



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

December 14, 2020

**XAVIERS PLACE INC.
241-245 LAWRENCE STREET
LAWRENCE, MA 01841
LICENSE#: 00052-RS-0594
VIOLATION DATE: 10/4/2020, 10/08/2020
HEARD: 11/18/2020**

After a hearing on November 18, 2020, the Commission finds Xaviers Place Inc. violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. 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: Mass. Exec. 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: Mass. Exec. COVID-19 Order No. 46 (August 7, 2020);
- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 52 (September 29, 2020).

Therefore, the Commission **SUSPENDS** the license of **Xaviers Place Inc.** for a period of **thirty (30) days effective forthwith.**

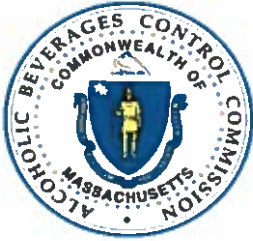
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

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
Joseph Di Cicco, Investigator
Michael Flanagan, Dept. of Labor Standards
Robert F. Kelley, Esq.
Administration, File



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DECISION

**XAVIERS PLACE INC.
241-245 LAWRENCE STREET
LAWRENCE, MA 01841
LICENSE#: 00052-RS-0594
VIOLATION DATE: 10/4/2020, 10/08/2020
HEARD: 11/03/2020**

Xaviers Place Inc. (the "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 Wednesday, November 18, 2020, regarding alleged violations of:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19; [violation dates: Oct. 4th and Oct. 8th]
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19; [violation dates: Oct. 4th and Oct. 8th]
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 46 (August 7, 2020); [violation date October 4, 2020 only]
- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 52 (September 29, 2020). [violation date: Oct. 8, 2020 only]

Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Di Cicco's report.

The following documents are in evidence:

1. Investigator Di Cicco's Report;
2. Licensee Stipulation of Facts;
3. Copy of License Transfer Approval, 12/1/2004;
4. ABCC Decision, 2/14/2012;
5. ABCC Decision, 2/1/2012;

6. ABCC Decision, 4/13/2005;
7. Massachusetts Executive COVID-19 Order No. 37;
8. Massachusetts Executive COVID-19 Order No. 40;
9. Massachusetts Executive COVID-19 Order No. 46;
10. Massachusetts Executive COVID-19 Order No. 52;
11. Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 9/22/2020;
12. Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 10/1/2020;
13. ABCC Enforcement Memorandum, 11/17/2020.

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

FINDINGS OF FACT

1. On Sunday, October 4, 2020, Investigator Di Cicco along with Lawrence Police Lt. Jay Cerullo, ("Investigators") and representatives from the Lawrence Fire Department, City of Lawrence Inspectional Services, and Massachusetts State Police, conducted an investigation of Xaviers Place Inc. 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.
2. At approximately 9:40 p.m., Investigators entered the licensed premises and observed several employees and customers standing and walking around, without any facial coverings. A later review of the Licensee's security video showed that prior to Investigators' arrival, multiple customers were also dancing without any facial covering.
3. Investigators attention was drawn to a male individual, Pedro, standing at the bar with a facial covering around his neck. Investigators observed that Pedro's eyes were glassy, he was swaying and unsteady on his feet, and appeared to lean on the bar for support. Pedro was speaking in inconsistent and loud tones.
4. Staff members informed Investigators that Pedro was arguing about his bill. Investigators reviewed Pedro's bill, finding it listed 12 Corona beers, 2 margarita mixed drinks, juice, water, and food.
5. Investigators observed Pedro with car keys in his hand while unsteady on his feet. A security staff member for the establishment, Mr. Lopez, called a taxi to ensure Pedro's safe transport home. Mr. Lopez told Pedro that he could pick up his car keys the next day.
6. Investigators spoke to the owner, Luis Yagual, who informed them that Pedro did not consume all the beverages on his bill as he had also purchased drinks for other patrons. Investigators requested to see the Licensee's security footage. Mr. Yagual stated that he did not know how to work the system and would get someone to help with that.
7. Investigators reviewed the COVID-19 guidelines and Sector Specific Safety Standards for Restaurants with Mr. Yagual. They reminded him of their inspection on October 1, 2020 and the warning he received for the same violations wherein the Investigators had observed staff members working without any facial covering, and staff members sitting and drinking

alcoholic beverages at the bar. At that time, on October 1st, Investigators had also provided Mr. Yagual with education about the COVID-19 guidelines and left their contact information with him in case he had any questions.

8. Investigators advised Mr. Yagual of the present violations and that a report would be filed with the Chief Investigator for review.
9. On Thursday, October 8, 2020, Investigators with representatives from the Lawrence Fire Department, City of Lawrence Inspectional Services, and Massachusetts State Police again returned to Xaviers Place Inc. to ensure compliance with Massachusetts Governor Charles Baker's Executive COVID-19 Orders.
10. At approximately 9:00 p.m., Investigators observed the main door and windows of the licensed premises to be covered by metal doors. Investigators went to the back door and found it had metal bars around it and was padlocked.
11. A side door was not covered by a metal door. Through said side door, Investigators observed various individuals inside the premises, some seated at the bar, others seated at tables. Investigators observed staff members and customers walking around without any facial covering. The side door was locked so Investigators knocked.
12. Once inside the licensed premises, Investigators observed individuals seated at the bar in close proximity to each other, with no barrier to separate the customers from the staff member's workstation behind the bar.
13. Mr. Yagual informed Investigators that he was having a private party for his birthday, he was the only employee on site and acknowledged that there had been no food prepared on-site, but he had ordered pizza for people to eat.
14. A patron informed Investigators that he had purchased a bottle of Aguardiente from the bar and people were consuming it. Investigators observed the bottle of liquor on the customer's table.
15. Mr. Yagual offered to show the surveillance footage from the October 4, 2020 incidents, a copy of which they had not yet received. Investigators viewed that footage and Mr. Yagual said he would provide them with a copy of it.
16. Investigators advised Mr. Yagual of the current violations and that a report would be filed with the Chief Investigator for further review.
17. Attorney Robert Kelley appeared on behalf of the Licensee at the Commission hearing. The Commission was informed as to steps taken to ensure compliance with the COVID-19 Orders.
18. The Licensee has held a license under M.G.L. c. 138, § 12 since 2004.

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: Mass. Exec. 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: Mass. Exec. 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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- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 52 (September 29, 2020).

The Commission hereby **SUSPENDS** the license of **Xaviers Place Inc.** for **THIRTY (30) DAYS** effective forthwith.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman

Crystal Matthews, Commissioner

Deborah A. Baglio, Commissioner

Dated: December 14, 2020

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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