



*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

May 13, 2021

**TRATTORIA IL PANINO HANOVER INC.
D/B/A TRATTORIA IL PANINO
278-280 HANOVER STREET
BOSTON, MA 02113
LICENSE#: 00446-RS-0116
VIOLATION DATE: 12/31/2020
HEARD: 3/09/2021**

After a hearing on March 9, 2021, the Commission finds Trattoria Il Panino Hanover Inc. d/b/a Trattoria Il Panino 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: Mass. Exec. COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location;
- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 57 (Dec. 8, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Trattoria Il Panino Hanover Inc. d/b/a Trattoria Il Panino **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

This document is important and should be translated immediately.
Este documento es importante y debe ser traducido inmediatamente.
Este documento é importante e deve ser traduzido imediatamente.
Ce document est important et devrait être traduit immédiatement.
Questo documento è importante e dovrebbe essere tradotto immediatamente.
Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.
这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Dennis Keefe, Investigator
Joseph Di Cicco, Investigator
Michael Flanagan, Dept. of Labor Standards
William Ferullo, Esq.
Administration, File



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

Jean M. Lorizio, Esq.
Chairman

DECISION

**TRATTORIA IL PANINO HANOVER INC.
D/B/A TRATTORIA IL PANINO
278-280 HANOVER STREET
BOSTON, MA 02113
LICENSE#: 00446-RS-0116
VIOLATION DATE: 12/31/2020
HEARD: 3/09/2021**

Trattoria Il Panino Hanover Inc. d/b/a Trattoria Il Panino (the "Licensee") holds an alcoholic beverages 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, March 9, 2021, 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;
- 3) 204 CMR 2.05(2)- Permitting an illegality on the licensed premises, to wit: Mass. Exec. COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location;
- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 57 (Dec. 8, 2020).

Prior to the commencement of the hearing the Licensee stipulated to the facts in Investigator Keefe's report.

The following documents are in evidence:

1. Investigator Keefe's Report;
2. ABCC License Transfer Approval, 12/9/2015;
3. Massachusetts Executive COVID-19 Order No. 37, 6/6/2020;
4. Massachusetts Executive COVID-19 Order No. 40, 6/19/2020;
5. Massachusetts Executive COVID-19 Order No. 55, 11/2/2020;

6. Massachusetts Executive COVID-19 Order No. 57, 12/8/2020;
 7. Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 12/11/2020;
 8. ABCC Enforcement Memorandum, 3/3/2021;
 9. Licensee's Stipulation of Facts.
- A. Five (5) Photographs of Interior of Licensed Premises;
 - B. Three (3) Photographs of Manager Wearing Mask;
 - C. Memorandum in Support of Licensee's Position.

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

FINDINGS OF FACT

1. On Thursday, December 31, 2020, at approximately 10:10 p.m., Investigators Di Cicco and Keefe ("Investigators"), along with Chief Investigator Mahony, conducted an investigation of Trattoria Il Panino Hanover Inc. d/b/a Trattoria Il Panino 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.
2. While outside the establishment, Investigators observed through a window, multiple parties eating and consuming alcoholic beverages. (Exhibit 1, Testimony)
3. Investigators entered the licensed premises and identified themselves to the manager on duty, Ciro Cecere. Id.
4. Investigators observed that initially Mr. Cecere was not wearing a facial covering. After Investigators entered the establishment, Mr. Cecere pulled his mask up over his mouth and nose. Id.
5. Investigators observed approximately 10 patrons seated at multiple tables in the dining room. Some of these individuals had food and drinks in front of them. Id.
6. Investigators went downstairs and observed approximately 20 patrons, most of whom had food and alcoholic beverages before them on the tables. Id.
7. Investigators informed Mr. Cecere of the violations and reviewed the COVID guidelines and Sector Specific Safety Standards with him. Id.
8. The Licensee, Joseph DePasquale, appeared at the Commission hearing along with his father, Frank DePasquale. Frank DePasquale testified they took reservations for New Year's Eve prior to the capacity restrictions taking effect and limited walk-in patrons, in an effort to comply with the capacity limits as mandated by the COVID Orders. They attempted to cancel some reservations due to capacity limits; however, it was difficult getting in touch with the individuals who made reservations a month or more in advance. Joseph DePasquale testified some of the patrons arrived late for their reservations. He also stated it is their practice to inform all patrons of the 90-minute limit on table seating. (Testimony)

9. The Licensee has held a license under M.G.L. c. 138, § 12 since 2015 with no prior violations. (Exhibit 2, Commission Records)

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;

Violation of Massachusetts Executive COVID-19 Order No. 55 (November 2, 2020); and

Violation of Massachusetts Executive COVID-19 Order No. 57 (December 8, 2020).

The Executive COVID-19 Orders require adherence to all Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (December 11, 2020) including:

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;

All customers must be seated;

Customers may only remove face coverings when seated and in the actual act of eating and drinking; and

All patrons must exit the licensed premises by 10 p.m. at the latest.

Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (December 11, 2020)

Direct evidence was presented through the testimony of Investigator Keefe and corroborated by the Licensee that an employee was not wearing a mask and patrons were on the licensed premises after 10:00 p.m.

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, 55, and 57 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: Mass. Exec. COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location;
- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 57 (Dec. 8, 2020).

The Commission hereby **INDEFINITELY SUSPENDS** the license of Trattoria Il Panino Hanover Inc. d/b/a Trattoria Il Panino **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/sector-specific-workplace-safety-standards-for-restaurants-to-address-covid-19-030121/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

Jean M. Lorizio

Jean M. Lorizio, Chairman

Crystal Matthews

Crystal Matthews, Commissioner

Deborah A. Baglio

Dated: May 13, 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.

This document is important and should be translated immediately.
Este documento es importante y debe ser traducido inmediatamente.
Este documento é importante e deve ser traduzido imediatamente.
Ce document est important et devrait être traduit immédiatement.
Questo documento è importante e dovrebbe essere tradotto immediatamente.
Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.
这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Dennis Keefe, Investigator
Joseph Di Cicco, Investigator
Michael Flanagan, Dept. of Labor Standards
William Ferullo, Esq.
Administration, File