



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

**Jean M. Lorizio, Esq.**  
*Chairman*

**DECISION**

**SDR FOOD MART INC. D/B/A YARMOUTH MINI MART**  
**845 ROUTE 28**  
**SOUTH YARMOUTH, MA 02664**  
**HEARD: 11/20/2024**

This is an appeal from the action of the Town of Yarmouth Select Board (the “Local Board” or “Yarmouth”) in denying the § 15 wine and malt beverages retail package store application of SDR Food Mart Inc. d/b/a Yarmouth Mini Mart (“Licensee” or “Mini Mart”) located at 845 Route 28, South Yarmouth. The Licensee timely appealed the Local Board’s decision to the Alcoholic Beverages Control Commission (the “Commission” or “ABCC”), and a remote hearing was held via Microsoft Teams on Wednesday, November 20, 2024.

The following documents are in evidence:

1. Local Board Decision dated 9/17/2024;
2. Video of the Local Board’ Hearing on 9/10/2024;
3. Transcript of the Local Board’s Hearing on 9/10/2024;
4. Photographs (5) of Comunidade Evangélica do Cape Cod and C.E. Kids Church;
5. Email Chain, 7/31/2024- 8/5/2024;
6. Local Board Abutters Notice with List of Abutters dated 8/2/2024.

There is one audio recording of this hearing and two (2) witnesses testified.

**FINDINGS OF FACT**

The Commission makes the following findings based on the evidence presented at the hearing:

1. SDR Food Mart Inc. d/b/a Yarmouth Mini Mart (“Mini Mart”) applied for a M.G.L. c. 138, § 15, annual wine and malt beverages retail license to the Town of Yarmouth Select Board (the “Local Board” or “Yarmouth”). (Testimony, Agreed Upon Fact)
2. The Local Board held a hearing concerning Mini Mart’s M.G.L. c. 138, § 15, annual wine and malt beverages application on September 10, 2024. (Testimony, Exhibits 2, 3)
3. The Local Board voted two (2) in favor and two (2) opposed to the application at the hearing on September 10, 2024. (Testimony, Exhibits 1, 2, 3)

4. By a written decision dated September 17, 2024, the Local Board memorialized its vote denying Mini Mart's M.G.L. c. 138, § 15, annual wine and malt beverages retail license application. (Exhibit 1)
5. Mini Mart timely appealed the Local Board's decision to the ABCC. (Commission Records)

### DISCUSSION

Both the Local Board and the Commission have the authority to grant licenses. Their powers were authorized "to serve the public need and . . . to protect the common good." M.G.L. c. 138, § 23, as amended through St. 1977, c. 929, § 7. In exercising its discretionary powers, a board must state the reasons for its decision whether or not to issue a liquor license. M.G.L. c. 138, § 23; Exotic Restaurants Concept, Inc. v. Boston Licensing Board, Suffolk Superior Court, C.A. No. 07-3287 (Borenstein, J.). The statute governing alcohol licensing requires a local board to make particularized and specific findings:

Whenever the local licensing authorities deny an application for a new license, refuse to issue a license or modify, suspend, revoke or cancel a license, deny an application for transfer of location or between persons or change of a description of the licensed premises, or levy a fine, the licensing authorities shall mail a notice of such action to the applicant or licensee, stating the reasons for such action and shall at the same time mail a copy of such notice to the commission.

M.G.L. c. 138 § 23 ¶ 4

Without adequate written findings from a Local Board, the Commission cannot properly review a Local Board's denial of a license and therefore a remand is necessary to ensure that the Commission has an adequate record before it upon which to review a Local Board's action.

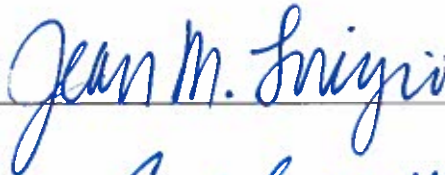
The Commission finds that the Local Board's Decision is inadequate and lacks specific findings therefore the Commission must remand the decision to the Local Board to issue subsidiary findings upon which it made its action denying Mini Mart's M.G.L. c. 138, § 15, annual wine and malt beverages retail application. Solely stating the outcome of the vote is not a sufficient reason for denial as it does not provide any reasons as to why two Local Board members voted for denial. The Commission's decision to remand this matter to the Local Board is consistent with past practices of the Commission when the Local Board fails to issue specific subsidiary findings. See Full Revolution LLC, (ABCC Decision July 25, 2023) (Commission remanded matter to Local Board to issue subsidiary findings and the statutorily required statement of reasons upon which it made its decision denying the M.G.L. c. 138, § 12 all alcoholic beverages application); Snoford, LLC, (ABCC Decision December 14, 2010) (Commission remanded matter to Local Board to issue subsidiary findings and the statutorily required statement of reasons upon which it made its decision denying the M.G.L. c. 138, § 12 all alcoholic beverages application); Gatherings, Inc. (ABCC Decision February 10, 2010) (Commission remanded matter to Local Board to issue subsidiary findings upon which it made its decision denying the M.G.L. c. 138, § 12 wine and malt beverages application).

## CONCLUSION

The Alcoholic Beverages Control Commission ("Commission") **REMANDS** the decision to the Local Board to issue within ten (10) days from receipt of this decision and order, subsidiary findings and the statutorily required statement of reasons, upon which it made its decision denying Mini Mart's M.G.L. c. 138, § 15, annual wine and malt beverages retail application. The Local Board should submit its Amended Decision to Mini Mart and the Commission. The Commission will review the amended Decision once received and schedule another appeal hearing if the amended decision contains an adequate statement of reasons.

## **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

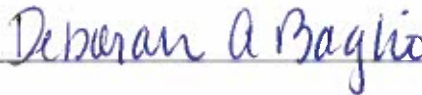
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: January 8, 2025

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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2024-000195-ad-enf

cc: Louis A. Cassis, Esq.  
Per C. Vaage, Esq.  
Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Administration, File