

Ref: 19-9-AR

To: Town of Natick Local Licensing Authority/Board of Selectmen
From: Lt. Brian G. Lauzon
Subject: Alleged On-Premise Alcoholic Beverage License Violation
Location: PF Chang's China Bistro at the Natick Mall/1245 Worcester Street

This investigation originated from the following Natick Police Department response:

On January 7th, 2019 at approximately 8:29pm Natick Police Officers responded to the interior of the Natick Mall near PF Chang's China Bistro to investigate an intoxicated patron that was "*being loud*".

Upon Arrival, officers were met by Natick Mall Security Officers outside the Mall's exterior doors and were advised that other Natick Mall Security Officers were currently escorting a male from the second floor.

As Natick Police personnel entered the Mall they found a security officer sitting with a male party on a couch outside the Met Bar and Grill. Responding officers noted that the male party appeared "*disheveled, slouching and speaking in a heavy slur*". When asked what was going on, the male party in question related to the officers that he had "*some drinks*" and was headed to his hotel "*The Sheraton*" even though he pointed toward to the Hampton Inn. The subject further related he was in Town for business and that he was staying at the hotel alone. It should be noted that this patron was in fact determined to be a Town of Natick resident.

During their encounter with this male, officers additionally noted that he had a "*strong odor of an alcoholic beverage emanating from his person, as well as the presence of a very distinct black eye that appeared old, along with a small bump over his right eye that may have been new*".

Based on this encounter officers determined the male to be "*incapacitated by the consumption of alcohol*" and placed him in protective custody. The male was transported to Natick Police Headquarters. At this location he was afforded to the opportunity to take a voluntary chemical breath test. During this test, administered by a trained and certified department breath test operator, the male scored a .348, almost 3.5 times the legal level of **incapacitation**. As a point of reference .08 BAC is the legal standard in this state for intoxication/OUI, .10 is the legal standard for incapacitation/protective custody.

During a follow-up investigation it was determined that the male in question had been escorted, immediately prior to the officers arrival, **directly** from PF Chang's China Bistro Restraint by Natick Mall Security Officers. This was done at the request of PF Chang's Manager Maxwell Rooney, who was present, and had refused to serve the patron in question any more alcohol. In speaking with Mr. Rooney it was determined that Mr. Rooney had never spoken with the male subject himself, but had been advised by one of his bartenders (Alexandre (Sasha) Willk) that the male had "*begun to show signs of intoxication*". Mr. Rooney related the male had **arrived at PF Chang's at approximately 6:15pm** and was escorted **out by security at 8:30pm**. Mr. Rooney related that during the 2hrs and 15 minutes the male was in the Restaurant, seated in the lounge area, he was served a coke, **2 Stella Artois beers** and **2 Makers Mark whiskeys (2oz pours)**. Mr. Rooney further related that the male patron ate 4 pork dumpling's and a chicken lettuce wrap. As a result of the bartenders observations Mr. Rooney directed him to "**put water in front of him**". Mr. Rooney related that the male patron then became **loud, disruptive and began yelling at the television** as well as the bartender "**ordering him to bring another beer and calling him an idiot**". Mr. Rooney related that he attempted to get the male patron a ride back to the Hampton Inn, but as a result of his demeanor called Natick Mall Security instead.

Ref: 19-9-AR

Review of the CCTV cameras footage shows the male patron walking into the Restaurant "*with little problem*", but "*needing assistance upon exiting*". The footage also shows this male patron drinking almost the entire time he was inside the Restraint.

Upon review of the Bartenders (Willk) employment packet it appears that he has been working at PF Chang's for 2 years.

During an interview with Willk, he related additionally that "the patron drank the whiskey then chased it with the beer over approximately an hours time", "After finishing the first round, he ordered a second of the same, as well as some chicken lettuce wraps." Willk related it took the patron about another hour to finish this round, at which time the patron started acting out a bit and showing signs of intoxication. When asked what he perceived as signs of intoxication, Willk related the patron started to become loud, yelling at the TV, mimicked a baby crying as a mother and crying infant walked behind him and ultimately became verbally abusive toward Willk.

CCTV footage has been reviewed by myself, along with the Restaurants receipt for this event.

On Friday, February 22, 2019 I went to the restaurant and spoke with the establishments Manager of Record, Mr. Nick Weider. I informed Mr. Weider why I was there and asked to see his servers Alcoholic Beverage Training Certificates. Mr. Weider presented me with a binder that they are kept in. We both searched for Mr. Willk's and could not find one. I explained to Mr. Weider the Town's written policy on server training. We also spoke briefly about a past incident at the restaurant that resulted in an over-serving violation where the restaurants license was suspended. Mr. Weider related he was aware of that incident. Mr. Weider told me he would contact Mr. Willk, get his training certificate, and send me a copy. I informed Mr. Weider that this was very important, time sensitive, and I wanted to wrap this investigation up. Mr. Weider related he would be in touch with me by Monday of next week. I left Mr. Weider with my contact card, which contains my office and cell phone numbers, and my email address.

By the following Tuesday, February 26, 2019 I had not been contacted by Mr. Weider, so I returned to the restaurant. Mr. Weider was not on duty, so I met with the on-duty manager Mr. Maxwell Rooney. Mr. Rooney related that Mr. Weider was not in today. I explained to Mr. Rooney my purpose for the visit. Mr. Rooney related he was aware that I had been in on Friday. I asked Mr. Rooney if he had been given a copy of Mr. Willk's training certificate, which he related "No." Mr. Rooney related though that Mr. Willk was working and he would ask him for it. Mr. Rooney then approached a male bartender behind the opposite end of the bar from where I was standing and they proceeded to have a conversation. When Mr. Rooney returned he informed me that he did not have a current training certificate. I asked Mr. Rooney if the person he had been speaking with was Mr. Willk, and he related "Yes." I asked Mr. Rooney "If I was in on Friday asking for this document ion from Mr Weider, and it was now Tuesday, why was Mr. Willk still serving?" Mr. Rooney could not answer that. I informed Mr. Rooney that Mr. Willk serving alcoholic beverages was a continued violation of Town policy that the Manager of Record received a copy of during the recent license renewal. Mr. Rooney related he understood. I strongly suggested to Mr. Rooney that he may want to remove Mr. Willk from those duties until he receives his proper certification.

A number of unsuccessful attempts have been made by the original reporting Natick Police Officer to reinterview the incapacitated patron in question. It is our understanding that this patrons spouse has

Ref: 19-9-AR

communicated to this officer that her husband is in a in-patient treatment facility for medical issues and unavailable to speak with us further.

PF Changs management has not cooperated further with this investigation and has not contacted this reporting lieutenant as of the final submittal of this report, 4/23/2019.

Conclusion

Due to the involved patrons extreme intoxication by alcohol (A diminished ability to act with full mental and physical capability because of alcohol or drug consumption), and proof of his last place being served said alcohol being PF Chang's at the Natick Mall, a licensed establishment in the Town of Natick, I allege that this licensed establishment violated Massachusetts General Law Chapter 138 section 69 in this instance, which reads "No alcoholic beverage shall be sold or delivered on any premises licensed under this chapter to an *intoxicated* person".

Furthermore, I allege that the licensed establishment violated the Town of Natick's policy regarding training for dispensers and sellers of alcoholic beverages (dated October 14, 2014) by allowing an employee, Sasha Willk, to engage in the sales, pouring or service of alcohol without participating in and receiving certification by one of the identified training programs in said policy. The policy is also clear that all employees engaging in this work shall be re-certified by an approved training program or in-house trainer at intervals of no more than three (3) years.

I recommend to the Licensing Authority that an administrative hearing be held to address these allegations and determine further action.

Respectfully submitted,

Lt. Brian G. Lauzon