
Notice of Proposed Disciplinary Action

To: Sunset Dining Room and Lounge – EELL No. 002984 and Lounge No. 002985
3047136 Nova Scotia Limited
(411 Conway Highway, Unit 303, Digby, Nova Scotia)

From: John R. MacDonald, Executive Director, Alcohol and Gaming Division
Service Nova Scotia & Municipal Relations

Date: December 28, 2012

Subject: Notice of Disciplinary Action Against – Sunset Dining Room and Lounge
Reference #: 2012_09_27_002984

Current Situation

An Agreed Statement of Facts was submitted to this office on December 18, 2012, wherein the licensee acknowledged violation of sections 44(1), 44(2), 45(a), 45(b) and 45(c) of the *Nova Scotia Liquor Licensing Regulations* on September 27, 2012, and agreed on the following penalty:

The Eating Establishment Liquor License No. 002984 and Lounge License No. 002985 be suspended for a period of one (1) day, to be served on Saturday, January 5, 2013.

The office of the Executive Director, Alcohol and Gaming Division, Service Nova Scotia and Municipal Relations, has considered the matter and issued a Notice of Disciplinary Action on December 28, 2012, pursuant to section 47B of the *Nova Scotia Liquor Control Act*; Document: 2012_09_27_002984.

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 no later than 14 days after the date the notice of proposed action was served on the permanent licensee.

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 and Gaming Division, Service Nova Scotia and Municipal Relations has concluded that:

A one (1) day suspension of Sunset Dining Room and Lounge, 411 Conway Highway, Unit 303, Digby, NS: Eating Establishment Liquor License No. 002984 and Lounge License No. 002985, shall be served at the request of the licensee, on Saturday, January 5th, 2013.

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 License has been suspended. This suspension does not prevent the business from providing the sale of food or other non-liquor related services.



John R. MacDonald
Executive Director, Alcohol and Gaming
Service Nova Scotia and Municipal Relations

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

- and -

IN THE MATTER OF ALLEGED VIOLATIONS OF sections 44(1), 44(2), 45(a), 45(b), and 45(c) of the NOVA SCOTIA LIQUOR LICENSING REGULATIONS by 3047136 Nova Scotia Limited, holder of Eating Establishment Liquor License No. 002984, Lounge Liquor License No. 002985, and Video Lottery Registration Certificate No. VL002985 for premises known as Sunset Dining Room and Lounge, located at 411 Conway Highway, Unit 303, Digby, Nova Scotia

AGREED STATEMENT OF FACTS

1. 3047136 Nova Scotia Limited is the holder of Eating Establishment Liquor License No. 002984, Lounge Liquor License No. 002985, and Video Lottery Registration Certificate No. VL002985 which covers premises known as Sunset Dining Room and Lounge, located at 411 Conway Highway, Unit 303, Digby, Nova Scotia (hereinafter “the Licensed Premises”).
2. The Licensee acknowledges that it has violated sections 44(1), 44(2), 45(a), 45(b), and 45(c) of the *Nova Scotia Liquor Licensing Regulations* and accepts responsibility for the violations.
3. The circumstances of the violations are as follows:
 - a. On September 28, 2012, Andrew Hickey, a Compliance Officer working within and for the Nova Scotia Alcohol and Gaming Division (AGD), received a verbal complaint filed by Cst. Andrew Eaton of the Digby RCMP. The complainant described incidents occurring on or about September 27, 2012 within the Licensed Premises.
 - b. The complaint was summarized by Compliance Officer Hickey as follows:

Complaint from the RCMP in Digby about being called to this establishment because of a man with a knife. When they showed up they dealt with an unrelated matter involving two male patrons, one of whom was underage {DOB: 1994-01-10 – 18 years of age} and causing fights, being combative, and subsequently arrested and charged with underage drinking.
 - c. Compliance Officer Hickey conducted an investigation into the incidents alleged to have occurred in or about the Licensed Premises on September 27, 2012. Compliance Officer Hickey interviewed Joe Hattie on October 3, 2012. Mr. Hattie is the designated owner/manager of the Licensed Premises. Mr. Hattie advised Compliance Officer Hickey that the underage patron found in the Licensed Premises by Digby RCMP Officers had been served alcohol by bar staff. Mr. Hattie also advised that the underage patron was not asked by staff for identification.

- d. Compliance Officer Hickey reviewed the video surveillance from September 27, 2012 of the Licensed Premises which depicted the incidents described in the complaint filed by Cst. Andrew Eaton. The surveillance footage confirmed that the underage male patron was present in the licensed premises after 9:00 pm with a drink in his hand.
4. This matter has been brought before the Executive Director of the Alcohol and Gaming Division, Investigation and Enforcement Section, Service Nova Scotia and Municipal Relations, for the imposition of a penalty in respect of the Licensees violation of sections 44(1), 44(2), 45(a), 45(b), and 45(c) of the *Nova Scotia Liquor Licensing Regulations*.
5. The Licensee and the Alcohol and Gaming Division jointly recommend that


Eating Establishment Liquor License No. 002984, Lounge Liquor License No. 002985 and Video Lottery Terminal Registration Certificate No. VL002985 be suspended for a period of one (1) day to be served on January 5, 2013.


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 and Video Lottery Terminals have been suspended. This does not prevent the business from providing the sale of food or other non-liquor related services.

6. 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 3047136 Nova Scotia Limited
operating as Sunset Dining Room and Lounge
(EELL#002984/Lounge#002985/VLT#002985) :**


Joseph D. Hattie
Licensee, Sunset Dining Room and Lounge


Date

On behalf of the Alcohol and Gaming Division:


Darlene T. Hancock
Acting Regional Manager, Western and Metro Region
Investigation and Enforcement Division


Date