STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RI 02920

2012 Sports Bar, Inc.	:	
Appellant,	:	
	:	
v.	:	**DBR No. 12LQ084; 13LQ060**
	:	
The City of Cranston,	:	
Committee on Safety Services and Licenses,	:	
Appellee.	:	

DECISION AND ORDER

I. MATERIAL FACTS AND TRAVEL

On July 11, 2011, the City of Cranston Committee on Safety Services and Licenses ("Committee") granted an application to transfer a Class B-V liquor license from Ardente's Bar and Grill to 2012 Sports Bar, Inc. ("Appellant"), with the restriction that only computerized music would be permitted ("the entertainment restriction") and with a review in six (6) months. On August 6, 2012, the Committee held a hearing to consider the Appellant's request that the entertainment restriction be lifted in order to permit live entertainment and denied said request.[1] The Appellant appealed the denial decision to the Department of Business Regulation ("Department"). A pre-hearing conference was held with the parties and the undersigned, but a full hearing was never scheduled and the matter remained pending as DBR No. 12LQ084.

[1] The request was effectively denied when no motion to grant the request was made or voted on. August 6, 2012 Transcript, p. 10 ("There is no motion, so the restriction is still in full effect.")

On September 17, 2012, the Committee approved the renewal application of the Appellant, through a block vote on all pending Class B-V licenses, without any vote to change pre-existing conditions on the license. On November 30, 2012, a new license document was issued to the Appellant without the entertainment restriction being printed on the face of the document.

On May 4, 2013, Cranston police officers found a live band playing at the Appellant's establishment and an order to show cause was issued by the Committee in response. On June 3, 2013, the Committee held a hearing in which it decided to impose a fine of $ 1,000 against the Appellant for violation of the entertainment restriction with instruction from one council person that if the $ 1,000 wasn't paid in full on the next day "then the police will come down, we'll [the Committee] will have the police come down to shut the doors." Or about June 4, 2013, the Appellant appealed the disciplinary decision of the Committee to the Department and requested that the Department issue a stay pending appeal. This matter was assigned DBR No. 13LQ060.

On June 4, 2013, the undersigned issued an Interim Order Granting Stay Pending Appeal in DBR No. 13LQ060. The effect of the stay was to prevent the Committee from demanding payment of a fine with the threat of closure prior to issuance of the Department's resolution of the matter on *de novo* review. The stay order had no effect on DBR No. 12LQ084; the entertainment restriction remained in effect while subject to appeal.

Because the first appeal challenged the continued imposition of the entertainment restriction and the second challenged imposition of a fine for violation of the same entertainment restriction, the matters were consolidated for purposes of resolving all of the issues and rendering a single remedy.

The Department held a *de novo* hearing on June 24, 2012. The evidence presented included the live sworn testimony of a Cranston patrol lieutenant, three council members, the city clerk, and the corporate Secretary of the Appellant, all of whom were subject to cross-examination. The lieutenant testified to the May 4 violation of the entertainment restriction; however, no other citations were issued by the police department. The council members testified to the history of the location as raising concerns of noise, parking, and trash in a residential area,[2] but did not point to any prior disciplinary action taken against the Appellant.[3] The members also testified as to their position that the entertainment restriction was necessary to protect the interests of the neighborhood and the seriousness with which they viewed breach of the condition. Appellant's secretary testified as to her desire to have the entertainment restriction lifted and her belief that it was in fact lifted when the license document received after renewal was not imprinted with the restriction. The secretary confirmed that she had live entertainment (musicians, comedians, etc.) from December, 2012 to May 4, 2013 and that there were no issues resulting therefrom or causing police attention until May 4 when a sign advertising live entertainment was posted at the premises.

II. JURISDICTION

The Department has jurisdiction to decide appeals of the Committee's liquor licensing decisions, subject to relevant provisions of the Rhode Island Administrative Procedures Act, § 42-35-1 *et seq*. Under R.I. Gen. Laws § 3-7-21(a), "the director has the right to review the decision of any local board" "upon the application of any petitioner for a license, or of any

[2] No testimony or argument established that parking and trash issues were relevant to the entertainment restriction in this case. The testimony as to concerns with noise was conclusory and no formal action was taken by the City. Nor should the current licensee be penalized for the problems with prior operators at the location not attributable to the new operators.

[3] A Committee hearing was held on August 1, 2011, in which it was alleged that the Appellant was operating without a license on July 22, 2011, and at which a member of the public stated that there was loud music coming from the establishment and Appellant was charging for "Feast" event parking. However, no disciplinary action was taken regarding these allegations.

person authorized to protest against the granting of a license...or upon the application of any licensee whose license has been revoked or suspended by any local board or authority." As the state's "superlicensing authority,"[4] the Department has the power of "general supervision of the conduct of the business of...selling beverages." R.I. Gen. Laws § 3-2-2(a). *See City of Providence Bd. of Licenses v. State of Rhode Island Dept.*, 2006 WL 1073419 (R.I. Super., 2006)(R.I. Gen. Laws §§ 3-2-2 and 3-5-20 vest the Department with "general jurisdiction" over liquor control matters). Accordingly, the Department has jurisdiction to review both of the Committee's liquor licensing decisions - to refuse to lift the entertainment restriction and to fine for violation thereof.

The Department's jurisdiction over liquor licenses issued under Title 3 necessarily includes jurisdiction over conditions that are imposed on said liquor licenses. While the Department has declined to review appeals pertaining to entertainment licenses that are issued separate and apart from liquor licenses, it is clear that the Department has jurisdiction over entertainment-related conditions imposed on a liquor license itself in accordance with R.I. Gen. Laws § 3-7-7.3. The City of Cranston does provide for separate entertainment licenses, but only for establishments in excess of 100-person capacity. Because the Appellant's capacity is limited to approximately 80 persons, it was not issued a separate entertainment license. Accordingly, the entertainment restriction is clearly a condition on the liquor license that falls within the Department's jurisdiction.

The Committee's assertion that the Department does not have jurisdiction to review imposition of monetary fines is incorrect. "Implicit in 3-7-21 is the authority for the [Department, acting as the state liquor control administration] to review monetary penalties imposed by local licensing authorities." *Town of New Shoreham v. Racine*, 1992 WL 813547 at

[4] *Messier v. Daneker*, 81 R.I. 243, 246 (R.I. 1954).

3 (R.I.Super., 1992). "Neither the Legislature, nor the Supreme Court, could have intended that 3-7-21 prevent the [Department] from having appellate jurisdiction on a matter over which [it] could have exercised original jurisdiction." Id. Because the judiciary "interprets 3-5-21 as granting authority to [the Department] to impose a fine upon a licensee who has violated the condition on his license," as a matter of "original jurisdiction,"[5] the Department is also conferred with jurisdiction over an appeal of the local licensing authority's imposition of a fine. Id. It is true that the Department has dismissed appeals of fines in past cases. In so doing, it has recognized that § 3-7-21 only expressly refers to appeals of suspension and revocation decisions. However, "general supervision" authority under 3-2-2 may be invoked when "the matter rises to a level that impacts its broad authority over statewide licensing," *e.g.* interpretation of state statutes or rules, sanctions in excess of statutory limits, etc. *In the Matter of The Rack, Inc. d/b/a Smoke*, 11-L-098 (11/17/11); *In the Matter of Friendship, Inc. d/b/a Club Ultra*, 08-L-0289 (01/08/09); *In the Matter of 224 Atwells, LLC d/b/a Forbidden City*, 11-L-0096 at 2 (10/31/11); *Sidebar, LLC, d/b/a Side Bar v. Providence Board of Licenses*, DBR No. 05-L-0262 (5/29/07). In the instant case, the fine rose to a level of "statewide concern" because of the underlying issues pertaining to the entertainment restriction under § 3-7-7.3 and the threat of revocation for non-payment of the fine.

III. STANDARD OF REVIEW

The Department decides appeals pursuant to § 3-7-21 under a *de novo* standard of review, "independently exercis[ing] the licensing function" in reviewing the record of the municipal hearing and any additional evidence presented at the Department hearing. *Cesaroni v. Smith*, 98

[5] This power is sometimes also referred to as *sua sponte* authority over locally-issued liquor licenses. *See, e.g., City of Providence Bd. of Licenses v. State of Rhode Island Dep't of Bus. Regulation*, 2006 WL 1073419 (R.I. Super., 2006)

R.I. 377, 379 (R.I., 1964). Accordingly, the Department's *de novo* decision is considered "unaffected by any error inhering in the exercise of the licensing function by a local board acting within its territorial jurisdiction." Id., 379-380. Therefore, the Appellant's arguments that its rights were violated by virtue of the assertion that Committee members unlawfully acted as both advocate and judge and erred in failure to swear-in public commenters do not affect the Department's decision-making independent of the Committee.[6]

IV. DISCUSSION

First, the Committee's contention that this Department appeal must be dismissed for failure of the Appellant to first appeal the Committee's decision to the full City Council must be disposed of. There is no statute that requires the Department to decline review when municipal-level remedies have not been exhausted. When the decision of a state administrative agency is appealed to the Superior Court pursuant to § 42-35-15, the appellant must demonstrate that it has "exhausted all administrative remedies." There is no such statutory provision in Title III that would impose a mandatory exhaustion requirement when the decision of a local licensing authority is appealed to the Department. Nor does it appear from the Department's reading of

[6] Even if resolution of the alleged defects in the hearing process was required, the two cases cited by the Appellant for this proposition present facts distinguishable from the instant case. In *Clark v. Alcoholic Beverage Comm'n*, the R.I. Supreme Court was faced with a member of the Alcoholic Beverage Commission (the precursor to the Department's current liquor licensing functions) who had a "personal interest in the matter under consideration" arising from the fact that he objected to a liquor license application before the local licensing authority as owner of adjacent premises. Accordingly, the court held that his vote on the appeal of the grant of said application would not be counted. 54 R.I. 126, 170 A. 79, 80 (1934). The second case is a case in which a police officer was terminated from his employment based on votes of members of the board of aldermen that should have been disqualified by virtue of their role as the committee investigating and formally charging the officer with dereliction of duty. *Hanna v. Bd. of Aldermen of City of Pawtucket*, 54 R.I. 392, 173 A. 358, 359 (1934). The insistence of the Appellant that Committee members may have requested police officers to respond to the location to investigate and that members received complaints from their constituents does not rise to the level of the conflicts of interest raised in the *Clark* and *Hanna* cases.

City of Cranston Municipal Code 5.04.020 that said ordinance would control the Department's review in this case.[7]

In absence of a statutory requirement, there may be times where the Department determines that exhaustion of a municipal-level remedy is in the best interest of the parties, the administration of Title III, and/or administrative economy. However, absent a statutory exhaustion provision or known case law imposing such a requirement, any determination to require the Appellant to resort to the full council prior to appeal would be purely discretionary rather than jurisdictional. In the instant case, there is no compelling reason to require the Appellant to first appeal to the full council, especially in light of the unlikelihood of obtaining relief by doing so. With respect to the fine imposed, seven members of the nine person City Council comprised the Committee, all voting in favor of the disciplinary action. Two of those members even testified at the Department, expressing vehement opposition to any notion that the fine or the entertainment restrictions could be reconsidered. The interests of justice would not be served by requiring appeal to this council prior to permitting the Appellant to exercise its right to *de novo* review by the Department, and, in this case, doing so would have only caused unnecessary dely.

Turning to the merits of this appeal, the record indicates that the Appellant initially acquiesced or agreed to the entertainment restriction as a condition of transfer of the license. At the outset of the July 11, 2011 transfer hearing, the Council President indicated that he intended to "make a motion to approve with the former restrictions," referring to the entertainment restriction at issue. See July 11 Transcript, p. 4-5. After receiving public comment and

[7] "Whenever an appeal is taken to the full city council from the granting or denial of a license or permit by the safety services and licenses committee, notice of any such appeal shall be given to the same persons who received notice of the original application or hearing before the safety services and licenses committee, and such notice of appeal shall be given in the same manner as the notice of the original hearing or application."

statements of counsel for the Appellant, the Council President stated "[a]gain, I would approve the transfer with the former restrictions." p. 7. After receiving additional public comment and statements from the corporate Secretary and Vice President of the Appellant, the Council Vice President made the final motion to approve the license with the entertainment restriction which was approved unanimously. p. 16. The Appellant had ample opportunity to object to the restriction, through the statements of its Secretary and Vice President and/or through verbal objection or argument of counsel who was present throughout the hearing.

The Appellant's citation to *Berthiaume v. Sch. Comm. of City of Woonsocket* is misplaced. 121 R.I. 243, 250-51, 397 A.2d 889, 894 (1979). *Berthiaume* deals with the unique situation "when a statute creates a private right for the public good," in which case "the donee of that private right lacks the power either to waive that right or to nullify it by private contract." Id. This is a narrow exception to the general rule that "a party or parties for whose benefit a right is provided by constitution, by statute, or by principles of common law may waive such right, regardless of the plain and unambiguous terms by which such right is expressed." *Gallucci v. Brindamour,* 477 A.2d 617, 618 (R.I., 1984); *Boyer v. Bedrosian,* 57 A.3d 259, 277 (R.I. 2012) ("a right guaranteed by a statute may be waived, regardless of the plain and unambiguous terms by which such right is expressed"). For example, the *Berthiaume* court found that a school teacher may not waive benefits or compensation established by law because adequate compensation is considered necessary to the quality of public education. The Appellant's agreement to the entertainment restriction, which effectively waived any right that the restrictions be determined based on objective standards adopted pursuant to § 3-7-7.3 (at least until the six month review), does not implicate such public interests, however. Being designed

solely for the protection of the individual applicant or licensee, any rights it creates may be voluntarily waived.

Had the Appellant wished to contest the conditions imposed at the time of the initial transfer, the proper avenue for doing so was an appeal to the Department at that time pursuant to § 3-7-21. Instead, the Appellant decided to accept the restrictions as a condition of licensure. Given the lack of timely objection, either at the local licensing hearing or through an appeal to the Department, the Committee's decision impose entertainment restrictions was reasonable at the time of the initial grant of the transfer application.

The Department rejects the Appellant's argument that the restrictions were lifted by failure to print them on new license document issued on November 30, 2012, following a vote on renewal applications on September 17, 2012. As testified to by the City Clerk of Cranston, renewals of existing liquor licenses are approved by block vote approving the list of all pending renewals in each class of license under review. Unless a renewal is singled out for discussion and separate vote, the block vote should be presumed to continue any and all conditions imposed on the licensee as of the issuance or prior renewal date. The fact that the license document did not print the conditions that should have automatically attached on renewal was a clerical error. This clerical error cannot have the legal effect of removing the conditions because the clerk's office did not have authority to remove existing licensing conditions; such conditions could only be removed by vote of the Committee. *Casa DiMario, Inc. v. Richardson*, 763 A.2d 607, 612 (R.I. 2000)(holding that liquor licensee could not reasonably rely on statement of the clerk or other town official that the licensee would be exempt from anti-nudity ordinance where such an exemption could only be made by "a city or town council act[ing] through a majority vote of those members who are present at a duly convened meeting of the council."). Based on the

foregoing, the entertainment restrictions should remain applicable to the licensee until such time as the Appellant's request to lift the restrictions is resolved as recommended below.

The finding that the entertainment restrictions were initially acquiesced to does not mean that the Appellant was forever bound to them. The terms of the motion approving the transfer and language on the face of the initial license document itself provided the Appellant with a right to review in six months, which it exercised at a Committee hearing on August 6, 2012.[8] The transcript of said hearing indicates the Committee's recognition that the "review" provision did, as the Appellant and its counsel reasonably understood it, give the Appellant the opportunity to be heard on a request to lift the conditions after having demonstrated successful operation after six months. The Committee was clearly apprised that the Appellant was appearing before it with a "request to lift the restriction on the liquor license" and counsel for the Committee advised that the Appellant "can come before this committee, and state his case before the committee as to why he feels the restriction should be lifted." August 6, 2012 Transcript, p. 2. Accordingly, though the time to exercise any right to contest the initial imposition of the conditions has expired, the Committee vested the Appellant with a separate right to move that the Committee lift the restrictions after six months time.

It is from the decision of the Committee to deny the request that the restrictions be lifted that the Appellant initially appealed to the Department, as it has a right to do under R.I. Gen. Laws § 3-7-21.[9] The Committee's decision must be reviewed in accordance with the statutory

[8] Hand-in-hand with the power to impose conditions on licenses is the power to remove conditions on licenses. "The licensing authority may strike conditions attached to a license which are no longer necessary." 48 C.J.S. Intoxicating Liquors § 200.

[9] See *Sugar, Inc. and Sharlene Alon v. City of Providence, Board of Licenses*, DBR No. 09-L-0119 at 29, n. 19 (March 9, 2010); *Habanos Lounge, Inc. d/b/a Habanos Cigar Lounge v. Pawtucket Board of License Commissioners*, DBR No. 10-L-0046 at 21, n. 13 (September 23, 2010). In these cases, the Department granted the Appellant a liquor license with conditions, providing that the Appellant could request said conditions to be lifted

provisions of R.I. Gen. Laws § 3-7-7.3. Under § 3-7-7.3, municipal licensing authorities may "restrict or prohibit entertainment at [Class B] licensed facilities...provided that any standard shall be applied uniformly to all of these licensed facilities." In 2002, the General Assembly amended § 3-7-7.3 to add that a municipality's uniform standards restricting entertainment must be "objective standards" "adopted by the municipality" and "approved by the department of business regulation."[10]

Under R.I. Gen. Laws § 3-7-7.3, the authority of a municipality to restrict entertainment at Class B liquor establishments is limited by the requirement that the municipality first "adopt" official rules to ensure uniform standards for imposition. In the absence of judicial precedent that defines "adopted" in the context of § 3-7-7.3, the Department must interpret statutory terms necessary for its enforcement of Title III. *See Pawtucket Power Associates v. City of Pawtucket*, 622 A.2d 452, 456 (R.I. 1993"). In its legal context, the word "adopt" connotes formally-promulgated standards. Merriam-Webster Dictionary defines the term "adopt" "to accept formally and put into effect," as in "*adopt* a constitutional amendment." In the instant case, the Department was not presented with any evidence that the City of Cranston has "adopted" rules and regulations as required prior to imposition of entertainment restrictions pursuant to § 3-7-7.3. The Appellant was thereby denied its right to have its request to lift the conditions determined based on the application of entertainment standards properly adopted and approved by the Department as required by statute.[11]

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upon renewal. The cited footnotes provided that the Appellant would have a right to appeal the denial to lift the conditions to the Department.

[10] Even prior to the 2002 amendment, the major court cases that upheld entertainment restrictions on Class B licenses that reference § 3-7-7.3 dealt with situations in which the municipality had taken action pursuant to a duly promulgated and formally adopted entertainment ordinance. *See El Marocco Club, Inc. v. Richardson*, 746 A.2d 1228 (R.I., 2000); *Casa DiMario, Inc. v. Richardson*, 763 A.2d 607 (R.I., 2000) and *El Marocco Club, Inc. v. Richardson*, 746 A.2d 1228 (R.I., 2000).

[11] There is no merit in the Committee's argument that § 3-7-7.3 only applies to establishments once licensed. Objective standards adopted pursuant to § 3-7-7.3 ensure uniformity and fairness among all similarly situated

Considering the forgoing, it is within the Director's broad discretion to fashion a remedy through "any decision or order he or she considers proper" under § 3-7-21. Accordingly, it is recommended that the City of Cranston be provided with the opportunity to comply with § 3-7-7.3 by adopting objective standards for the restriction of entertainment as a condition on Class B licenses.[12] If the City of Cranston fails to adopt objective standards pre-approved by the Department within thirty (30) days, the Department shall, upon the Appellant's written request, issue an order reversing the Committee's decision to deny the request to lift the conditions. If the City does adopt such standards within the allotted time, the Committee shall hold a hearing within twenty (20) days of the date of adoption to reconsider the Appellant's request to remove the conditions in accordance with the established standards. A decision on the restrictions shall be made within five (5) days of holding the hearing and provided to the Appellant in writing. The Appellant may appeal any final decision on its request to the Department pursuant to R.I. Gen. Laws § 3-7-21.

Furthermore, it is a reasonable exercise of § 3-7-21 discretion to vacate the $ 1,000 fine in light of the recommended remand for compliance with R.I. Gen. Laws § 3-7-7.3.[13] Vacating the fine is fair in light of the testimony as to the principals' belief, as a person unfamiliar with the law and procedure of licensing, that the issuance of the license after renewal on November 30,

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applicants. Perhaps the more appropriate distinction is that applicants for licensure may agree to entertainment restrictions in order to secure their license even in absence of adopted standards; whereas, an existing licensee cannot be forced to accept new restrictions in absence of duly adopted standards permitting such imposition.

[12] Such standards may be adopted through the Committee, City Council or whatever other branch of local government that is vested with such authority through the City of Cranston's Charter and/or Code and pursuant to any applicable procedures therein.

[13] Even if this fine were not vacated in its entirety, the maximum penalty that the Committee could have legally imposed was $ 500 dollars under § 3-5-21(b) because there was no evidence of any prior violation. Only second and subsequent violations are punishable up to $ 1,000. The Appellant also noted that City of Cranston Municipal Code 1.08.010 provides that where there is no express provision regarding violation of the code, the penalty shall not exceed $ 200. Prior to imposing the fine, a Committee member stated that the city solicitor had advised that the Committee is not limited by that provision in liquor licensing proceedings. It would seem that the statutory authority to impose up to $ 500 under § 3-5-21 would control in this situation; however, the undersigned makes no conclusions of law on this point which is not determinative to the recommendation to vacate the fine in its entirety.

2012 without conditions imprinted thereon constituted permission to provide live entertainment. The Department has "great reservations" about imposing severe penalties where there is "reason to believe the violation was more the result of negligence rather than malicious intent." *Musone v. Pawtucket Bd. of License Com'rs*, 1984 WL 560365, *2 (R.I. Super., 1984). Though reliance on the paper license without confirming with the clerk or Committee may have been negligent, the Appellant's secretary did not appear, through her live testimony as perceived by the undersigned, to have so-called "malicious intent" to deliberately defy the authority of the Committee. Further, the record does not reflect that any public disturbance resulted from the live entertainment, *i.e.* through decibel meter readings, disorderly crowds, etc., that would convince the Department that imposition of a fine prior to satisfaction of § 3-7-7.3 is necessary under the circumstances from a public safety or welfare perspective.

Now that the Appellant should be fully apprised that the restriction has not at this time been removed from the license pursuant to a Committee vote or Department decision, future violations may be punishable unless the conditions are removed by official action of the Committee or the Department. However, neither the May 4 incident nor any entertainment-based incidences occurring between November 30, 2012 and the date of this decision should be considered prior violations for purposes of calculating any future penalty under § 3-5-21(b) or otherwise be held against the licensee in review of the request to lift the conditions.

V. FINDINGS OF FACT

1. Sections I - IV of this decision and order are incorporated herein as findings of fact.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this appeal and the issues raised therein pursuant to R.I. Gen. Laws §§ 3-7-21, 3-5-21, 3-2-2, and 3-7-7.3.

2. The standard of review is *de novo* and the proceeding before the Department is thus unaffected by any errors of law allegedly committed by the Committee.
3. The Appellant is not required to appeal to the full city council prior to exercising its right to a *de novo* review at the Department level.
4. The Appellant acquiesced to imposition of a prohibition on live entertainment when it failed to object to the terms of the motions at the July 11, 2011 transfer hearing or to timely file an appeal to the Department thereafter.
5. The clerical error resulting in issuance of a license document on November 30, 2012 without the entertainment restriction imprinted thereon did not have the legal effect of removing the pre-renewal restriction.
6. The terms of the motion approving the transfer application and the original license document itself gave the Appellant a right to a hearing on a motion to lift the conditions initially acquiesced to, after a six month trial period.
7. Where the Appellant was vested with a right of review, a decision to refuse to lift and to continue to impose an entertainment restriction must be supported by formally adopted objective standards approved by the Department in accordance with § 3-7-7.3.
8. It is within the Department's broad discretion to fashion the below recommended remedy.

VII. RECOMMENDATION

It is hereby recommended as follows:

1. DBR No. 12LQ084 is remanded to permit the City of Cranston comply with § 3-7-7.3.
2. Within thirty (30) days of this Order, the City of Cranston shall formally adopt objective standards pre-approved by the Department to impose entertainment restrictions or

prohibitions on a Class B license to be applied uniformly to all licensed facilities and applicants for licensure as required by § 3-7-7.3. This order is not to be applied to separate entertainment licenses issued by the City. Failure to comply with § 3-7-7.3 within the thirty (30) day period set forth herein may result in a subsequent order of the Department lifting the entertainment restrictions on the Appellant's license.

3. Within twenty (20) days of the adoption of standards as required in paragraph 2 above, the Committee shall hold a hearing to reconsider the Appellant's request to remove the entertainment restrictions in accordance with the established standards.
4. A decision following the hearing required by paragraph 3 above shall be made within five (5) days of said hearing and provided to the Appellant in writing.
5. The Appellant may appeal any final decision on its request to lift the conditions to the Department pursuant to R.I. Gen. Laws § 3-7-21.
6. During the time period under this Order, Appellant shall not have any live entertainment at its facility.
7. The $1,000 fine imposed on the Appellant is hereby vacated and shall be removed the licensee's records and shall not be used against the licensee in any future proceeding.

As recommended by:

Date: 7/19/2013

Louis A. DeQuattro, Jr., Esq., CPA
Hearing Officer
Deputy Director & Executive Counsel

I have read the Hearing Officer's recommendation and I hereby (check one)

- ☑ Adopt
- ☐ Reject
- ☐ Modify

the recommendation of the Hearing Officer in the above-entitled Decision and Order.

Date: 7/12/2013

Paul McGreevy
Director

Entered as an Administrative Order No.: -13058 this 12th day of July, 2013.

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 22nd day of July, 2013 that a copy of the within Decision and Order and Notice of Appellate Rights was sent by e-mail and first class mail, postage prepaid to -

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