



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

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

**DECISION**

**VIEW STREET INC. D/B/A VIEW STREET TAVERN  
92 VIEW STREET  
CHICOPEE, MA 01020  
LICENSE#: 00084-RS-0220  
VIOLATION DATE: 12/06/2024  
HEARD: 4/15/2025**

View Street Inc. d/b/a View Street Tavern ("Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Tuesday, April 15, 2025, regarding an alleged violation of M.G.L. c. 138, § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (3 Counts).

The following documents are in evidence:

1. Investigative Report of D. McDonough;
2. ABCC Form 43, Transfer of License Approval, 3/19/2013
3. Screenshots from Licensee's Surveillance Footage;
- A. TIPS Certificates (6) of Completion;
- B. Video surveillance footage.

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

**FINDINGS OF FACT**

1. On Friday, December 6, 2024, Investigators Di Cicco, Kujawski, and McDonough ("Investigators") inspected the business operation of View Street Inc. d/b/a View Street Tavern ("Licensee" or "View St. Tavern"). (Testimony, Exhibit 1)
2. At approximately 9:20 p.m., working in an undercover capacity, Investigator McDonough entered the licensed premises and began making observations. Id.
3. At approximately 9:35 p.m., Investigator Di Cicco entered the licensed premises and with Investigator McDonough continued making observations of activity inside the licensed premises. Id.
4. Sometime after approximately 10:05 p.m., Investigator Kujawski entered the licensed premises and joined Investigators McDonough and DiCicco. Id.

5. Investigators determined a male individual, and two female individuals were exhibiting signs of intoxication and after making said determination, observed the three patrons served an alcoholic beverage by the licensee's employee. Id.
6. Investigators spoke to Ed Nunes, Licensee, about the alleged violations and informed him that a report would be filed with the Chief Investigator for further review. Id.
7. The Licensee has surveillance cameras within the licensed premises which continuously record the activity inside the establishment in "real time." (Testimony)

### DISCUSSION

The Licensee is charged with service to an intoxicated person in violation of M.G.L. c. 138, § 69. "No alcoholic beverage shall be sold or delivered on any premises licensed under this chapter to an intoxicated person." M.G.L. c. 138, §69. "[A] tavern keeper does not owe a duty to refuse to serve liquor to an intoxicated patron unless the tavern keeper knows or reasonably should have known that the patron is intoxicated." Vickowski v. Polish Am. Citizens Club of Deerfield, Inc., 422 Mass. 606, 609 (1996) (quoting Cimino v. Milford Keg, Inc., 385 Mass. 323, 327 (1982)). "The negligence lies in serving alcohol to a person who already is showing discernible signs of intoxication." Id. at 610; see McGuiggan v. New England Tel. & Tel. Co., 398 Mass. 152, 161 (1986).

To substantiate a violation of M.G.L. c. 138, § 69, there must be proof of the following elements: (1) that an individual was in or on the licensed premises; (2) that an employee of the licensed premises knew or reasonably should have known that the individual was intoxicated; and (3) that after the employee knew or reasonably should have known the individual was intoxicated, the employee sold or delivered an alcoholic beverage to the intoxicated individual. See Vickowski, 422 Mass. at 609. "The imposition of liability on a commercial establishment for the service of alcohol to an intoxicated person ..., often has turned, in large part, on evidence of obvious intoxication at the time a patron was served." Id.

The Commission's decision must be based on substantial evidence. See 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. See Blue Cross and Blue Shield of Mass. Inc. v. Comm'r of Ins., 420 Mass. 707 (1995). Disbelief of any particular evidence does not constitute substantial evidence to the contrary. New Boston Garden Corp. v. Bd. of Assessor of Boston, 383 Mass. 456, 467 (1981).

To find a violation of M.G.L. c. 138, §69 evidence must exist that "the patron in question was exhibiting outward signs of intoxication by the time he was served his last alcoholic drink." Rivera v. Club Caravan, Inc., 77 Mass. App. Ct. 17, 20 (2010); see Vickowski, 422 Mass. at 610 ("The negligence lies in serving alcohol to a person who already is showing discernible signs of intoxication").

The Commission must determine whether substantial evidence exists to find that the Licensee, its staff or employees, sold or delivered an alcoholic beverage to an intoxicated person in violation of M.G.L. c. 138, § 69. Here, direct evidence was presented through the testimony of Investigators McDonough and DiCicco who were inside the licensed premises and made observations of a male

patron and two female patrons whom they allege were exhibiting signs of intoxication. (Testimony)

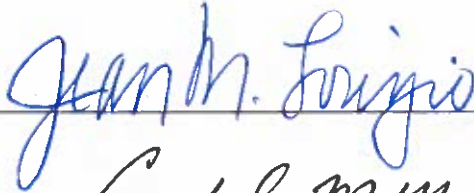
The Licensee presented video evidence (Exhibit B) depicting the inside of the licensed premises on the night of December 6, 2024, during the time within which the alleged violations occurred. The Licensee argues the video evidence shows the three patrons in question were not exhibiting the alleged outward signs of intoxication. The Commission agrees. As a result, the Commission finds no violation of M.G.L. c. 138 § 69.

### CONCLUSION

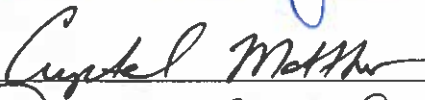
Based on the evidence, the Commission finds **No Violation** of M.G.L. c. 138 § 69 occurred.

### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

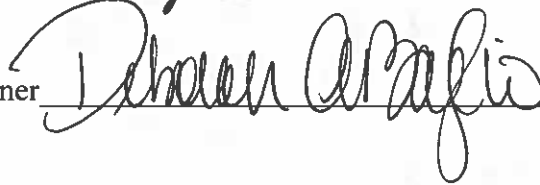
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: April 29, 2025

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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2025-000003-ad-enf

cc: Local Licensing Board  
Katherine McCormick, Esq., Associate General Counsel  
Frederick G. Mahony, Chief Investigator  
David McDonough, Investigator  
Joseph Di Cicco, Investigator  
Jan Kujawski, Investigator  
Shawn Allyn, Esq.  
Administration, File