



*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

January 27, 2021

**BELMONT DATA INC. D/B/A BLUE LOUNGE
2 AMESBURY STREET
LAWRENCE, MA 01840
LICENSE#: 00152-RS-0594
VIOLATION DATE: 12/06/2020
HEARD: 1/12/2021**

After a hearing on January 12, 2021, the Commission finds Belmont Data Inc. d/b/a Blue Lounge 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 Mass. Exec. COVID-19 Order No. 54 (Nov. 2, 2020);
- 4) 204 CMR 2.05(2)- Permitting an illegality on the licensed premises, to wit: Mass. Exec. COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location.

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Belmont Data Inc. d/b/a Blue Lounge **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



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Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
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DECISION

**BELMONT DATA INC. D/B/A BLUE LOUNGE
2 AMESBURY STREET
LAWRENCE, MA 01840
LICENSE#: 00152-RS-0594
VIOLATION DATE: 12/06/2020
HEARD: 1/12/2021**

Belmont Data Inc. d/b/a Blue Lounge ("Licensee") holds an 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 Tuesday, January 12, 2021, 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;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 54 (Nov. 2, 2020);
- 4) 204 CMR 2.05(2)- Permitting an illegality on the licensed premises, to wit: Mass. Exec. COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location.

The above-captioned occurred December 6, 2020 according to Investigator Keefe's Report.

The following documents are in evidence:

1. Investigator Keefe's Report;
2. License Application Summary Review, 8/2/2017;
3. Massachusetts Executive COVID-19 Order No. 37, 6/6/2020;
4. Massachusetts Executive COVID-19 Order No. 40, 6/19/2020;
5. Massachusetts Executive COVID-19 Order No. 54, 11/2/2020
6. Massachusetts Executive COVID-19 Order No. 55, 11/2/2020;

Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 11/5/2020;

7. ABCC Enforcement Memorandum, 1/11/2021.

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

FINDINGS OF FACT

1. On Sunday, December 6, 2020, at approximately 7:45 p.m., Investigator Keefe along with City of Lawrence Police Officer Angel Lopez and the City of Lawrence COVID Compliance Team ("Investigators") conducted an investigation of Belmont Data Inc. d/b/a Blue Lounge ("Licensee" or "Blue Lounge") 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. (Testimony, Exhibit 1)
2. Investigators observed the establishment was crowded with nearly all tables in use. Approximately 15 people were observed in a small dining area of the restaurant. Given the lack of proper distancing, it was difficult to determine if the patrons comprised one party or multiple parties. Id.
3. Investigators observed patrons walking through the premises without any facial covering. Id.
4. Investigators spoke with the Licensee, Mr. Aljenis Cepeda. Investigators reviewed the COVID-19 guidelines and Sector Specific Safety Standards for Restaurants with him. Mr. Cepeda informed Investigators he had already ordered plexiglass barriers to place between tables. Id.
5. Investigators advised Mr. Cepeda of the violations and that a report would be filed with the Chief Investigator for review. Id.
6. Mr. Cepeda attended the Commission hearing and testified there were 2 separate parties at the tables referenced by Investigator Keefe and acknowledged the need for distance between parties. In addition, Mr. Cepeda testified that he had already ordered Plexiglass dividers which are now in place at the establishment. He stated that he is doing his best to comply and has purchased masks to distribute as needed. (Testimony)
7. The Licensee has held a license under M.G.L. c. 138, § 12 since 1997 with no prior violations. (Commission Records)

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was “enacted ... to serve the public need and ... to protect the common good.” M.G.L. c. 138, § 23. “[T]he purpose of discipline is not retribution, but the protection of the public.” Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees.” Connolly, 334 Mass. at 617.

The Licensee is charged with a violation of 204 CMR 2.05 (2). “No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises.” 204 CMR 2.05 (2). More specifically the Licensee is charged with 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;

Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;

Massachusetts Executive COVID-19 Order No. 54 (November 2, 2020); and

Massachusetts Executive COVID-19 Order No. 55 (November 2, 2020).

The Executive COVID-19 Orders require adherence to all Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (November 5, 2020) including:

Face coverings must be worn by customers and workers at all times, except where an individual is unable to wear a face covering due to medical condition or disability;

Customers must wear face coverings unless seated at tables;

Tables must be positioned so as to maintain a distance of at least 6 feet from all other tables and any high foot traffic areas.

Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (November 5, 2020)

Direct evidence was presented through the testimony of Investigator Keefe as to his observations on the night of the incident. As confirmed by the Licensee, patrons were not properly distanced from one another. In addition, numerous patrons were not wearing face coverings. The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2), to wit: Massachusetts Executive Orders 37, 40, 54, and 55 did occur.

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;
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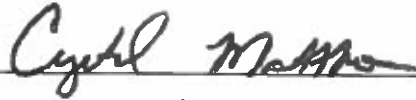
Therefore, the Commission hereby **INDEFINITELY SUSPENDS** the license of Belmont Data Inc. d/b/a Blue Lounge **effective forthwith** until further written order of the Commission.

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

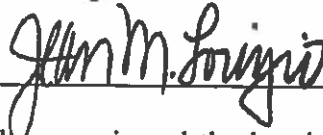
Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards (“DLS”) as to a reopening plan. The Licensee must submit to the DLS a COVID Control Plan to reopen (see link here: <https://www.mass.gov/doc/sector-specific-workplace-safety-standards-phase-iii-step-1-for-restaurants-to-address-covid-1/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

Crystal Matthews, Commissioner

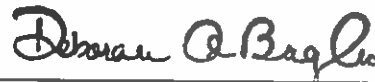


Jean M. Lorizio, Chairman



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

Deborah A. Baglio, Commissioner



Dated: January 27, 2021

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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