



Service Nova Scotia
Alcohol, Gaming, Fuel, & Tobacco
Executive Director

Torrington Place
2nd Floor
780 Windmill Road
PO Box 545
Dartmouth, NS
B2Y 3Y8

902.424.4884 T
TOLL FREE IN NS
1.877.565.0556
902.424.0684 F

Notice of Proposed Disciplinary Action

To: Liverpool Bowling Centre Ltd. o/a Spirits on the Mersey
344 Main Street, Liverpool, Nova Scotia,
Eating Establishment Liquor License #004299 and
Lounge License #004300
Video Lottery Registration Certificate # 004300

From: John R. MacDonald, Executive Director
Alcohol, Gaming, Fuel and Tobacco, SNS

Date: September 28, 2018

Subject: Notice of Disciplinary Action
Liverpool Bowling Centre Ltd. o/a Spirits on the Mersey
344 Main Street, Liverpool, Nova Scotia

Current Situation

An Agreed Statement of Facts was submitted to this office on September 25, 2018 wherein the licensee acknowledged violation of sections 61(1)(a) and 61(2) of the Nova Scotia Liquor Licensing Regulations, relating to violations observed on December 2, 2017;

Persons not permitted in, or to be served in, licensed premises

61(1)(a) A person who is apparently under the influence of liquor;

61(2) A licensee must not permit a person who is drunk to be in their licensed premises.

The licensee has agreed on the following penalty:

Establishment Liquor License No. 004299, Lounge Liquor License No. 004300 and Video Lottery Registration Certificate No. VL004300 be suspended for a period of one day (1) day, to be served on October 5, 2018.



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The staff of the premises will attend a staff instruction offered by AGFT, this date will be mutually agreed upon by the Licensee and AGFT.

The office of the Executive Director, Alcohol and Gaming Division, Service Nova Scotia, has considered the matter and issued a Notice of Disciplinary Action on September 28, 2018, pursuant to section 47B of the *Nova Scotia Liquor Control Act*.

Objection Process

The licensee may object in writing to the above proposed action in accordance with section 81A subsections (3) and (4). To object to a proposed action, the permanent licensee on whom the notice of proposed action was served must file a written notice of objection with the Executive Director prior to October 4, 2018 at 16:30 hours.

A notice of objection may be in any form, but it must be in writing and include all of the following:

- (a) the name, address and phone number of the permanent licensee;
- (b) a copy of the notice of proposed action; and
- (c) the reason the permanent licensee objects to the proposed action.

After considering any objection to a notice of proposed action, the Executive Director must do one of the following:

- (a) take the proposed action;
- (b) rescind the notice of proposed action;
- (c) vary the proposed action, but only if the action taken is permitted by clause 47(1)(b), (c) of the *Liquor Control Act*; or
- (d) refer the matter to the Review Board in accordance with subsection 47B(1)(b) of the Act.

Notice of Action

The office of the Executive Director, Alcohol, Fuel and Tobacco, Service Nova Scotia has concluded that a one (1) day suspension of Spirits on the Mersey, 344 Main Street, Liverpool, Nova Scotia. Eating Establishment Liquor License #004299, Lounge License #004300 and Video Lottery Registration Certificate #004300 shall be served on October 5, 2018, as was determined in collaboration with the licensee.



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In accordance with sections 83(1) and (2) of the *Nova Scotia Liquor Licensing Regulations* a Suspension Notice will be posted at the premises stating that the Liquor Licenses and Video Lottery Registration Certificate have been suspended. This suspension does not prevent the business from providing the sale of food or other non-liquor related services.

John B. MacDonald, Executive Director
Alcohol, Gaming, Fuel and Tobacco
Service Nova Scotia

IN THE MATTER OF the *Liquor Control Act*, R.S.N.S. 1989, c. 260, as amended

- and -

IN THE MATTER OF an alleged violation of Regulations 61(1)(a), 61(2)
of the *Liquor Licensing Regulations* by Liverpool Bowling Centre Ltd.
carrying on business as Spirits on the Mersey Dining Room and Lounge

AGREED STATEMENT OF FACTS

- I. Liverpool Bowling Centre Ltd. is a body corporate incorporated under the laws of the Province of Nova Scotia, and carrying on business as Spirits on the Mersey Dining Room and Lounge ("the Licensee").
- II. The Licensee is the holder of Eating Establishment Liquor License No. 004299 and Lounge Liquor License No. 004300 which covers the premises known as Spirits on the Mersey Dining Room and Lounge, located at 344 Main Street, Liverpool, Nova Scotia ("the Licensed Premises"). The Licensee is also registered to operate Video Lottery devices in accordance with the Gaming Control Act and the Video Lottery Regulations.
- III. The Licensee acknowledges that it has violated Regulations 61(1)(a) and 61(2) of the Liquor Licensing Regulations and accepts responsibility for the violations.
- IV. The circumstances of the violation of section 61(1)(a) and 61(2) on December 2, 2017 are as follows:
 - a. On December 2, 2017 at approximately 23:00 Compliance Officer Ryan MacLellan ("CO MacLellan") working with and for Alcohol, Gaming, Fuel and Tobacco, entered the parking lot the Licensed Premises to conduct a routine inspection. Routine inspections of licensed premises form part of the regular employment duties of a Compliance Officer with AGFT.
 - b. From his vehicle, CO MacLellan observed a male patron exit the licensed premises twice. Each time the patron exited the premises, he walked by CO MacLellan's vehicle. On both occasions the patron staggered and urinated behind a tree.
 - c. CO MacLellan entered the licensed premises and observed the male patron for approximately 30 minutes. During that time, the patron left the premises twice to smoke and urinate.
 - d. CO MacLellan observed the male patron blink heavily, relax, droop on the bar, and appear to fall asleep.
 - e. CO MacLellan observed the bartender nudge the patron to wake him and serve him another beer.

- f. CO MacLellan observed the patron's head droop and the patron fall asleep between drinks of beer. CO MacLellan also observed the patron again leave the licensed premises, the patron had difficulty negotiating the room, staggering back and forth.
- V. This matter has been brought before the Executive Director of the Alcohol, Gaming, Fuel and Tobacco, Service Nova Scotia, for the imposition of a penalty in respect of the Licensees violation of sections 61(1)(a) and 61(2) of the *Nova Scotia Liquor Licensing Regulations*.
- VI. The Licensee and Alcohol, Gaming, Fuel and Tobacco jointly recommend that:

Eating Establishment Liquor License No. 004299 and Lounge Liquor License No. 004300 be suspended for a period of one day (1) to be served within 30 days from the date of execution of this Agreement.

The staff of the premises attend a staff instruction offered by AGFT, the date of which will be mutually agreed upon by the Licensee and the AGFT.

Video Lottery Registration Certificate VL004300 will also be suspended during the one day suspension of the liquor licenses and the video lottery terminals will not be played.

In accordance with sections 83 (1) and (2) of the *Nova Scotia Liquor Licensing Regulations* a Suspension Notice will be posted at the licensed premises stating that the Liquor Licenses have been suspended. This does not prevent the business from providing the sale of food or other non-liquor related services.

7. ENTIRE AGREEMENT

This Agreed Statement of Facts contains the entire agreement between the parties. There are no undertakings or representations expressed or implied, other than those contained in this agreement.

On behalf of Spirits on the Mersey Dining Room and Lounge:



Licensee, Liverpool Bowling Centre Ltd.



Date

On behalf of Alcohol, Gaming, Fuel and Tobacco:



Jennifer Price Hudson
Director, Investigation and Enforcement



Date