



**STATE OF RHODE ISLAND
RHODE ISLAND DEPARTMENT OF HEALTH**

**IN THE MATTER OF:
Andrea Hotel
Violations of Executive Orders and
RI Department of Health Regulations**

IMMEDIATE COMPLIANCE ORDER

Now comes the Director of the Rhode Island Department of Health (“RIDOH”), as informed by the Chair (“Chair”) of the Rhode Island COVID-19 Enforcement Task Force (“Task Force”), and pursuant to R.I. Gen. Laws § 23-1-21, Executive Orders 20-32 and 20-50 (“Executive Orders”), and the RIDOH rules and regulations pertaining to Safe Activities By Covered Entities During the COVID-19 Emergency (216-RICR-50-15-7) (“Safe Regulations”), determines that there are reasonable grounds to believe that the Andrea Hotel (“Respondent”) is in violation of applicable Executive Orders and/or the Safe Regulations, which violation requires immediate action to protect the health, welfare, and safety of the public.

NEED FOR IMMEDIATE ACTION

On March 9, 2020, Governor Gina M. Raimondo declared a state of emergency for the State of Rhode Island due to the dangers to health and life posed by COVID-19. The Safe Regulations were promulgated as an emergency rule, pursuant to R.I. Gen. Laws § 42-35-2.10, based on a finding that an imminent peril to the public health, safety, or welfare required immediate promulgation of the rule, specifically that “[i]n order to prevent further spread of COVID-19 as individuals begin to leave their homes more frequently and establishments begin to reopen, protective measures must be followed and

implemented for individuals and establishments to resume operations so that the public's health and welfare is protected."

GROUNDS FOR DETERMINATION OF VIOLATIONS

- I. Respondent maintains an outdoor bar area at its establishment located at 89 Atlantic Avenue in Westerly.
- II. Respondent is a covered entity, as defined in the Safe Regulations. As such, Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- III. On or about July 31, 2020, a Task Force inspector met with general manager Todd and conducted a Healthy Environment inspection of the Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that Respondent scored an 11/11 for overall requirements, a 5/5 for dining requirements, and a 1/6 for bar requirements. Although the general manager stated that the outside bar was not being used, the Inspector did, in fact, observe customers seated at the bar with a bartender working in the area behind the bar without a physical barrier separating the customers from the bar's working area. In response, the inspector provided information and resources to the Respondent to help it achieve full compliance. This included a recommendation to the Respondent on how to access www.ReopeningRI.com and the relevant websites for the Executive Orders, rules, regulations, and guidance. The Respondent was also advised that a reinspection would take place in the near future.
- IV. On or about August 8, 2020, the same Task Force inspector conducted a reinspection of the Respondent. The inspector met with manager Tom and performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent scored an 11/11 for overall requirements, 5/5 for dining requirements, and a 2/6 for bar requirements.
- V. Of note is the fact that the Respondent has continuously failed to ensure that if parties were seated at the bar, no staff were permitted to work in any areas behind the bar unless a physical,

non-porous barrier of appropriate height is installed between the bar work areas and customers; that even with physical barriers between the bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and/or that working bar areas, such as drink making stations or glassware storage, must be located at least six feet from the gaps.

- VI. Based on the foregoing, and in the absence of any other information to rebut the allegations, the Director of RIDOH has determined that Respondent is in present violation of multiple provisions of applicable Executive Orders and/or the Safe Regulations and that, with respect to the bar requirements, immediate action is necessary to protect the health, welfare, or safety of the public.

VIOLATIONS

The following violations stem from the August 8, 2020 reinspection:

- I. Respondent is in violation of Section 7.4.2(A)(5) of the Safe Regulations, which prohibits bar seating unless
- a. Parties seated at the bar are seated six (6) feet apart; or
 - b. Parties seated at the bar have a physical barrier installed between parties.

The inspector observed that at the outdoor bar area, a party of two (2) was seated next to a party of (1), which was seated next to another party of (1). Each of the parties were seated within six (6) feet of each other without a physical barrier installed between the parties. (See Exhibit A)

- II. Respondent is in violation of Section 7.4.2(A)(6) of the Safe Regulations, which requires that:
- a. when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier (i.e., plexiglass) of appropriate height is installed between the bar work areas and customers; and

- b. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,
- c. working bar areas (e.g. drink making stations or glassware storage) must be located at least six (6) feet from these gaps. Drinks and/or food may not be passed to customers under, over, or around such barrier by staff behind the bar.

The inspector observed that multiple parties were seated at the bar while the bartender was working in the area behind the bar. The Respondent does not have any physical barrier separating the bar work areas and customers. (See Exhibit A)

ORDER

IMMEDIATE COMPLIANCE

It is hereby **ORDERED**, that Respondent is to immediately close its outdoor bar/bar area until such time as violations are remedied to the satisfaction of the Director of RIDOH by fulfilling the conditions as set forth below:

- I. Respondent shall ensure that when the outdoor bar is in use
 - a. Parties seated at the bar are seated at least six (6) feet apart; or
 - b. If the parties are not seated at least six (6) feet apart, there is a physical barrier installed between the parties.
- II. Respondent shall also ensure that:
 - a. when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier (i.e., plexiglass) of appropriate height is installed between the bar work areas and customers; and

- b. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,
- c. working bar areas (e.g. drink making stations or glassware storage) are located at least six (6) feet from these gaps and that drinks and/or food is not passed to customers under, over, or around such barrier by staff behind the bar.

Failure to comply with this ORDER may result in the imposition of civil penalties and/or any other action authorized by applicable law or regulation.

Entered this 11th day of August 2020.



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EXHIBIT A

