

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RHODE ISLAND

D. Liakos d/b/a Van Gogh,
Appellant,

v.

City of Providence, Board of Licenses,
Appellee.

DBR No.: 16LQ011

DECISION

I. INTRODUCTION

Pursuant to R.I. Gen. Laws § 3-7-21, D. Liakos d/b/a Van Gogh (“Appellant”) filed an appeal of the City Providence, Board of Licenses’ (“Board”) decision taken on September 7, 2016 to revoke its Class BVX liquor license (“License”).¹ The Appellant requested a stay which was granted by order of the Department dated September 15, 2016. The parties chose to base the appeal on the record below except for some further testimony presented by the Appellant. A hearing was held on September 30, 2016 and October 6, 2016 with the parties represented by counsel and orally resting on the record.²

II. JURISDICTION

The Department has jurisdiction over this matter pursuant to R.I. Gen. Laws § 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.*

¹ Prior to the Board’s decision, the Appellant filed with the Department a motion to re-open pending the Board’s decision on the allegations against the Appellant. By order dated September 2, 2016, the Department denied the motion to re-open but ordered the Board to make a decision on the allegations.

² The transcript of the closing before the Department was received on October 21, 2016.

III. ISSUES

Whether to uphold or overturn the Board's decision to revoke Appellant's License.

IV. MATERIAL FACTS AND TESTIMONY

Officer Harris Northup ("Northup"), Providence Police Department, testified on behalf of the City. He testified he was on a police detail from August 19 to 20, 2016 at the Appellant and was stationed outside and he believed the club security were either wandering or using some metal detection device on patrons. He testified that at about midnight, a party bus arrived and parked down the road directly below the Dean Street overpass. He testified that about 20 minutes later, the manager asked him and the other detail officer to go with him during the search of the bus. He testified that using a flashlight, the manager performed a spot check of about a minute and-a-half of the bus to make sure there was not anything in plain sight and found bottles.

Northup testified that during the time the party bus entered and exited the club, there were no issues outside and to his knowledge no issues inside. He testified that he and the other officer made their way down the street pushing the crowd towards their cars and making sure they get to their vehicles safely. He testified that there is a parking lot directly across the street but it was closed so patrons parked on Harris Avenue. He testified the patrons were walking toward the Dean Street overpass. He testified that while he was walking with a group, he saw two (2) women fighting and arguing and pulling hair so they were separated. He testified that there were minor disturbances all around them at this time with people yelling, some pushing, and some being separated by friends. He testified that he saw an unconscious man who he had not seen before on the ground and there was a large group of men dispersing. He testified that while he was tending to the unconscious man, there was a stabbing and he saw another man on the ground. He testified that he saw a man with a car jack and that man said his friend had been stabbed and gave him

information about what the perpetrator looked like. He testified that he went to the party bus and found the subject on the bus who matched the description that had been given and he was arrested.

On cross-examination, Northup testified that an Appellant's employee tended to the stabbing victim by trying to stop the bleeding. On questioning from the Board, he testified that believe that wandng was being performed by security based on the actions he saw of the security. He testified that he put the distance between the club and the Dean Street overpass at 300 to 350 feet. He testified that he was on the steps of the bus while the manager searched the bus. He testified that the two (2) women fought in the street about 200 feet from the club (half-way between the Appellant and the overpass).

At the Board hearing, Detective Brian Dyer ("Dyer"), Providence Police Department, testified on behalf of the City. He testified that he responded to a report of an attempted stabbing at the Appellant on August 20. He testified that when he arrived Detective Creamer had stopped a party bus and officers reported that a male had been stabbed. He testified that he spoke to a witness who gave a description of the man who had a knife and that there had been some type of altercation near where the stabbing had occurred. He testified that the perpetrator was identified as being on the party bus. He testified that there were pockets of fighting outside the club. He testified that a witness identified the person holding the knife and identified the person in custody as being on the bus. On cross-examination, Dyer testified that there is nothing in his statement about the interview with the one of women who fought. He testified that there is an audio of the interview with the woman, Monteiro, and with the other witness, Salvadore.

At the Board hearing, the video of the interview with Monteiro and the audio of the interview with Salvador were played and transcribed. See Appellant's Exhibit One (1).

Salvadore is the man that Northup saw holding a car jack. In the interview, Salvador said he saw a man with a small knife which is why he went to his car and got the car jack and then saw his friend on the ground stabbed. He said that he walked out of the club behind the stabbing victim.

The woman, Monteiro, was arrested for fighting. She told the police that she was very drunk that night and does not remember much. She told the police that she saw the other woman in the club and outside and she believes the woman punched her when outside. She told the police that there were about 20 to 30 people on the party bus. The police officer showed her a photograph of a man who she identified as being on the bus.³

Dyer further testified that there were many people fighting outside with more than one fight. He testified that the man holding the knife was on the party bus and was believed to have been in the club. On cross-examination Dyer testified that there were about five (5) to seven (7) interviews and the woman fighting told him that there had been pockets of fighting.

Detective David Allin, Providence Police Department, testified on behalf of the City. He testified that he is with the BCI Unit and secures crime scenes and processes evidence. He testified that a receipt found in the stabbing victim's clothes showed that he was inside the Appellant.

Edwin Rivera ("Rivera"),⁴ the club manager, testified on behalf of the Appellant. He testified that on August 20, 2016, there were no altercations inside the Appellant and there were no altercations at the front door outside or on the street in front of the club. He testified that the club emptied about 2:00 a.m. He testified that he saw the police detail go down the street so he took his staff to follow them. He testified that he saw the two (2) women arguing. He testified that his staff was helping the detail clear the street, when two (2) men start fighting and one was

³ The Board transcript omits her identification, but it happens at 13:37 minutes of the video. See Appellant's Exhibit One (1).

⁴ For some reason, the Board transcript identified the club manager as Randy Mishado. The undersigned confirmed with the attorneys that was an error.

stabbed and fell to his knees. He testified his staff helped the stabbing victim. He testified that he saw Salvadore coming back from his car, which was parked past the overpass, about 600 feet from the club. He testified that the party bus was parked next to or under the overpass about 500 feet from the club. He testified he had about nine (9) staff members with him and neither he nor his staff engaged in fighting with anyone.

On cross-examination, Rivera testified that the Appellant does not have a parking lot and patrons usually park across the street up and down Harris Avenue. He testified that while standing outside he saw something visible to his right and saw the police detail going down the street so he followed and radioed his staff to come out. He testified that he saw the police headed to the two (2) women fighting. He testified that the rest of the people were heading toward the bus. He testified that he saw the two (2) other men start to fight and he recognized one from being inside, but was busy tending to the fighting women. He testified that nine (9) of his security came down, and they were helping to disperse the crowd by telling people to leave.

At the Department hearing, Rivera further testified on behalf of the Appellant. He testified that patrons are ID'ed, patted down, and wanded before entry every night and that was done on August 19-20, 2016. He testified when the party bus was let in, he went to the bus with the detail which he always does and one of the detail officers came onto the bus with him and shadowed him during the search and one stayed in front of the bus. He testified that he did not open any of the containers on the bus because that is against the law, but used a flashlight to search the bus. He testified that the bus was parked under the overpass about 350 to 500 feet from the club. He testified that nothing happened inside the club. He testified that during the exiting from the club, he saw the detail officers going towards the party bus, so he followed them down with his staff of about eight (8) or nine (9). He testified that none of the bouncers had to use physical violence to

restrain anyone. He testified that while the two (2) women were fighting, someone got punched and someone got stabbed, but there were no areas of massive fighting. He testified that the two (2) women fighting were about 25 feet from the party bus.

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 (R.I. 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 ordinary meanings.” *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2d 541 (R.I. 1989) (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, 1134 (R.I. 1998).

B. **Arguments**

The City stated that it would not be arguing that there was an altercation inside the Appellant. Instead, the City argued that the Appellant knew that patrons had come on a party bus, entered the establishment, and left. The City argued that the facts were not in dispute regarding that outside two (2) women fought and a man was found unconscious and another man was stabbed and at the minimum the fighting was 250 feet away from the Appellant. The City argued that the issue is whether the Appellant bears responsibility for the fighting. The City argued that the Appellant knew of the party bus and that its patrons were inside and since the party bus’s

patrons were involved in the altercations, the Appellant's liability runs down the street with the patrons in this situation where the Appellant knows a large group of people will be leaving and heading to the party bus. The City argued that since the Appellant was on notice about the party bus, the Appellant had an obligation to ensure the safe return to the bus of its patrons. The City acknowledged that there was a police detail on site and that the Appellant's security did assist in dispersing the crowd and with one of the injured patrons. The City argued that if the Appellant is found to be liable that revocation is appropriate based on the Appellant's prior discipline of suspensions for disorderly conduct.

The Appellant argued that the bus was parked under the overpass about 500 to 600 feet away from the Appellant. The Appellant argued that there is no nexus between it and the fighting so there was no statutory violation by the Appellant. Further, the Appellant argued that the City has no standard operating procedures⁵ regarding the handling of party buses.

C. 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).

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 also

⁵ The City acknowledged at the stay hearing that the City had no ordinances or any written procedures related to party buses and liquor licensees.

Tedford et al. v. Reynolds, 141 A.2d 264 (R.I. 1958). *Baginski* held that since the Department⁶ is a “superlicensing board,” it has the discretion to hear cases “*de novo* either in whole or in part.” *Baginski*, at 268. 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 v. Smith*, 201 A.2d 921 (R.I. 1964).⁷ 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.* See also *Cesaroni v. Smith*, 202 A.2d 292 (R.I. 1964) (Department’s jurisdiction is *de novo* and the Department independently exercises the licensing function).

In this matter, the decision is being made on the record below. 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 revocation but whether the Board presented its case for revocation or suspension before the undersigned. The undersigned will make her findings on the basis of the evidence before her and determine whether that evidence justifies said revocation and the penalty.

As the Department has statewide authority and indeed the statutory intent is to ensure statewide consistency, the Department reviews sanctions to ensure statewide consistency and appropriateness in the situation. It also supports progressive discipline barring the rare and extreme event where revocation may be warranted without prior discipline. It also accepts the

⁶ At that time the alcoholic beverage commission.

⁷ See also *Jake and Ella’s v. the Department of Business Regulation*, 2002 WL 977812 (R.I.Super. 2002).

principles of comity and deference to the local authorities and their desire to have control over their own town or city. At the same time, pursuant to R.I. Gen. Laws § 3-2-2 and R.I. Gen. Laws § 3-7-21, the Department ensures that tensions between local boards and licensees are settled in a consistent manner. Nonetheless, there is not a mechanical application of sanctions as each matter has its own sets of circumstances. See *C&L Lounge, Inc. d/b/a Gabby's Bar and Grille; Gabriel L. Lopes v. Town of North Providence*, LCA – NP-98-17 (4/30/99). Thus, the unevenness in the application of a sanction does not make it unwarranted in law. *Pakse Market Corp. v. McConaghy*, 2003 WL 1880122 (R.I. Super.) (upholding revocation for a series on infractions). See also *Stagebands, Inc. d/b/a Club Giza v. Department of Business Regulation*, 2009 WL 3328598 (R.I. Super.). However, a sanction must be proportional to the violation and if there is an excessive variance in a sanction than it will be found to be arbitrary and capricious. *Jake and Ella's* 2002 WL 977812 (R.I. Super.). In reviewing local authorities' decisions, the Department ensures that local authorities' sanctions are not arbitrary and capricious and that statewide such sanctions are consistent and appropriate (otherwise sanctions would be arbitrary).

Nonetheless, the revocation of a liquor license is a relatively rare event and is reserved for a severe infraction or a series of smaller infractions that rise to a level of jeopardizing public safety. See *Stage Bands, Inc. d/b/a Club Giza v. Department of Business Regulation*, 2009 WL 3328508 (R.I. Super.) (disturbances and a shooting on one night justified revocation) and *Pakse Market Corp.* (upholding revocation of license when had four (4) incidents of underage sales within three (3) years). See also *Cardio Enterprises, d/b/a Comfort Zone Sports Bar v. Providence Board of Licenses*, DBR No.: 06-L-0207 (3/29/07) (killing of patron with incident starting inside and escalating outside justified revocation).

In order to impose discipline such as a revocation or suspension, cause must be found. R.I. Gen. Laws § 3-7-6 provides that applications for retail liquor licenses may be denied for cause. *Chernov Enterprises, Inc. v. Sarkas*, 109 R.I. 283 (1971) found that cause shall mean, "we have said that a *cause*, to justify action, must be *legally sufficient*, that is to say, it must be bottomed upon substantial grounds and be established by legally competent evidence." *Id.* at 287 (italics in original).

The Court revisited the issue in *A.J.C. Enterprises, Inc. v. Pastore*, 473 A.2d 269 (R.I. 1984). In discussing the cause standard of R.I. Gen. Laws § 3-7-6, the Court found,

In determining whether the statutory standard now under consideration is so vague as to offend due process, we are mindful of the principle that vague legislative standards may be saved if the needed specificity has been supplied by judicial interpretation. (citation omitted) The requisite judicial gloss was supplied in [*Chernov*] wherein the court emphasized that in authorizing revocation for cause, the Legislature never intended either to confer upon a licensing authority a limitless control or to countenance the of an unbridled discretion. The cause, the court noted, that would justify revocation had to be "legally sufficient"; that is, it must be bottomed upon substantial grounds and established by legally competent evidence. *Id.* at 274.

An appeal proceeding held pursuant to R.I. Gen. Laws § 3-7-21 is considered a civil proceeding. See *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 also *Parenti v. McConaghy*, 2006 WL 1314255 (R.I.Super.); and *Manny's Café, Inc. v. Tiverton Board of Commissioners*, 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). Thus, in order to sanction a liquor license, there must be substantial grounds established by the preponderance of legally competent evidence

D. Sanctions Prior August 20, 2016

The Appellant has been licensed for at least ten (10) years and was previously known as Club Monet. As Club Monet is was disciplined in 2012 for disorderly conduct involving a shooting outside where its liquor license was suspended for approximately 70 days. See *D. Liakos, Inc. d/b/a Monet v. Providence Board of Licenses*, DBR No. 12LQ088 (11/7/16). In October, 2015, the Appellant's (as Van Gogh) liquor license was suspended for 50 days for disorderly conduct.

E. Whether there are Grounds to Revoke the License

R.I. Gen. Laws § 3-5-23 states in part as follows:

(b) If any licensed person permits the house or place where he or she is licensed to sell beverages under the provisions of this title to become disorderly as to annoy and disturb the persons inhabiting or residing in the neighborhood . . . he or she may be summoned before the board, body, or official which issued his or her license and before the department, when he or she and the witnesses for and against him or her may be heard. If it appears to the satisfaction of the board, body, or official hearing the charges that the licensee has violated any of the provisions of this title or has permitted any of the things listed in this section, then the board, body, or official may suspend or revoke the license or enter another order.

In revoking a liquor license, it is not necessary to find that a liquor licensee affirmatively permitted patrons to engage in disorderly conduct. Rather, the Rhode Island Supreme Court held in *Cesaroni* at 295-296 as follows:

[T]he legislature, in enacting the pertinent provision of the statute, intended to impose upon such licensee the obligation to maintain an efficient and affirmative supervision over the conduct of his patrons in his place to such an extent as is necessary to maintain order therein. It is our opinion that as a practical matter a licensee assumes an obligation to affirmatively supervise the conduct of his patrons so as to preclude the generation therefrom of conditions in the neighborhood of like character to conditions that would result from maintenance of a nuisance therein.

It is to be conceded that this imposes upon a licensee an onerous burden in the management of the licensed premises. It is, however, within the authority of the legislature, the liquor traffic being peculiarly within the police power of the state.

Furthermore, the Court found that "disorderly" as contemplated in the statute meant as follows:

The word "disorderly" as used here contemplates conduct within premises where liquor is dispensed under a license that causes either directly or indirectly conditions in the neighborhood in annoyance of or disturbing to the residents thereof. *Id.* at 296.

Thus, a liquor licensee has the "responsibility to control the conduct of its patrons both within and without the premises in a manner so that the laws and regulations to which the license is subject will not be violated." *Schillers, Inc. v. Pastore*, 419 A. 2d 859 (R.I. 1980). In a denial of renewal matter,⁸ *A.J.C. Enterprises v. Pastore*, 473 A.2d 269, 275 (R.I. 1984) found in discussing the disorderly provisions that "[T]here need not be a direct causal link between incidents occurring outside or nearby a drinking establishment and its patrons. Such a link is established when it can be reasonably inferred from the evidence that the incidents occurred outside a particular establishment and had their origins within."

A liquor licensee is accountable for violations of law that occur on its premises and outside. *Vitali*. It is not a defense that a licensee is not aware of the violations or provided supervision to try to prevent violation. While such a responsibility may be onerous, a licensee is subject to such a burden by the legislature and accepted such conditions by becoming licensed. *Therault v. O'Dowd*, 223 A.2d 841, 842-3 (R.I. 1966). See also *Scialo v. Smith*, 99 R.I. 738 (R.I. 1965). As the Supreme Court has found, "the responsibility of a licensee for the conduct of his patrons within the licensed premises that makes it disorderly within the meaning of the statute is established by evidence showing a toleration or acquiescence in such conduct by the licensee." *Cesaroni*, at 296.

⁸ In order to suspend or revoke a liquor license, there must be a showing that the holder has breached some applicable rule or regulation. In this matter, the City is relying on the disorderly provisions of R.I. Gen. Laws § 3-5-23. R.I. Gen. Laws § 3-7-6 requires that a denial of a renewal must be "for cause." For cause has been interpreted to include (among other reasons) the violations of the disorderly provisions. *Chernov Enterprises, Inc. v. Sarkas*, 284 A.2d 61 (R.I. 1971).

There is no dispute that the August 20, 2016 fights among the Appellant's patrons who had left the club resulted in serious injuries and involved dangerous behavior.

From *Cesaroni* in 1964 to *Schillers* in 1980 up until today, a liquor licensee is responsible for activities inside and outside its licensed premises. It does not matter how well a liquor licensee supervises such responsibilities since even the most responsible supervising licensee is still responsible for disorderly conduct. See *Therault*. Under *Cesaroni* and *A.J.C. Enterprises*, the Appellant is directly or indirectly responsible for the actions of its patrons and for the actions arising inside or emanating from inside a liquor licensee.

In this matter, there was no evidence of any disturbance starting inside the bar and spilling outside where it culminated in the fight. See *Stage Bands* and *Cardio*. There was no evidence (whether eyewitness, on video, in a police report, etc.) entered at hearing that there was any disturbance whether oral or physical in the club that night. There was no testimony by patrons or police officers before the City or the Department regarding any disturbance within the club. In fact, in its closing, the City admitted there was no disturbance inside the Appellant. Additionally, the Board found in its decision that there had been no disturbance inside the club.

It is not enough that the people who fought outside were the Appellant's patrons to make the Appellant responsible for their actions. There is a very strict requirement that makes a licensee responsible for actions inside the bar and those outside activities that arise from inside the bar even if the licensee did not know of the actions or tried to supervise its patrons and prevent the activities. However, in order for the Appellant to be responsible there must be some kind of activity for which the bar is responsible for and from which it can be inferred the fighting arose. See *A.J. C. Enterprises* and *Cesaroni*. See also *Salacruz, LLC d/b/a Sky Lounge v. City of Providence Board of Licenses*, DBR No. 14LQ046 (11/25/14); and *El Tiburon Sports Bar, Inc. v. Providence Board*

of Licenses, DBR No. 06-L-0087 (6/1/07) (victim had been a patron of that bar but was assaulted down the street and there was no link between the bar and the assault).

Since there had been no altercation inside, the City argued that since the patrons who fought outside arrived on a party bus, the Appellant was on notice of those patrons and had a responsibility to them as they were large group of people leaving together and going in the same direction. However, the same could be true of a liquor licensee whose patrons all park in a parking lot and whose patrons all leave together at closing time and exit to the parking lot. There was no evidence or allegation that the Appellant violated any requirements (conditions) of staffing and security. If the City is concerned with party buses, the City has other avenues to address how a licensee handles party buses such as promulgating a general regulation or ordinance or a policy regarding party buses or the City could make as a condition of licensing a certain process to handle party buses or a parking lot or exiting patrons, etc.⁹

The case law is consistently clear that a liquor licensee is responsible for activity inside and activity outside that can be directly or indirectly inferred to arise from inside. In this matter, there is no evidence that the fights outside can be linked indirectly or directly to any occurrence inside the Appellant. Indeed, the City admitted there were no altercations inside. There was no evidence that directly or indirectly linked the Appellant to the fighting. Therefore, there can be no finding that the Appellant violated R.I. Gen. Laws § 3-5-23.

VI. FINDINGS OF FACT

1. On or about September 7, 2016, the City notified the Appellant that its License had been revoked by the City.

⁹ Under *Thompson v. East Greenwich*, 512 A.2d 837 (R.I. 1986), a town may grant a liquor license upon conditions that promote the reasonable control of alcoholic beverages. See *Kenney; Sugar, Inc., and Newport Checkers Pizza, Inc. d/b/a Scooby's Neighborhood Grille v. Town of Middletown*, LCA-MI-00-10 (12/7/00).

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

3. By order dated September 15, 2016, the Department conditionally stayed the revocation.

4. Pursuant to R.I. Gen. Laws § 3-7-21(c), the parties agreed to base the appeal on the record before the Board except for some further testimony by an Appellant witness. The parties rested on the record.

5. The facts contained in Section IV and V are reincorporated by reference herein.

VII. CONCLUSIONS OF LAW

Based on the testimony and facts presented:

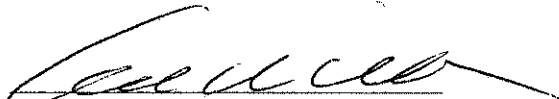
1. The Department has jurisdiction over this matter pursuant to R.I. Gen. § 3-5-1 *et seq.*, R.I. Gen. Laws § 3-7-1 *et seq.*, R.I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

2. The Appellant did not violate R.I. Gen. Laws § 3-5-23.

VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends that the decision of the City revoking Appellant's Class BVX License be overturned.¹⁰

Dated: October 28, 2016


Catherine R. Warren
Hearing Officer

¹⁰ The stay order continued the weekend police detail. The police detail apparently was in place prior to this appeal and hearing; therefore, this Decision does not disturb any requirement for the Appellant to maintain a weekend police detail.

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:

ADOPT
 REJECT
 MODIFY

Dated: 10-31-16


Elizabeth K. Dwyer
Interim Director

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER 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 31st day of October, 2016 that a copy of the within decision was sent by email and first class mail, postage prepaid, to the following: Mario Martone, Esquire, City of Providence Law Department, 444 Westminster Street, Suite 220, Providence, RI 02903, Peter Petrarca, Esquire, Petrarca & Petrarca, 330 Silver Spring Street, Providence, RI 02904, and Louis A. DeSimone, Jr., Esquire, 703 West Shore Road, Warwick, RI 02889 and by hand-delivery to Maria D'Alessandro, Deputy Director, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Building 69-1, Cranston, RI 02920

