



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

**Jean M. Lorizio, Esq.**  
*Chair*

**DECISION**

**CAUSEWAY UNION LLC D/B/A SONS OF BOSTON  
19 UNION STREET  
BOSTON, MA 02108  
LICENSE#: 05506-RS-0116  
HEARD: 9/21/2022**

This is an appeal under M.G.L. c. 138, § 67, by Causeway Union LLC d/b/a Sons of Boston (“Licensee” or “Causeway Union” or “Sons of Boston”) located at 19 Union Street, Boston, Massachusetts. Causeway Union is appealing the action of the City of Boston License Commission (the “Local Board” or “Boston”) for indefinitely suspending its M.G.L. c. 138, § 12 all alcoholic beverages license. The Causeway Union timely appealed the Local Board’s action to the Alcoholic Beverages Control Commission (the “Commission” or “ABCC”), and a remote hearing was held via Microsoft teams on Wednesday, September 21, 2022.

The following documents are in evidence:

1. Decision and Statement of Reasons of the Local Board;
2. Video recording of the 4/5/2022 Local Board hearing;
3. Video recording<sup>1</sup> of the 4/7/2022 Local Board voting session;
4. Local Board Licensee’s Docket Sheet;
5. Local Board Violations # 004546 and # 004547, underlying Boston Police Incident Reports, and Hearing Notice;
6. Local Board Violation # 060249 and underlying Boston Police Incident Report;
7. Boston Police Incident Report # 222015739;
8. Criminal Complaint of Alvaro Larrama;
9. Licensee’s Transfer Application;
10. Indictment of Alicia Dumeer Quelle.

There is one (1) audio recording of this hearing and three (3) witnesses testified.

**FINDINGS OF FACT**

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<sup>1</sup> The video recordings for the two Local Board’s hearings are contained on one thumb drive.

The Commission makes the following findings of fact based on the evidence presented at the hearing:

1. Causeway Union LLC d/b/a Sons of Boston holds a M.G.L. c. 138, § 12 all alcoholic beverages license exercised at 19 Union Street, Boston, MA. (Exhibit 9)
2. On Saturday, March 19, 2022, a male victim was stabbed outside of the licensed premises by the Licensee's employee, Alvaro Omar Larrama, after the two argued following Mr. Larrama's refusal to let the victim and his friend into the license premises. (Exhibit 5)
3. The victim was pronounced dead later that evening. Id.
4. Mr. Larrama was arrested two days later and charged with murder. (Exhibits 5, 10)
5. Officer Michael Mustacchio, Detective Kevin Cook, and Detective Eddie Hernandez of the Boston Police Department testified on behalf of the Local Board. Their testimony was primarily the reading of police reports that addressed the aftermath of the alleged murder. None of officers was a percipient witness to the incident, and one of the police reports read into the record was authored by a detective who did not testify. (Testimony, Exhibits 5, 6, 7)
6. The Licensee is appealing the Local Board's findings of violations of the following charges:
  - 1) "Assault and battery employee on patron with deadly weapon in violation of M.G.L. ch. 138, s. 4, ch. 265 s. 22"
  - 2) "Armed security without prior Board approval in violation of Boards rule 1.07J"
  - 3) "Failure to supervise conduct of a Licensed establishment in violation of Board's rule 1.09A"
  - 4) "Permitting a disturbance resulting in the Licensed premise becoming a focal point for police attention in violation of Board's rule 1.09E"
  - 5) "Employee made bodily contact with patron in violation of Board's rule 1.14A"
  - 6) "Failure to call police in violation of M.G.L. c. 138 s. 64 and Board's rule 1.14B." (Exhibits 1, 5)

### DISCUSSION

Pursuant to M.G.L. c. 138, §67, "[t]he ABCC is required to offer a de novo hearing, that is to hear evidence and find the facts afresh. As a general rule the concept of a hearing de novo precludes giving evidentiary weight to the findings of the tribunal from whose decision an appeal was claimed." Dolphino Corp. v. Alcoholic Beverages Control Comm'n, 29 Mass. App. Ct. 954, 955 (1990) citing United Food Corp v. Alcoholic Beverages Control Comm'n, 375 Mass. 240 (1978). The findings of a local licensing board are "viewed as hearsay evidence, [and] they are second-level, or totem pole hearsay, analogous to the non-eyewitness police reports in Merisme v. Board of Appeals on Motor Vehicle Liab. Policies and Bonds, 27 Mass. App. Ct. 470, 473 – 476 (1989)." Dolphino, 29 Mass. App. Ct. at 955.

Both the Local Board and the Commission have the authority to grant, revoke, and suspend licenses. Their powers were authorized "to serve the public need and . . . to protect the common good." M.G.L. c. 138, §23, as amended through St. 1977, c. 929, §7. "[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 v. Alcoholic

Beverages Control Comm'n, 334 Mass. 613, 617 (1956), as well as broad authority to issue regulations. The Local Board has authority to enforce Commission regulations. New Palm Gardens, Inc. v. Alcoholic Beverages Control Comm'n, 11 Mass. App. Ct. 785, 788 (1981).

These “comprehensive powers” are balanced by the requirement that the Local Board and the Commission provide notice to the licensee of any violations, as well as an opportunity to be heard. M.G.L. c. 138, §64. In addition, the Local Board has the burden of producing satisfactory proof that the licensee violated or permitted a violation of any condition thereof, or any law of the Commonwealth. M.G.L. c. 138, §§ 23, 64.

The Commission’s decision must be based on substantial evidence. Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm'n, 401 Mass. 526, 528 (1988). “Substantial evidence” is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” *Id.* Evidence from which a rational mind might draw the desired inference is not enough. Blue Cross and Blue Shield of Mass. Inc. v. Comm’r of Ins., 420 Mass. 707 (1995). “The Local Board has the burden of producing satisfactory proof to the Commission that the licensee committed the alleged violations.” Jaman Corp., d/b/a Crossroads (ABCC Decision Nov. 4, 2010).

A finding of a violation that rests entirely on hearsay cannot be sustained; however, a decision based upon hearsay evidence that is supported and corroborated by competent legal evidence may be sustained. See Moran v. School Committee of Littleton, 317 Mass. 591 (1945). In this matter, the Local Board did not produce any direct evidence of violations. Officer Mustacchio, Detective Cook, and Detective Hernandez testified before the Commission and were found to be professional and credible. However, none of them were present at the licensed premises at the time of the conduct in question and only read into evidence police reports, some of which were written by others. As a result, none of them have direct knowledge as to what occurred. The Local Board ultimately offered three non-eyewitness police reports as its evidence but did not offer any competent evidence to corroborate these reports. Non-eyewitness police reports are classic totem pole hearsay and, without more, do not constitute substantial evidence. Merisme, 27 Mass. App. Ct. at 476; accord Flow Lounge Bar & Grill, LLC (ABCC Decision Aug. 3, 2022); Silhouette Lounge, Inc. d/b/a Silhouette Lounge (ABCC Decision Nov. 30, 2004).

Even if the Commission found these police reports to have been corroborated, the Local Board did not introduce any evidence of the conduct of the Licensee. The Commission itself has yielded to the temptation presented by horrific facts and reasoned backwards to find a violation by the Licensee. However, the Commission must focus on the evidence before it of the *Licensee’s* conduct. Here, there is a dearth of evidence of the conduct of the Licensee.

Finally, the Local Board charged the Licensee with “Assault and battery employee on patron with deadly weapon in violation of M.G.L. c. 138, s. 4, c. 265 s. 22” (Exhibit 5). However, neither of these cited statutes are relevant to the underlying allegations, as M.G.L. c. 265, § 22, is the criminal charge for rape, while M.G.L. c. 138, § 4, addresses the appointments of individuals to local licensing authorities. While the Licensee does not raise this issue, the Commission finds no violations of these statutes.

### CONCLUSION

Based on the evidence and testimony at the hearing, the Commission **DISAPPROVES** the action of the City of Boston Licensing Board in finding that Causeway Union LLC d/b/a Sons of Boston violated:

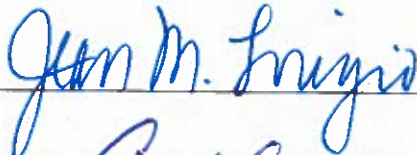
- 1) "Assault and battery employee on patron with deadly weapon in violation of M.G.L. ch. 138, s. 4, ch. 265 s. 22"
- 2) "Armed security without prior Board approval in violation of Boards rule 1.07J"
- 3) "Failure to supervise conduct of a Licensed establishment in violation of Board's rule 1.09A"
- 4) "Permitting a disturbance resulting in the Licensed premise becoming a focal point for police attention in violation of Board's rule 1.09E"
- 5) "Employee made bodily contact with patron in violation of Board's rule 1.14A"
- 6) "Failure to call police in violation of M.G.L. c. 138 s. 64 and Board's rule 1.14B."

Therefore, the Commission **DISAPPROVES** the action of the City of Boston Licensing Board in suspending indefinitely the Licensee's M.G.L. c. 138, § 12 license.

The Commission remands the matter to the Local Board with the recommendation that no further action be taken against the Licensee, as any penalty would be discrepant with this decision.

### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: January 31, 2023

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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2022-000047-ad-enf

cc: Carolyn M. Conway, Esq.  
Daniel R. Green, Esq.  
Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Administration, File