



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

Jean M. Lorizio, Esq.
Chair

DECISION

**THE BASEMENT LLC D/B/A WHISKEY BAR
316 MAIN STREET
WORCESTER, MA 01613
LICENSE#: 1508-00596
VIOLATION DATE: 4/21/2019
HEARD: 9/03/2019**

The Basement LLC d/b/a Whiskey Bar (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("Commission" or "ABCC") held a hearing on Tuesday, September 3, 2019, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: 527 CMR 1.05 § 10.5.2.1 Overcrowding or admittance of any person beyond the established posted occupant load shall be prohibited. 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 Investigative Report;
 2. Licensee Stipulation of Fact;
 3. Licensee's Transfer Application Approved 8/8/2013;
 4. Copy of Licensee's Occupancy Permit; and
 5. City of Worcester Decision, 3/1/2018.
- A. Licensee's New Certificate of Occupancy for 174 Persons.

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

FINDINGS OF FACT

1. On Sunday, April 21, 2019, at approximately 12:45 a.m., Investigator Di Cicco ("Investigator") along with Officer Patrick Harrington ("Officer") of the Worcester Police Department Alcohol Enforcement Unit, conducted an investigation of the business operation of The Basement LLC d/b/a Whiskey Bar to determine the manner in which its business was being conducted.
2. While outside the licensed premises, Investigators and Officers observed a line of people and there appeared to be a high volume of individuals inside the premises as well.

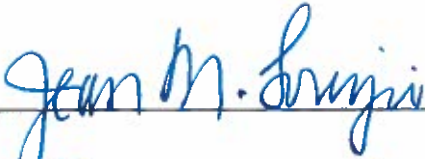
3. Investigators and Officers entered the licensed premises and observed a high volume of individuals within it. Investigators walked through the bar using a manual tally counter and counted more than 160 individuals inside.
4. Investigator Di Cicco and Officer Harrington informed the manager of record, Roger Bachour, of the number of individuals inside and they invited him to join them and take another count.
5. Even avoiding counting the staff, employees, individuals in bathrooms, and individuals in the back room, Di Cicco still reached over 160 individuals.
6. The stated occupancy load on the Licensee's Certificate of Inspection from the City of Worcester is 122 persons.
7. Investigator informed Bachour that a report would be submitted to the Chief Investigator for review.
8. The Licensee has held a license under M.G.L. c. 138, § 12 since 2016 with no previous violations.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: 527 CMR 1.05 § 10.5.2.1 Overcrowding or admittance of any person beyond the established posted occupant load shall be prohibited. Therefore, the Commission **suspends the license for two (2) days of which two (2) 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

Jean M. Lorizio, Chairman



Kathleen McNally, Commissioner



Dated: September 13, 2019

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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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Joseph Di Cicco, Investigator
Officer Patrick Harrington
Administration, File