

PETITION TO FINE, SUSPEND, OR * BEFORE THE ALCOHOLIC
 REVOKE THE ALCOHOLIC *
 BEVERAGE LICENSE OF PATRICIA * BEVERAGE HEARING BOARD
 THOMPSON AND WAI YUNG LI *
 ON BEHALF OF BOTTOM OF THE * FOR
 BAY SEAFOOD WENDY, INC. T/A *
 MONIKAY GOLDEN XCAPE & * HOWARD COUNTY, MARYLAND
 LIQUOR STORE *
 * Case No.:20-09
 *

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 February 11, 2020, 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/off-sale license of Patricia Thompson and Wai Yung Li (“Licensees”), held on behalf of Bottom of the Bay Seafood Wendy, Inc. t/a Monikay Golden Xcape & Liquor Store, located at 9590 North Laurel Road, Laurel, Maryland 20723. The Petitioners were represented by Senior Assistant County Solicitor, David Moore. The Licensees were represented by Bob Kim, Esquire.

The hearing was properly advertised, and the property was 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. Nina Lai was sworn in as an Interpreter for the Licensees/Respondents.

STIPULATIONS

The parties agreed to stipulate to all the allegations in 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 the laws relating to alcoholic beverages.

3. At all times relevant to these proceedings, Respondents were responsible for the operation of Bottom of the Bay 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.

4. On or before May 1, 2019, Respondents applied for a Class D Beer, Wine and Liquor, 7-day On/Off Sale License for Bottom of the Bay Seafood Wendy, Inc. t/a, 9590 North Laurel Road, Laurel, Maryland 20723. Monikay Golden Xcape & Liquor Store is located in Howard County and is subject to the jurisdiction of the Board of License Commissioners for Howard County.

5. On August 30, 2019, an underage male cadet was sent into Monikay Golden Xcape & Liquor Store to attempt to purchase an alcoholic beverage.

6. The underage cadet proceeded to the counter and requested a pint of Fireball

Whiskey, an alcoholic beverage, from the clerk behind the counter.

7. The cashier, Fang Chen, conducted the transaction for the alcoholic beverage without asking for the cadet's identification, which would have shown that he was under the age of twenty-one.

8. DFC Baxter entered the establishment and notified the owner and licensee who was on the scene, Wai Li, that the underage transaction had occurred.

9. DFC Baxter requested to see the employee records for Fang Chen, since she did not present any identification when it was requested by DFC Baxter.

10. Ms. Li was only able to produce a spiral notebook with Ms. Chen's name and social security number written on a page with three other individual's information.

11. DFC Baxter photographed the evidence and returned it to the store.

12. The Respondents committed the following violations:

1. Liquor Board Rule 4.01(D) – Records;
2. Liquor Board Rule 4.04 – Compliance with Laws and Regulations;
3. Liquor Board Rule 5.02(A) – Sales to Minors; and
4. Liquor Board Rule 5.08 – Acts Contrary to Law.

13. The Respondents have allowed Monikay Golden Xcape & Liquor Store to be used for acts which are contrary to local ordinances and against the public peace, safety, health or welfare.

PROFFER

Bob Kim, attorney for the Licensees, proffered the following:

Mr. Kim proffered that the Licensees will stipulate to the allegations as the facts are not in dispute. He stated that they are now in compliance with the employee records.

Mr. Kim proffered that the owner plans to sell the business, has a red line agreement to sell and that the purchasers have retained Katherine Taylor, Esq. to assist with the purchase.

He asked the Board to allow the Licensees to sell their business by assessing a fine or short-term suspension or to stay a revocation to allow the purchaser to file a transfer.

Mr. Moore proffered that the eligibility of any prospective buyer is not appropriately before the Board and takes no position on whether a stay should be granted to facilitate a sale if the Board decides to revoke the license of the Respondents.

SUMMARY OF TESTIMONY

Ms. Wai Yung Li, Licensee, was sworn and testified with the assistance of an interpreter, Nina Lai, as follows:

Ms. Li testified that between the previous violation in 2019 and this current violation she made sure they checked the ID of everyone who came in. She stated that on the day of the violation she was unaware that the employee did not ask for ID. Ms. Li indicated that the employee stayed employed until November 2019; however, the employee was not allowed to do sales after the violation on August 30, 2019. She further testified that if you take away her license she will not be able to work or sell her business. She also stated that she is looking into buying an ID verification machine.

She stated she plans to sell the business for \$290,000 including the inventory and that her intent to sell has nothing to do with the violation. Ms. Li further testified that that if she loses her license she believes she will be unable to sell her business. Ms. Li stated that the prospective buyer is aware of the licensees' prior violation and the current violation before the Board.

FINDINGS OF FACT

1. The Hearing Board finds that Patricia Thompson and Wai Yung Li are the licensees

on behalf of Bottom of the Bay Seafood Wendy, Inc. t/a Monikay Golden Xcape & Liquor Store, a Class B, Beer, Wine, and Liquor 7-day on/off-sale license located at 9590 North Laurel Road, Laurel, Maryland 20723.

2. The Hearing Board finds 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.
3. The Hearing Board finds Howard County, Maryland, is a chartered county, organized pursuant to law, and has the authority, through the exercise of its police power, to enforce the laws relating to alcoholic beverages.
4. The Hearing Board finds at all times relevant to these proceedings, Licensees were responsible for the operation of Bottom of the Bay 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. The Hearing Board finds that on or before May 1, 2019, Licensees applied for a Class D Beer, Wine and Liquor, 7-day On/Off Sale License for Bottom of the Bay Seafood Wendy, Inc. located at 9590 North Laurel Road, Laurel, Maryland 20723. Bottom of the Bay Seafood Wendy, Inc. t/a Monikay Golden Xcape & Liquor Store is located in Howard County and is subject to the jurisdiction of the Board of License Commissioners for Howard County.
6. The Hearing Board finds that on August 30, 2019, an underage male cadet was sent

into Monikay Golden Xcape & Liquor Store to attempt to purchase an alcoholic beverage.

7. The Hearing Board finds the underage cadet proceeded to the counter and requested a pint of Fireball Whiskey, an alcoholic beverage, from the clerk behind the counter.
8. The Hearing Board finds the cashier, Fang Chen, conducted the transaction for the alcoholic beverage without asking for the cadet's identification, which would have shown that he was under the age of twenty-one.
9. The Hearing Board finds that DFC Baxter entered the establishment and notified the owner and licensee who was on the scene, Wai Li, that the underage transaction had occurred.
10. The Hearing Board finds that DFC Baxter requested to see the employee records for Fang Chen, since she did not present any identification when it was requested by DFC Baxter.
11. The Hearing Board finds that Ms. Li was only able to produce a spiral notebook with Ms. Chen's name and social security number written on a page with three other individual's information.
12. The Hearing Board finds that DFC Baxter photographed the evidence and returned it to the store.
13. The Hearing Board finds that the Licensees committed the following violations:
 1. Liquor Board Rule 4.01(D) – Records;
 2. Liquor Board Rule 4.04 – Compliance with Laws and Regulations;
 3. Liquor Board Rule 5.02(A) – Sales to Minors; and
 4. Liquor Board Rule 5.08 – Acts Contrary to Law.

14. The Hearing Board finds that the Licensees were previously found to have violated the following on November 13, 2019:
 1. Liquor Board Rule 2.03 – Updated Application;
 2. Liquor Board Rule 3.03 – Cooperation by License Holders;
 3. Liquor Board Rule 4.04 – Compliance with Laws and Regulations;
 4. Liquor Board Rule 4.07 – Trade Name;
 5. Liquor Board Rule 4.08 – License Holder’s Responsibility;
 6. Liquor Board Rule 4.10(B) – Alcohol Awareness Program;
 7. Liquor Board Rule 4.10(C) – Alcohol Awareness Program;
 8. Liquor Board Rule 5.08 – Acts Contrary to Law; and
 9. Liquor Board Rule 5.20 – False Statements.
15. The Hearing Board finds that on November 13, 2019 the Licensees were issued a forty-five (45) day suspension and a ten thousand-dollar (\$10,000.00) fine for their numerous violations.
16. The Hearing Board finds the Licensees have repeatedly allowed Bottom of the Bay Seafood Wendy, Inc., t/a Monikay Golden Xcape & Liquor Store to be used for acts which are contrary to local ordinances and against the public peace, safety, health or welfare.
17. The Hearing Board finds that it is necessary to revoke the License to protect the public health and safety.

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Patricia Thompson and Wai Yung Li are the licensees on behalf of Bottom of the Bay Seafood Wendy, Inc. t/a Monikay Golden Xcape &

Liquor Store, a Class B, Beer, Wine, and Liquor 7-day on/off-sale license located at 9590 North Laurel Road, Laurel, Maryland 20723.

2. The Hearing Board concludes that the Licensees have violated

1. Liquor Board Rule 4.01(D) – Records;
2. Liquor Board Rule 4.04 – Compliance with Laws and Regulations;
3. Liquor Board Rule 5.02(A) – Sales to Minors; and
4. Liquor Board Rule 5.08 – Acts Contrary to Law.

3. The Hearing Board concludes that these violations represent a serious disregard for State Law and the Rules and Regulations and it is necessary to revoke the Class B, Beer, Wine, and Liquor 7-day on/off-sale license from the Licensees, Patricia Thompson and Wai Yung Li, to protect the public health and safety.

ORDER

For the foregoing reasons, and upon finding a violation of Liquor Board Liquor Board Rules 4.01(D), 4.04, 5.02(A) and Rule 5.08, it is this 6th day of April, 2020, by the Alcoholic Beverage Hearing Board of Howard County **ORDERED**:

1. That the Class B, Beer, Wine, and Liquor 7-day on/off-sale license held by Patricia Thompson and Wai Yung Li, on behalf of Bottom of the Bay Seafood Wendy, Inc., t/a Monikay Golden Xcape & Liquor Store located at 9590 North Laurel, Laurel, MD 20723, be, and hereby is **REVOKED, effective immediately**; and it is further **ORDERED**,

2. That the Licensees, Patricia Thompson and Wai Yung Li, immediately surrender the License to the Liquor Board Administrator; and it is further **ORDERED**,

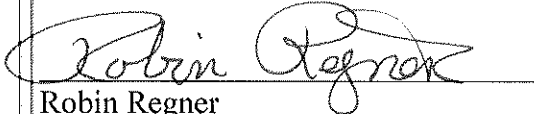
3. That the Alcoholic Beverage Inspector is authorized to seize the License immediately; and it is further **ORDERED**,

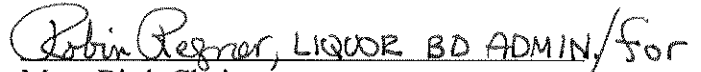
4. That the Licensees shall pay a Fee of **Two Hundred and Seventy Dollars (\$270.00)** for the cost of the hearing as provided by Rule 7.05(B).

ATTEST:

ALCOHOLIC BEVERAGE HEARING

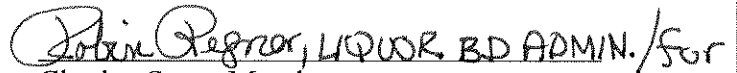
**BOARD OF HOWARD COUNTY,
MARYLAND**

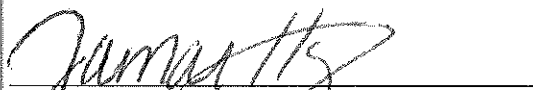

Robin Regner
Board Administrator

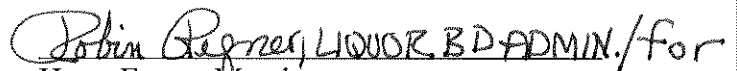

Robin Regner, LIQUOR BD ADMIN./for
Mary Bird, Chairperson

(Term Expired)
Heather Gaetano, Vice-Chairperson

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


Robin Regner, LIQUOR BD ADMIN./for
Charley Sung, Member


Jamar Herry, Esquire
Assistant County Solicitor


Robin Regner, LIQUOR BD ADMIN./for
Harry Evans, 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.