

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

Red Lounge, LLC,
Appellant,

v.

City of Cranston, Board of Safety Services and
Licensing,
Appellee.

DBR No.: 16LQ009

ORDER ON MOTION FOR STAY

This matter arose from a motion for stay¹ and request for the Department of Business Regulation (“Department”) to hold a full hearing filed by Red Lounge, LLC (“Appellant”) with the Department pursuant to R.I. Gen. Laws § 3-7-21 regarding a decision taken by the City of Cranston, Board of Safety Services and Licensing (“Board”) on imposing a police detail on the Appellant’s Class BV liquor license. A hearing on the motion for stay was held on August 10, 2016 before the undersigned pursuant to a delegation of authority by the Director of the Department. The Department has jurisdiction over this matter pursuant to R.I. Gen. § 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 A stay will not be issued unless the party seeking the stay makes a “strong showing” that “(1) it will prevail on the merits of its appeal; (2) it will suffer irreparable harm if the stay is not granted; (3) no substantial harm will come to other interested parties; and (4) a stay will not harm the public interest.” *Narragansett Electric Company v. William W. Harsch et al.*, 367 A.2d 195, 197 (1976). Despite the ruling in *Harsch*, the Supreme Court in *Department of Corrections v. Rhode Island State Labor Relations Board*, 658 A.2d 509 (R.I. 1995) found that *Harsch* was not necessarily applicable in all agency actions and the Court could maintain the *status quo* in its discretion when reviewing an administrative decision pursuant to R.I. Gen. Laws § 42-35-15(c). While appeals before the Department do not fall under R.I. Gen. Laws § 42-35-15(c), it is instructive to note that the *Department of Corrections* found it a matter of discretion to hold matters in *status quo* pending review of an agency decision on its merits.

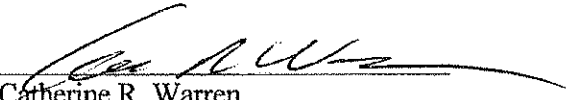
At the hearing, the Appellant represented that it would pass on its request for the Department to fully hear this matter at this time.

The parties agreed that the Board's order regarding what days it was mandating a police detail was undefined and was left to the police department's discretion. The parties agreed that a police detail would only be mandated for Saturday nights until the Board reviews the same at a Board hearing on September 12, 2016.

Based on the forgoing, the undersigned recommends the following order:

1. A police detail is ordered for Saturday nights² until September 12, 2016 when the Board will review the police detail.

Dated: 3/10/16



Catherine R. Warren
Hearing Officer

INTERIM 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: 8/11/16


Macky McCleary
Director

² The parties represented that they would separately agree on the time of the detail on Saturday night.

NOTICE OF APPELLATE RIGHTS

THIS ORDER IS REVIEWABLE BY THE SUPERIOR COURT PURSUANT TO R.I. GEN. LAWS § 42-35-15(a) 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 A PETITION DOES NOT STAY ENFORCEMENT OF THIS ORDER.

CERTIFICATION

I hereby certify on this 15th day of August, 2016 that a copy of the within Order was sent by email and first class mail, postage prepaid, to the following: Michael J. Lepizzera, Jr., Esquire, Lepizzera Laprocina, 117 Metro Center Blvd., Suite 2001, Warwick, RI 02886 and Louis A. DeSimone, Esquire, 1554 Cranston Street, Cranston, RI 02920 and by hand-delivery to Maria D'Alessandro, Deputy Director, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Building 69-1, Cranston, RI 02920

