



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF INDEFINITE SUSPENSION

November 17, 2020

**THE NEXT PLACE LLC D/B/A THE GREATEST BAR
262 FRIEND STREET
BOSTON, MA 02114
LICENSE#: 01397-RS-0116
VIOLATION DATE: 9/19/2020
HEARD: 10/14/2020**

After a hearing on October 14, 2020, the Commission finds The Next Place LLC d/b/a The Greatest Bar violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of The Next Place LLC d/b/a The Greatest Bar **effective forthwith** until further written order of the Commission.

You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Dennis Keefe, Investigator
Brian Gould, Investigator
Nicholas Velez, Investigator
Michael Flanagan, Dept. of Labor Standards
Curt F. Bletzer, Esq.
Administration, File



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DECISION

THE NEXT PLACE LLC D/B/A THE GREATEST BAR
262 FRIEND STREET
BOSTON, MA 02114
LICENSE#: 01397-RS-0116
VIOLATION DATE: 9/19/2020
HEARD: 10/14/2020

The Next Place LLC d/b/a The Greatest Bar (the "Licensee") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Wednesday, October 14, 2020, regarding alleged violations of:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19; and
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The above-mentioned occurred on September 19, 2020 according to Investigator Keefe's Report.

The following documents are in evidence:

1. Investigator Keefe's Report;
2. Copy of License Transfer Approval, 1/29/2008;
3. Copy of Photo Interior 3rd floor of the Licensed Premises;
4. ABCC Decision, 3/27/2018;
5. ABCC Decision, 6/15/2016;
6. ABCC Decision, 5/27/2015;
7. ABCC Decision, 10/3/2014;
8. ABCC Decision, 5/23/2012;
9. ABCC Decision, 3/6/2012;

10. Massachusetts Executive COVID-19 Order No. 37, June 6, 2020;
11. Massachusetts Executive COVID-19 Order No. 40, June 19, 2020;
12. Massachusetts Executive COVID-19 Order No. 46, August 7, 2020;
13. Massachusetts COVID-19 Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;
14. ABCC Enforcement Memorandum, 10/14/2020.

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

FINDINGS OF FACT

1. On Saturday, September 19, 2020, at approximately 11:40 p.m., Investigators Gould, Velez, and Keefe ("Investigators") conducted an investigation of The Next Place LLC d/b/a The Greatest Bar to determine the manner in which its business was being conducted and to ensure compliance with Massachusetts Governor Charles Baker's Executive COVID-19 Orders. (Testimony, Exhibit 1)
2. Investigators entered the licensed premises and observed there were no staff at the entrance. Investigators proceeded to the third floor of the establishment. They observed the bar area filled with multiple patrons standing in close proximity to each other holding alcoholic beverages and wearing no masks. Id.
3. Investigators observed approximately nineteen (19) individuals standing, many of them consuming alcoholic beverages with no facial coverings. Id.
4. Investigators noted a male and a female patron seated on stools at the bar. Investigators witnessed bartenders serving patrons directly from the bar. Id.
5. Investigators observed little to no food service in the bar area. Id.
6. Investigators observed the bartender, with no facial covering, speak to customers in close proximity. The bartender then left the bar area and spoke with customers in close proximity without a facial covering. Some parts of the bar area were so crowded that Investigators had difficulty walking through the bar. Id.
7. Investigators spoke with a staff member and asked to speak with the manager on duty outside the licensed premises. While waiting for the manager, Investigators observed patrons with no facial coverings walking up and down the stairs and observed five (5) male patrons without any facial coverings at the bottom of the first-floor stairs. Id.
8. Investigators spoke with James Ferola, the manager on duty, who stated that the patrons on the third floor were with a private party which commenced earlier in the evening. Mr. Ferola stated earlier in the evening all guidelines were strictly followed but recently things had gotten out of hand. Mr. Ferola stated that just before speaking to Investigators he closed the third-floor bar area. Id.
9. Investigators reviewed the COVID-19 guidelines and Sector Specific Workplace Safety Standards for Restaurants with Mr. Ferola. Id.

10. Investigators advised Mr. Ferola of the violations and that a report would be filed with the Chief Investigator for review. *Id.*
11. Attorney Curt F. Bletzer appeared at the Commission hearing on behalf of the Licensee. Atty. Bletzer stated the Licensee had taken precautions at the licensed premise and believed they were compliant with all COVID-19 orders. With regard to the alleged violations on September 19, 2020, Atty. Bletzer acknowledged that problems arose later in the night when patrons at a private party on the third floor got too comfortable.
12. The Licensee has held a license under M.G.L. c. 138, § 12 since 2008. (Exhibit 2)

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was “enacted ... to serve the public need and ... to protect the common good.” M.G.L. c. 138, § 23. “[T]he purpose of discipline is not retribution, but the protection of the public.” Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees.” Connolly, 334 Mass. at 617.

The Licensee is charged with a violation of 204 CMR 2.05 (2). “No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises.” 204 CMR 2.05 (2). More specifically the Licensee is charged with permitting an illegality on the licensed premises, to wit:

Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;

Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19; and

Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The Executive COVID-19 Orders require adherence to all Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (August 10, 2020) including:

Restaurants may not seat any customers at the bar;

All customers must be seated;

Ensure separation of 6 feet between all individuals;

Alcoholic beverages may only be served for on-site consumption if accompanied by food prepared on-site; and

Require face coverings for all customers and workers at all times, except where an individual is unable to wear a face covering due to medical condition or disability.

Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (August 10, 2020)

Numerous patrons and a bartender were not wearing face coverings and were in close proximity to one another. (Exhibit 1, Testimony) Two patrons were seated at the bar and guests were being served alcoholic beverages directly from the bar while standing. Id. The Licensee, through counsel, acknowledged these incidents.

The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2), to wit: Massachusetts Executive COVID-19 Orders 37, 40 and 46 did occur.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The Commission hereby **INDEFINITELY SUSPENDS** the license of The Next Place LLC d/b/a The Greatest Bar **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension.

Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards (“DLS”) as to a reopening plan. The Licensee must submit to the DLS a COVID Control Plan to reopen (see link here: <https://www.mass.gov/doc/phase-iii-step-1-restaurants-checklist-92220/download>) and operate in compliance with COVID 19 Orders Nos. 33, 37, 40 and 43, and the Restaurant Sector Specific Standards. Said plan must be submitted to both Michael Flanagan (michael.flanagan@mass.gov) and Mary Dozois (mary.dozois@mass.gov) requesting review and approval.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Deborah A. Baglio, Commissioner Deborah A. Baglio

Jean M. Lorizio, Chairman Jean M. Lorizio

Crystal Matthews, Commissioner Crystal Matthews

Dated: November 17, 2020

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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