

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

**In the Matter of**

Lazy Lizard Cafe  
Assunta I. Delmonaco, Permittee  
MAD Crown Street Holdings LLC, Backer  
Liquor Permit No. LCA.7065

Docket No. 14-190  
Case No. 2013-827  
April 29, 2014

**MEMORANDUM OF DECISION**

This matter involves the renewal application for a café liquor permit for Lazy Lizard Café, 201 Crown Street, New Haven, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on March 27, 2014. Assunta I. Delmonaco, permittee and a member of the backer limited liability company, and Maria Delmonico, a member of the backer limited liability company, were approved for a provisional liquor permit by the department on April 30, 2009. They appeared at the hearing with counsel.

The hearing was held in accordance with Section 30-39(c), Connecticut General Statutes, as a result of a legally sufficient remonstrance questioning the suitability of the place of business. The suitability of Assunta I. Delmonaco as permittee and member of the backer limited liability company was not raised as a concern by the remonstrance. Following the conclusion of the hearing, the record was left open until April 22, 2014 to allow for the submission of additional documents, and counsel for the respondents provided a timely written submission.

The following facts are found based upon sworn testimony and evidence adduced at the hearing. Liquor Control Agent Gagne was assigned to investigate the remonstrance filed opposing the renewal of this permit. The Remonstrance Petition stated: "The location, Lazy Lizard, is a problem for the neighborhood's safety and quality of life. The establishment is the scene of frequent criminal activity, has been selling alcohol to minors, and requires repeated police presence." A resident remonstrant appeared and offered testimony opposing the renewal of this permit based upon his concerns regarding safety and quality of life issues.

The Lazy Lizard is located in the heart of the downtown entertainment district, an area with many restaurants, bars and clubs as well as a number of apartment and condominium residences. As part of his investigation, Agent Gagne conducted two evening surveillances of the premises. Agent Gagne reviewed the history file for this permit and reached out to the New Haven Police Department to obtain copies of reports documenting calls for service at 201 Crown Street and calls for service for incidents stemming from occurrences within 201 Crown Street.

A review of the department's history file for the year preceding the renewal reveals an incident which occurred May 31, 2013 involving a sale to minor and a minor in the barroom; the respondent paid a \$1,500 fine and served a 3-day suspension to resolve these charges. On September 28, 2012 an incident occurred which involved a sale to minor, a minor and an intoxicated person in the

barroom, and violations of regulations relating to drink promotions; the respondent paid a \$750 fine to resolve these violations.

The department received a letter from New Haven Police Chief Dean Esserman, on behalf of himself and the New Haven Police Department's Command staff, opposing the liquor permit renewal. Chief Esserman's letter concludes by requesting the department deny this renewal, "based upon the club's track record of violations and violent incidents." (Letter from Chief Dean Esserman to William M. Rubenstein, Department of Consumer Protection, dated September 5, 2013) The letter was signed by Chief Dean Esserman on behalf of the New Haven Police Department's Command Staff which includes Assistant Chief Luiz Casanova. Special Act 13-4 states, in part, that the "Department of Consumer Protection shall consider any written comments offered by [the New Haven] ...chief law enforcement official... prior to issuing such applicant...a liquor permit renewal."

Assistant Chief Casanova appeared at the hearing and offered sworn testimony in opposition to this renewal. Assistant Chief Casanova has been a law enforcement officer for 22 years, 18 years with the New Haven Police Department. He is the former Downtown District Commander and is currently the Assistant Chief of Operations. He has met with Maria Delmonaco, a member of the limited liability company, and Anthony Delmonaco, brother of Maria and son of Assunta, concerning what Assistant Chief Casanova characterized as "lawless behavior" occurring at the business.

Assistant Chief Casanova testified to an incident which occurred on May 18, 2013, wherein a "huge brawl" inside the permit premises subsequently spilled out to the street, resulting in the wounding of two bystanders and the shooting death of a 21-year old in close proximity to the club. He testified that Anthony Delmonaco "hindered the investigation" with regard to the video footage and "didn't cooperate to what we would have liked for him to have cooperated." While this incident has not been referred to the department for administrative action since it is still under investigation by the New Haven Police Department, we find Assistant Chief Casanova's detailed testimony regarding conduct at Lazy Lizard, based upon information provided to him by his investigating officers, to be clear and credible. Additionally, we note that on November 28, 2009, at a time when this permittee was responsible for the premises, three people were stabbed inside the premises, on the dance floor, one of whom became a fatality. While that incident occurred outside the time frame for this remonstrance and, therefore, is not being considered in itself as a basis for our decision, it makes clear that the permittee was aware of the consequences of failing to assure orderly behavior while having the privilege of serving alcohol. The incident on May 18, 2013 was a failure of this important obligation.

Sec. 30-46(a), Conn. General Statutes, states, in relevant part:

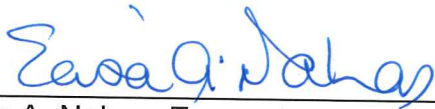
The Department of Consumer Protection may, except as to a store engaged chiefly in the sale of groceries, in its discretion, suspend, revoke or refuse to grant or renew a permit for the sale of alcoholic liquor if it has reasonable cause to believe ... (4) that the place has been conducted as a lewd or disorderly establishment; ...

Based upon the evidence submitted by Chief Esserman and Assistant Chief Casanova, the place has been "conducted as a ...disorderly establishment" as currently operated. The Liquor Control Act grants the Liquor Control Commission a liberal discretionary power to determine factual matters with regard to liquor permits and to suspend or revoke the permit after a hearing. *Balog v. Liquor Control Commission*, 150 Conn. 473, 191 A.2d 20 (1963). This power to suspend or revoke a liquor permit is exercised conservatively, but mindful that dispensing liquor is a privilege, not a right. *Beckenstein v. Liquor Control Commission*, 140 Conn. 185, 99 A.2d 119 (1953).

In view of the danger to public health and welfare inherent in liquor traffic, the police power to regulate the liquor trade runs broad and deep, more so than comparable regulatory powers over other activities. *Williams v. Liquor Control Commission*, 175 Conn. 409, 411, 399 A.2d 834 (1978). Therefore, we hereby deny the renewal application and revoke the café liquor permit of Assunta I. Delmonaco and Lazy Lizard Café in accordance with Section 30-46(a)(4), Connecticut General Statutes.

DEPARTMENT OF CONSUMER PROTECTION  
LIQUOR CONTROL COMMISSION

BY:



Elisa A. Nahas, Esq.  
Designated Presiding Officer



Angelo J. Faenza, Commissioner



Stephen R. Somma, Commissioner

Parties:

Assunta Delmonaco, Permittee, Lazy Lizard Café, 201 Crown Street, New Haven, CT 06510

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Nonparties:

John Suchy, Director, Liquor Control Division

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