



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 1, 2012

XAVIER'S PLACE, INC.
245 LAWRENCE STREET
LAWRENCE, MA 01840
LICENSE#: 059400052
HEARD 11/22/2011

After a hearing on November 22, 2011, the Commission finds Xavier's Place, Inc. in violation of 527 CMR 10.13 (2) (d), 527 CMR 10.13 (2) (e), and M.G.L. c. 94 §186.

The Commission **suspends the license for a total of two (2) days to be served**. The suspension shall commence on **Wednesday, March 14, 2012 and terminate on Thursday, March 15, 2012**. The license will be delivered to the Local Licensing Board or its designee on Wednesday, March 14, 2012 at 9:00 A.M. It will be returned to the licensee Friday, March 16, 2012.

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
Rosemary Egan-Bailey, Investigator
Robert F. Kelley, Esq. via facsimile
Administration
File



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DECISION

XAVIER'S PLACE, INC.
245 LAWRENCE STREET
LAWRENCE, MA 01840
LICENSE#: 059400052
HEARD 11/22/2011

Xavier's Place, Inc. (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, November 22, 2011, regarding the alleged violations of 527 CMR 10.13 (2) (d), 527 CMR 10.13 (2) (e), and M.G.L. c. 94 §186. Prior to the commencement of the hearing, the licensee stipulated to the violations alleged in Investigator Rosemary Egan-Bailey's Report.

The following documents and physical items are in evidence:

1. Investigative Report of Rosemary Egan-Bailey dated August 26, 2011;
 2. Licensee's Stipulation of Facts; and
 3. Five (5) Bottles of Alcohol.
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- A. Licensee's Certificate of Achievement for completing the DFS-Crowd Manager Training; and
 - B. Eleven (11) Crowd Manager Fire and Building Safety Checklists dated from 11/3/11 to 11/20/11.

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

FACTS

1. On Friday, August 26, 2011, at approximately 8:15 p.m., Investigators Egan-Bailey, Binienda, Capurso, and Keefe investigated the business operation of Xavier's Place, Inc. to determine how their business was being conducted.
2. Investigators entered the licensed premises to conduct an enforcement operation.
3. Investigators identified themselves to the female bartender on duty and asked to speak with the manager or owner.
4. The female bartender phoned the owner, later identified as Mr. Luis Yagual, who shortly arrived at the license premises.
5. Investigators identified themselves to Mr. Luis Yagual and informed him they were conducting an inspection of the licensed premises.
6. Investigators requested to see the liquor license and the occupancy permit.

7. The occupancy permit indicated an allowable occupant load of one hundred and sixty-five (165) people.
8. Investigators requested Mr. Yagual to identify the certified crowd manager on duty.
9. Mr. Yagual stated he was unaware of the requirements for a crowd manager.
10. Investigators requested Mr. Yagual to review the daily fire and building safety checklist.
11. Mr. Yagual stated he was unaware of the requirements for a fire and building safety checklist.
12. Investigators Binienda and Keefe, while conducting the inspection of the first floor bar areas, observed multiple bottles of alcoholic beverages containing foreign matter, specifically fruit flies.
13. Five (5) bottles of alcoholic beverages were taken as evidence.
14. Investigators showed Mr. Yagual the confiscated evidence.
15. Investigators informed Mr. Yagual of the violation.
16. Investigators informed Mr. Yagual that a violation report would be filed with the Chief Investigator for review.
17. Investigators recommended Mr. Yagual contact the local licensing authority or the fire department for assistance in order to be in compliance with 527 CMR 10.13 (2)(d) and 527 CMR 10.13 (2)(e).
18. Administrative review of the files indicates licensee has held the license since 2004.
19. The licensee received a three (3) day suspension in 2005 for gambling.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05(2). Therefore, the Commission **suspends the license for a period of seven (7) days of which two (2) days will be served and five (5) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

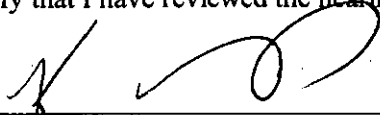
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



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

Kim S. Gainsboro, Chairman



Dated: February 1, 2012

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
 Rosemary Egan-Bailey, Investigator
 Robert F. Kelley, Esq. via facsimile
 Administration
 File