



Jean M. Lorizio, Esq.
Chairman

Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
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NOTICE OF SUSPENSION

March 29, 2017

**299-305 SHREWSBURY STREET LLC D/B/A FUNKY MURPHY'S
301 SHREWSBURY ST.
WORCESTER, MA 01605
LICENSE#: 150800313
VIOLATION DATE: 11/23/2016
HEARD: 03/28/2017**

After a hearing on March 28, 2017, the Commission finds 299-305 Shrewsbury Street LLC d/b/a Funky Murphy's violated 204 CMR 2.05 (2), to wit: M.G.L. c. 148, § 34A (a) (5) – Exceeding the Occupancy Limit Established by the Local Building Inspector Pursuant to Chapter 143.

The Commission suspends the license for a period of eight (8) days of which two (2) days will be served, and six (6) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.

The suspension shall commence on Wednesday, May 17, 2017 and terminate on Thursday, May 18, 2017. The license will be delivered to the Local Licensing Board or its designee on Wednesday, May 17, 2017 at 9:00 A.M. It will be returned to the licensee on Friday, May 19, 2017.

You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form which must be signed by the Licensee and a Massachusetts Licensed Accountant.

You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

A handwritten signature in black ink that reads "Jean M. Lorizio".

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Joseph Di Cicco, Investigator
J. Kujawski, D. Keefe, Investigators
David J. Officer, Esq. via email
Administration, File



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DECISION

299-305 SHREWSBURY STREET LLC D/B/A FUNKY MURPHY'S
301 SHREWSBURY ST.
WORCESTER, MA 01605
LICENSE#: 150800313
VIOLATION DATE: 11/23/2016
HEARD: 03/28/2017

299-305 Shrewsbury Street LLC d/b/a Funky Murphy's (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, March 28, 2017, regarding an alleged violation of 204 CMR 2.05 (2), to wit: M.G.L. c. 148, § 34A (a) (5) – Exceeding the Occupancy Limit Established by the Local Building Inspector Pursuant to Chapter 143. Prior to the start of the hearing, the Licensee stipulated to the violation in Investigator Di Cicco's report.

The following documents are in evidence:

1. Investigator Di Cicco's Investigative Report; and
2. Licensee's Stipulation of Facts.

There is one (1) audio recording of this hearing.

The Commission took Administrative Notice of the Licensee's record.

FINDINGS OF FACT

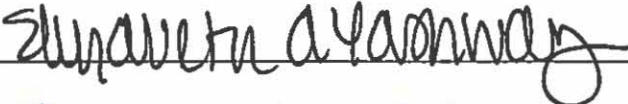
1. On Wednesday, November 23, 2016, Investigators Kujawski, Keefe, and Di Cicco ("Investigators") conducted an investigation of the business operation of 299-305 Shrewsbury Street LLC d/b/a Funky Murphy's, to determine the manner in which its business was being conducted.
2. At approximately 10:30 p.m., as Investigators entered the licensed premises, they observed many patrons waiting in line to gain entry to the establishment.
3. Investigators were unable to walk freely around the establishment due to the high number of occupants in the licensed premises.

4. Investigators spoke to the doorman, Cathal Dolan, who informed them that he was also one of the owners.
5. When Investigators asked Mr. Dolan about the capacity for the premises, Dolan replied the capacity was approximately 100 persons. Investigators informed Mr. Dolan that the premises appeared to be well over that amount.
6. Mr. Dolan agreed with Investigators' estimation and stated he believed there were 200 persons in the premises.
7. Investigators informed Mr. Dolan that he would have to reduce the number of occupants to conform to the licensed capacity of the premises.
8. Investigators stood by the front door and observed patrons exiting the establishment. When enough patrons had exited, Investigators were then able to maneuver through the premises and conduct a head count. Investigators counted over 275 persons still on the premises.
9. Investigators informed Mr. Dolan that the establishment was still over the occupancy limit. Dolan stated that he would stop serving alcoholic beverages to clear the people out of the establishment.
10. Investigators cautioned Mr. Dolan that they were not telling him to stop service only that he needed to make sure the licensed premises was at or below legal occupancy.
11. Mr. Dolan stated that he chose to shut down.
12. During the investigation, Investigators were joined by Worcester Police Officers Harrington and Jolin. Investigators and Worcester Police Officers remained in the licensed premises until most patrons were cleared out.
13. Investigators informed Mr. Dolan of the overcrowding violation and that a report would be filed with the Chief Investigator for review.
14. Administrative review of the file shows that the Licensee has been in business more than 10 years with no previous violations.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2), to wit: M.G.L. c. 148, § 34A (a) (5) – Exceeding the Occupancy Limit Established by the Local Building Inspector Pursuant to Chapter 143. Therefore, the Commission **suspends the license for a period of eight (8) days of which two (2) days will be served, and six (6) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Elizabeth Lashway, Commissioner 

Kathleen McNally, Commissioner 

Dated: March 29, 2017

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

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