A liquor license to the Intervenor. The Appellant appealed its denial of its application. On appeal, the matter was remanded back to

the Board for further consideration which resulted in its decision on August 25, 2025 to again deny the Appellant's application to be included in the Class A liquor license lottery.

At the Department hearing, the Appellant entered into evidence that as of October 9, 2025, Patrick Burns does not have a criminal record in Rhode Island. Appellant's Exhibit One (1) (Attorney General's Bureau of Criminal Identification record).

Patrick Burns ("Burns") testified on behalf of the Appellant. He testified he has lived in Tiverton since 2019 and previously lived in Newport and Middletown and was raised in Newport and Middletown. He testified he has worked in banking since 2008 starting at Citizens bank for almost ten (10) years working his way up from an officer to branch manager, then two (2) years at Santander where he was Select Branch Manager, and now he has been at Bank of Newport for over seven (7) years as Vice President and Branch Manager.

Burns testified he applied for this license because he thought it would be a great business for him and his family. He testified he worked in restaurants his whole life until his daughter was born in 2017 and was a bartender for years and also worked in a liquor store. He testified he worked as a bartender while working in banking. He testified he worked in 2002 at a liquor store for a couple of years. He testified the store will be family run with his father and brother, and he will also still work at the bank. He testified that he has a location and a lease

On cross-examination, Burns testified his lease is contingent on obtaining this license. He testified he believed that at the first Board hearing, the Board would just choose the applicant from the lottery. He testified that he knew at the second hearing, the Board would discuss his BCI (bureau of criminal identification). He testified he did not see his BCI prior to its submission to the Town as the police gave his BCI to the Board.

At this point, the Town stipulated that a liquor license applicant signs an authorization for the police to run a BCI and that authorization form is given to the town clerk and the BCI is sent to the Board.

Burns testified that his 2023 DUI arrest had been sealed in 2023. He testified he had a few old misdemeanor convictions<sup>2</sup> the Town brought up at their hearings. He testified that he told the Board he had a New Hampshire 1999 marijuana conviction that had been expunged. He testified that for his proposed location, a cemetery is across the street, a Walgreen's is across the street, and behind the location is an auto body shop. He testified that behind the auto body shop is a residential area, and diagonally behind the location (past the Walgreen's and body shop) is a residential area. Appellees' Exhibit One (1) (map of location). He testified he plans to hire an experienced liquor store manager. He testified the location is mixed-use, so no zoning change is needed. He testified the location is a vacant store so he would have to make some changes inside like installing coolers.

On further cross-examination by the Intervenor, Burns testified he has a signed lease contingent on obtaining the lease. He testified the proposed location is vacant office space in a building that also has one (1) residential unit and a spa. He testified there are two (2) school bus stops on nearby streets, and there is parking for the location.

## 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 (RI 1994). If a statute is clear and unambiguous, “the Court must interpret the statute literally and must give the words of the statute their plain and

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<sup>2</sup> At the Town hearing, he testified that the misdemeanors were from his college and post college days.

ordinary meanings.” *Oliveira v. Lombardi*, 794 A.2d 453, 457 (RI 2002) (citation omitted). The 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 (RI 1989) (citation omitted). 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 (RI 1998).

### **B. The Appeal before the Department**

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. Thus, the parties start afresh during the appeal. *A.J.C. Enterprises v. Pastore*, 473 A.2d 269 (RI 1984); *Cesaroni v. Smith*, 202 A.2d 292 (RI 1964) (Department’s jurisdiction is *de novo* and the Department independently exercises the licensing function); and *Hallene v. Smith*, 201 A.2d 921 (RI 1964).<sup>3</sup> Because the Department 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 (RI 1939). See *Board of Police Com’rs v. Reynolds*, 133 A.2d 737 (RI 1957). The purpose of this authority is to ensure the uniform and consistent regulation of liquor statewide. *Hallene*.

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

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<sup>3</sup> Thus, since it is a *de novo* hearing, issues not heard below can be heard at the Department hearing. Thus, for example 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).

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 (RI 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 (RI 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. Arguments**

The Appellant discussed how the Board almost entirely focused on Burns' criminal history when discussing the two (2) applications. The Appellant argued that R.I. Gen. Laws § 28-5.1-14, the Fair Chance Licensing Act ("FCLA"),<sup>4</sup> while not applying to cities and town licensing applies

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<sup>4</sup> R.I. Gen. Laws § 28-5.1-14 provides in part as follows:

State licensing and regulatory agencies.

(a) As used in this section:

(1) "License" means and includes the whole or part of any agency permit, certificate, approval, or similar form of permission required by law, but it does not include a motor vehicle operator's license as required in chapter 10 of title 31.

(2) "Licensing authority" means any agency, examining board, or other office with the authority to impose and evaluate licensing requirements on any profession.

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(c) The state agencies, licensing boards, and commissions covered by this section shall include, but not be limited to, those departments enumerated in § 42-6-1 and the state agencies, licensing boards, and commissions under the jurisdiction of those departments.

(d) No person shall be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which an occupational license, permit, certificate, or registration is required to be issued by the state or any of its agencies or any state licensing board or commission, solely or in part, because of a prior conviction of a crime or crimes unless the underlying crime or crimes substantially relate to the occupation to which the license applies. Any other state law to the contrary will be superseded by this provision.

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(f) In determining if a conviction substantially relates to the occupation for which the license is sought, the licensing authority shall consider:

to the Department. The Appellant argued that while R.I. Gen. Laws § 3-5-10(d)<sup>5</sup> allows consideration of a criminal record in deciding whether to grant a liquor license, such consideration must be performed within the confines of the FCLA. It also argued the Department has used similar criteria in its *Stanton*<sup>6</sup> criteria about licensing felonies. It argued that Burns' charges were

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(1) The state's legitimate interest in equal access to employment for individuals who have had past contact with the criminal justice system;

(2) The state's legitimate interest in protecting the property and the safety and welfare of specific individuals or the general public; and

(3) The relationship of the crime or crimes to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation.

(g) A person who has been convicted of a crime or crimes that substantially relate to the occupation for which a license is sought shall not be disqualified from the occupation if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation for which the license is sought. The licensing authority shall consider the time elapsed since the conviction when determining sufficient rehabilitation, as well as any evidence presented by the applicant regarding:

(1) Completion of a period of at least two (2) years after release from imprisonment, or at least two (2) years after the sentencing date for a probation sentence not accompanied by incarceration, without subsequent conviction or pending criminal charge;

(2) The nature, seriousness, and relevance of the crime or crimes for which convicted;

(3) All circumstances relative to the crime or crimes, including mitigating circumstances surrounding the commission of the crime or crimes;

(4) The age of the person at the time the crime or crimes were committed;

(5) Claims that the criminal record information is in error or inadmissible under subsection (h) of this section; and

(6) All other competent evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who have been in contact with the applicant since the applicant's release from any state or federal correctional institution.

(h) The following criminal records may not be used in connection with any application for a license, permit, certificate, or registration:

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(2) Records of arrest not followed by a valid conviction;

(3) Convictions that have been, pursuant to law, annulled or expunged;

(4) Misdemeanor convictions for which no jail sentence can be imposed.

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<sup>5</sup> R.I. Gen. Laws § 3-5-10 provides in part as follows:

Residence of licensees and qualifications of persons and corporations as licensee.

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(d) The board, body or official issuing beverage licenses may also deny applications of persons who have criminal records, or who have records of repeated violations of this title.

<sup>6</sup> Prior to the FCLA, the Department followed the criteria set forth in *In the Matter of William J. Stanton*, DBR No. 98-1-0035 (12/15/98) when determining whether to license felons. These criteria are as follows: the (1) "nature and circumstances of the misconduct," (2) "subsequent conduct and reformation," (3) "present character," and (4) "present qualifications." *Id.* See *In the Matter of Daniel Balkun*, DBR No. 17RA020 (12/15/18). These factors are consistent with the FCLA. But like the FCLA, they apply to felony convictions. And like the FCLA, the factors are concerned with nature of misconduct, subsequent conduct and reformation, present character, and present qualification.

misdemeanors and were remote in time and not connected to liquor licensing. However, the Appellant argued that as of the Department hearing, Burns' record has been expunged so no longer can be considered at the *de novo* hearing. The Appellant argued the location is a legislative determination and cannot be second guessed by licensing authorities.

The Board argued it had the statutory authority to deny applications of people with criminal records. It argued it relied on *DeCredico v. Providence Bd. of Licenses*, 1996 WL 936872 (R.I. Super.) to consider such factors as financial stability, responsibly, fitness, moral character and previous violations of the law of the applicant as well as location. It argued there were many concerns about the location in terms of proximity to a bus stop and residential area as well as a lack of lease. It argued it considered Burns' criminal history, and the FCLA does not apply to it nor are the Department's *Stanton* criteria relevant to its discretion to grant liquor licenses.

The Intervenor argued the Board's denial was based on Burns' lack of candor and troubling criminal history and the unsuitability of the proposed location. It argued the Board's decision fell within its discretionary authority. The Intervenor argued the Board had concerns about Burns' honesty about his criminal convictions. It argued the Board has the discretion to find the location was not appropriate due to traffic, parking, school bus stop, and residential character of the area.

#### **D. Discussion**

It is a matter of law that local licensing boards have broad discretion in deciding whether or not to grant a liquor license application. "The granting or denying of such licenses is in no sense an

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Indeed, under the FCLA, a person who has been convicted of a crime or crimes that substantially relate to the occupation for which a license is sought shall not be disqualified from the occupation if the person can show competent evidence of sufficient rehabilitation and present fitness to perform such duties. When determining if the applicant has shown sufficient rehabilitation and present fitness, the licensing authority shall consider the time of the conviction as well as completion of a period of at least two (2) years after release from imprisonment, or at least two (2) years after the sentencing date for a probation sentence not accompanied by incarceration as well as the nature, seriousness, relevance of, and circumstances relative to the crime or crimes, including mitigating circumstances, and the age of the person at the time the crime or crimes were committed.

exercise of the judicial process. On the contrary it is purely administrative. In performing that function the board (sic) act as agents of the legislature in the exercise of the police power. . . . [I]t is a matter of discretion whether or not they shall grant the license and this court has no control over their decision.” *Bd. of Police Comm’rs v. Reynolds*, 86 R.I. 172, 176 (1957).

The Department has the same broad discretion in the granting or denying of liquor licenses. *Id.*, at 177. See *Domenic J. Galluci, d/b/a Dominic’s Log Cabin v. Westerly Town Council*, LCA–WE-00-04 (10/25/00); *Donald Kinniburgh d/b/a Skip’s Place v. Cumberland Board of License Comm’rs*, LCA–CU-98-02 (8/26/98). However, the Department will not substitute its opinion for that of the local town but rather will look,

for relevant material evidence rationally related to the decision at the local level. Arbitrary and capricious determinations, unsupported by record evidence, will be considered suspect. Since the consideration of the granting of a license application concerns the wisdom of creating a situation still non-existent, reasonable inferences as to the effect a license will have on a neighborhood must be logically and rationally drawn and related to the evidence presented. A decision by a local board or this Office need not be unassailable, in light of the broad discretion given to make the decision. *Kinniburgh*, at 17.

In discussing the discretionary standard enunciated in *Kinniburgh*, the Department has also found as follows:

[T]he Department, often less familiar than the local board with the individuals and/or neighborhoods associated with the application, will generally hesitate to substitute its opinion on neighborhood and security concerns if there is evidence in the record justifying these concerns. To this end, the Department looks for relevant material evidence supporting the position of the local authority. (citation omitted). *Chapman Street Realty, Inc. v. Providence Board of License Commissioners*, LCA-PR-99-26 (4/5/01), at 10.

As articulated through liquor licensing decisions at the State court level and the Departmental level, the standard of review for a new license or a transfer of license is subject to the discretion of the issuing authority. Arbitrary and capricious determinations not supported by

the evidence are considered suspect. *Infra*. See *W&D Parkview Enterprise, Inc. d/b/a Parkview v. City of Providence, Board of Licenses*, DBR No.: 19LQ021 (12/12/19).

**a. Criminal Record**

R.I. Gen. Laws § 3-5-10(d) provides that liquor licenses may be denied to people who have criminal records. However, as of October 9, 2025, Burns does not have a criminal record. Appellant's Exhibit One (1). The appeal is *de novo* and while the Board may have considered the criminal record at the Board hearing, any such grounds to deny the application at the Department hearing no longer exist and did not exist at the time of the *de novo* hearing.

The Board relied on *DeCredico* to deny the Appellant's application. *DeCredico* relied on *Bd. of Police Comm'rs* when discussing the local authorities' discretion to grant a license. The Board and the Intervenor argued that Burns' criminal record demonstrated a lack of fitness by the Appellant to hold a license. The Board's determination that Burns was not fit for and lacked the moral character for a liquor license turned on his criminal record. However, there is no longer a criminal record so no determination can be decided upon a nonexistent criminal record.<sup>7</sup>

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<sup>7</sup> There was a comment at the remand hearing that the Appellant would have known about his BCI because he knew his BCI was part of the application. However, the issue on remand was not about whether there was a BCI or not included in the application but was to ensure the Appellant had notice the Board would consider the BCI as a reason to deny the application. At that initial Board meeting, a councilor brought up the BCI as a problem with the application. While Burns did not speak at the initial hearing, he had no notice prior to that initial hearing the BCI could or would be grounds for denial so would not have been able to prepare for such an issue in advance. *Kaveny v. Town of Cumberland Zoning Board of Review*, 875 A.2d 1 (R.I. 2005).

Indeed, at the remand hearing at which time the Burns had notice that his BCI could be a reason for denial, Burns stated that he was in midst of trying to expunge his criminal record. The testimony and stipulation at the Department hearing showed Burns authorized the local police department to provide a BCI as part of his application but never saw the BCI prior to the actual Town hearing. There also seemed to be a concern at the Town remand hearing about Burns' 2023 charge and there being recent criminal conduct. However, that arrest had been sealed, so there was no recent criminal conduct from 2023. That charge had been dismissed and sealed in 2023. The Appellant showed a copy of the 2023 order at the Department hearing and while it was not admitted as an exhibit, said sealed order was submitted as part of the Appellant's brief. It was clarified at the remand Board hearing, that the 2023 matter was a civil violation. But any concerns at the Board hearing about misstatements about the 2023 charge were not warranted as it was a civil infraction and the arrest was sealed. Any concerns by the Board about misdemeanor convictions from 1999 to 2007 are now moot as they have been expunged.

While the FCLA, R.I. Gen. Laws § 28-5.1-14, applies to statewide licensing and does not apply to town or city licensing, the policy behind it is there must be a connection between the type of license and the felony conviction on which a denial of application is based. In other words, a felony conviction cannot act as an automatic bar for a license application.

**b. Location**

As cited above in *Chapman*, there must be evidence supporting community concerns. In *International Yacht Restoration School Inc., and Jose F. Batista v. Newport City Council and Dockside North, LLC et al.*, DBR No. 02-L-0037 (6/30/03), the Department found that the Newport licensing authority had not abused its discretion in granting that license despite 42 neighbors' objections because the local authority found the application represented a desirable business proposal for an additional business establishment in the wharf area in Newport. The decision further found that the Newport applicant had operated liquor establishments for six (6) years without any significant violations of local or State law. The decision found the neighbors did not "focus on specific incidents attributable to [the applicant] or its management, but rather on unruly behavior emanating" from the area. *Id.* at 10.

In *Krikor S. Dulgarian Trust v. Providence Board of Licenses*, DBR No.: 08-L-0175 (6/18/09), the abutter appellant had broad concerns regarding traffic, parking, safety, noise, and late night liquor closings in the area. However, the decision upheld the local authority's grant of a license because it found there was no evidence from the objecting neighbors that linked the applicant to the various concerns. See also *Liquor Depot v. City of East Providence, et al.*, DBR No. 08-L-0250 (6/2/09) (Class A license denial overturned since objections were speculative).

However, neighborhood objections can demonstrate the negative impact a proposed licensee may have. In *Crazy 8's Bar/Billiards v. Providence Board of Licenses*, DBR No.: 09-L-

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Additionally, misdemeanor convictions for which jail time can be imposed may be considered. The Appellant argued that as a state agency, the FCLA applies to the Department. However, the Department's review is of a local license and not a license that the Department issues. Nonetheless, the FCLA is instructive in terms of the General Assembly's policy toward felony convictions. Of course, here there were never any felony convictions. There had been misdemeanor convictions which cannot be considered under the FCLA when no jail sentence can be imposed. The Town argued that some of the misdemeanor convictions could have resulted in jail time. However, such considerations are now moot as Burns no longer has any criminal record. The same is true of the Department's *Stanton* criteria which also apply to felony convictions. Nonetheless, both the FCLA and *Stanton* review rehabilitation and present character within the same lens as time removed from convictions, subsequent conduct, and present character, etc.

0042 (8/24/09), the Department upheld the local authority's denial of application because the location had a history of problems, and the applicant had no relevant business experience. In *Domenic J. Galluci*, the local authority found that 1) the prior liquor license located at the proposed location was linked to disorderly conduct, assaults, and traffic issues; 2) the applicant was associated with past licensee; and 3) local licensing authority could reasonably infer from the evidence that reopening the establishment could have a similar negative effect on the neighborhood. *Domenic J. Galluci* denied a new application for a liquor license.

In light of the broad discretion given to the Board, the undersigned only reviews the Board's decision for evidence to support it. The Board's decision need not be unassailable but rather there must be evidence to support the Board's decision. Therefore, the issue is whether there was competent evidence to support the Board's discretionary decision to deny the Appellant's entry into the Class A liquor license application lottery.

No one appeared at hearing to object to the location. The map and testimony showed a cemetery across the street from the location, a business (Walgreen's) on one side of the location, one house on another side, and an auto salvage right behind the location. There are some residences diagonally behind the location that are across the street and opposite the salvage yard. Those houses are not directly behind the location like the salvage yard or directly across the street like the Walgreen's. Thus, the proposed location is mostly surrounded by businesses and a cemetery. There is one (1) house across the street and a residential unit in the proposed location's building. The rest of the residential neighborhood is behind the salvage yard with one (1) house being across from the salvage yard so diagonal from the proposed location. As the Appellant pointed out in its brief, the Appellant notified 13 abutters within the 200 foot radius as opposed to the Intervenor who notified over 200 abutters within its 200 foot radius. The Appellant's abutters include a

cemetery, a Walgreen's, and an auto salvage yard. The proposed location is not surrounded by a residential area. It is near residential areas. Appellee's Exhibit One (1).

At the Board remand hearing, a couple of councilors mentioned telephone calls they received from constituents expressing concerns about traffic and a bus stop, but the concerns were vague and unarticulated.<sup>8</sup> It is unknown how many people expressed concern and were all expressions of concern opposed to the liquor store or worried about the hours, etc. These vague expressions of concern were not articulated by any testimony or even a letter or email from any residents to the Board. There was some discussion of planning and zoning, but the Board did not specify or explain or identify any specific reason not to have a liquor store at that location. There was no evidence the area was not zoned for a retail establishment like a liquor store. In addition, the Board raised concerns about the lease. The Appellant submitted an unsigned lease to the Town as part of its application. Certified Record. Burns testified he does have a signed lease.

The Intervenor cited to *John Wilson and OJohn, LLC v. Town of Lincoln*, DBR No.: 22LQ009 (11/1/22) which cited to *Cadillac Lounge, LLC v. City of Providence*, LCA-PR-99-15 (10/18/02) at 10, to find that a "a licensing authority has the right to review how an application may alter local conditions which in this matter consisted of troubled conditions." *John Wilson* at 11. As discussed above, the Department will uphold denials where an applicant is taking over a troubled location (often Class B licenses) and does not have the experience to run such venues. *John Wilson* actually concerned a town that had geographically balanced the location of its Class A licenses. Here, there was no evidence of a prior troubled liquor store location or of altering local conditions.

As detailed above, the Board has broad discretion to consider the evidence when determining whether a liquor license should be granted. These considerations are broader than

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<sup>8</sup> [https://www.youtube.com/watch?v=YOPysh\\_Q1kQ](https://www.youtube.com/watch?v=YOPysh_Q1kQ) (August 25, 2025 Town remand hearing).

just the fitness of the applicant but rather may be based on the interplay of the location, neighborhood, and applicant. *Supra*. Neighborhood objections can demonstrate the negative impact a proposed licensee may have on a neighborhood. Such impact may fall under the umbrella of health and safety. But such objections must be based on evidence and not just speculation. Here, any neighborhood objections were not on the record and were only vague and speculative over a bus stop and the residential character of the neighborhood which is mostly on the other side of the salvage yard. Since the concerns were vague and speculative, there was no legally competent evidence to uphold the Board's decision to deny the Appellant's entry into the lottery based on location.<sup>9</sup>

#### **E. Conclusion**

The Board previously decided that if both applicants were qualified, it would not compare applications and decide which one it thought to be preferable but rather would enter both applications in a lottery after a public hearing on the applications approving the applications and deciding they were qualified.<sup>10</sup> Since the Appellant was disqualified by the Board for the lottery, no lottery was held but rather the Intervenor's application was granted. The Department finds that there are no grounds to deny the Appellant's application for the Class A liquor license so that the Appellant's application must be considered along with the Intervenor's application which has also been deemed to be qualified by the Board.

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<sup>9</sup> *Thompson v. East Greenwich*, 512 A.2d 837 (RI 1986) found a town may grant a liquor license upon conditions that promote the reasonable control of alcoholic beverages. Thus, it is within a local licensing authority discretion to grant a liquor license application with conditions. *Megan Kenney v. Providence Board of Licenses*, DBR No.: 14LQ044 (11/20/14); *Sugar, Inc., and Sharlene Alon v. City of Providence, Board of Licenses*, DBR No.: 09-L-0119 (3/8/10).

<sup>10</sup> <https://www.youtube.com/watch?v=KGF3i6IkY6w> (June 9, 2025 meeting).

**VI. FINDINGS OF FACT**

1. On June 9, 2025, the Board denied the Appellant’s application for a Class A liquor license to be put in the lottery with the other applicant for the only available Class A liquor license in Tiverton.

2. Pursuant to R.I. Gen. Laws § 3-7-21, the Appellant appealed the decision by the Board to the Director of the Department.

3. The matter was remanded by the Department to Tiverton for further consideration by order dated July 16, 2025.

4. After the remand, on August 25, 2025, the Board again denied the Appellant’s application for a Class A liquor license to be put in the lottery with the other applicant for the only available Class A liquor license in Tiverton. After this decision, the Appellant continued its appeal to the Department.

5. On September 25, 2025, the Intervenor was allowed to intervene in this matter.

6. A *de novo* hearing with was held October 15, 2025 with the parties represented by counsel. Briefs were timely filed by December 1, 2025.

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. § 3-2-1 *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. In this *de novo* hearing, a showing was made by the Appellant that would warrant overturning the Board’s decision to deny it entry into the Town’s Class A liquor license lottery.

**VIII. RECOMMENDATION**

Based on the above analysis, the Hearing Officer recommends the decision of the Board to deny the Appellant’s application for a Class A liquor license to be put in the lottery with the other applicant for the only available Class A liquor license in Tiverton be overturned and this matter remanded to the Town for further consideration on both applications.

Dated: December 15, 2025

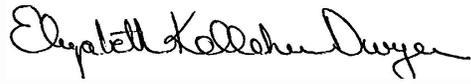
  
Catherine R. Warren  
Hearing Officer

**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:

  X   ADOPT  
       REJECT  
       MODIFY

Dated: 12/16/2025

  
Elizabeth Kelleher Dwyer, Esquire  
Director

**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 17<sup>th</sup> day of December, 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: Mario Martone, Esquire, Conley Law & Associates, 123 Dyer Street, Suite 2B, Providence, R.I. 02903, Michael Marcello, Esquire, Lewis Brisbois, One Citizens Plaza, Suite 1120, Providence, R.I. 02903, and Daniel P. Reilly, Esquire, Reilly Legal Group LLC, 50 South Main Street, Suite 201E, Providence, R.I. 02903 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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