

PETITION TO FINE, SUSPEND, OR	*	BEFORE THE ALCOHOLIC
REVOKE THE ALCOHOLIC	*	
BEVERAGE LICENSE OF KWOK TO	*	BEVERAGE HEARING BOARD
WONG ON BEHALF OF TURF VALLEY	*	
ASIAN BISTRO, INC., t/a RED PARROT	*	FOR
ASIAN BISTRO	*	
	*	HOWARD COUNTY, MARYLAND
	*	
	*	Case No.: 17- 06-V

DECISION AND ORDER

The Board of License Commissioners for Howard County, Maryland (the “Liquor Board”), pursuant to Rule 1.02(A) of the Liquor Board Rules and Regulations, has delegated the authority to hear and decide cases to the Alcoholic Beverage Hearing Board for Howard County, Maryland (the “Hearing Board”). This Proposed Decision and Order shall take effect immediately in accord with Rule 7.05(C), and shall become Final, as provided in Rule 6.13.

On January 24, 2017, the Hearing Board heard the Petition of Howard County, Maryland and Detective Mark Baxter, Alcoholic Beverage Inspector (collectively “Petitioners”), to Fine, Suspend, or Revoke the Class B Beer, Wine, and Liquor 7-day on-sale license (“License”) of Kwok To Wong (“Licensee”), held on behalf of Turf Valley Asian Bistro, Inc., t/a Red Parrot, located at 11105 Resort Road, Unit 101, Ellicott City, Maryland 21042. The Petitioners were represented by David Moore, Senior Assistant County Solicitor. The Licensee was not represented by an attorney.

All of the documents on file for the License were incorporated into the record by reference. These include the following: a letter dated December 19, 2016, from the Liquor Board Administrator to the Licensee enclosing the Petition to Fine, Suspend, or Revoke the

alcoholic beverage license for Turf Valley Asian Bistro, Inc., t/a Red Parrot Asian Bistro, and advising him of the hearing date; and an email dated January 12, 2017, from the Alcoholic Beverage Inspector stating that the property had been posted.

SUMMARY OF PROCEEDINGS

The Licensee was advised of his right to counsel and an interpreter and declined both. Licensee Kwok To Wong was sworn and gave his address as 5401 Bucksaw Court, Columbia, Maryland 21044. Yen Wan Cheng, the wife of the Licensee, was sworn and gave her address as 5401 Bucksaw Court, Columbia, Maryland 21044.

Counsel for Petitioners proffered the following information for the record.

On July 14, 2016, Howard County Police officer PFC Sean Kent took a 16 year old female volunteer into the Red Parrot Asian Bistro to conduct an underage alcohol sales test. The underage female was able to purchase an alcoholic beverage. Upon further investigation, PFC Kent learned that no one on premises was alcohol awareness certified. After Detective Baxter was notified of the violation, he began an investigation. During each of Detective Baxter's subsequent visits to the restaurant, there was no one present who was alcohol awareness certified while alcoholic beverages were being served. During the course of the ongoing investigation, Detective Baxter learned that the restaurant was being sold by Red Parrot Asian Bistro. It was determined that there was not an appropriate management agreement in place and other violations were identified.

SUMMARY OF TESTIMONY

PFC Sean Kent, was sworn and testified that he has been a police officer with the Howard County Police Department for eight years. PFC Kent testified that on July 14, 2016, he assisted Detective Baxter by conducting an underage sales test at Red Parrot Asian Bistro. PFC Kent testified that he took a 16 year old female into the restaurant for the test.

PFC Kent testified that a server, later identified as Amy Engineer, placed an alcoholic drinks menu in front of the underage female, who then ordered a red sangria alcoholic beverage from the menu. PFC Kent testified that Ms. Engineer asked the female for identification, at which time the 16 year old said that she did not have identification. PFC Kent testified that Ms. Engineer stated that she trusted her, and that she looked like she was "21-ish". Ms. Engineer brought the drink to the table and placed it in front of the underage female. PFC Kent testified that he smelled and tasted the beverage and detected the presence of alcohol. He stated that after the sale he approached Ms. Engineer and informed her that the female was 16 years old. PFC Kent asked Ms. Engineer if the manager was on duty, and she said he was out of town, but there was a temporary manager he could speak to, Joseph Chuisano. PFC Kent testified that he spoke to Mr. Chuisano who was not alcohol awareness certified and did not know where any alcohol awareness certificates were located. Ms. Engineer told PFC Kent that she was sorry, and that she did not have any alcoholic beverage training. PFC Kent testified that he wrote a report, and submitted it to Detective Baxter. The Licensees asked no questions of PFC Kent.

Detective Mark Baxter, Howard County Alcoholic Beverage Inspector, was sworn and testified that he was informed about the violation on July 15, 2016. On July 19, 2016, Detective Baxter testified that during his follow-up investigation at the Red Parrot Asian Bistro, he asked to speak to the manager, Julian Lo, and was told she was on vacation. Detective Baxter also spoke to Amy Engineer about the manager on duty the night of the underage sale, Mr. Chuisano, and was told that he was out on a delivery. When Mr. Chuisano returned, Det. Baxter determined that he was not alcohol awareness certified. Det. Baxter testified that there was no one present who was alcohol awareness certified. On July 20, 2016, at approximately 5:00 P.M., Detective Baxter testified that he went back to the

restaurant to speak to Ms. Lo or Mr. Wong. Mr. Wong was not there, and Detective Baxter stated that he determined that no one on premises was alcohol certified. Detective Baxter testified that Mr. Wong would be in later that evening. When Det. Baxter returned to the restaurant later that evening and spoke to Mr. Wong. Detective Baxter testified that Mr. Wong had his alcohol certification, and said he understood someone with an alcohol certification had to be on premises at all times that alcoholic beverages were being served. Detective Baxter testified that Mr. Wong told him that he had been there all day, however, he had not been there earlier when Detective Baxter went to the restaurant. Detective Baxter testified that Mr. Wong told him the permanent manager would be in on July 21, 2016, and that she was alcohol awareness certified.

Detective Baxter testified that on July 21, 2016, he went back to Red Parrot Asian Bistro to meet Ms. Lo, the manager. Detective Baxter testified that he asked Ms. Lo for her alcohol awareness certificate, and found out that she had not been certified for seven years.

Detective Baxter testified he returned to the restaurant on July 25, 2016 at 12:30 P.M., where he spoke with Amy Engineer and Mr. Chuisano. Detective Baxter testified that Mr. Wong was not there and was supposed to be coming in at 5 o'clock.

Detective Baxter testified that he received an email on August 22, 2016, from Charles Brown, Fire Marshal's Office. Mr. Brown told Detective Baxter that Red Parrot Asian Bistro had been sold. Detective Baxter testified that nothing was in the file to indicate this.

Detective Baxter testified that he went to the restaurant and spoke to Ms. Lo, the manager, who said that they were no longer Red Parrot Asian Bistro, but now were Asian Court. Detective Baxter testified that Ms. Lo was kept as the manager, but she said Mr. Wong did not come to the restaurant anymore. Ms. Lo told Detective Baxter that she was

still not alcohol awareness certified, nor was anyone else at the restaurant. Detective Baxter testified that he observed customers drinking alcoholic beverages, and told Ms. Lo they should not be serving alcoholic beverages to anyone, without someone being on premises who is alcohol awareness certified.

Detective Baxter also testified that when he walked into Red Parrot Asian Bistro, he realized that they no longer had a vestibule. Detective Baxter testified that he contacted Don Mock, Chief of Plan Review for the Department of Inspections, Licenses, and Permits, who told him there was no permit on file, and even if a permit had been applied for it would not have been approved because a vestibule is required by the Energy Conservation Code.

Detective Baxter testified that he called Mr. Wong and asked about his role at the restaurant. Detective Baxter testified that Mr. Wong told him he no longer had any interest in the business. Detective Baxter testified that he sent a certified letter to Mr. Wong at the restaurant, and it came back "undeliverable."

Detective Baxter testified on September 29, 2016, Mr. Wong contacted him by telephone and told him that he had sold the business August 1, 2016 and had no ongoing presence at the restaurant. Detective Baxter testified Mr. Wong referred him to an attorney involved in the sale, who sent him a management agreement that was effective September 6, 2016.

The Licensee had no questions for Detective Baxter.

Yen Wan Cheng (AKA Wendy Cheng), wife of the Licensee, testified that she was at the business daily, during the morning hours. Ms. Cheng testified that she told all employees to check customers' identification cards. She stated that the server should not have assumed that the underage female was over 21, and she apologized for that. Ms. Cheng testified that she and her husband are both alcohol awareness certified, but normally,

neither were at the restaurant between 2:00 P.M. and 5:00 P.M., because they were not very busy during that time.

Ms. Cheng testified that she also told Ms. Julian to take an alcohol awareness course, and Ms. Julian told her that she had taken the course. Ms. Cheng testified that she was not aware that someone had to be on premises who was alcohol certified at all times that alcoholic beverages were being served. She stated that they did not prohibit employees from selling alcohol when there was no certified person present.

Ms. Cheng testified that she was present when the sale of the business took place on August 1, 2016. Ms. Cheng testified that they agreed to help the purchasers until the transfer took place. Ms. Cheng testified that she did receive calls from the purchasers, who were the owners of Asian Court, asking how to run the business more effectively. Ms. Cheng testified that her attorney did not advise them that it was necessary to submit a management agreement, and the attorney for Asian Court said he would submit the management agreement to the Liquor Board. Ms. Cheng testified that they did not realize that they still were responsible for the liquor license, because Asian Court had their own liquor license.

Ms. Cheng testified that the vestibule was removed by the new owners. Ms. Cheng testified that she suggested people to remove the glass for the new owners, but that she did not know that a permit was required.

Mr. Wong testified that he did have his alcohol awareness certificate in the office, and that he showed it to Detective Baxter. Mr. Wong testified that he told his employees to check ID, but that he did not instruct the employees to not serve alcoholic beverages at the restaurant when he or his wife were not there, because they are not very busy between 2:00 P.M. to 5:00 P.M. Mr. Wong testified that he sold the restaurant on August 1, 2016.

George Belleville was sworn and testified that he was the previous resident agent, and the newly proposed resident agent for Asian Court. Mr. Belleville testified that he understood that the sale of Red Parrot Asian Bistro took place over time, and not on one specific date. Mr. Belleville testified that he was not familiar with the management agreement. Mr. Belleville testified that many of the employees of Asian Court are alcohol awareness certified, and that the new purchasers are in control of the restaurant.

Based on the evidence presented at the hearing, the Board of License Commissioners makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Hearing Board finds that Kwok To Wong is a Licensee on behalf of Turf Valley Asian Bistro, Inc., t/a Red Parrot Asian Bistro, a Class B Beer, Wine, and Liquor 7-day on-sale license located at 11106 Resort Road, Unit 101, Ellicott City, Maryland 21042.
2. The Hearing Board finds that on September 25, 2013, Kwok To Wong was granted the Class B License after a hearing in which he testified that he had read the Rules and Regulations and that he would abide by them.
3. The Hearing Board finds that the Licensee was found liable on March 24, 2015 for violating the following Rules and Regulations:
 - a. Liquor Board Rule 4.01(A) – Records;
 - b. Liquor Board Rule 4.04 – Compliance with Laws and Regulations;
 - c. Liquor Board Rule 4.06 – Display of Licenses;
 - d. Liquor Board Rule 5.07 – Acts Contrary to Law; and
 - e. Liquor Board Rule 5.10(A) – Relations with Wholesalers

4. The Hearing Board finds that the Licensee has admitted to the following new violations of the Rules and Regulations:
 - a. Liquor Board Rule 4.01(D) – Records;
 - b. Liquor Board Rule 4.04 – Compliance with Laws and Regulations;
 - c. Liquor Board Rule 4.09(A) – Agreement in Anticipation of Transfer of License;
 - d. Liquor Board Rule 4.10(A) – Alcohol Awareness Program;
 - e. Liquor Board Rule 4.10(B) – Alcohol Awareness Program;
 - f. Liquor Board Rule 4.10(C) – Alcohol Awareness Program;
 - g. Liquor Board Rule 5.01 – Sales to Minors;
 - h. Liquor Board Rule 5.07 – Acts Contrary to Law;
 - i. Liquor Board Rule 5.25(B) - Alterations
5. The Hearing Board finds that it is undisputed that Amy Engineer, an employee of the Licensee, served a 16 year-old female an alcoholic beverage on July 14, 2016, in violation of State law and the Rules and Regulations.
6. The Hearing Board finds that at the time of the illegal underage sale, there was no person at the licensed premises who was alcohol awareness certified and there were no alcohol awareness certificates presented.
7. The Hearing Board finds that Ms. Engineer told the Alcoholic Beverage Inspector that she had had no training regarding the service of alcoholic beverages.
8. The Hearing Board finds that on July 19, 2016, the Alcoholic Beverage Inspector inspected the establishment while it was open for business and there was no person at the licensed premises who was alcohol awareness certified.

9. The Hearing Board finds that the manager, Mr. Chuisano, who was originally proffered as being alcohol awareness certified, was not.
10. The Hearing Board finds that on July 20, 2016, the Alcoholic Beverage Inspector inspected the establishment while it was open for business and there was no person at the licensed premises who was alcohol awareness certified and the Licensee was not present.
11. The Hearing Board finds that the Licensee made a false statement to the Alcoholic Beverage Inspector on July 20, 2016 when he told the Inspector that he had been at the establishment the entire day.
12. The Hearing Board finds that another manager, Ms. Lo, who was proffered as being alcohol awareness certified, was not.
13. The Hearing Board finds that on July 21, 2016, the Alcoholic Beverage Inspector inspected the establishment while it was open for business and there was no person at the licensed premises who was alcohol awareness certified.
14. The Hearing Board finds that on July 25, 2016, the Alcoholic Beverage Inspector inspected the establishment while it was open for business and there was no person at the licensed premises who was alcohol awareness certified.
15. The Hearing Board finds that based on information that the establishment had been sold, the Alcoholic Beverage Inspector inspected the establishment on August 22, 2016, while it was open for business and there was no person at the licensed premises who was alcohol awareness certified.
16. The Hearing Board finds that the Licensee allowed physical alterations to the licensed premises that required County building permits, which were not obtained, or even applied for.

17. The Hearing Board finds that on or about August 1, 2016, the Licensee entered into an agreement to sell the establishment but that no management agreement was submitted to the Board until on or after September 22, 2016.
18. The Hearing Board finds that the Licensee has violated the following Rules and Regulations:
 - a. Liquor Board Rule 4.01(D) – Records
 - b. Liquor Board Rule 4.04 – Compliance with Laws and Regulations;
 - c. Liquor Board Rule 4.09(A) – Agreement in Anticipation of Transfer of License;
 - d. Liquor Board Rule 4.10(A) – Alcohol Awareness Program;
 - e. Liquor Board Rule 4.10(B) – Alcohol Awareness Program;
 - f. Liquor Board Rule 4.10(C) – Alcohol Awareness Program;
 - g. Liquor Board Rule 5.01 – Sales to Minors;
 - h. Liquor Board Rule 5.07 – Acts Contrary to Law;
 - i. Liquor Board Rule 5.19 – False Statements; and
 - j. Liquor Board Rule 5.25(B) - Alterations
19. The Hearing Board finds that the Licensee has consistently and repeatedly operated the licensed establishment with a knowing disregard for State law and the Rules and Regulations and in a manner that threatens public health and safety.
20. The Hearing Board finds that the number and severity of the violations require that the License be revoked.

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Kwok To Wong is a Licensee on behalf of Turf Valley Asian Bistro, Inc., t/a Red Parrot Asian Bistro, a Class B Beer, Wine, and Liquor

7-day on-sale License located at 11106 Resort Road, Unit 101, Ellicott City, Maryland 21042.

2. The Hearing Board concludes that the Licensee has violated the following provisions of the Rules and Regulations of the Liquor Board:
 - a. Liquor Board Rule 4.01(D) – Records
 - b. Liquor Board Rule 4.04 – Compliance with Laws and Regulations;
 - c. Liquor Board Rule 4.09(A) – Agreement in Anticipation of Transfer of License;
 - d. Liquor Board Rule 4.10(A) – Alcohol Awareness Program;
 - e. Liquor Board Rule 4.10(B) – Alcohol Awareness Program;
 - f. Liquor Board Rule 4.10(C) – Alcohol Awareness Program;
 - g. Liquor Board Rule 5.01 – Sales to Minors;
 - h. Liquor Board Rule 5.07 – Acts Contrary to Law;
 - i. Liquor Board Rule 5.19 – False Statements; and
 - j. Liquor Board Rule 5.25(B) - Alterations
3. The Hearing Board concludes that these violations and the violations of March 2015 represent a serious disregard for State law and the Rules and Regulations and threaten public health and safety.
4. The Hearing Board concludes that the number and severity of the violations require that the Class B Licensee issued to Kwok To Wong be revoked.

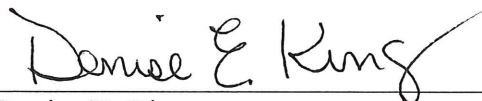
ORDER

For the foregoing reasons, and upon finding violations of Rules 4.01(D), 4.04, 4.09(A), 4.10(A), 4.10(B), 4.10(C), 5.01, 5.07, 5.19, and 5.25(B) of the Liquor Board's Rules and Regulations, it is this 14th day of February, 2017, by the Alcoholic Beverage Hearing Board for Howard County, Maryland, **ORDERED**:

1. That the Class B Beer, Wine, and Liquor 7-day on-sale License of Kwok To Wong, held on behalf of Turf Valley Asian Bistro, Inc., t/a Red Parrot Asian Bistro, located at 11105 Resort Road, Unit 101, Ellicott City, Maryland 21042, be, and hereby is, **REVOKED**, effective immediately; and it is further **ORDERED**
2. That the Licensees immediately surrender the License to the Liquor Board Administrator.
3. That the Alcoholic Beverage Inspector is authorized to seize the License immediately.

ATTEST:

ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND



Denise E. King
Administrator



Heather Gaetano, Chairperson




Mary Bird Vice-Chairperson

REVIEWED BY HOWARD COUNTY
OFFICE OF LAW
GARY W. KUC
COUNTY SOLICITOR




Charles C. Feaga, Member



Lewis Taylor, Esquire
Assistant County Solicitor

ABSENT
Gene Ryan, Member



Charley C. Sung, Member

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER MAY APPEAL THE
DECISION TO THE LIQUOR BOARD WITHIN TEN DAYS OF THE DATE OF THE
DECISION, IN ACCORD WITH RULE 6.14 OF THE RULES AND REGULATIONS OF
THE LIQUOR BOARD.