



*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

November 10, 2020

**D'ITZEL RESTAURANT INC. D/B/A D'ITZEL RESTAURANT
15 UNION STREET
LYNN, MA 01902
LICENSE#: 03316-RS-0638
VIOLATION DATE: 9/19/2020
HEARD: 10/21/2020**

After a hearing on October 21, 2020, the Commission finds D'Itzel Restaurant Inc. d/b/a D'Itzel Restaurant 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 Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of D'Itzel Restaurant Inc. d/b/a D'Itzel Restaurant **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
David Bolcome, Investigator
Robert Gardner, Investigator
Michael Flanagan, Dept. of Labor Standards
Periangilly Beltré, Esq.
Administration, File



***Commonwealth of Massachusetts
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Chairman

DECISION

**D'ITZEL RESTAURANT INC. D/B/A D'ITZEL RESTAURANT
15 UNION STREET
LYNN, MA 01902
LICENSE#: 03316-RS-0638
VIOLATION DATE: 9/19/2020
HEARD: 10/21/2020**

D'Itzel Restaurant Inc. d/b/a D'Itzel Restaurant (the "Licensee") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Wednesday, October 21, 2020, 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; and
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Bolcome's Report.

The following documents are in evidence:

1. Investigator Bolcome's Report;
2. Licensee Stipulation of Facts;
3. Copy of New License Approval, 5/8/2017;
4. Massachusetts Executive COVID-19 Order No. 37;
5. Massachusetts Executive COVID-19 Order No. 40;
6. Massachusetts Executive COVID-19 Order No. 46;
7. Massachusetts COVID-19 Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;

8. ABCC Enforcement Memorandum, 10/13/2020.

A. Copy of Photographs of Interior of Licensed Premises with Reconfigured Seating.

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

FINDINGS OF FACT

1. On Saturday, September 19, 2020, Investigators Robert Gardner and David ("Investigators") conducted an investigation of D'Itzel Restaurant Inc. d/b/a D'Itzel Restaurant 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. While traveling on Union Street in Lynn at approximately 10:45 p.m., Investigator Bolcome observed flashing lights and a dense congregation of people inside D'Itzel Restaurant. He drove past the premises multiple times to observe the activity inside the premises. Investigator Bolcome contacted fellow ABCC Investigators and the Lynn Police Department, to request that Lynn Police Officers accompany him into the restaurant.

3. At approximately 11:20 p.m., Investigators Gardner and Bolcome, with Chief Mahony and three Lynn Police Officers entered the licensed premises.
4. Investigators observed a crowded bar room with approximately 35-40 people. According to the City of Lynn's Building Occupancy permit for the licensed premises, the seating capacity for the restaurant is 24 individuals.
5. Investigators observed approximately 10 individuals, in possession of alcoholic beverages, standing in the bar area. The remaining patrons were seated at tables; however, the tables were close together and not 6-feet apart. There were no signs of any food service.
6. Investigators observed that the patrons standing and walking around the restaurant had no facial covering.
7. Investigators asked to speak to the manager, but an employee advised that the manager was not present.
8. Investigators informed the employee of multiple COVID-19 safety violations and advised him to cease activity immediately.
9. Investigators advised the employee that the licensee would likely be ordered to attend a hearing due to the violations.
10. The Licensee appeared at the Commission hearing with counsel who informed the Commission of the remediation efforts taken by the Licensee. The Licensee has placed yellow tape sectioning off bench seating against the wall and reduced the number of dining tables from eight (8) to four (4) so that they are at least 6-feet apart from each other.
11. The Licensee has held a license under M.G.L. c. 138, § 12 since 2017 with no prior violations.

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;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).


The Commission hereby **INDEFINITELY SUSPENDS** the license of D'Itzel Restaurant Inc. d/b/a D'Itzel Restaurant **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.

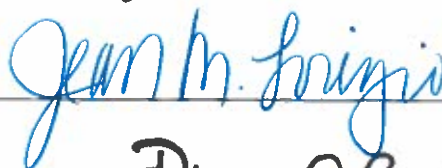
Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards ("DLS") as to a reopening plan. The Licensee must submit to the DLS a COVID Control Plan to reopen (see link here: <https://www.mass.gov/doc/phase-iii-step-1-restaurants-checklist-92220/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



Deborah A. Baglio, Commissioner



Dated: November 10, 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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