

TALBOT COUNTY, MARYLAND
BOARD OF LIQUOR LICENSE COMMISSIONERS

Minutes of Public Meeting
July 24, 2023

The meeting of the Talbot County Board of Liquor License Commissioners was called to order at 10:00 a.m. on Monday, July 24, 2023. Present were Chairman Jack M. Gottschalk, Commissioner Edward M. Bridges, Jr. and Board Secretary Victoria E. Bradley.

OLD BUSINESS

- Upon motion by Commissioner Fike, seconded by Commissioner Bridges, the minutes of the meeting of April 24, 2023, were unanimously approved.

NEW BUSINESS

Genesis Pizza & Mexican Grill, LLC – Violation Hearing

All those in attendance to testify in the matter were sworn in, (Alex Perez and his attorney Zachary Smith, Talbot County Liquor Inspector Duane Gottschalk.)

The Chairman gave a brief description about how the violation hearing will take place. The Chairman testified the violation hearing was set in at the request of the Talbot County Liquor Inspector for violations of Talbot County Code, Chapter 11, “Alcoholic Beverages” § 11-14(A)(1)(c), “Failure to comply with any local, county, or state law, rule or regulation”, and Section 6-311, “Restriction on purchases and sale by retail dealers”, of the Annotated Code of Maryland.

At this point, the Chairman called Duane Gottschalk, Talbot County Liquor Inspector to present. Inspector Gottschalk read the narrative from his Incident Report dated 5/31/2023, which details the alleged violation.

Inspector Gottschalk testified that on May 24, 2023 he was at Genesis Pizza & Mexican Grill located at 219 Marlboro Ave., MD 21601 to conduct a Liquor License Inspection. He made contact with the manager on duty, Mr. Florencio Mendez and requested several items for inspection. While Mr. Mendez searched for those items, Inspector Gottschalk examined the stock of alcohol on display next to the sales counter as well as behind the counter noting the variety of brands. Mr. Mendez quickly produced the requested inspection items and placed them on the sales counter for Inspector Gottschalk’s review.

As Inspector Gottschalk was examining alcoholic beverage invoices from their licensed wholesalers, he noticed that approximately half of the liquor bottles on display did not have any invoices in the records he was given. Inspector Gottschalk questioned Mr. Mendez to see if there were more invoices located on the premise and he replied that he would have to call the Owner Mr. Alex Perez to ask.

Mr. Mendez made contact with Mr. Perez via phone and let Inspector Gottschalk speak with him directly. During the phone conversation, it was related to Inspector Gottschalk that a valid Bulk Transfer Permit did exist for some of the alcoholic beverages on display and it would be emailed over to him as soon as possible. The remainder of the alcoholic beverages on display were all from a previous establishment sharing common ownership that was located at 216 E. Dover St. Easton, MD 21601. The remainder of the alcohol on the premise was also supposed to be lawfully acquired via another valid Bulk Transfer Permit but Mr. Perez was unsure why one was never applied for when they closed their previous restaurant location.

A digital copy of the valid Bulk Transfer Permit referenced by Mr. Perez was produced to Inspector Gottschalk via cellphone outlining which alcoholic beverages were included on the Permit. This Permit included one 1.75L bottle of Tito's Vodka and two 1.75L bottles of Grand Marnier that were a part of the stock of alcohol in question. Upon further review of the valid Bulk Transfer Permit, Inspector Gottschalk did notice that the Permit was for a different establishment sharing common ownership instead located at 8305 Ocean Gateway Easton, MD 21601. Upon showing this information to Mr. Perez later that evening, it was determined that there was no Bulk Transfer Permit for any of the alcoholic beverages in question on the premise.

Inspector Gottschalk documented each bottle of unlawfully acquired alcoholic beverage via photograph and noted there to be forty-five (45) bottles total.

Inspector Gottschalk further testified that once those bottles were documented, he requested Mr. Mendez to review the alcoholic beverage invoices to ensure that none were documented by mistake. Mr. Mendez looked over the bottles and as well as the invoices present on premise and agreed that there were no invoices for any of the bottles he had set aside. Inspector Gottschalk then instructed Mr. Mendez to remove the bottles from the premise and to ensure they did not return. Inspector Gottschalk also instructed Mr. Perez to do the same later that evening when he returned to document bottles that were originally thought to be lawfully acquired via a Bulk Transfer Permit. Mr. Mendez and Mr. Perez both times immediately removed all the illicit bottles off the premise and into vehicles located in the parking lot behind the establishment. Inspector Gottschalk followed Mr. Mendez and Mr. Perez each time to the parking area ensure all illicit bottles were removed.

Inspector Gottschalk testified that he completed his Liquor License Inspection Report and documented the violation observed. After documenting all illicit bottles of alcohol, Inspector Gottschalk left the establishment without further incident.

Inspector Gottschalk further testified that a violation of Maryland Law § 6-311 ("Restrictions on purchases and sales by retail dealer") and a violation of the Talbot County Code Chapter 11, Section 14 (A) (l) (C) were both observed during his inspection.

The Chairman read the Maryland Law § 6-311 ("Restrictions on purchases and sales by retail dealer") and the Talbot County Code Chapter 11, Section 14 (A) (l) (C) that Inspector Gottschalk cited in his report and testimony.

The Chairman asked about one of the documents that was submitted, a letter to the Comptroller of Maryland's office dated January 9, 2023 an application for a bulk transfer permit. Inspector Gottschalk testified that he did provide that in the records he submitted.

The Chairman asked if the businesses on the application are of common ownership. Inspector Gottschalk testified that they are of common ownership.

The Chairman asked if Inspector Gottschalk had any other comments. Inspector Gottschalk testified that everyone was very cooperative during the inspection.

Mr. Smith gave opening statements that the facts as detailed by Inspector Gottschalk in his report were accurate and they do not dispute that a violation occurred. Mr. Smith gave testimony that this is the licensee's first violation in the time they have had a liquor license. Mr. Smith further testified that Mr. Perez had closed the Dover St. location and moved to the new Ocean Gateway location and in this process they filed a bulk transfer application. There was a miscommunication between Mr. Smith and Mr. Perez about where the alcohol would be transferred to and they were not aware of their mistake until Inspector Gottschalk did his inspection. Mr. Smith testified that another error was made with their application regarding the inventory of alcohol that they were not aware of until the inspection.

Mr. Smith testified that once they found their mistake they quickly filed an amended bulk transfer application with the Maryland Comptroller's office and are currently waiting to hear from their office and they should be in compliance.

Mr. Smith testified that Mr. Perez was not acting in bad faith, mistakes were made and when they realized the mistakes they worked quickly to amend them. Mr. Perez has owned three businesses and they have never had an issue or violation.

Mr. Perez testified that he and Mr. Smith were not trying to break the law, this was the first mistake of this kind made in the five years he has held an alcohol license and moving forward he will do everything possible to make sure it does not happen again.

Commissioner Fike asked Inspector Gottschalk if there have ever been any issues, infractions or violations at any of Mr. Perez's establishments. Inspector Gottschalk testified that Mr. Perez and staff have always been cooperative and have had no violations in the past. Mr. Perez and staff have done well with following the laws and always remain in compliance.

The Board discussed the facts and testimony presented. Commissioner Fike stated that Mr. Smith and Mr. Perez admitted to a violation occurring, based on testimony given he believes this is a minor offense and suggest a lower penalty.

The Chairman gave a rundown of the facts and testimony that were presented. The Board agreed that a violation did occur.

- Motion made by Commissioner Fike, seconded by Commissioner Bridges to state that a violation did occur on May 24, 2023 at the Genesis Pizza & Mexican Grill located at 219 Marlboro Ave., Easton, MD 21601. Motion passed unanimously.

The Board discussed their opinions on punishment for the violation that occurred. Commissioner Bridges stated that to be consistent with a recent violation hearing they should consider a five hundred dollars (\$500) fine.

The Board agreed a fine is the appropriate penalty in this case instead of suspension of the alcohol license. The Board agreed to stay consistent with their ruling from a recent violation hearing and the amount of the fine be five hundred dollars (\$500).

- Motion made by Commissioner Bridges, seconded by Commissioner Fike to impose a fine of five hundred dollars (\$500) on Genesis Pizza & Mexican Grill, LLC for their forty-five (45) count violations. Motion passed unanimously.

Liquor Inspector's Report

Inspector Gottschalk briefed the Board as to ongoing County liquor inspections. There is no new information to report; no major violations occurred.

Inspector Gottschalk briefed the Board on the Maryland Alcohol Licensing Association (MALA) conference in October of this year.

The Board asked Inspector Gottschalk of the benefit in sending a monthly or bimonthly email for Alcohol license holders with information, tips, reminders and general helpful information. Inspector Gottschalk testified that this would be a helpful thing for license holders.

Old Business

There being no further business to discuss, the Board moved to adjourn.

- Upon motion by Commissioner Bridges, seconded by Commissioner Fike, there being no further business to discuss, the Board voted unanimously to close the meeting at 10:57 a.m.