

1 Minutes for the Lowell License Commission meeting for Thursday, November 7, 2019 at 6:00 p.m., held
2 in the City Council Chamber, 2nd floor, City Hall, 375 Merrimack St., Lowell, MA 01852.

3 Present: John Descoteaux, Commissioner, Chairman, Commissioners Clifford Krieger, Terry McCarthy,
4 Martha Howe and Joseph Donahue, and Gary Gordon, Assistant City Solicitor, and Captain James
5 Hodgdon of the Lowell Police Department.

6 The Commission, on the motion by Commissioner McCarthy, second by Commissioner Donahue, voted
7 to approve meeting minutes for October 24, 2019.

8 The Commission opened the hearing continued from October 24, 2019 on the allegation of misconduct as
9 charged by Raymond Kelly Richardson, Superintendent of Police, dated September 19, 2019, against the
10 licensee LD Holdings, LLC, d/b/a Revolution, 74 Merrimack St., Jeffrey Torres, Manager of Record, all
11 alcohol beverages restaurant licensee. Allegation of misconduct occurred July 27, 2019; licensee failed to
12 notify Lowell Police of altercation reported by patron to Lowell Police on July 29, 2019. Attorney Travis
13 Jacobs, legal counsel for LD Holdings, LLC, was present. Lieutenant David Peaslee of the Lowell Police
14 Department was present. Chairman Descoteaux asked Attorney Jacobs if the manager of record, Jeffrey
15 Torres, will be attending the hearing. Attorney Jacobs stated that the manager is out-of-the country.
16 Chairman Descoteaux requested Captain Hodgdon to read the communication from Superintendent of
17 Police Kelly Richardson to the Commission dated September 19, 2019. Captain Hodgdon read the
18 following narrative, citing the allegation of a violation of License Commission regulation 1.20 Illegal
19 Activities: "On Monday, July 29, 2019, Kiana Perez of Lowell, MA came to the Lowell Police
20 Department to report a past assault. According to Ms. Perez, this incident occurred on July 27, 2019,
21 while dancing she was hit over the head with glass bottle at Bar 74. Ms. Perez sustained injuries to her
22 head and foot. Ms. Perez sought medical treatment at the hospital that required ten (10) stitches on her
23 foot from the broken glass. It was later brought to Lieutenant Peaslee's attention that this incident
24 occurred at Revolution located on the third floor of 74 Merrimack Street. Bar 74 and Revolution are
25 located in the same building at 74 Merrimack Street. According to Ms. Perez, immediately after being

1 assaulted, two men wearing black shirts with Bar 74 on front of the shirt and *Security* on the back of the
2 shirt, picked up Ms. Perez and carried her to the door. At no time did employees of Bar 74 offer Ms.
3 Perez medical attention and/or indicate the police would be notified. Ms. Perez did provide a video of the
4 incident.

5 Ms. Perez identified the suspect as [] . . . was subsequently charged with Assault & Battery Dangerous
6 Weapon; to wit: glass bottle.

7 A check of the Lowell Police CAD and phone records confirmed Revolution did not notify the Lowell
8 Police Department of this incident by telephone or otherwise that took place on the licensed premises.”

9 Captain Hodgdon stated the criminal charge against the alleged assailant is pending in District Court.

10 Chairman Descoteaux requested Lt. Peaslee to step to the podium to offer his account of the police
11 investigation. Lt. Peaslee described the front entrances to the licensed establishments of Revolution,

12 leading to a staircase to the third floor premises, and the first floor entrance to Bar 74. Lt. Peaslee stated
13 both establishments share security. Commissioner Howe asked about the content of the video the Lowell

14 Police Department received from Ms. Perez. Lt. Peaslee described the interaction between [Bar 74]
15 security personnel and Ms. Perez. Commissioner Howe followed-up with question about security

16 interacting with Ms. Perez. Lt. Peaslee stated that the manager told Ms. Perez to leave; Ms. Perez was
17 taken down the staircase by security to the front door. Attorney Jacobs stated the only failure was for the

18 licensee to not report the incident, no way can the licensee prevent incidents. Chairman Descoteaux
19 acknowledged the point about preventing incidents, but stated that once again this establishment a phone

20 call was not made. Attorney Jacobs stated that the burden of proof is on the City as to whether a phone
21 call was made from Bar 74 or Revolution. Captain Hodgdon and Lt. Peaslee checked Lowell Police CAD.

22 There are no recorded phone calls. Captain Hodgdon stated all calls are recorded to dispatch.
23 Commissioner Krieger asked if an email was sent. Attorney Jacobs stated that no one at the bar thought it

24 was an incident. Commissioner Howe stated the City has the burden having described the incident, the
25 [patron] was told by the manager to leave . . . [what] is the counter evidence from Revolution. Attorney

1 Jacobs stated that [management] didn't view the matter as an incident to report. Commissioner Howe
2 stated the incident was an egregious violation for [the establishment] not notifying the police . . . the
3 police have met the burden. Chairman Descoteaux questioned Assistant Solicitor Gordon regarding
4 discussion between Commissioner Howe and Attorney Jacobs about questions from legal counsel through
5 the Chair intended for witnesses. Assistant Solicitor Gordon outlined the legal advice the Solicitor's
6 Office has provided the Commission on procedure during disciplinary hearings, allowing counsel the
7 means for due process. Chairman Descoteaux stated that there had been no phone call to Lowell Police
8 Department. Commissioner Donahue addressed Asst. Solicitor Gordon, suggesting some direct
9 questioning. Commissioner Donahue continued, noting that the location of the incident was clarified,
10 believing an incident took place which necessitated notification [per regulation], and that there is no
11 evidence of a telephone call. Commissioner McCarthy stated he agrees with Commissioner Donahue.
12 Commissioner Krieger stated the establishment should have reported the incident. Commissioner
13 McCarthy asked Attorney Jacobs if there is a list of personnel who were on duty. Attorney Jacobs stated
14 yes. Commissioner Krieger made the motion that the licensee LD Holdings, LLC, d/b/a Revolution, be
15 found in violation of Lowell License Commission Regulation 1.20 Illegal Activities for the not notifying
16 the Lowell Police of the incident which occurred on the licensed premises July 27, 2019 as reported by a
17 patron of Revolution to Lowell Police on July 29, 2019, and that a one (1) day suspension for said
18 violation be held in abeyance for one (1) year [November 7, 2020]. Commissioner Donahue seconded the
19 motion. Assistant Solicitor Gordon requested that Chairman Descoteaux clarify the suspension day held
20 in abeyance. Chairman Descoteaux stated that if the licensee is found in violation of a regulation in the
21 following twelve (12) months, the one (1) day suspension shall be ordered to be served. The Chairman
22 called for a roll-call vote. Vote: Chairman Descoteaux - yes, Commissioner Krieger – yes, Commissioner
23 McCarthy – yes, Commissioner Howe – yes, Commissioner Donahue – yes. The motion passed
24 unanimously.

1 The Commission reviewed the request by Ellen Casazza at Curation 250, 250 Jackson St. that license
2 approved October 10, 2019 may be amended from date of November 16, 2019 to Saturday, November 9,
3 2019 - "Terrible Twos" Art Exhibit, 6:30 p.m. to 8:30 p.m. Ellen Casazza was present. The Commission,
4 on the motion by Commissioner McCarthy, second by Commissioner Krieger, voted to amend the license
5 granted to Ellen Casazza from the date of November 16, 2019 to November 9, 2019.

6 The Commission reviewed the application by Heather Austin of Coco Luna LLC for special one-day
7 license to sell/dispense malt beverages and wines only, or either one, for the event Black Friday Market,
8 Friday, November 29, 2019, 12:00 p.m. to 6:00 p.m. at Mill No. 5, 250 Jackson St., 4th & 5th floors.
9 Heather Austin was present. Chairman Descoteaux asked Ms. Austin about the location for the beer/wine
10 concession. Ms. Austin stated that the beer station will be located at the end of the hallway on each floor.
11 Ms. Austin estimated 250 patrons may be attending the Black Friday Market in answer to Chairman
12 Descoteaux's question about patronage. The Commission, on the motion by Commissioner Krieger,
13 second by Commissioner Donahue, voted to approve the license for Heather Austin of Coco Luna, LLC
14 for November 29, 2019.

15 The Commission opened the hearing on the application by Gary's Tipico, Inc., d/b/a Gary's Tipico
16 Restaurant, Gary De Los Santos, President, all alcoholic beverages restaurant licensee at 26 Andover
17 Street, for change in corporate name to Gary's Restaurant & Bar Inc., Gary De Los Santos, President.
18 Gary De Los Santos was present. Mr. De Los Santos explained the reason for changing the corporate
19 name as it relates to a second business he owns in Lowell using 'Tipico' as part of the business name, a
20 restaurant where the cuisine is different from his restaurant at 26 Andover St. Commissioner Krieger
21 asked if Mr. De Los Santos had an attorney establish the change in corporate name. Mr. De Los Santo
22 stated that he had his accountant prepare the name change [via the Massachusetts Secretary of State
23 Corporations Division]. At the conclusion of discussion, the Commission, on the motion by
24 Commissioner McCarthy, second by Commissioner Howe, voted to approve the application for change in
25 corporate name to Gary's Restaurant & Bar Inc.

1 The Commission opened the public hearing continued from October 24, 2019 to consider the public need
2 in accordance with Massachusetts General Laws Section 12, Chapter 138, to decrease the hours during
3 which sales of alcoholic beverages may be made at the licensed premises of LD Holdings, LLC, d/b/a
4 Revolution, located at 74 Merrimack Street. The Commission may fix the hours for the sales of alcohol
5 beverages for a licensee before 11:00 a.m. and after 11:00 p.m. during the calendar week (Sunday to
6 Saturday). Attorney Travis Jacobs, legal counsel for LD Holdings, LLC, d/b/a Revolution, was present.
7 There was no managing member of LD Holdings, LLC present. Chairman Descoteaux opened discussion
8 cited decisions of the Alcoholic Beverages Control Commission and the Lowell License Commission on
9 findings after disciplinary hearings. Commissioner Howe stated that a review of decisions in 2017 and
10 2018, and the A.B.C.C. decision of 2018 when underage patrons were served and in possession of alcohol
11 beverages, License Commission decision as a result of an assault in Revolution in 2017 at 1:30 a.m., a
12 failure to call police on July 27, 2019, tonight's hearing. Commissioner Howe noted the incident of a
13 licensed establishment called Willie Tops when management did not call police prior to patrons exiting
14 Willie Tops. A pedestrian was found dead the following morning having been shot outside Willie Tops.
15 Commissioner Howe recommended that the legal closing time for Revolution be rolled back to 1:00 a.m.
16 Chairman Descoteaux stated that the incidents happen between 1 a.m. and 2 a.m. when the wrong
17 clientele is in the premises. Attorney Jacobs stated his opposition to the earlier closing hour,
18 recommending the decisions do not justify that disorderly patrons are the cause. Commissioner Donahue
19 stated the issues are not a major problem, it is a managerial problem. Commissioner McCarthy stated that
20 there is no management there. Commissioner Krieger spoke of the issue . Chairman Descoteaux opened
21 the public hearing for public comment. There was no one present to speak in favor of the earlier closing
22 time. There was no one present to speak in opposition to the earlier closing time. Attorney Jacobs stated
23 that there have been no fights or drugs at Revolution. There is so much security, doesn't justify an earlier
24 closing. Commissioner Howe made the motion to set the legal closing time from 2:00 a.m. to 1:00 a.m.,
25 Sunday to Saturday, effective Sunday, December 1, 2019 at 11:00 a.m. for a period of three (3) months as

1 a public need for the health, safety and well-being of the general public. Chairman Descoteaux seconded
2 the motion. Chairman Descoteaux stated the Commission will reconsider the decision in three (3) months'
3 time. The Chairman called for a roll-call vote. Vote: Chairman Descoteaux - yes, Commissioner Krieger –
4 no, Commissioner McCarthy – yes, Commissioner Howe – yes, Commissioner Donahue – no. The
5 motion passed three (3) yeas, two (2) nays.

6 The Commission, on the motion by Commissioner Krieger, second by Commissioner McCarthy, voted to
7 adjourn the meeting at 7:15 p.m.

8 Respectfully submitted by Ryan Wynn, Executive Secretary, present at meeting.

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