

Mailing Date: JUN 07 2016

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

PENNSYLVANIA STATE	:	In re Citation No. 15-1774
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-501198
	:	
v.	:	PLCB LID No. 62052
	:	
TAI SHENG, INC.	:	PLCB License No. R-SS-EHF-7139
1414 W. CLEARFIELD ST.	:	
PHILADELPHIA, PA 19132-2317	:	Philadelphia County

JUDGE SHENKLE
BLCE COUNSEL: Erik S. Shmukler, Esq.
LICENSEE: Chuong E. Kov

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on October 6, 2015.

The citation alleges that Licensee violated the Liquor Code, 47 P.S. §1-102, on September 2 and 9, 2015, on the basis that the licensed premises was not a *bona fide* restaurant because there were insufficient food items.

A hearing was held on April 19, 2016, in Plymouth Meeting, Pennsylvania.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period September 2 through 10, 2015, and sent it written notice of the results on September 23, 2015 (N.T. 8, Exhibit B-1).

2. This citation was filed on October 6, 2015, and a copy of it was mailed to Licensee on that date (N.T. 8, Exhibit B-2).

3. On September 2, 2015, a liquor enforcement officer inspected the licensed premises and found that there was no food in it. There were no receipts showing the purchase of food, no menus, and no cooking or serving utensils. There was a kitchen, but it was not operational, as it was filled with boxes and papers. There was a freezer in the back which held some crab legs frozen solid, covered with two inches of ice, which Licensee's president said were hers. When asked about the absence of food the president said that no one buys it, so she doesn't have any (N.T. 5-7).

4. The officer returned on September 9, 2015, and found that some deficiencies identified in the previous visit had been corrected – the liquor license was posted and the business records were present – but there was still no food on the premises (N.T. 7-8).

CONCLUSIONS OF LAW:

Sustained as charged.

DISCUSSION:

This establishment is licensed as a restaurant, and that means it must be prepared and equipped at all times it is open and selling alcoholic beverages to the public to provide meals also.

Whether the customers purchase the food or not, it must be available. If for no other reason, Licensee must maintain the premises as a *bona fide* restaurant, because it is certain that the Bureau will visit again at some point in the future to insure that this is being done.

PRIOR RECORD:

Licensee has been licensed since November 9, 2009, and has had no prior violations.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Tai Sheng, Inc., License No. R-SS-EHF-7139, shall pay a fine of three hundred dollars (\$300.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

Dated this 27TH day of MAY, 2016.



David L. Shenle, J.

jb

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 account of an attorney licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless bank certified.** If you are paying by guaranteed check, please make it 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

Credit/debit cards may be used: if you have already registered with PLCB+ you should be able to pay by Credit/Debit card; if you have not registered with PLCB+ you may obtain the information on how to register by sending an email message to:

RA-LBLICENSINGMOD@pa.gov