



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

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

**DECISION**

**ORTEZ CORPORATION INC. D/B/A POLLO ROYAL  
18 IRVING STREET  
FRAMINGHAM, MA 01702  
LICENSE#: NEW  
HEARD: 9/11/2024 & 11/4/2024**

This is an appeal of the action of the City of Framingham Board of License Commissioners (“Local Board” or “Framingham”) in denying the M.G.L. c. 138, § 12 All-Alcohol Beverages Restaurant License application of Ortez Corporation Inc. d/b/a Pollo Royal (“Applicant” or “Pollo Royal”) to be exercised at 18 Irving Street, Framingham, Massachusetts. The Applicant appealed the Local Board’s action to the Alcoholic Beverages Control Commission (“Commission” or “ABCC”), and remote hearings via Microsoft Teams were held on Wednesday, September 11, 2024, and Monday, November 4, 2024.

The following documents are in evidence:

Framingham’s Exhibits:

- A. City of Framingham Rules and Regulations Governing Alcoholic Beverages, revised 9/1/2022;
- B. Framingham’s Home Rule Charter, Article IX: General Provisions;
- C. Pollo Royal’s M.G.L. c. 138 § 12 All Alcoholic Beverages Restaurant Application, 10/27/2023;
- D. Local Board Meeting Agenda, 1/22/2024;
- E. Local Board’s Meeting Minutes, 1/22/2024;
- F. Video Recording of Local Board Meeting, 1/22/2024;
- G. Local Board Meeting Agenda, 2/26/2024;
- H. Local Board’s Meeting Minutes, 2/26/2024;
- I. Video Recording of Local Board Meeting, 2/26/2024
- J. Local Board’s Decision, 3/4/2024;

Applicant’s Exhibits:

1. Pollo Royal’s Letter to Local Board, 3/14/2024;
2. Pollo Royal’s Letter of Appeal, 3/30/2024;
3. Reyad Shah’s Letter to Commission, 5/20/2024;
4. Framingham Board of Selectmen Meeting History, 9/19/2017;
5. Picture of Booth at Pollo Royal with Three Individuals;

6. Picture of Table with Chairs and Front Window at Pollo Royal;
7. Picture of Pollo Royal's Menu;
8. Picture of Food and Beverages at Pollo Royal;
9. Picture of Danela Ortez's Alcohol Management Identification Issued by Framingham, 2023;
10. Picture of Paola Ortez's Alcohol Management Identification Issued by Framingham, 2023
11. Paola Ortez's ServSafe Alcohol Certificate, 6/28/2023.

There is one (1) audio recording of this hearing, and six (6) witnesses testified.

### FINDINGS OF FACT

The Commission makes the following findings of fact:

1. Ortez Corporation Inc. d/b/a Pollo Royal is a Massachusetts company with a business address of 18 Irving Street, Framingham, Massachusetts. (Exhibit C)
2. On or about October 27, 2023, Pollo Royal filed an M.G.L. c. 138, § 12 all alcoholic beverages restaurant application with the Local Board. Id.
3. On January 22, 2024, the Local Board held a public hearing on Pollo Royal's application. Four of five Local Board members were present. Commissioner Laura Medrano was not present. (Testimony, Exhibits D, E, F)
4. Consultant Sergio Espinoza presented Pollo Royal's § 12 application before the Local Board at the hearing on January 22, 2024. Id.
5. Sergio Espinoza stated to the Local Board that Pollo Royal is seeking a M.G.L. c. 138, § 12 all alcoholic beverages restaurant license in order to sell and serve their patrons canned margaritas. Id.
6. The Local Board continued the discussion and vote on Pollo Royal's application to February 26, 2024, with agreement of the applicant. Id.
7. On February 26, 2024, the Local Board held the continued public hearing on Pollo Royal's application. Four of five Local Board members were present. Commissioner Alycia DeAngelis was not present. (Testimony, Exhibits G, H, I)
8. Consultant Sergio Espinoza presented Pollo Royal's application to the Local Board at the hearing on February 26, 2024. Id.
9. Sergio Espinoza described Pollo Royal's business operation as "fast casual" during the hearings on January 22, 2024 and February 26, 2024. (Testimony, Exhibits D, E, F, G, H, I)
10. The Local Board discussed Pollo Royal's business as being fast casual during the hearings on January 22, 2024, and February 26, 2024. Id.

11. One member of the public spoke against a M.G.L. c. 138, § 12 all alcoholic beverages restaurant license being issued to Pollo Royal during the hearing on February 26, 2024. (Testimony, Exhibits G, H, I)
12. The Local Board voted on Pollo Royal's § 12 application during the hearing on February 26, 2024. The vote was 2-2 and the license application was therefore denied. Local Board Chairman Stuart Pologe and Commissioner Laura Medrano voted to approve Pollo Royal's application while Local Board Commissioners Joseph Sturniolo and Shannon McCullough voted to deny the application. Id.
13. Both Local Board Commissioners who voted to deny Pollo Royal's § 12 application stated that the only reason for their vote was due to Pollo Royal's "fast casual" business operation and the fact that the application was for all alcoholic beverages as opposed to wine and malt beverages. Id.
14. In a written decision dated March 4, 2024, the Local Board denied the application and stated four reasons:
  - a. Commissioners' discussion addressed the need to avoid setting a precedent for other "fast casual" establishments to apply for All Alcohol Restaurant Licenses (Pouring);
  - b. Commissioners agreed that it might appear to set a precedent and that "fast casual" restaurants should not need full liquor licenses;
  - c. Commissioners commented on the paucity of experience of the Manager and Assistant Manager with regards to an All-Alcohol Restaurant License (Pouring); and
  - d. The only members of the public that spoke were presenting negative opinions/comments about the vendor that required a full Liquor license to be able to sell canned Margaritas to the applicant. (Exhibit J)
15. The Applicant appealed the Local Board's decision to the ABCC. (Exhibit 2)

#### DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control for which states have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956); Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses to sell alcoholic beverages is set out in M.G.L. c. 138. Licenses must be approved by both the local licensing authorities and the Commission. M.G.L. c. 138, §§ 12, 67; see e.g. Beacon Hill Civic Ass'n v. Ristorante Toscano, Inc., 422 Mass. 318, 321 (1996).

The statutory language is clear that there is no right to a liquor license. As Section 23 provides in pertinent part,

[t]he provisions for the issue of licenses and permits [under c. 138] imply no intention to create rights generally for persons to engage or continue in the transaction of the business authorized by the licenses or permits respectively, but are enacted with a view only to serve the public need and in such a manner as to protect the common good and, to that end, to provide, in the opinion of the licensing

authorities, an adequate number of places at which the public may obtain, in the manner and for the kind of use indicated, the different sorts of beverages for the sale of which provision is made.

M.G.L. c. 138, § 23.

A local licensing authority has discretion to determine public convenience, public need, and public good, with respect to whether to grant a license to sell alcoholic beverages. See Donovan v. City of Woburn, 65 Mass. App. Ct. 375, 378-379 (2006); Ballarin, Inc. v. Licensing Bd. of Boston, 49 Mass. App. Ct. 506, 510-511 (2000). A local board exercises very broad judgment about public convenience and public good with respect to whether to issue a license to sell alcoholic beverages. Donovan, 65 Mass. App. Ct. at 379.

It is well-settled that the test for public need includes an assessment of public want and the appropriateness of a liquor license at a particular location. Ballarin, 49 Mass. App. Ct. at 511. The Appeals Court held that “Need in the literal sense of the requirement is not what the statute is about. Rather the test includes an assessment of public want and the appropriateness of a liquor license at a particular location.” Ballarin, 49 Mass. App. Ct. at 511, 512. In Ballarin, the Court identified factors to be considered when determining public need:

Consideration of the number of existing licenses in the area and the views of the inhabitants in the area can be taken into account when making a determination, as well as taking into account a wide range of factors—such as traffic, noise, size, the sort of operation that carries the license and the reputation of the applicant. Id.

The Appeals Court has held that a local board may deny a license even if the facts show that a license could be lawfully granted. See Donovan, 65 Mass. App. Ct. at 379. “Neither the [local board’s] broad discretion nor the limitations on judicial review, however, mean that [the board] can do whatever it pleases whenever it chooses to do so.” See Id. “Instead, [w]here the factual premises on which [the board] purports to exercise its discretion is not supported by the record, its action is arbitrary and capricious and based upon error of law, and cannot stand.” Id. (quoting Ruci v. Client’s Sec. Bd., 53 Mass. App. Ct. 737, 740 (2002)). A Board must state the reasons for its decision to deny the granting of a liquor license. M.G.L. c. 138, §23. “Adjudicatory findings must be ‘adequate to enable [a court] to determine (a) whether the ... order and conclusions were warranted by appropriate subsidiary findings, and (b) whether such subsidiary findings were supported by substantial evidence.’” Charlesbank Rest. Inc. v. Alcoholic Beverages Control Comm’n, 12 Mass. App. Ct. 879, 880 (1981) (quoting Westborough v. Dep’t of Pub. Util., 358 Mass. 716, 717-718 (1971)). General findings are insufficient, and if the licensing board does not make sufficient findings, “it remain[s] the Commission’s obligation to articulate the findings of fact, which were the basis of the conclusions it drew,” and not merely adopt the findings of the board. Charlesbank Rest. Inc., 12 Mass. App. at 880.

In reviewing the decision of a denial by a local licensing authority, the Commission gives “reasonable deference to the discretion of the local authorities” and determines whether “the reasons given by the local authorities are based on an error of law or are reflective of arbitrary or capricious action.” Great Atlantic & Pacific Tea Co., Inc. v. Board of License Comm’rs of Springfield, 387 Mass. 833, 837, 838 (1983); see Ballarin, Inc. v. Licensing Bd. of Boston, 49 Mass. App. Ct. 506, 512 (2000) (when reviewing the local licensing authority’s authority, court

does not assess the evidence but rather “examine[s] the record for errors of law or abuse of discretion that add up to arbitrary and capricious decision-making”). However, while this discretion of the local licensing authority is broad, “it is not untrammelled.” Ballarin, 49 Mass. App. Ct. at 511.

Here, the Local Board discussed and deliberated about the applicant’s “fast casual” operation. Two Local Board members voted against granting Pollo Royal a M.G.L. c. 138, § 12 all alcoholic beverages restaurant license due to the applicant’s “fast casual” business model. (Id.) Two Local Board members voted to approve Pollo Royal’s § 12 application. (Id.) A majority vote in the affirmative is required to grant an alcoholic beverage license and a tie vote results in a denial. See Price Chopper Operating Co. of Massachusetts Inc., (ABCC Decision, September 12, 2023).

The Local Board considered one Ballarin factor which was cited in its decision as a reason for denial: the sort of operation that carries the license. (Testimony, Exhibits D, E, F, G, H, I)

The application was denied given the Board Members’ stance that “fast casual” restaurants do not need all alcoholic beverages licenses, and to avoid setting a precedent which would encourage other “fast casual” operators to apply.

In addition, the Local Board’s decision cited the lack of experience of the manager and assistant manager as well as a member of the public’s comments regarding a vendor requiring an all-alcoholic beverages license in order to sell canned margaritas to the Applicant. (Exhibit J) Because these reasons were not discussed by the Local Board when voting on Pollo Royal’s application, they were not appropriately cited, and the Commission finds those reasons arbitrary and capricious.

After examining the record of the proceedings before the Local Board, the Commission finds the Local Board fulfilled its responsibility regarding this application. It held a public hearing and considered statements made by the Applicant’s consultant, Lt. McCarthy, and one member of the public. (Testimony, Exhibits D, E, F, G, H, I) It deliberated and issued findings based upon information provided in the application and discussed at the hearings. The Local Board’s denial of the application based on the applicant’s “fast casual” business operation, is within its discretion.

Local licensing authorities are recognized as having expertise regarding the problems affecting the regulation of alcoholic beverages. Great Atl. & Pac. Tea. Co. v. Board of License Comm’n of Springfield, 387 Mass. 833, 837 (1983). Because the Local Board’s decision and its consideration of Pollo Royal’s M.G.L. c. 138, § 12 all alcoholic beverages restaurant application is supported by the evidence and was based on a “logical analysis,” its disapproval of the license for Ortez Corporation Inc. is not arbitrary and capricious and must be affirmed. Great Atl. & Pac. Tea. Co. v. Board of License Comm’n of Springfield, 387 Mass. 833, 839-840 (1983)

#### CONCLUSION

Based on the evidence and testimony presented at the hearings, the Commission **APPROVES** the action of the City of Framingham in denying the M.G.L. c. 138, § 12 All Alcoholic Beverages Restaurant Application of Ortez Corporation Inc. d/b/a Pollo Royal.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio, Chairman \_\_\_\_\_ *Jean M. Lorizio*

Crystal Matthews, Commissioner \_\_\_\_\_ *Crystal Matthews*

Deborah Baglio, Commissioner \_\_\_\_\_ *Deborah A Baglio*

Dated: April 13, 2026

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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cc: David Rubin, Esq.  
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Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Administration, File