

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

DECISION

LANDFALL INC. DBA LANDFALL RESTAURANT
2 LUSCOMBE AVE.
FALMOUTH, MA 02543
LICENSE#: 039000072
VIOLATION DATE: 08/08/2013
HEARD: 11/26/2013

Landfall Inc. dba Landfall Restaurant (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, November 26, 2013, 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. Licensee's Stipulation of Facts;
2. Investigator Temple's Investigative Report dated August 8, 2013; and
3. Letter dated August 15, 2013, from the Falmouth Fire Department.

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

FACTS

1. On Thursday, August 8, 2013, at approximately 9:30 p.m., Investigators Teehan and Temple conducted an investigation of the business operation of Landfall Inc. dba Landfall Restaurant to determine the manner in which its business was being conducted.
2. Investigators identified themselves to the manager on duty, who directed them to the owner, Donald Estes.
3. Investigators asked Mr. Estes if he or his staff had filled out the Fire and Building Safety Checklist. Mr. Estes stated that they do.
4. Investigators then asked to see the Checklist.
5. Mr. Estes directed the investigators to his office, and then back out to the host stand.
6. Investigators were able to locate the Checklist, and observed that it was not filled out for August.
7. Investigators then asked Mr. Estes if the August Fire and Building Safety Checklist were filled out.
8. Mr. Estes replied I guess not.

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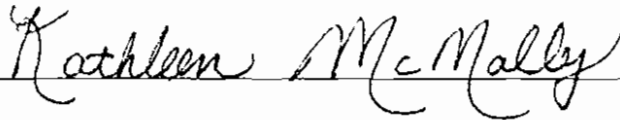
9. Investigators informed Mr. Estes of the violation and that a report would be submitted to the Chief Investigator for review.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 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. Therefore, the Commission **suspends the license for three (3) days of which three (3) 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

Kathleen McNally, Commissioner



Susan Corcoran, Commissioner



Dated: November 29, 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
Christopher Temple, Investigator
Michael Teehan, Investigator
Administration
File