



*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

October 14, 2020

**PINEDA RESTAURANT CORP. D/B/A RINCON LATINOS RESTAURANT
373 WASHINGTON AVENUE
CHELSEA, MA 02150
LICENSE#: 03223-RS-0202
VIOLATION DATE: 8/28/2020
HEARD: 9/29/2020**

After a hearing on September 29, 2020, the Commission finds Pineda Restaurant Corp. d/b/a Rincon Latinos Restaurant 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 Pineda Restaurant Corp. d/b/a Rincon Latinos Restaurant **effective forthwith** until further written order of the Commission.

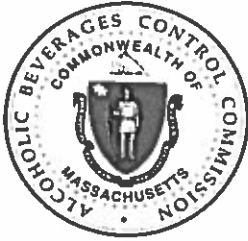
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

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
Robert Gardner, Investigator
Joseph Di Cicco, Investigator
Michael Flanagan, Dept. of Labor Standards
Lawrence Christopher, Esq.
Administration, File



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DECISION

**PINEDA RESTAURANT CORP. D/B/A RINCON LATINOS RESTAURANT
373 WASHINGTON AVENUE
CHELSEA, MA 02150
LICENSE#: 03223-RS-0202
VIOLATION DATE: 8/28/2020
HEARD: 9/29/2020**

Pineda Restaurant Corp. d/b/a Rincon Latinos Restaurant (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 Tuesday, September 29, 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;
- 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).

Prior to the commencement of the hearing, the Licensee partially stipulated to the facts alleged in Investigator Gardner's Report.

The following documents are in evidence:

1. Investigator Gardner's Report;
2. Licensee Partial Stipulation of Facts;
3. Accela Screenshot re: Pineda Restaurant Corporation indicating License Approval, 4/7/2017;
4. Alteration of Premises Approval, 5/21/2019;
5. City of Chelsea Licensing Commission Decision No. 2018-5, 12/12/2018;
6. Massachusetts Executive COVID-19 Order No. 37;
7. Massachusetts Executive COVID-19 Order No. 40;

8. Massachusetts Executive COVID-19 Order No. 46;
 9. Massachusetts COVID-19 Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;
 10. ABCC Enforcement Memorandum, 9/29/2020.
- A. Color Photographs (6) of Licensee's Premises;
 - B. Licensee's Security Video, 8/28/2020.

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

At the close of the September 29, 2020 hearing, the Commission left the record open until October 6, 2020, for the Licensee to submit an additional exhibit. The Licensee submitted its exhibit in a timely manner, and it has been marked as Exhibit B. The record is now closed.

FINDINGS OF FACT

1. On Friday, August 28, 2020, Investigators Di Cicco and Gardner ("Investigators") conducted an investigation of Pineda Restaurant Corp. d/b/a Rincon Latinos Restaurant 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 licensed premises, Investigators, accompanied by Officers of the Chelsea Police Department, observed approximately 12-14 individuals who seemed to be exiting the premises. Investigators observed that none of these individuals were in possession of any take-out food.
3. When Investigators entered the restaurant, they observed the premises was very crowded. They conducted a visual count which indicated approximately 35 individuals inside the establishment. This count did not include the 12-14 individuals observed outside as Investigators arrived. The occupancy permit for the premises is approved for 30 individuals.
4. Investigators observed patrons seated and standing at tables who were in possession of alcoholic beverages without any food and with no indication of food service.
5. Investigators observed individuals without facial coverings, walking throughout the premises in possession of alcoholic beverages, and saw employees without facial coverings.
6. Investigators observed that the tables within the establishment were not 6-feet apart and they observed a party of more than 6 individuals at a single table.
7. Investigators spoke to the Licensee, Ricardo Pineda, in the back of the premises by the kitchen where they observed that no food was being prepared in the kitchen area.
8. Investigators advised Mr. Pineda of the violations and that a report would be filed with the Chief Investigator for further action.

9. Mr. Pineda appeared at the Commission hearing and testified that the people Investigators observed outside had been waiting for a table. He stated that the people left when they observed Investigators and police enter the licensed premise.
10. Mr. Pineda testified that the patrons inside the licensed premise had eaten on the night of the inspection. He stated that when patrons finish their meal, dishes are cleared from the table and patrons are allowed to have a drink or two after dinner.
11. The Commission was informed of steps taken by the Licensee to ensure compliance with COVID-19 safety protocols, including adding signage about wearing masks and keeping socially distant, vigilance regarding patrons and employees wearing masks, continuing to provide hand sanitizer and requesting that people waiting for a table do so in the park across the street which allows for social distancing.
12. The Licensee has held a license under M.G.L. c. 138, § 12 since 2017 with no prior violations.

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 Pineda Restaurant Corp. d/b/a Rincon Latinos Restaurant **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

Crystal Matthews, Commissioner Crystal Matthews

Deborah A. Baglio, Commissioner Deborah A. Baglio

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

Jean M. Lorizio, Chairman Jean M. Lorizio

Dated: October 14, 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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