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July 29, 2014

Via Federal Express

Chairwoman Kimberly Gainsboro
Executive Director Ralph Sacramone
Alcohol Beverage Control Commission
239 Causeway Street, Suite 200
Boston, MA 02114
Fax: (617) 727-1510

RE: Liquor License Suspension – Westford, MA
Licensee: Evviva Cucina, LLC ABCC#144200056
Location: 7 Cornerstone Square, Westford, MA 01886

Dear Madame Chair and Mr. Executive Director:

This office represents Evviva Cucina, LLC (hereinafter the “Licensee”), a holder of an annual restaurant all alcoholic beverages license ABCC#144200056 (the “License”) in the Town of Westford, d/b/a Evviva Cucina, 7 Cornerstone Square, Westford, MA 01886. Please accept this letter as an appeal of the decision of the Westford Licensing Board (hereinafter the “LLA”), dated July 24, 2014, to suspend the License for three days, attached hereto. The written decision was received by the Licensee on July 26, 2014.

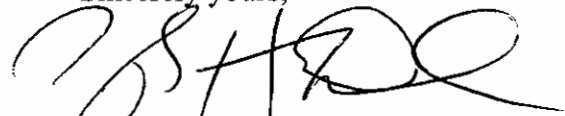
The LLA’s decision is based on the ABCC’s March 12, 2014 compliance check at the Licensee’s location, which resulted in a violation of 204 CMR 2.05(2) and Chapter 138, section 34. The violation was heard before the ABCC on June 24, 2014, and the ABCC suspended the License for 3 days, held in abeyance for a period of two years provided the Licensee remains in compliance with its statutory and regulatory obligations. A copy of that decision is also attached.

Among other things, the LLA’s subsequent suspension for the same offense violates the due process rights of the Licensee and the regulatory scheme laid out in Chapter 138 and the subsequent regulations and decisions, the evidence presented at the LLA hearing was insufficient to prove the allegations and the punishment is excessive and arbitrary. Due to the ABCC’s prior adjudication of the violation, the LLA is

precluded from adjudicating the issue and suspending the Licensee based on the same facts underlying the ABCC decision.

Thank you very much for your time and cooperation. If you have any questions or need additional information, please feel free to call me at extension 105.


Sincerely yours;



Joseph H. Devlin

Certificate of Service

I, Joseph H. Devlin, Esq., swear and affirm that I have served a copy of this Notice of Appeal on the Town of Westford by forwarding via Federal Express overnight delivery on July 29, 2014, a true and accurate copy to the Town Manager's Office, as representative of the Board of Selectmen, at Westford Town Hall, 55 Main Street, Westford, MA 01886.



Joseph H. Devlin



TOWN OF WESTFORD
OFFICE OF THE TOWN MANAGER

TOWN HALL
55 Main Street
WESTFORD, MA 01886
Telephone (978) 692-5501 Fax (978) 399-2557

July 24, 2014

Evviva Cucina, LLC
Nicholas Harron, Manager
7 Cornerstone Square
Westford, MA 01886

RE: Violation of Massachusetts General Laws Chapter 138, Section 34 – Sale of Alcoholic Beverages to a Person Under 21 Years of Age

Dear Mr. Harron:

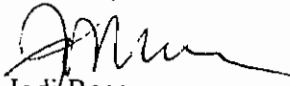
The Board of Selectmen at their meeting on Tuesday, July 22, 2014, reviewed documents pertaining to the liquor law violation that occurred on March 12, 2014 at Evviva Cucina, 7 Cornerstone Square in Westford.

In response, the Board of Selectmen voted unanimously to issue Evviva Cucina a three day license suspension for the sale of alcoholic beverages. This action is in accordance with the Board of Selectmen's Administrative Penalties for Violation of Alcoholic Beverages Sales to Minors Policy (Policy). This policy is attached for your reference. The Board of Selectmen understands that the Alcoholic Beverages Control Commission (ABCC) was responsible for identifying this violation. However, any future violations identified by either the Town of Westford, or the ABCC, will still be considered in accordance with the Policy, specifically the established guidelines regarding the number of offenses and the length of license suspension.

The dates you are prohibited from selling alcohol will be determined by the Board of Selectmen at their September 16, 2014 meeting.

If you have any questions regarding this matter, please call my office.

Sincerely,


Jodi Ross
Town Manager

Cc: Chief McEnaney, Police Chief
Board of Selectmen



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grassman
Treasurer and Receiver General

Kim J. Gustore, Esq.
Chairman

DECISION

EVVIVA CUCINA LLC
7 CORNERSTONE SQ
WESTFORD, MA 01886
LICENSE#: 144200056
VIOLATION DATE: 03/12/2014
HEARD: 06/24/2014

Evviva Cucina LLC (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, June 24, 2014, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: c. 138, §34 Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Bailey's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Bailey's Investigative Report dated March 12, 2014.

There is one (1) audio recording of this hearing.

FACTS

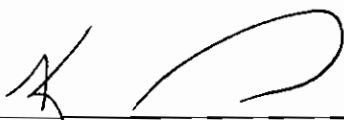
1. On Wednesday, March 12, 2014 at approximately 6:28 p.m., Investigators Doyle and Bailey conducted an investigation of the business operation of Evviva Cucina LLC.
2. An underage operative, working with investigators, was in possession of a can of Budweiser beer. The underage operative was not asked for identification.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (2) – Permitting an illegality on the licensed premises, to wit: c. 138, §34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. Therefore, the Commission **suspends the license for three (3) days of which three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

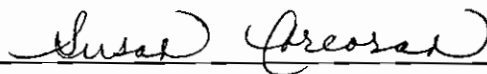
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman



I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Susan Corcoran, Commissioner



Dated: June 25, 2014

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.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Rose Bailey, Investigator
Brad Doyle, Investigator
Administration
File