



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

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

**DECISION**

**MAYURI SAHIL CORP. D/B/A DEBI'S CONVENIENCE AND DELI  
516 PLEASANT STREET  
BROCKTON, MA 02301  
LICENSE#: 88863 -PK-0144  
HEARD: 11/16/2022**

This is an appeal of the action of the City of Brockton License Commission (the "Local Board" or "Brockton") for denying the M.G.L. c. 138, § 15 Retail Package Store Change of Category from Wines & Malt Beverages to All-Alcoholic Beverages application of Mayuri Sahil Corp. d/b/a Debi's Convenience and Deli ("Licensee" or "Debi's Convenience") located at 516 Pleasant Street, Brockton, Massachusetts. The Licensee timely appealed the Local Board's action to the Alcoholic Beverages Control Commission (the "Commission" or "ABCC"), and a remote hearing via Microsoft Teams was held on Wednesday, November 16, 2022.

The following documents are in evidence:

1. Local Board's Meeting Minutes, 8/22/2022;
  2. Debi's Convenience's Statement.
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- A. Local Board's Meeting Minutes, 9/15/2022;
  - B. Local Board's Decision, 9/6/2022.

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

**FINDINGS OF FACT**

The Commission makes the following findings of fact:

1. Mayuri Sahil Corp. d/b/a Debi's Convenience and Deli ("Licensee" or "Debi's Convenience") operates a convenience store located at 516 Pleasant Street, Brockton, Massachusetts and currently holds a M.G.L. c. 138, § 15 wines and malt beverages retail package store license at that location. (Testimony, Exhibits 1, 2)
2. On August 22, 2022, the Local Board held a public hearing on the Licensee's application for a change of category from wines and malt beverages to all-alcoholic beverages. (Testimony, Exhibit 1)

3. In its discussion at the August 22, 2022 hearing, the Local Board raised issues concerning the size of the premises and where “full liquor” would be exposed for sale. (Testimony, Exhibit 1)
4. Counsel for the Licensee advised the Local Board that the Brockton Planning and Zoning Board had approved the Licensee’s application to add 3,000 square feet to its present premises however a timeframe was not presented as to when the expansion would be completed. (Testimony, Exhibit 1)
5. Lieutenant Bonaca of the Brockton Police Department, testified at the public hearing and stated that if Debi’s Convenience is granted the license, “they will be placing alcohol temporarily behind the counter where they sell tobacco” until the expansion of the premises. (Exhibits 1, B)
6. Commissioner McGarry of the Local Board stated that it was his understanding that if the license is granted to Debi’s Convenience then “one wall is going to be used to put full liquor until [Debi’s Convenience] add[s] the addition and redesign[s] the entire store.” (Exhibit 1)
7. The Local Board denied Debi’s Convenience’s application. (Testimony, Exhibit 1)
8. On September 6, 2022, the Local Board issued a written decision citing the “lack of adequate space and area for the sale of all alcohol, together with lack of evidence of public need for such additional establishments in that location” as reasons for their denial. (Testimony, Exhibit B)
9. The Licensee timely appealed the Local Board’s decision to the Commission. (Commission Records)

### DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Connolly v. Alcoholic Beverages Control Comm’n., 334 Mass. 613, 619 (1956), Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses to sell alcoholic beverages is set out in M.G.L. c. 138. Licenses must be approved by both the local licensing authorities and the Commission. M.G.L. c. 138, §§12, 67; Beacon Hill Civic Assn. v. Ristorante Toscano, Inc., 422 Mass. 318, 321 (1996).

The statutory language is clear that there is no right to a liquor license. As Section 23 provides in pertinent part,

[t]he provisions for the issue of licenses and permits [under c. 138] imply no intention to create rights generally for persons to engage or continue in the transaction of the business authorized by the licenses or permits respectively, but are enacted with a view only to serve the public need and in such a manner as to protect the common good and, to that end, to provide, in the opinion of the licensing authorities, an adequate number of places at which the public may obtain, in the

manner and for the kind of use indicated, the different sorts of beverages for the sale of which provision is made.

M.G.L. c. 138, § 23.

A local licensing authority has discretion to determine public convenience, public need, and public good, with respect to whether to grant a license to sell alcoholic beverages. Donovan v. City of Woburn, 65 Mass. App. Ct. 375, 378-379 (2006); Ballarin, Inc. v. Licensing Bd. of Boston, 49 Mass. App. Ct. 506, 510-511 (2000).

It is well-settled that the test for public need includes an assessment of public want and the appropriateness of a liquor license at a particular location. Ballarin, 49 Mass. App. Ct. at 511. The Appeals Court held that “[n]eed in the literal sense of the requirement is not what the statute is about. Rather the test includes an assessment of public want and the appropriateness of a liquor license at a particular location.” Ballarin, 49 Mass. App. Ct. at 511-512. In Ballarin, the Court identified factors to be considered when determining public need:

Consideration of the number of existing licenses in the area and the views of the inhabitants in the area can be taken into account when making a determination, as well as taking into account a wide range of factors- such as traffic, noise, size, the sort of operation that carries the license and the reputation of the applicant. Id.

The Appeals Court has held that a local board may deny a license even if the facts show that a license lawfully could be granted. Donovan, 65 Mass. App. Ct. at 379. “Neither the [local board’s] broad discretion nor the limitations on judicial review, however, mean that the [local board] can do whatever it pleases whenever it chooses to do so. See Id. “Instead, ‘[w]here the factual premises on which [the board] purports to exercise its discretion is not supported by the record, its action is arbitrary and capricious and based upon error of law, and cannot stand.’ Id. (quoting Ruci v. Client’s Sec. Bd., 53 Mass. App. Ct. 737, 740 (2002)). A Board must state the reasons for its decision to deny the granting of a liquor license. M.G.L. c. 138, § 23. “Adjudicatory findings must be ‘adequate to enable [a court] to determine (a) whether the . . . order and conclusions were warranted by appropriate subsidiary findings, and (b) whether such subsidiary findings were supported by substantial evidence.’” Charlesbank Rest. Inc. v. Alcoholic Beverages Control Comm’n, 12 Mass. App. Ct. 879, 880 (1981) (quoting Westborough v. Dep’t of Pub. Util., 358 Mass. 716, 717-718 (1971)). General findings are insufficient, and if the licensing board does not make sufficient findings, “it remain[s] the Commission’s obligation to articulate the findings of fact, which were the basis of the conclusions it drew,” and not merely adopt the findings of the board. Charlesbank Rest. Inc., 12 Mass. App. at 880.

In reviewing the decision of a denial by a local licensing authority, the Commission gives “reasonable deference to the discretion of the local authorities” and determines whether “the reasons given by the local authorities are based on an error of law or are reflective of arbitrary or capricious action.” Great Atlantic & Pacific Tea Co., Inc. v. Board of License Comm’rs of Springfield, 387 Mass. 833, 837, 838 (1983); see Ballarin, 49 Mass. App. Ct. 506, 512 (2000) (when reviewing the local licensing authority’s authority, court does not assess the evidence but rather “examine[s] the record for errors of law or abuse of discretion that add up to arbitrary and capricious decision-making”). However, while this discretion of the local licensing authority is broad, “it is not untrammelled.” Ballarin, 49 Mass. App. Ct. at 511.

Here, the Local Board based their denial of the application on two reasons: (1) lack of adequate space and area for the sale of all alcoholic beverages, and (2) lack of evidence of public need for such additional establishments in that location. (Exhibit B)

After examining the meeting minutes of the Local Board, the Commission finds the Local Board fulfilled its responsibility regarding Debi's Convenience's application. The Local Board held a public hearing on August 22, 2022 at which it discussed the application and raised issues concerning the size of the premises and where "full liquor" would be exposed for sale. Debi's Convenience informed the Local Board that the Brockton Planning and Zoning Board had approved their application to add 3,000 square feet to its present premises however a timeframe was not presented to the Local Board as to when the expansion would be completed. (Exhibit 1)

The Local Board's consideration of the size of the licensed premises and the space that would be used to sell all alcoholic beverages is supported by the evidence, and denying Debi's Convenience's change of category application for those reasons was within its discretion. Local licensing authorities are recognized as having expertise regarding the problems affecting the regulation of alcoholic beverages. Great Atl. & Pac. Tea Co., 387 Mass. 833, 837 (1983). It is not for the Commission to substitute its own views with what the Local Board believes is in the best interest of its [city]. As the Court pointed out in Ballarin, "in making its discretionary determination, a licensing authority may take into account a wide range of factors – such as traffic, noise, [and] size..." Ballarin, 49 Mass. App. Ct. at 511-512.

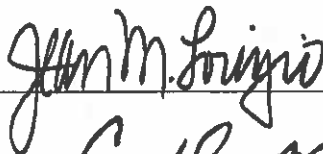
The Commission finds the Local Board's decision to deny Debi's Convenience's change of category application was supported by the evidence. The determination that there was not adequate space on the licensed premises for the sale of all alcoholic beverages was based on a "logical analysis," and the Local Board's disapproval of a change of category for Debi's Convenience is not arbitrary and capricious and must be affirmed for that reason alone.

#### CONCLUSION

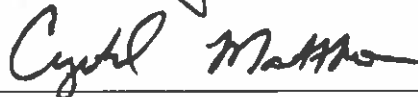
Based on the evidence and testimony presented at the hearing, the Commission **APPROVES** the action of the City of Brockton License Commission in denying the M.G.L. c. 138, § 15 All-Alcoholic Beverages Retail Package Store Change of Category license application of Mayuri Sahil Corp. d/b/a Debi's Convenience and Deli.

#### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: March 1, 2024

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: Philip C. Nessralla, Jr., Esq.  
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Frederick G. Mahony, Chief Investigator  
Administration, File