**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**
**DEPARTMENT OF BUSINESS REGULATION**
**PASTORE COMPLEX**
**1511 PONTIAC AVENUE**
**CRANSTON, RHODE ISLAND**

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| **The Vault Lounge, LLC**<br>**Appellant,** | : | |
| **v.** | : | **DBR No.: 17LQ014** |
| **City of Providence, Board of Licenses,**<br>**Appellee.** | : | |

## DECISION

## I. INTRODUCTION

On or about December 19, 2017, the Providence Board of Licenses ("Board" or "City") denied The Vault Lounge, LLC's ("Appellant") renewal application for its Class BVX liquor license ("License"). Pursuant to R.I. Gen. Laws § 3-7-21, the Appellant appealed the Board's decision to the Director of the Department of Business Regulation ("Department"). By order dated December 28, 2017, the Department conditionally stayed the denial of the renewal. A hearing was held on February 6, 2018.[1] The parties were represented by counsel and rested on the record.[2]

## 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.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

[1] Pursuant to a delegation of authority from the Director of the Department.

[2] The transcript was received on February 13, 2018.

## III. ISSUE

Whether to uphold or overturn the Board's decision to deny the Appellant's renewal application for the License.

## IV. MATERIAL FACTS AND TESTIMONY

The Appellant is located on Atwells Avenue ("Atwells") which is a mixed use street with many commercial buildings as well as residential buildings. The Appellant's location is at 387 Atwells at the intersection of Atwells and Lily Street ("Lily"). Lily runs into Atwells but does not cross Atwells, but on the other side of Atwells (not quite across from Lily), Hewitt Street ("Hewitt") runs into Atwells at a 90 degree angle. Across the street from the Appellant at the corner of Atwells and Hewitt is 386 Atwells. 386 Atwells is a two-story building with retail on the first floor and residential apartments on the second floor. Behind 386 Atwells is a large parking lot that has two (2) parking areas separated by a very low wall. The parking area right behind the building is not as large as the parking area on the other side of the wall as that lot also services buildings that are on the other side of the lot. The larger lot has been fenced off with a guardrail. The smaller lot right behind the building is not fenced off.[3] The Appellant has a parking lot opposite it on Lily.[4] In June, 2017, new tenants moved into 386 Atwells. Adam Vareika ("Vareika") and Meghan Hyland ("Hyland") who live at 386 Atwells and Robert D'Amico ("D'Amico") who owns 386 Atwells testified before the Board.[5]

D'Amico testified that Hewitt is about 100 feet long and only accesses the parking lot and the two (2) condominiums on Hewitt across the street from the parking lot. He testified that there

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[3] See Department February 6, 2018 hearing transcript for testimony from Sergeant David Tejada, Providence Police Department ("PPD"), at pp. 11-13 regarding the location and lay-out of the streets and parking lot.

[4] As agreed by the parties at the Department hearing. See transcript at p. 24.

[5] See transcript of Board's hearing.

are six (6) or seven (7) three-family houses that back up to the parking lot. He testified that he put in the guardrail in the back parking lot about six (6) months ago [approximately June, 2017] since the curb was low and cars could drive over it so he made the entrance a one-car width and put up "no parking" signs and hired a tow company. He testified that he cannot cordon off the smaller parking lot behind 386 Atwells since it has six (6) or eight (8) parking spaces. He testified that he knows the parking lot is private property and the club owners cannot police private property, but the Appellant's patrons have no respect for private property. He testified that it is not an issue of the loud noise, but that the patrons spill into the street and disrespect private property. He testified that he has four (4) security cameras, two (2) facing the Appellant's front door, one (1) the sidewalk, and one (1) the back parking lot. He testified that he believes that if the License is renewed, there should be a police detail every night.

Vareika testified that they have lived there for six (6) months and the problems with the Appellant have been ongoing. Vareika testified that the problems are every night at 1:00 a.m., or 2:00 a.m., or 3:00 a.m. He testified that they are not complaining about the music from the club or anything that is happening across the street (e.g. in front of the Appellant). He testified that their complaints have always been what is happening on D'Amico's private property that is disruptive to them. He testified that when people leave the club, they come behind 386 Atwells and drink, smoke, fight, and one time engaged in what he thinks was prostitution. He testified that he and Hyland have various videos of activities some which they took and some from D'Amico's security video. They testified that for activities they witnessed outside, they reviewed D'Amico's videos to look for evidence of what they witnessed.

Vareika and Hyland testified that on September 18, 2017, Hyland saw a patron who came across the street and defecated next to 386 Atwells. She testified that it was at 1:17 a.m. See

Appellant's Exhibit Two (2) (google videos entitled "restroom"). They testified that on October 23-24, 2017, they saw patrons leave the Appellant and then come into the parking in the back lot where the people drank, danced on top of the car, and a man and a woman urinated. Vareika testified that he took videos but one cannot hear the noise in the video as he has a white noise machine in the apartment. They testified that the photographs and video show the cars pulling out from in front of the club and then driving into the lot behind their building and then congregating outside. *Id.* (photographs under 10/24/17; 10/24/17 01.14.18 shows woman with pants down to urinate; also videos entitled 10/24/17 show the people dancing and drinking).

Vareika testified that they have seen patrons on different nights leaving the Appellant and coming into the back parking lot to continue to socialize. *Id.*[6] He testified that they also see people park and go to the Appellant such as in the October 20, 2017 photographs/video. *Id.* (photographs/video on 10/20/17 of people parking in back lot and getting out of car; photograph of two (2) of those patrons in front of the Appellant entrance). At the Board hearing, there was reference to seeing people engaging in prostitution. The City referenced that video at the Department hearing. See Department's hearing transcript at p. 16. The same video - one dated September 5 and one dated September 6, 2017 - are the videos referenced where the people in it sound like they are engaging in some type of monetary transaction described with vulgarities. *Id.* (same video but dated 9/5/17 and 9/6/17). At the Department hearing, the videos and photographs testified to at the Board hearing were entered into exhibit with some being shown at hearing.

At the Board and Department hearing, Sergeant David Tejada ("Tejada"), PPD, testified on behalf of the Board. He testified that the Appellant is a continual drain on police resources

[6] There is a series of photographs marked .4803 to .4831 and a video (4806MOV) showing people outside in front of the Appellant and then the same people are seen in the parking lot. E.g. man in red hat is seen outside the Appellant and then smoking in the parking lot. The photographs also show empty liquor bottles, a cigar wrapping, and trash presumably left that night.

since when police respond, officers are taken out of service from another place. He testified that the police have reached out to the Appellant's manager, and apparently he directed his staff to discourage patrons from parking across the street, but complaints were still received. On cross-examination, he testified that when the videos were played at the Board hearing, the Appellant's manager was there. He testified that the complaints about parking continued until December, 2017 and that he had not heard any parking complaints in January, 2018.

Part of the Board's record includes letters from residents indicating that the Appellant is not a nuisance. A resident on Lily wrote that she thinks the Appellant has made the area safer since the area is now well lit and she supports the Appellant. Another resident who has lived on Piedmont Street (parallel to Hewitt, one block up) for four (4) years wrote that the issue was not with the Appellant, but with another club located at the intersection of Atwells and Piedmont Street. Another resident who lives at 374 Atwells (next to 386 Atwells) wrote that he has lived there for two (2) years and also owns a business on the same block and does not have any issues with the Appellant. See City's Exhibit One (1) (certified record).

At the Department hearing, the Appellant submitted ten (10) video clips which it represented were of a security guard walking through the back parking lot checking it was clear. On eight (8) video clips a voice is heard saying the time and twice the day (January 11 and 18, 2018) and showing no one in the parking lot. The times given are 11:15 a.m. or after midnight. The two (2) other videos are of the Appellant's location with voiceover showing the apartment building on Lily opposite the Appellant (which apparently has 12 apartments) and the buildings across from the Appellant. There was no testimony at hearing regarding who did the voiceover and the person speaking on the video does not identify himself. See Appellant's Exhibit One (1) (video).

## V. DISCUSSION

### A. Legislative Intent

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, "the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings." *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM,* 553 A.2d 541 (R.I. 1989) (citation omitted). In cases where a statute may contain ambiguous language, the Rhode Island Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131 (R.I. 1998).

### B. The Appeal before the Department

The Department has broad and comprehensive control over the traffic in alcohol. Indeed, the Department's power of review is so broad that it has been referred to as a "state superlicensing board." *Baginski v. Alcoholic Beverage Comm'n.*, 4 A.2d 265, 267 (R.I. 1939). Thus, the Director has the authority under R.I. Gen. Laws 3-7-21, "to make any decision or order he or she considers proper."[7] The hearing before the undersigned is a *de novo* hearing so that the parties start afresh

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[7] R.I. Gen. Laws § 3-7-21 provides in part as follows:

> Appeals from the local boards to director. (a) Upon the application of any petitioner for a license, or of any person authorized to protest against the granting of a license, including those persons granted standing pursuant to § 3-5-19, or upon the application of any licensee whose license has been revoked or suspended by any local board or authority, the director has the right to review the decision of any local board, and after hearing, to confirm or reverse the decision of the local board in whole or in part, and to make any decision or order he or she considers proper, but the application shall be made within ten (10) days after the making of the decision or order sought to be reviewed. Notice of the decision or order shall be given by the local or licensing board to the applicant within twenty-four (24)

during the appeal. See *A.J.C. Enterprises v. Pastore*, 473 A.2d 269 (R.I. 1984); and *Cesaroni v. Smith*, 202 A.2d 292 (R.I. 1964) (Department's jurisdiction is *de novo* and the Department independently exercises the licensing function). A new hearing was held for this appeal. The outcome of an appeal is a decision whether to uphold, overturn, or modify a licensing board's decision. Thus, this appeal is not bound by the Board's reasons for denial of renewal but whether the Board presented its case before the undersigned. The undersigned will make her findings on the basis of the evidence before her and determine whether that evidence justifies said denial.

### C. Standard of Review

Pursuant to R.I. Gen. Laws § 3-7-6, the Appellant's Class B application for renewal of license may be denied "for cause." Said statute provides as follows:

> Renewal of Class A, Class B, Class C, Class D, Class E, and Class J licenses. The holder of a Class A, Class B, Class C, Class D, Class E, or Class J license who applies before October 1 in any licensing period for a license of the same class for the next succeeding licensing period is prima facie entitled to renewal to the extent that the license is issuable under § 3-5-16. This application may be rejected for cause, subject to appeal as provided in § 3-7-21.[8]

In *Chernov Enterprises, Inc. v. Sarkas*, 284 A.2d 61, 63 (R.I. 1971), the Rhode Island Supreme Court rejected the argument that a license renewal may only be based on breaches of R.I. Gen. Laws § 3-5-21[9] or R.I. Gen. Laws § 3-5-23[10] but instead found "that a cause, to justify action,

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hours after the making of its decision or order and the decision or order shall not be suspended except by the order of the director.

[8] The parties agreed that the Appellant had not submitted its renewal application by October 1 so was not entitled to a *prima facia* renewal.

[9] R.I. Gen. Laws § 3-5-21 states in part as follows:

> Revocation or suspension of licenses – Fines for violating conditions of license. – (a) Every license is subject to revocation or suspension and a licensee is subject to fine by the board, body or official issuing the license, or by the department or by the division of taxation, on its own motion, for breach by the holder of the license of the conditions on which it was issued or for violation by the holder of the license of any rule or regulation applicable, or for breach of any provisions of this section.

[10] R.I. Gen. Laws § 3-5-23 states in part as follows:

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must be legally sufficient, that is to say, it must be bottomed upon substantial grounds and be established by legally competent evidence." See also *A.J.C. Enterprises*; and *Edge-January, Inc. v. Pastore*, 430 A.2d 1063 (R.I. 1981). In *Chernov*, renewal was denied because the licensee's president had supporned perjury of two (2) minors about being served by the licensee. In *Edge-January*, the renewal was denied as the neighbors' testimony had shown a series of disorderly disturbances happening in front of the licensee's premises that had their origins inside.

In discussing the type of evidence required to be proved for a denial, the Rhode Island Supreme Court found in *A.J.C. Enterprises, Inc. v. Pastore*, 473 A.2d 269, 275 (R.I. 1984) as follows:

> We have said at least twice recently that there need not be a direct causational link between incidents occurring outside or nearby a drinking establishment and its patrons. Such a link is established when it can be reasonably inferred from the evidence that the incidents occurred outside a particular establishment and had their origins within. *The Edge-January . . . Manuel J. Furtado, Inc. v. Sarkas*, 373 A.2d 169, 172 (R.I. 1977).

While this is a denial of renewal matter, it is similar to a revocation case in that there needs to be finding of cause. In revoking a liquor license based on disorderly conduct, it is not necessary to find that a liquor licensee affirmatively permitted patrons to engage in disorderly conduct. Rather, the Rhode Island Supreme Court held in *Cesaroni at* 295-296 as follows:

> [T]he legislature, in enacting the pertinent provision of the statute, intended to impose upon such licensee the obligation to maintain an efficient and affirmative supervision over the conduct of his patrons in his place to such an extent as is necessary to maintain order therein. It is our opinion that as a practical matter a licensee assumes an obligation to affirmatively supervise the conduct of his patrons

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(b) If any licensed person permits the house or place where he or she is licensed to sell beverages under the provisions of this title to become disorderly as to annoy and disturb the persons inhabiting or residing in the neighborhood . . . he or she may be summoned before the board, body, or official which issued his or her license and before the department, when he or she and the witnesses for and against him or her may be heard. If it appears to the satisfaction of the board, body, or official hearing the charges that the licensee has violated any of the provisions of this title or has permitted any of the things listed in this section, then the board, body, or official may suspend or revoke the license or enter another order.

so as to preclude the generation therefrom of conditions in the neighborhood of like character to conditions that would result from maintenance of a nuisance therein.

**D. Arguments**

The City argued that the Appellant has not improved the issues at the parking lot since the December, 2017 denial of its renewal application since the City issued an order to show cause against the Appellant in January, 2018. See City's Exhibit Three (3).[11] The City argued that while the neighbors just moved there in June, 2017, the videos show that the new neighbors are not being overly sensitive and there is an ongoing nuisance and disturbance. The City argued that based on Vareika's emails, the complaints started in June, 2017 and not in October or November, 2017. The City argued that this is a different situation from *Pasha Lounge, Inc. d/b/a Pasha Hookah Bar v. City of Providence, Board of Licenses*, DBR No.: 15LQ022 (4/4/16) in which the neighbors changed their testimony regarding issues with that licensee. The City argued that even if there are some nights when no one is in the parking lot, it does not mean that the disturbances have completely stopped. The City argued that the videos corroborate the neighbors' testimony.

The Appellant argued that it has been open since 2013 and had its License renewed four (4) times, but now a problem arises after someone moved there in June, 2017 in the middle of the summer, and is the biggest complainer. The Appellant argued that if these on-going complaints started in June, 2017 then the City should have taken action then rather than wait until December for a renewal denial. The Appellant argued that when the Appellant found out about the issues, the issues were remedied.

**E. Whether the Appellant's Application to Renew License should be Granted**

In *AJC Enterprises*, the Court found that the neighbors who all lived in the area "testified at length concerning the increase in noise, parking congestion, litter, public urination, patrons

[11] The City's Order to Show Cause from January, 2018 is included with the email from Vareika.

either screaming, intoxicated, or pugnacious, as well as an increase in various other activities, all of which disrupted the neighborhood's established way of life." *Id.* at 274. Further, the Court found as follows:

> In this case several witnesses testified that they watched people urinate on private property after leaving Back Street and that when the establishment closed at night there was a great deal of noise because people were yelling, screaming, slamming car doors, and revving engines. These occurrences did not take place before Back Street opened. We feel it is reasonable to infer from the evidence that the undesirable activities that occurred outside and around Back Street had their origin within. Consequently, we shall not disturb the conclusions and the actions of the trial justice. *Id.* at 275.

In this matter, D'Amico and Vareika both testified that the issue is not the noise from patrons exiting the Appellant (which presumably they both expect), but rather the issue is with the back parking lot. D'Amico installed a guardrail on part of the parking lot. However, patrons still park in the parking lot and stay there after the Appellant closes. The alleged sex trade video has the car parked on the street and people talking on the sidewalk. But other videos have the patrons in the parking lot drinking and dancing resulting not only in late night and on-going noise, but left trash. Vareika and Hyland both live at 386 Atwells and were the only residents in the area who testified against the Appellant. The City's record included many complaint emails, but those were only from Vareika and not other neighbors.

The Appellant relied on the fact that no other neighbors have complained that it is creating a nuisance. Over a dozen neighbors testified in *A.J.C. Enterprise*. The number of neighbors testifying in *Edge-January* was not specified, but it was a high enough number that a group of them were referred to as "some" neighbors testified to certain actions. The witnesses in favor of renewal in *Edge-January* were only patrons or employees of the licensee. At the Department hearing in *J. Aliosio Enterprises, Inc. d/b/a Club Confetti v. Department of Business Regulation*,

2001 WL 1005865 (R.I. Super.), neighbors, employees, city council members, police officers, and the owner all testified at hearing (after which the license was denied renewal).

In this matter, the neighbors on Hewitt that face the parking lot or the neighbors opposite the Appellant on Lily have not complained. There were no complaints from the 386 Atwells' neighbors from prior to June, 2017.[12] The Appellant submitted letters from neighbors saying that they had no issue with the Appellant.

The Appellant also argued that it has mitigated the issue. The Appellant submitted a video showing the back parking lot without any people late at night. Tejada testified at the Department hearing that the Appellant had apparently directed staff to instruct patrons not to park in the back parking lot. The record included many emails to and from Vareika to law enforcement, elected officials, and their staff. In one email a Mayoral staff member indicated that the City had spoken to the Appellant's owner to direct his security to deny entrance to patrons who park in the back parking lot. Nonetheless, even if the Appellant barred entry from those parking in the parking lot that does not stop those who parked elsewhere from driving to the parking lot after closing (as testified to) and then continuing to socialize outside. In *Pasha*, the owner did not appear to testify; however, the neighbors testified that the owner had met with them at a community meeting and had taken steps to rectify problems at the licensee.

While the Board referenced nuisances "throughout" the neighborhood in its summing up of its decision, the evidence at hearing related to the back parking lot. The Board denied the renewal of License because of an ongoing nuisance of urination, defecation, and broken bottles as shown in the videos centered around the back parking lot. While some of the videos showed Atwells, the testimony from Vareika, Hyland, and D'Amico centered around the on-going

[12] D'Amico testified that he thought his prior tenants had a different lifestyle.

nuisance in the parking lot. The denial was not based on patrons walking down the street and urinating. It was not based on patrons being loud while exiting. Instead, the nuisance concerned the activities at the back parking lot caused by the Appellant's patrons upon exit.

At the Board hearing and at the Department hearing, there was no direct evidence of steps taken by the Appellant's owner to mitigate the problem with the parking lot. There is a low wall between the small section and larger section of the parking lot. Patrons park their cars next to the wall and step over the wall between cars and stand on the wall. A fence could be erected on the wall to make parking next to the low well less desirable. The Appellant's owner could have offered to D'Amico to post a security staff member at the small parking lot prior to closing. The Appellant's owner could have spoken to D'Amico regarding whether it would be helpful to put orange cones in the small parking lot at closing time along with a staff member. The Appellant's owner could have spoken to D'Amico whether it was feasible to chain off or otherwise block late night entrance to the small parking lot.

It seems that there should have been reasonable steps taken by the Appellant's owner or manager to try to curtail the patrons from carrying on late at night across the street after they leave the Appellant. If any steps were taken, none were detailed by the owner or manager at hearing. While no one may have been in the parking lot in January that could be due to unknown steps taken by the Appellant or could be due to the fact that it was January in New England and people might not want to continue socializing outside in a parking lot in the winter.

No one appeared at the Department hearing to testify on behalf of the Appellant regarding any steps taken in regard to the parking lot. The question now is whether the Appellant's owner should be allowed a chance to demonstrate to the Board any steps taken. One would think that it should not be after an appeal to the Department of a denial of renewal application that an owner

shows up and actually presents evidence as to what steps, if any, have been taken besides videos entered (without explanation or testimony) at hearing. One would think that a licensee would understand its legal responsibility for activities by its patrons and act in a proactive manner to prevent new nuisances and stop ongoing nuisances by its patrons. Neither the Board nor the Department are baby-sitters or omniscient. They cannot be expected to know what has been or can be done without evidence. At the same time, the nuisance complained of and testified to is not located throughout Atwells and the surrounding streets but is localized in the back parking lot. On one hand, the localized nature of the issues should have been easily addressed, but on the other hand because the issues are located in such a specific area, it suggests that the Appellant should have a chance to appear before the Board and explain itself.

The matter before the Department does not concern the order to show cause that was scheduled to be heard on January 25, 2018. That matter relates to a disorderly conduct allegation alleging that a disturbance inside the Appellant that spilled outside. See City's Exhibit Three (3). The Board entered a default in that matter[13] but no sanction has been issued and it has not been appealed to the Department and is not before the Department. The only matter before the Department is the issue of whether the denial of the renewal application should be upheld due to late night socializing in the back parking lot at 386 Atwells that has resulted in an on-going nuisance behind 386 Atwells caused by the Appellant's patrons upon exiting.

The Department will allow the owner a last chance to argue for its renewal. The owner should be prepared to present to the Board evidence of steps taken to stop this parking lot issue. The Department expects that the owner will present the Board with its solutions including those already taken. The Department does not expect the owner to blame others for the situation.

[13] https://providenceri.iqm2.com/Citizens/FileOpen.aspx?Type=15&ID=6947&Inline=True.

Instead, the Appellant has obligations as a licensee and the owner must address those proactively before the Board. Indeed, the stay decision in this matter discussed a licensee's obligations at length and noted that the stay gave the Appellant a chance to show it could comply with its statutory and regulatory obligations.

The stay decision required that the Appellant document the measures taken in respect to maintaining restroom facilities, providing adequate trash receptacles, and preventing patrons from taking alcoholic beverages outside of the licensed area. (see p. 13 of the stay order). The stay order required that the documentation be provided upon request to the Board or Department.

Pursuant to R.I. Gen. Laws § 3-7-21, the Department has the authority to issue any order that is proper in terms of a denial. As the Appellant did not provide actual evidence of steps taken at the Department's full hearing, the stay shall be modified to reduce the Appellant's hours of operation every night to 8:00 p.m. pending the remand to the Board for the Appellant's owner to produce the documentation required by the stay **and** to address the issues raised in this decision regarding the back parking lot.

## VI. FINDINGS OF FACT

1. On or about December 19, 2017, the Board denied the Appellant's renewal application for License.

2. Pursuant to R.I. Gen. Laws § 3-7-21, the Appellant appealed that decision by the Board to the Director of the Department.

3. By order dated December 28, 2017, the Department conditionally stayed the Board's denial of renewal of License.

4. A *de novo* hearing was held on February 6, 2018 before the undersigned sitting as a designee of the Director. The parties rested on the record.

5. The facts contained in Section IV and V are reincorporated by reference herein.

## VII. CONCLUSIONS OF LAW

Based on the testimony and facts presented:

1. The Department has jurisdiction over this matter pursuant to R.I. Gen. § 3-7-21 *et seq.*, R.I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

## VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends that this matter be remanded to the Board in order for the Appellant's owner to appear before the Board and provide evidence of what steps it has taken and are in place or will be in place as discussed above. The Appellant must also produce the documentation detailed in the stay order. This remand provides the Appellant with a chance to detail its security plan and other actions (e.g. speaking to D'Amico, the neighbors) to the Board regarding the back parking lot. Nothing precludes the Board from discussing or conditioning or agreeing about any other licensing issues globally at the same time with the Appellant, but this appeal and remand only relates to the denial of the renewal. Until the Board hears and makes a further decision on the remand, the Appellant shall close at 8:00 p.m. each night. The police detail on Friday and Saturday nights shall stay in effect unless the Board deems it is not necessary for an 8:00 p.m. closing.

Dated: April 13, 2018

Catherine R. Warren, Esquire
Hearing Officer

## ORDER

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

___✓___ ADOPT
_____ REJECT
_____ MODIFY

Dated: 4/18/18

Elizabeth Tanner, Esquire
Director

## NOTICE OF APPELLATE RIGHTS

**THIS DECISION 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 DOES NOT ITSELF 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 19 day of April, 2018 that a copy of the within Decision was sent by first class mail, postage prepaid to Peter Petrarca, Esquire, Petrarca & Petrarca, 330 Silver Spring Street, Providence, R.I. 02904 and Mario Martone, Esquire, City of Providence Law Department, 444 Westminster Street, Suite 220, Providence, R.I. 02903 and by electronic delivery to Maria D'Allesandro, Deputy Director, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, RI 02920.