

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

Fuego Lounge, LLC d/b/a Fuego Lounge	:		
Appellant,	:		
	:	DBR No. 21LQ005	
	:		
v.	:		
	:		
City of Providence, Board of Licenses,	:		
Appellee.	:		
	:		

ORDER RE: SECOND MOTION FOR STAY

I. INTRODUCTION

This matter arose from a motion for stay filed on August 30, 2021 by Fuego Lounge, LLC d/b/a Fuego Lounge (“Appellant”) with the Department of Business Regulation (“Department”) pursuant to R.I. Gen. Laws § 3-7-21 regarding the decision taken on August 25, 2021 by the City of Providence, Board of Licenses (“Board”) suspending the Appellant’s Class BV liquor license for 60 days and thereafter suspending the Appellant’s Class BVX (2:00 a.m.) license for 120 days. A hearing on the motion to stay was heard on September 2, 2021 with a conditional stay being issued by the Department on September 14, 2021 which required weekend police details. On September 17, 2021, the Appellant filed an emergency motion for stay as the City was unable to provide a police detail for that weekend and represented that the City would not be able to provide police details as required in the September 14, 2021 stay order going forward.¹ The parties agreed that a hearing need not be held on this second stay request.

¹ At the first stay hearing, the City indicated that police detail would be unlikely to be filled.

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. DISCUSSION

The September 14, 2021 stay order is hereby incorporated by reference.

As required by the September 14, 2021 stay order, the Appellant was to provide a new security plan. The Board did not dispute that the Appellant provided it with the name of its new security company and a new security plan as required by said stay order.

In its second motion for stay, the Appellant indicated that it will request a police detail every Monday in time for the weekend. If a police detail is not available that weekend or either night (or day before a State holiday), the Appellant requested that it be allowed to instead have two (2) extra security guards who would be duty from 10:00 p.m. to 2:30 a.m. (Friday and Saturday and night before any State holiday) and who would be responsible to actively direct exiting patrons to their vehicles and would call the Providence police if patrons fail to listen to such directions.


The Board did not take a position of the second stay request and indicated it would defer to the Department in this issue. The City stated that it would not agree to the Appellant's request and while it has agreed to such a scenario in the past; in this case, the Department would have to order it.

IV. RECOMMENDATION

It is discretionary to issue a stay in order to maintain the *status quo* pending an appeal. In this matter, it cannot be ascertained which party will prevail without a hearing. Thus, said stay order is modified to allow the Appellant to use two (2) extra security guards for when a police detail is not available for a Friday or Saturday or day before State holiday. However, if the two (2) extra security guards are not available, the Appellant will have to close at 11:00 p.m. on a night

when a police detail or the extra two (2) person security detail are not available.

Dated: 9/21/21



Catherine R. Warren
Hearing Officer

INTERIM ORDER

I have read the Hearing Officer’s Recommended Order in this matter, and I hereby take the following action with regard to the Recommendation:

 X ADOPT
 REJECT
 MODIFY

Dated: 09/22/2021


Elizabeth M. Tanner, Esquire
Director

NOTICE OF APPELLATE RIGHTS

THIS ORDER CONSTITUTES AN INTERLOCUTORY ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-15. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS

CERTIFICATION

I hereby certify on this 22nd day of September, 2021 that a copy of the within Order and Notice of Appellate Rights were 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, R.I. 02903, Nicholas Hemond, Esquire, DarrowEverett, LLP, 1 Turks Head Place, Suite 1200, Providence, R.I. 02903, and Louis A. DeSimone, Jr., Esquire, 1554 Cranston Street, Cranston, R.I. 02920 and by electronic delivery to Pamela Toro, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, R.I. 02920.


Diane L. Paravisini