

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

December 7, 2020

ERIC R. BIRD (INDIVIDUAL) D/B/A CLASSIC PIZZA
29 MAIN STREET
CHESTER, MA 01011
LICENSE#: 00001-RS-0212
VIOLATION DATE: 9/29/2020
HEARD: 11/17/2020

After a hearing on November 17, 2020, the Commission finds Eric R. Bird (Individual) d/b/a Classic Pizza 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 Eric R. Bird (Individual) d/b/a Classic Pizza **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
Dennis Keefe, Investigator
Michael Flanagan, Dept. of Labor Standards
Administration, File



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
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Jean M. Lorizio, Esq.
Chairman

DECISION

**ERIC. R. BIRD (INDIVIDUAL) D/B/A CLASSIC PIZZA
29 MAIN STREET
CHESTER, MA 01011
LICENSE#: 00001-RS-0212
VIOLATION DATE: 9/29/2020
HEARD: 11/17/2020**

Eric R. Bird (Individual) d/b/a Classic Pizza (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 remote hearing via Microsoft Teams on Wednesday, October 21, 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; and
- 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 stipulated to the facts alleged in Investigator Keefe's Report.

The following documents are in evidence:

1. Investigator Keefe's Report;
2. Licensee's Stipulation of Facts;
3. Copy of New Wines & Malt Beverages License Approval, 6/16/1987;
4. Copy of New All Alcoholic Beverages License Approval, 5/4/1989;
5. ABCC Decision, 12/19/2016;
6. ABCC Decision, 10/10/2000;
7. ABCC Notice re: Stipulation and Consent Order, 4/12/2001;
8. Massachusetts Executive COVID-19 Order No. 37;

9. Massachusetts Executive COVID-19 Order No. 40;
10. Massachusetts Executive COVID-19 Order No. 46;
11. Massachusetts COVID-19 Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;
12. ABCC Enforcement Memorandum, 11/17/2020.

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

FINDINGS OF FACT

1. On Wednesday, September 29, 2020, at approximately 8:10 p.m., Investigator Keefe ("Investigator") conducted an inspection of Eric R. Bird (Individual) d/b/a Classic Pizza 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 parked outside the licensed premises, Investigator Keefe could see the interior and observed patrons seated at the bar.
3. Investigator Keefe stepped just into the doorway of the licensed premises and observed four (4) patrons, without any facial covering, seated at the bar.
4. Investigator Keefe identified himself to a female bartender, Sam. Sam was not wearing any facial covering. Sam went to get the manager, James Bird.
5. Investigator Keefe asked Mr. Bird, who was not wearing a facial covering, to step outside.
6. Investigator Keefe reviewed the COVID-19 guidelines and Sector Specific Workplace Safety Standards for Restaurants with Mr. Bird.
7. Investigator Keefe advised Mr. Bird of the violations and that a report would be submitted to the Chief Investigator for review.
8. Mr. Bird attended the Commission hearing and testified as to steps taken after the inspection to ensure compliance with the COVID-19 Orders and Safety Standards. He stated that he has since installed Plexiglass at the bar and arranged the premises to allow for the proper spacing between patrons. In addition, everyone on the premises wears masks.
9. Mr. Bird testified that his establishment closes at 8:00 p.m. and the patrons inside on the night of the inspection were finishing eating and preparing to leave. He stated that both Sam and James Bird have asthma. He stated that they do wear masks while working but acknowledged that they took them off after the establishment closed at 8:00 P.M. but while patrons were still on the premises.

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).

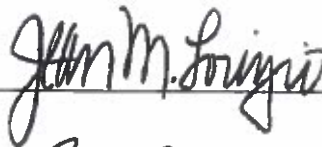
The Commission hereby **INDEFINITELY SUSPENDS** the license of Eric R. Bird (Individual) d/b/a Classic Pizza **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension.

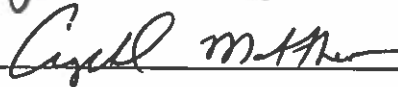
Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards ("DLS") as to a reopening plan. The Licensee must submit to the 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

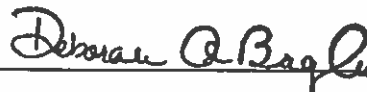
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: December 7, 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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