



*Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
Chelsea, Massachusetts 02150-2358*

**Jean M. Lorizio, Esq.**  
*Chairman*

**DECISION**

**JOHNNIE'S ON THE SIDE LLC D/B/A WEST END JOHNNIE'S  
139 PORTLAND ST.  
BOSTON, MA 02114  
LICENSE#: 00637-RS-0116  
VIOLATION DATE: 12/21/2019  
HEARD: 10/19/2021**

Johnnie's on the Side LLC d/b/a West End Johnnie's (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, October 19, 2021, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: M.G.L. c. 138, § 69- Sale or delivery of an alcoholic beverage to an intoxicated person (3 Counts). Prior to the commencement of the hearing, the Licensee stipulated to the facts in Investigator Gould's report.

The following documents are in evidence:

1. Investigator Gould's Report;
2. ABCC Form 43, License Transfer Approval, 9/17/2007;
3. ABCC Decision, 1/3/2012;
4. Licensee's Stipulation of Facts.

There is one (1) audio recording of this hearing.

**FINDINGS OF FACT**

1. On Friday, December 20, 2019, at approximately 10:00 p.m., Investigators Temple, Velez, and Gould ("Investigators") inspected the business operation of Johnnie's on the Side LLC d/b/a West End Johnnie's to determine the way its business was being conducted.
2. Investigator Gould entered the licensed premises and observed a group of four (4) male individuals at the upstairs bar. The Investigator's attention was drawn to the group of men as they were talking very loudly to one another, appeared to be unsteady on their feet and were swaying back and forth.
3. Investigator Gould observed the first individual, Male #1, had glassy eyes with elongated and slow blinking movements. He swayed as he was standing, and he was loud and boisterous when interacting with the other members of his party.

4. The second individual, Male #2, was observed having difficulty maintaining his balance and swaying in a circular motion. His eyes were glassy with elongated and slow blinking movements.
5. The third individual, Male #3, was observed swaying and leaning over onto the table to maintain his balance. His eyes were glassy.
6. The Investigator observed the fourth individual, Male #4 had glassy eyes and was unsteady on his feet.
7. Based on his observations, training and experience, Investigator Gould determined the four male individuals were intoxicated.
8. Investigator Gould observed as the four men held shot glasses, yelling at one another and posting the event on a social media platform. Investigator Gould observed the four men consume the shots. The four men were standing in close proximity to the left-hand side of the bar.
9. At approximately 12:15 a.m., Male #3 spoke to the female bartender on duty. Shortly thereafter, the female bartender brought four shots and one mixed drink to the four men. Three of the men consumed the second shot. Male #4 refused to take the second shot. Male #3 took possession of the mixed drink.
10. Investigator Gould contacted Investigators Temple and Velez, who were waiting outside of the licensed premises.
11. Investigator Gould observed Male #3 leave the group and walk towards him. Male #3 staggered and took several steps that clipped the back of his other leg, essentially tripping over his own feet. Male #3 regained his balance and then walked in the other direction towards the upstairs bathroom. He remained unsteady on his feet.
12. The other three men went downstairs.
13. Investigator Gould remained in the upstairs bar area. Upon exiting the bathroom, Male #3 stated to the Investigator, "can you take this my friends left" as he attempted to hand his drink to Gould. Investigator Gould tried to explain his friends had gone downstairs but Male #3 seemed confused and just stared blankly. He then proceeded to the bar where he left his drink and walked into the entryway of the premises while talking on his mobile phone. Male #3 then came back inside the premises and took possession of the drink he had left on the bar.
14. Investigator Gould proceeded downstairs to locate the other three men. Gould observed Male #1 and Male #2 retrieving their coats from the coat checkroom. One of the men walked directly into Investigator Gould and mumbled something unintelligible. Investigator Gould identified these two men to Investigators Temple and Velez.
15. Investigators Temple and Velez spoke to Male #1 and Male #2. The men were very aggressive towards the Investigators and each only provided them with a first name. The two men stated to Investigators that they were drinking to celebrate Male #3's birthday. Investigators asked to provide safe transport home. The men stated that they were not driving and would take a ride-share service home.

16. Investigators identified themselves to the manager and informed him of the intoxicated male patrons and that a report would be filed with the Chief Investigator for review.
17. John Caron, Licensee, attended the Commission hearing and testified as to steps taken to retrain staff. In addition, Mr. Caron informed the Commission that the bartender who served the patrons had been terminated.
18. The Commission was asked to consider the fact that the Licensee was closed due to the COVID-19 pandemic for a total of approximately 11 months.
19. The Licensee has held a license under M.G.L. c. 138, § 12 since 2007 with one previous violation.

### CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: M.G.L. c. 138, § 69- Sale or delivery of an alcoholic beverage to an intoxicated person (3 Counts). Therefore, the Commission **suspends the license for a period of five (5) days which are hereby deemed served.**

### ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner 

Deborah Baglio, Commissioner 

Jean M. Lorizio, Chairman 

Dated: November 24, 2021

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

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cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Kyle E. Gill, Esq., Associate General Counsel  
Brian Gould, Investigator  
Christopher Temple, Investigator  
Nicholas Velez, Investigator  
Joseph Di Cicco, Investigator  
Caroline Guarino, Investigator  
Seamus O'Kelly, Esq.  
Administration, File

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