

NOTICE OF SUSPENSION

May 2, 2011

**Maple Leaf Bar & Grill, Inc.
dba Maple Leaf Inn
11-13 Arnold Street
Westfield, MA 01805
License #: 144000003
Heard: 2/22/2011**

After a hearing on February 22, 2011, the Commission finds Maple Leaf Bar & Grill, Inc. dba Maple Leaf Inn in violation of Massachusetts General Laws c. 138, §69.

The Commission **suspends the licensee's license for a total of five (5) days to be served.** The suspension shall commence on **Wednesday, June 8, 2011 and terminate on Sunday, June 12, 2011.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, June 8, 2011 at 9:00 A.M. It will be returned to the licensee Monday, June 13, 2011.

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
Jack Carey, Investigator
File

DECISION

**Maple Leaf Bar & Grill, Inc.
dba Maple Leaf Inn
11-13 Arnold Street
Westfield, MA 01805
License #: 144000003
Heard: 2/22/2011**

Maple Leaf Bar & Grill, Inc. dba Maple Leaf Inn (the “Licensee” or the “Maple Leaf”) 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, February 22, 2011, regarding an alleged violation of M.G.L. c.138, §69 (1 Count) detailed in Investigator Jack Carey’s report.

The following documents are in evidence:

1. Investigator Jack Carey’s Report.

There is one (1) tape of this hearing.

FACTS

1. On November 12, 2010 at 11:40 p.m., Investigator Carey entered the Maple Leaf Bar & Grill, Inc. dba Maple Leaf Inn and observed the manner in which the business was being operated.
2. The investigators attention was drawn to a male individual who was speaking loudly and was drinking an alcoholic beverage of vodka and cranberry juice.
3. The individual was hanging on to the bar, swaying back and forth, as he moved down the bar to speak to the other patrons.
4. He was observed to have his eyes half closed the entire time and he was using the bar to stabilize himself.
5. The patron was always in clear view of the bartenders.
6. At 12:15 a.m., a female patron ordered a beer for herself and another drink for the male individual.
7. The bartender then served them both drinks.
8. Investigator Carey joined Investigator Doyle and two (2) Westfield police officers outside.
9. They formed the opinion that the male individual was intoxicated.
10. The male individual was asked if he had any physical disabilities which would require him to hang onto the bar for support.
11. He responded that he did not.

12. He stated that he had consumed three (3) or four (4) drinks at the Maple Leaf that evening and had drinks prior to arriving at the Maple Leaf.

13. The manager stated that he would see that the male individual received safe transport home.

DISCUSSION

The licensee testified that the patron had a physical disability which rendered him unable to stand straight and made him appear drunk and inebriated. The licensee further testified that he had documentation to prove the disability; however the documentation was dated from years before. It also failed to show any specific type of disability and was determined to be without any evidentiary value. The licensee failed to show that the individual had any type of disability and that if in fact he had any disability that the disability was what "masked" the intoxication.

Investigator Carey stated that he clearly saw signs of intoxication of this individual that were based on his experience and training.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated M. G. L. c. 138, §69. Therefore, the Commission **suspends the licensee's license for a period of five (5) days. The Commission will not consider or accept an offer in compromise to pay a fine in lieu of suspension.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner_____

Robert H. Cronin, Commissioner_____

Dated: May 2, 2011

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
Jack Carey, Investigator
File