



***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

May 21, 2021

**LOS PATRONES INC. D/B/A TAQUERIA DONA JULIA
80 CENTRAL AVENUE
LYNN, MA 01901
LICENSE#: 03989-RS-0638
VIOLATION DATE: 3/20/2021
HEARD: 5/19/2021**

After a hearing on May 19, 2021, the Commission finds Los Patrones Inc. d/b/a Taqueria Dona Julia 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: 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;
- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 63 (Feb. 4, 2021);
- 5) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: Mass. Exec. COVID-19 Order No. 65 (Feb. 25, 2021) – Failure to comply with applicable sector-specific COVID-19 workplace safety rules.

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Los Patrones Inc. d/b/a Taqueria Dona Julia **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.

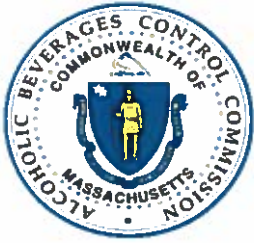
ALCOHOLIC BEVERAGES CONTROL COMMISSION



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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
David Bolcome, Investigator
Joseph Di Cicco, 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

**LOS PATRONES INC. D/B/A TAQUERIA DONA JULIA
80 CENTRAL AVENUE
LYNN, MA 01901
LICENSE#: 03989-RS-0638
VIOLATION DATE: 3/20/2021
HEARD: 5/19/2021**

Los Patrones Inc. d/b/a Taqueria Dona Julia (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, May 19, 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: 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;
- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 63 (Feb. 4, 2021);
- 5) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: Mass. Exec. COVID-19 Order No. 65 (Feb. 25, 2021) – Failure to comply with applicable sector-specific COVID-19 workplace safety rules.

The above-captioned occurred March 20, 2021 according to Investigator Bolcome's report.

The following documents are in evidence:

1. Investigator Bolcome's Report;
2. ABCC Application Summary Review, New License Approval, 3/30/2018;
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. 55, 12/8/2020;
 6. Massachusetts Executive COVID-19 Order No. 63, 2/4/2021;
 7. Massachusetts Executive COVID-19 Order No. 65, 2/25/2021
 8. Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 2/25/2021;
 9. ABCC Enforcement Memorandum, 5/17/2021.
- A. Pictures of Interior of Licensed Premises.

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

FINDINGS OF FACT

1. On Saturday, March 20, 2021, Investigators Di Cicco and Bolcome (“Investigators”) conducted an investigation of Los Patrones Inc. d/b/a Taqueria Dona Julia 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. From outside, Investigators were able to observe the interior of the licensed premises and saw patrons standing close to one another by the bar. Id.
3. At approximately 12:10 a.m., Investigators attempted to enter the licensed premises but found the door was locked. After knocking on the door for a few minutes, an individual unlocked the door and Investigators entered the establishment. Id.
4. Investigators observed a crowded room with approximately 40 individuals. Investigators observed that some individuals were seated at tables while other individuals were standing by the bar. Investigators observed the individuals by the bar consuming alcoholic beverages. Id.
5. Investigators observed that the bar area directly in front of the entrance had high-top tables pushed against it, and some patrons were seated at or standing by these tables. Id.
6. Investigators observed approximately eight (8) individuals standing by the bar in close proximity to one another. Of these eight patrons, at least five (5) were not wearing any facial covering or had a facial covering pulled below their nose or mouth. Investigators observed that some individuals put on a facial covering soon after they had entered. Id.
7. Investigators observed employees behind the bar serving alcoholic beverages directly to patrons over the bar. The bar area was used as active workstation. There was no protective barrier between staff and patrons. Id.
8. People were observed moving about the licensed premise without any facial coverings. Id.
9. The manager, Milton, approached Investigators and stated that the front door was locked to prevent any additional customers from entering the premises. Investigators reviewed the COVID guidelines and Sector Specific Safety Standards with Milton. Id.

10. The following morning at approximately 11:00 a.m., Milton called Investigators to apologize for the lack of compliance with the COVID safety standards. Milton stated that it was only the second weekend in which the establishment had been reopened. Milton stated that it had been difficult to enforce the COVID safety standards when the restaurant was busy. Id.
11. Investigators advised Milton that a violation report would be submitted to the Chief Investigator for review. Id.
12. Jose Bracamontes, Licensee, appeared at the Commission hearing with Milton Argueta, the Manager on Duty on the night of the Investigators' visit. In addition, David Gonzalez and Sergio Espinoza of We Serve Safely, Inc., a food service consulting group, attended the Commission hearing. (Testimony)
13. Mr. Gonzalez testified that Investigator Bolcome's Report had been reviewed with the Licensee and they had no objections to his observations. Mr. Gonzalez further stated steps have been taken to address all substandard conditions. He informed the Commission that We Serve Safety, Inc. has been hired by the Licensee to provide safety training for the Licensee addressing food and alcohol along with COVID protocols. Id.
14. Mr. Argueta testified they had only re-opened a couple of weeks before the Investigator's visit and the night had gotten a little out of control. He stated they were not ready for the number of patrons who came to the establishment. He informed the Commission as to steps taken at the licensed premise to comply with the COVID Orders, including adding plexiglass partitions. (Testimony, Exhibit A)
15. The Licensee has held a license under M.G.L. c. 138, § 12 since 2018, 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. 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;

Massachusetts Executive COVID-19 Order No. 63 (Feb. 4, 2021); and

Massachusetts Executive COVID-19 Order No. 65 (Feb. 25, 2021) – Failure to comply with applicable sector-specific COVID-19 workplace safety rules.

The Executive COVID-19 Orders require adherence to all Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (February 25, 2021) including:

Require face coverings for all 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;

All customers must be seated;

Bar seating is permitted provided that either: there is no active work areas or working staff behind the bar at least 6 ft away; or there is a physical barrier (e.g. Plexi-glass) separating customers from the bar space; in addition, parties must be seated at bars (no standing customer service); and

Licensees must ensure separation of 6 feet between all individuals.

Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (February 25, 2021)

Direct evidence was presented through the testimony of Investigator Bolcome, and corroborated by the Licensee, as to patrons standing and moving about the licensed premise, some without any facial coverings, in close proximity to one another and consuming alcoholic beverages.

The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2), to wit: Massachusetts Executive Orders 37, 40, 55, 63, and 65 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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- 5) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: Mass. Exec. COVID-19 Order No. 65 (Feb. 25, 2021) – Failure to comply with applicable sector-specific COVID-19 workplace safety rules.

The Commission hereby **INDEFINITELY SUSPENDS** the license of Los Patrones Inc. d/b/a Taqueria Dona Julia **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-for-restaurants-to-address-covid-19-030121/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

Jean M. Lorizio, Chairman



Deborah A. Baglio, Commissioner



Crystal Matthews, Commissioner



Dated: May 21, 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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