

Mailing Date: MAR 18 2014

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ADMINISTRATIVE LAW JUDGE
FOR THE PENNSYLVANIA LIQUOR CONTROL BOARD

PENNSYLVANIA STATE	:	In re Citation No. 13-1572
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W09-461122
	:	
v.	:	PLCB LID No. 57638
	:	
LA CASITA DE FAMILIA, LLC	:	PLCB License No. R-SS-16255
8 E. CENTRE ST.	:	
SHENANDOAH, PA 17976-1779	:	

JUDGE SHENKLE
BLCE COUNSEL: Roy Harkavy, Esq.
LICENSEE: Flor E. Gomez

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on August 12, 2013. The citation alleges that Licensee, through its servants, agents or employees, violated §471 of the Liquor Code, 47 P.S. §4-471, and §637.6(a)(2) of the Clean Indoor Air Act, 35 P.S. §637.6(a)(2), on May 18, 2013, by smoking and/or permitting smoking in a public place where smoking is prohibited.

A hearing was held on January 15, 2014, in Allentown, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On May 18, 2013, liquor enforcement officers entered the licensed premises at about 9:00 p.m. After about 20 minutes the bartender took a hose, put the end of it in her mouth, and then expelled what appeared to be smoke. The hose was connected to a glass hookah. There was a sweet tobacco aroma. When the officers left at about 9:45 to 9:50 p.m. they saw a sign on the front door of the establishment which read “no smoking” (N.T. 5-7).

2. One of the officers saw a bartender remove a reddish-brown substance which he believed to be tobacco from a clear plastic bag and put it in the pipe. The tobacco was not lit. A cylinder on the top of the hookah contained a coal, which was lit (N.T. 8-12).

3. Licensee did not have an exception to the Clean Indoor Air Act so as to permit smoking on this date (Exhibit C-3, N.T. 7, 13).

CONCLUSIONS OF LAW:

Licensee, through its employee, violated §471 of the Liquor Code, 47 P.S. §4-471, and §637.6(a)(2) of the Clean Indoor Air Act, 35 P.S. §637.6(a)(2), on May 18, 2013, by smoking in a public place where smoking is prohibited.

PRIOR RECORD:

Licensee has been licensed since April 2, 2007, and has had prior violations as follows:

In Re Citation No. 09-2804. \$2,050.00 fine and R.A.M.P. – certification mandated.

1. Loudspeakers could be heard outside. June 27, July 24, 25, August 22, 2009.
2. Permitted smoking. May 30, June 5, 27, July 24, 25 and August 22, 2009.
3. No “no smoking” signs. May 30, June 27, July 24, 25 and August 22, 2009.
4. Sales to visibly intoxicated persons. June 27, 2009.
5. Failed to clean coils at least once every 7 days. July 7 through October 7, 2009.

In Re Citation No. 10-0627. \$1,250.00 fine and R.A.M.P. – certification mandated.

1. Sales to minors. February 27, 2010.

In Re Citation No. 11-1489. \$500.00 fine.

1. Loudspeakers could be heard outside. July 2, 2011.

In Re Citation No. 13-1212. \$600.00 fine.

1. Loudspeakers could be heard outside. February 22, 2013.

ORDER

THEREFORE, it is hereby ordered that Licensee, La Casita De Familia, LLC, License Number R-SS-16255, shall pay a fine of fifty dollars (\$50.00) within twenty (20) days of the mailing date of this order. In the event the fine is not paid within twenty (20) days from the mailing date of this order, licensee’s license will be suspended or revoked. Jurisdiction is retained.

Dated this 5TH day of MARCH, 2014.



David L. Shenkle, J.

NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.

WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.

THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.

Detach Here and Return Stub with Payment; Note Citation Number on Check

The fine must be paid by cashier's check, money order, or a check drawn on the business or trust account of an attorney licensed in Pennsylvania. **Personal and business checks are not acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail it, along with any required documentation, to:

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg PA 17110-9661