

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RI 02920**

Karma Club, Inc.	:	
Appellant,	:	
	:	
v.	:	DBR No.: 13LQ030
	:	
The City of Providence Board of Licenses,	:	
Appellee.	:	

**RECOMMENDATION AND INTERIM ORDER
GRANTING THE STAY OF DECLATATORY RULING**

I. FACTS AND TRAVEL

On March 15, 2013, Karma Club Inc. (“Appellant”) filed a Notice of Appeal (the “Appeal”) with Department of Business Regulation (“Department”) seeking review of a liquor licensing decision of the City of Providence Board of Licenses (“Board”). Decision on the facts of the Appeal was stayed in light of a “Request for Advisory Opinion” filed by the Appellant, asking the Department to answer the question of whether, based on its legal interpretation, “bottle service” is illegal in Rhode Island. The Department subsequently issued a Declaratory Ruling Order (“Declaratory Order”) expressing the Department’s legal opinion that “bottle service” is not illegal in Rhode Island, provided that certain control mechanisms are in place.

The Board appealed the Declaratory Order to the Superior Court pursuant to R.I. Gen. Laws § 42-35-15. The Board now moves the Department to issue an order staying

its Declaratory Order until the Superior Court decides its appeal (“Stay of Declaratory Order”).

II. JURISDICTION

Under R.I. Gen. Laws § 3-7-21, the Department, in adjudicating an appeal of a decision of a local licensing body, has the power “to make *any* decision *or* order,” including an order staying its own decision, subject to relevant provisions of the Rhode Island Administrative Procedures Act (“APA”), § 42-35-1 *et seq.* APA § 42-35-8 gives the Department the specific authority to issue declaratory rulings. *See* Central Management Regulation 3: Declaratory Rulings and Petitions (“CMR 3”).

III. DISCUSSION

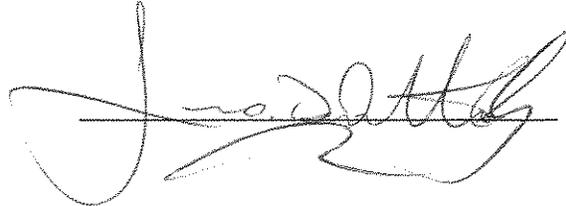
Under 42-35-15(c), upon the filing of a complaint in Superior Court to review an agency action under the APA, “[t]he agency may grant, or the reviewing court may order, a stay upon the appropriate terms.” In support of its motion for a stay, the Board asserted that it has received inquiries from licensees expressing confusion regarding the issue of “bottle service.” In light of this representation and with the intention of issuing additional guidance for licensees, *i.e.* rules and regulations or otherwise, the undersigned recommends issuing the stay of the Declaratory Order to be effective for a period of forty-five (45) days or until a decision is rendered by the Superior Court, whichever is sooner.¹

¹ This stay should not be construed as a change in the Department’s legal opinion expressed in the Declaratory Order. The Department intends to fully defend its legal position on “bottle service,” reserving its response to the Board’s arguments on the substance of its Order for the Superior Court.

RECOMMENDATION

Based on the forgoing, the undersigned recommends issuing the stay of the Declaratory Order to be effective for a period of forty-five (45) days or until a decision is rendered by the Superior Court, whichever is sooner.

Date: 5/31/2013



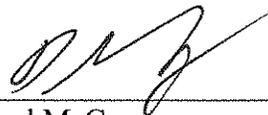
Louis A. DeQuattro, Jr., Esq., CPA
Hearing Officer
Deputy Director & Executive Counsel

INTERIM ORDER

I have read the Hearing Officer's recommendation and take the following action

ADOPT
 REJECT
 MODIFY

Date: 31 May 2013



Paul McGreevy
Director

Entered as an Administrative Order No.: B-129 this 31st day of May, 2013.

NOTICE OF APPELLATE RIGHTS

THIS ORDER IS REVIEWABLE BY THE SUPERIOR COURT PURSUANT TO R.I. GEN. LAWS § 42-35(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 ITSELF STAY ENFORCEMENT OF THIS ORDER.

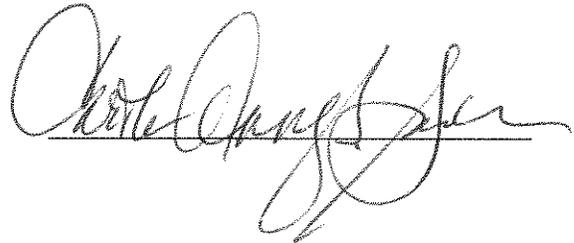
CERTIFICATION

I hereby certify on this 31st day of May, 2013 that a copy of the within Order and Notice of Appellate Rights was sent by e-mail and first class mail, postage prepaid to -

Peter Petrarca, Esq.
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and by email to Maria D'Alessandro, Deputy Director, Securities, Commercial Licensing and Racing & Athletics

A handwritten signature in black ink, appearing to read "Maria D'Alessandro", written over a horizontal line.