

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

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

February 11, 2014

FALMOUTH PIER 37 BOATHOUSE LLC DBA PIER 37 BOATHOUSE
88 SCRANTON AVE
FALMOUTH, MA 02540
LICENSE#: 039000111
VIOLATION DATE: 08/08/2013
HEARD: 01/21/2014

After a hearing on January 21, 2014, the Commission finds Falmouth Pier 37 Boathouse LLC dba Pier 37 Boathouse in violation of 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: 527 CMR 10.13 (2) (e) Failure to complete the Fire and Building Safety Checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons.

The Commission **suspends the licensee's license for a total of seven (7) days to be served. The suspension shall commence on Wednesday, April 2, 2014, and terminate on Tuesday, April 8, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, April 2, 2014 at 9:00 A.M. It will be returned to the licensee Wednesday, April 9, 2014.

You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must be certified and accompanied by the enclosed form, which must be signed by a Massachusetts Licensed Accountant.

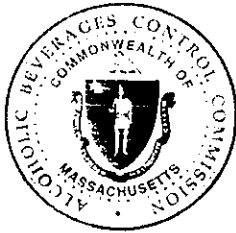
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Christopher Temple, Investigator
Michael Techan, Investigator
Paul C. Glynn, Esq. via facsimile 508-548-0020
Administration
File

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

Steven Grossman
Treasurer and Review General

Kim J. Gainsboro, Esq.
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DECISION

FALMOUTH PIER 37 BOATHOUSE LLC DBA PIER 37 BOATHOUSE
88 SCRANTON AVE
FALMOUTH, MA 02540
LICENSE#: 039000111
VIOLATION DATE: 08/08/2013
HEARD: 01/21/2014

Falmouth Pier 37 Boathouse LLC dba Pier 37 Boathouse (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, January 21, 2014, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: 527 CMR 10.13 (2) (e) Failure to complete the Fire and Building Safety Checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Temple's Report.

The following documents are in evidence:

1. Investigator Temple's Violation Report dated August 8, 2013;
2. Licensee's Stipulation of Facts; and
3. Letter dated August 15, 2013 from Falmouth Fire Department.

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

FACTS

1. On Thursday, August 8, 2013, at approximately 10:30 p.m., Investigators Teehan and Temple conducted an investigation of the business operation of Falmouth Pier 37 Boathouse LLC dba Pier 37 Boathouse to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises, identified themselves to the manager on duty, Conor McLaughlin, and asked him if he or his staff had filled out the Fire and Building Safety Checklist.
3. Mr. McLaughlin stated that they do but when investigators asked to see the list, he was unable to locate the binder in which the Fire and Building Safety Checklists are kept.
4. Mr. McLaughlin telephoned to the assistant manager, Nicole to find the location of the checklist. Nicole told him that the checklists were located on the top shelf.
5. Mr. McLaughlin provided investigators with the checklists. Investigators observed that the Fire and Building Safety Checklist had not been filled out since June 30, 2013.
6. Mr. McLaughlin apologized to investigators and stated that he would try to do a better job in the future.

7. Investigators informed Mr. McLaughlin that a violation report would be submitted to the Chief Investigator for review.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: 527 CMR 10.13 (2) (e) Failure to complete the Fire and Building Safety Checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons. Therefore, the Commission **suspends the license for sixteen (16) days of which seven (7) days will be served and nine (9) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman _____

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

Kathleen McNally, Commissioner _____

Dated: February 11, 2014

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
Christopher Temple, Investigator
Michael Teehan, Investigator
Paul C. Glynn, Esq. via facsimile 508-548-0020
mail to: 323 Manley St. West Bridgewater 02379
Administration
File