

PETITION TO FINE, SUSPEND, OR	*	BEFORE THE ALCOHOLIC
REVOKE THE ALCOHOLIC	*	
BEVERAGE LICENSE OF JOSE	*	BEVERAGE HEARING BOARD
CARINO ON BEHALF OF	*	
POLLO FELIZ AND TAQUERIA, INC.,	*	FOR
T/A POLLO FELIZ AND TAQUERIA	*	
	*	HOWARD COUNTY, MARYLAND
	*	
	*	Case No.:18-34-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”).

On June 5, 2018, the Hearing Board heard the Petition of Howard County, Maryland and Detective Mark Baxter, the Alcoholic Beverage Inspector (collectively “Petitioners”), to Fine, Suspend, or Revoke the Class B, Beer, Wine, and Liquor 7-day on-sale license of Jose Carino (“Licensee”), held on behalf of Pollo Feliz and Taqueria, Inc., t/a Pollo Feliz and Taqueria, located at 8525 Baltimore National Pike, Suite B, Ellicott City, Maryland 21043. The Licensee represented by Stephan W. Fogleman, Esquire.

The hearing was properly advertised and the property posted pursuant to the Alcoholic Beverages Article of the Annotated Code of Maryland.

All the documents on file were incorporated into the record by reference.

STIPULATIONS

The parties agreed to stipulate to all of the allegations of the Petition, including the following:

1. Detective Mark Baxter, Petitioner, at the time of the Petition, was a sworn Howard County Police Officer, specially assigned and designated, pursuant to the applicable laws, as the Alcoholic Beverage Inspector for Howard County. In this capacity, he has the obligation, duty, and responsibility to investigate any licensed liquor establishment for any violations of the applicable liquor or other laws which may occur in the licensed establishment.

2. Howard County, Maryland, is a chartered county, organized pursuant to law, and has the authority, through the exercise of its police power, to enforce all the laws relating to alcoholic beverages.

3. On or before May 1, 2017, Respondents applied for and received a Class B Beer, Wine, and Liquor 7 day on-sale license for Pollo Feliz and Taqueria, Inc. t/a Pollo Feliz and Taqueria, 8525 Baltimore National Pike, Suite B, Ellicott City, Maryland 21043. Pollo Feliz and Taqueria is in Howard County and is subject to the jurisdiction of the Board of License Commissioners for Howard County.

4. At all times relevant to these proceedings, Respondents were responsible for the operation of Pollo Feliz and Taqueria, and were responsible for ensuring compliance with all local and State laws concerning the distribution, sale, and transfer of alcoholic beverages to members of the public.

5. On or about 1/4/18, DFC Baxter received notification of an incident, reported in Howard County Police Incident Report ("IR") #17-126626, from Howard County Police Officer Grayson Kershner, ID #5906, regarding Pollo Feliz & Taqueria, located at 8525

Baltimore National Pike, Suite B, Ellicott City. According to PO Kershner, on 12/16/17, at approximately 02:40 hours, he observed approximately six (6) subjects leaving the front door of the establishment. He then contacted an unnamed manager and bar staff inside of the business, who advised they allowed the customers to stay inside to talk because it was cold outside. The manager was advised by PO Kershner to have the business closed by 02:00 hours.

6. On 12/17/17, at 02:18 hours, PO Kershner again checked on the establishment and this time observed approximately ten (10) customers still inside of the bar. Looking inside the establishment, he observed a DJ playing in the front left corner, two (2) people dancing, and seven (7) customers seated at the bar with bottled beers and mixed drinks in hand or on the bar in front of them. He then contacted an unnamed manager and advised him that he was in violation of liquor laws and to close immediately.

7. On or about 1/24/18, DFC Baxter received notification from PO Kershner of another incident, reported in IR #18-6159, regarding the same location. In this incident, PO Kershner advised that while conducting a business check at this same location, on 1/20/18, at approximately 02:14 hours, he was able to enter the business and inside, he observed four (4) individuals at the bar drinking bottled beer. He observed a female bartender, after she observed PO Kershner, grab the beers from the patrons and quickly threw them in the trash can. Again, an unnamed manager was advised on the rules of legal alcohol operating hours.

8. After this incident, DFC Baxter requested that PO Kershner obtain names from the staff the next time he conducted a check. DFC Baxter also began to plan a detail to check on this establishment afterhours. Prior to a detail being conducted, DFC Baxter received notification of an additional incident on 2/18/18.

9. According to Howard County Police Cpl. Mark Ambrose, ID #5595, on 2/18/2018, himself, SGT Stuart Hammond, and PFC Jason Starr conducted a business check at Pollo Feliz and Taqueria, as reported in IR #18-15118. Upon arrival, Sgt. Hammond observed a number of vehicles still in the parking lot at 02:00 hours. When officers entered Pollo Feliz and Taqueria, approximately fifteen (15) customers were observed in the restaurant, not involved in cleaning or closing of the restaurant. Further, five (5) subjects were observed to be actively consuming alcoholic beverages, four (4) Corona beers and a margarita. Contact was made with the manager/owner, identified as Jose Carino, who is also the licensee. Mr. Carino was reminded of the legal closing time. Mr. Carino assured officers it would not happen again, and all patrons left the restaurant.

10. The Respondents committed the following violations:

- a) BLC Rule 4.04 – Compliance with Laws & Regulations
- b) BLC Rule 4.08 – Licensee’s Responsibility
- c) BLC Rule 5.07(A) – Consumption, Open Container or Sale During Prohibited Hours
- d) BLC Rule 5.07(B) – Consumption, Open Container or Sale During Prohibited Hours
- e) BLC Rule 5.07(C) – Consumption, Open Container or Sale During Prohibited Hours
- f) BLC Rule 5.07(D) – Consumption, Open Container or Sale During Prohibited Hours
- g) BLC Rule 5.08 – Acts Contrary to Law.

11. The Respondents have allowed Pollo Feliz and Taqueria to be used for acts which are contrary to local ordinances and against the public peace, safety, health or welfare.

SUMMARY OF TESTIMONY

Stephan W. Fogleman, attorney for the Licensee, proffered that the Licensee stipulates to the violations and that his client has made significant changes at the business to avoid future violations. He stated that Mr. Carino owns the Latin Market next door to the restaurant

and that he was not at the restaurant over the holidays. He proffered that Mr. Carino was not aware of the first two incidents and when he became aware of the violations both the DJ and the bartender were fired.

Mr. Fogleman further proffered that the restaurant has established a new policy of a 1:15 am last call and a 1:30 am closing to ensure there will be no further violations. He also noted that Mr. Carino and Pollo Feliz contribute to the community, specifically the Catholic Church at Wilde Lake Interfaith Center.

Jose Luis Carino, owner and licensee, was sworn and testified that he accepts responsibility for the violations and has made the necessary changes to assure that there will be no further problems.

He testified that he owns the Latin Market next door to Pollo Feliz and that he received a letter from the Howard County Health Department on January 11, 2018 indicating compliance with an underage tobacco sales check at his store. He also stated that he received a certificate of appreciation from County Executive Allan Kittleman for Business Appreciation Week in 2018.

Mr. Carino testified that he has six employees at Pollo Feliz who have been alcohol management certified by John Murry in TAMS training and one employee who has been certified in TIPS.

He said his manager, Christopher Taylor, has served as his day manager for many years and now has moved to evenings to assure that all the rules are followed appropriately. In addition, Mr. Carino noted that he has personally been at the business every night since February 18, 2018. The schedule ensures that one of them will be there at all times.

He also testified to the new policies that Mr. Fogleman proffered earlier, last call at

1:15a.m. and closing at 1:30 a.m. He testified his commitment to the Board that there will be no further violations at his establishment.

Mr. Carino stated his agreement with the proffer of his attorney.

The following Respondent's Exhibit was entered into the record:

Exhibit #1 – Certificate of Appreciation from County Executive Allan Kittleman

Exhibit #2 – Howard County Health Department Certificate

Exhibit #3 – Alcohol Awareness Certificates for Employees of Pollo Feliz

FINDINGS OF FACT

1. The Hearing Board finds that Jose Carino is the Licensee on behalf of Pollo Feliz and Taqueria, Inc., t/a Pollo Feliz and Taqueria, a Class B Beer, Wine, and Liquor 7-Day On-Sale license located at 8525 Baltimore National Pike, Suite B, Ellicott City, Maryland 21043.

2. The Hearing Board finds that the Licensee has stipulated to violating Liquor Board Rule 4.04 – Compliance with Laws and Regulations; Rule 4.08 – Licensee's Responsibility; Rule 5.07(A) – Consumptions, Open Container or sale During Prohibited Hours; Rule 5.07(B) – Consumption, Open Container or Sale During Prohibited Hours; Rule 5.07(C) – Consumption, Open Container or Sale During Prohibited Hours; and Rule 5.07(D) – Consumption, Open Container or Sale During Prohibited Hours; Rule 5.08 – Acts Contrary to Law.

3. The Hearing Board finds that the Licensee has violated Liquor Board Rule 4.04 – Compliance with Laws and Regulations; Rule 4.08 – Licensee's Responsibility; Rule 5.07(A) – Consumptions, Open Container or sale During Prohibited Hours; Rule 5.07(B) – Consumption, Open Container or Sale During Prohibited Hours; Rule 5.07(C) – Consumption, Open Container or Sale During Prohibited Hours; Rule 5.07(D) –

Consumption, Open Container or Sale During Prohibited Hours; Rule 5.08 – Acts Contrary to Law.

4. The Hearing Board finds that it is not necessary to revoke the License, but in order to ensure compliance with the law and Rules and Regulations, and protect the public health and safety, it is necessary to impose a fine of Five Hundred Dollars (\$500.00), and a fee of Two Hundred Seventy Dollars (\$270.00) for the cost of the hearing as provided by Rule 7.05(B).

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Jose Carino is the Licensee on behalf of Pollo Feliz and Taqueria, Inc., t/a Pollo Feliz and Taqueria a Class B, Beer, Wine, and Liquor 7-Day On-Sale license located at 8525 Baltimore National Pike, Suite B, Ellicott City, Maryland 21043.

2. The Hearing Board concludes that the Licensee has violated Liquor Board Rule 4.04 – Compliance with Laws and Regulations; Rule 4.08 – Licensee’s Responsibility; Rule 5.07(A) – Consumptions, Open Container or sale During Prohibited Hours; Rule 5.07(B) – Consumption, Open Container or Sale During Prohibited Hours; Rule 5.07(C) – Consumption, Open Container or Sale During Prohibited Hours; Rule 5.07(D) – Consumption, Open Container or Sale During Prohibited Hours; Rule 5.08 – Acts Contrary to Law.

3. The Hearing Board concludes that it is not necessary to revoke the License, but in order to ensure compliance with the law and Rules and Regulations, and protect the public health and safety, it is necessary to impose a fine of Five Hundred Dollars (\$500.00), and a fee of Two Hundred Seventy Dollars (\$270.00) for the cost of the hearing as provided by Rule 7.05(B).

ORDER

For the foregoing reasons, and upon finding a violation of Liquor Board Liquor Board Rules 4.04, 4.08, 5.07(A), 5.07(B), 5.07(C), Rule 5.07(D), and Rule 5.08, it is this 25th day of September, 2018, by the Alcoholic Beverage Hearing Board of Howard County

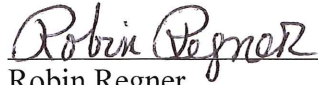
ORDERED:

1. That a **FINE** in the amount of **Five Hundred Dollars, (\$500.00)**, for violation

of Rules 4.04, 4.08, 5.07(A), 5.07(B), 5.07(C), 5.07(D), and 5.08 of the Liquor Board's Rules and Regulations, and a Fee of **Two Hundred and Seventy Dollars (\$270.00)**, for a total of **Seven Hundred Seventy Dollars (\$770.00)**, is **HEREBY IMPOSED** upon Jose Carino on behalf of Pollo Feliz and Taqueria, Inc., t/a Pollo Feliz and Taqueria, a Class B, Beer, Wine, and Liquor, 7-Day, On-Sale License located at 8525 Baltimore National Pike, Suite B, Ellicott City, Maryland 21043, and **SHALL BE PAID NO LATER THAN** October 15, 2018.

ATTEST:

ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND



Robin Regner
Board Administrator



Heather Gaetano, Chairperson

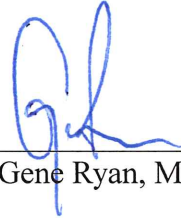


Mary Bird, Vice-Chairperson

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



Charles C. Feaga, Member



Gene Ryan, Member



Lewis Taylor, Esquire
Senior Assistant County Solicitor

~~ABSENT AT TIME OF SIGNING~~

~~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.