

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, BUILDINGS 68 AND 69
CRANSTON, RHODE ISLAND 02920**

West Broadway Neighborhood Association :
Appellant, :

v. :

DBR No. 12-CL-0001

City of Providence Board of Licenses, :
Appellee. :

Reyes, LLC d/b/a Reyes Liquors :
Intervenor :

RECOMMENDED ORDER GRANTING MOTION FOR A STAY AND REMAND

I. INTRODUCTION

The parties came before the undersigned on January 19, 2012, and presented arguments and evidence to support their respective positions for the Department to either grant or deny the motion regarding the Board's decision to approve the transfer of a Class A liquor license from GLH, Inc., d/b/a El Paraiso Liquors, 248 Dexter Street, to Reyes, LLC d/b/a Reyes Liquors, 1187 Westminster Street.

II. JURISDICTION

The Department has jurisdiction over this matter pursuant to R.I. Gen. Laws §3-2-1 et seq., R.I. Gen. Laws §3-5-1 et seq., R.I. Gen. Laws §3-7-1 et seq., R.I. Gen. Laws §42-14-1 et seq., R.I. Gen. Laws §42-35-1 et seq.

III. MATERIAL FACTS AND DISCUSSION

The Appellant is asking the Department to stay the Board's decision to approve the transfer of a Class A liquor license from GLH, Inc., d/b/a El Paraiso Liquors at 248 Dexter Street to a new owner Reyes, LLC d/b/a Reyes Liquors at a new location at 1187 Westminster Street until a full *de novo* hearing takes place at the Department. Based on the arguments and evidence presented at the Department hearing, it is the Undersigned's position to keep the status quo until a full *de novo* hearing takes place.

Although a stay is warranted as noted above, a closer review of the record before the Department indicates that the Board did not fully comply with R.I. Gen. Laws 3-5-19(a) before granting the license transfer.

R.I. General Laws §3-5-19(a) specifically states that “In all cases of transfer of license, indebtedness of the licensee incurred in the operation of the licensed premises shall be paid to or released by an objecting creditor before the issuing body permits the transfer. In cases of dispute as to the amount of indebtedness, the issuing body, may, in its discretion, permit the transfer upon statement of the licensee, under oath, that the claim of indebtedness is disputed and that the statement of dispute is not interposed for the purpose of inducing transfer of the license.”

Evidence presented by the Board in its brief and the transcript of the Board hearing reveals that Paul J. Pisano, Esq. submitted a letter of objection, pursuant to R.I. Gen. Laws §3-5-19(a) on the ground that applicant-transferor, GLH, Inc. was indebted to his client, MS Walker, in the amount of \$11,203.80 which indebtedness “was incurred in the operation of the premises at 248 Dexter Street, Providence, RI. Attorney Pisano requested that the “license not be transferred unless the indebtedness is paid in full.”

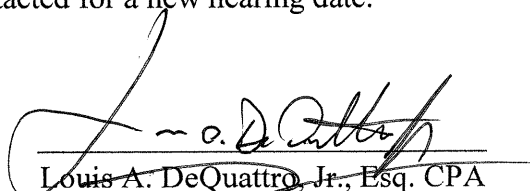
Upon review of the evidence presented by the Board at the Department hearing, the transcript of the Board hearing and related written decision, there is no evidence that the Board acted on the indebtedness objection at any point on the record as required R.I. Gen. Laws §3-5-19(a), as cited above, before approving the transfer of the license. Therefore, the Board needs to resolve the indebtedness issue noted above pursuant to R.I. Gen. Laws §3-5-19(a).

IV. RECOMMENDATION

Based on the forgoing, the follow is recommended:

1. The stay of the license transfer is granted, and this matter is remanded to the Board to address within the next thirty (30) days the creditor indebtedness objection noted above pursuant to the requirements of R.I. Gen. Laws §3-5-19(a).
2. If the Appellant remains aggrieved after the Board’s action as required in 1 above, the Appellant’s right to continue with this appeal is preserved.
3. The hearing scheduled on this matter for February 9 and 10, 2012 is hereby vacated. In the event a hearing continues to be sought in this matter following the mandate in 1 above, the undersigned should be contacted for a new hearing date.

Dated: 1/25/12

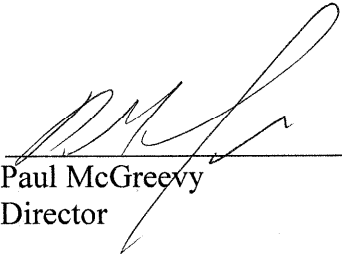

Louis A. DeQuattro, Jr., Esq. CPA
Hearing Officer

ORDER

I have read the Hearing Officer's recommendation in this matter, and I hereby take the following action with regard to the recommendation:

- ADOPT
- REJECT
- MODIFY

Dated: 25 Jan 2012



Paul McGreevy
Director

NOTICE OF APPELLATE RIGHTS

THIS ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT ITSELF DOES NOT STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

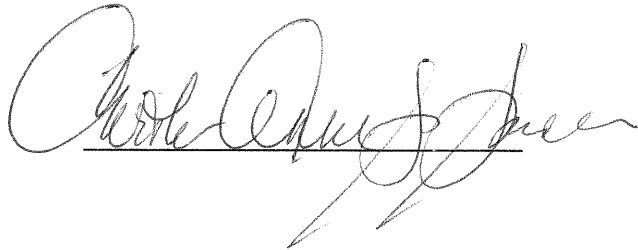
I hereby certify on this 26th day of January, 2012 that a copy of the within Order and Notice of Appellate Rights was sent by e-mail and first class mail, postage prepaid to:

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Charles Andrew J. Jones