



*The Commonwealth of Massachusetts*  
*Department of the State Treasurer*  
*Alcoholic Beverages Control Commission*  
*Boston, Massachusetts 02114*

*Steven Grossman*  
*Treasurer and Receiver General*

*Kim J. Gainsboro, Esq.*  
*Chairman*

**DECISION**

**CENTER BRICKHOUSE PIZZA, INC DBA BRICKHOUSE CENTER PUB & PIZZERIA**  
**1 CENTRAL SQ, UNIT 2**  
**CHELMSFORD, MA 01824**  
**LICENSE#: 020000070**  
**VIOLATION DATE: 11/21/2012**  
**HEARD: 06/11/2013**

Center Brickhouse Pizza, Inc. dba Brickhouse Center Pub & Pizzeria (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, June 11, 2013, regarding an alleged violation of:

- 1) M.G.L. c. 138 §2 - No person shall sell alcoholic beverages, except as authorized by this chapter;
- 2) M.G.L. c. 138 §2 - No person shall expose alcoholic beverages, except as authorized by this chapter;
- 3) M.G.L. c. 138 §2 - No person shall keep for sale alcoholic beverages, except as authorized by this chapter; and
- 4) M.G.L. c. 138 §2 - No person shall store alcoholic beverages, except as authorized by this chapter.

The above captioned occurred on November 21, 2012, according to Investigator Bailey's Report.

The following documents are in evidence:

1. Investigator Bailey's Report dated November 21, 2012;
  2. Office of the State Fire Marshal Permit dated November 16, 2012; and
  3. Town of Chelmsford Building Permit dated November 16, 2012.
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- A. Letter dated March 1, 2013 from Chelmsford Town Manager to the Commission;
  - B. Letter dated November 1, 2012, from Licensee's Attorney to Chelmsford Board of Selectmen;
  - C. Chelmsford License Application dated November 21, 2012 for Licensee's One Night Extension of Hours;
  - D. Hand-drawn Map of Premises Street Location;
  - E. Letter dated November 1, 2012 from Chelmsford Board of Selectmen to Licensee's Attorney;
  - F. Chelmsford Fire Department Letter dated November 1, 2012;
  - G. Minutes of the Chelmsford Board of Selectmen Meeting for November 5, 2012; and
  - H. Affidavit, dated June 11, 2013, of Licensee's Attorney, Philip M. Eliopoulos.

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

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## FACTS

1. On Wednesday, November 21, 2012, at approximately 8:50 p.m., Investigators Doyle and Bailey investigated the licensed premises of Center Brickhouse Pizza, Inc. dba Brickhouse Center Pub & Pizzeria to determine the manner in which their business was being conducted.
2. Investigators conducted stationary surveillance in the parking lot and observed several individuals exiting the licensed premises from a covered outside patio in possession of bottled beers as well as red plastic cups.
3. Investigators observed approximately 25 individuals walking to the rear parking lot forming a line to gain entrance into the tent.
4. Investigators entered the licensed premises, identified themselves to a Chelmsford Police Officer on duty, and asked if the owner or licensed manager were currently on-site.
5. Immediately a male identified himself as Charlie Micol, an owner.
6. Investigators again identified themselves and requested to see the posted Special License ("1 Day License") issued by the local licensing authority relative to the storage of, exposure of and sale of alcoholic beverages within the tent.
7. Mr. Micol indicated his partner, Michael Brown, had all the required paperwork.
8. Investigators asked Mr. Micol who had applied for the 1 Day License and purchased the alcoholic beverages. He stated, "We did."
9. Investigators advised Mr. Micol that a 1 Day License cannot be issued to any premise that has an alcoholic beverages license.
10. Accompanied by Mr. Micol, investigators went to the outside tent and spoke with Mr. Brown.
11. Mr. Brown stated that all the permits and licenses were in his truck. Investigators followed Mr. Brown to his truck, where he provided them with the documentation listed below:
  - Department of Fire Services, Office of the State Fire Marshall Permit to erect a 30'x40' tent granted to Brickhouse Center Pizza, Chelmsford, install on Tuesday 11/20/2012, remove on Friday 11/23/2012 (Exhibit 2);
  - Town of Chelmsford, Building Department, Job Weather Card, Permit – Temporary Tent (size 30x60) – 11/21/12 to 11/23/12 – At (location) 1 Central Sq. (Exhibit 3)
12. As they followed Mr. Brown to his truck, investigators observed a group of individuals walking through the parking lot. Investigators observed a male individual, within the group, who was in possession of a red cup. Mr. Brown then yelled at the male individual stating, "Get rid of the drink, the ABCC is here."

13. After a review of the documents investigators explained to both Mr. Brown and Mr. Micol that the documentation provided did not include an approved 1 Day license issued by the local licensing authority.
14. Investigators then conducted an inspection inside the tent. They observed approximately 50 individuals within the tent, and a line of individuals waiting to gain access to the tent. Many of the waiting individuals were in possession of bottled beer or red plastic cups.
15. Investigators observed a long table set up in the back section of the tent which appeared to be a temporary bar. The table had a cash register, bottles of Grey Goose vodka, and cups. Behind the table were three beer kegs with taps. Two female employees were stationed behind the table selling draft beer. The beer was served to individuals in red plastic cups.
16. Investigators also observed female employees, walking through the crowd, who were offering and selling Jell-O shoots within the tent.
17. Investigators informed Mr. Micol of the violation.
18. Mr. Micol stated that they have held this event for the last few years without any issues. He also stated that their attorney, identified as Philip Eliopoulos, had gone before the town and obtained all the required licenses. He asked if investigators would speak with Attorney Eliopoulos who was presently on Mr. Micol's cell phone.
19. Investigator Bailey spoke with Attorney Eliopoulos, who stated that the Selectmen had granted a temporary alteration of the premises for the event, and it had been granted previously in the past.
20. Investigator Bailey informed Attorney Eliopoulos of the violation.
21. Investigators informed Mr. Micol that a violation report would be submitted to the Chief Investigator for review.
22. Prior to leaving the parking lot of the licensed premises investigators also spoke with Sgt. Dubea of the Chelmsford Police Department and informed him of the violation.

### DISCUSSION

The Commission finds no violation. The Licensee abided by all conditions required by the Town of Chelmsford. The Licensee paid for details, obtained all appropriate permits, and sought and obtained permission for a one-night extension of hours and increased capacity of the license. The Town, in allowing this event, acted in error because the Licensee did everything that was required of him, and relied on guidance from the Town and counsel. The Commission finds that he did not act contrary to what was mandatory. The Town Board gave the Licensee every indication to believe that if he complied with all their requests that he was acting lawfully and in accordance with the standards set by the Town. Therefore, the Commission finds no violation but gives notice to the Licensee that such an event cannot occur in the future.

CONCLUSION

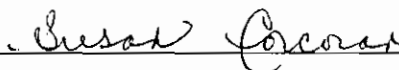
Based on the evidence, the Commission finds no violation of:

- 1) M.G.L. c. 138 §2 - No person shall sell alcoholic beverages, except as authorized by this chapter;
- 2) M.G.L. c. 138 §2 - No person shall expose alcoholic beverages, except as authorized by this chapter;
- 3) M.G.L. c. 138 §2 - No person shall keep for sale alcoholic beverages, except as authorized by this chapter; and
- 4) M.G.L. c. 138 §2 - No person shall store alcoholic beverages, except as authorized by this chapter.

The Commission finds no violation due to the fact that the Licensee abided by all conditions put in place by the Town of Chelmsford. However, the town acted erroneously when allowing the Licensee permission to hold this event, and the Licensee is not permitted to hold such events in the future.

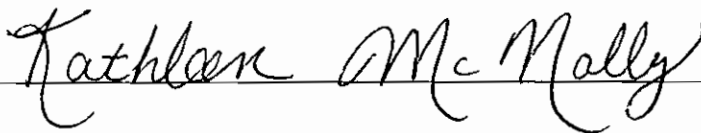
**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Susan Corcoran, Commissioner



I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Kathleen McNally, Commissioner



DATE: July 3, 2013

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.

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Rose Bailey, Investigator  
Brad Doyle, Investigator  
Sherrill Gould, Esq. via Fax: 978-486-9434  
Administration  
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