



**Town of Arlington  
Legal Department**

Douglas W. Heim  
Town Counsel

50 Pleasant Street  
Arlington, MA 02476  
Phone: 781.316.3150  
Fax: 781.316.3159  
E-mail: [dheim@town.arlington.ma.us](mailto:dheim@town.arlington.ma.us)  
Website: [www.arlingtonma.gov](http://www.arlingtonma.gov)

To: Board of Selectmen

Cc: Adam Chapdelaine, Town Manager  
Frederick Ryan, Chief of Police  
Christine Connolly, Director of Health and Human Services

From: Douglas Heim, Town Counsel

Date: June 13, 2017

**Re: 2017 Alcohol Compliance Checks Violation Hearings – Zhu's Garden, Duet,  
Arlington Liquors, and Prime, Your Local Butcher.**

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On February 27 and 28, 2017, and again on March 8, 2017, the Arlington Police Department conducted comprehensive rounds of alcohol compliance checks on approximately thirty-three (33) Arlington establishments licensed to sell alcoholic beverages (27 restaurants, 1 theatre, and 5 package stores) as part of its 2017 Alcohol Compliance Check operations. The operation is detailed in Incident Reports Nos. 17005217, 17005303, and 17006003, copies of which are attached hereto. Two (2) of the tested restaurants, and two (2) of the tested package stores failed the compliance checks by serving alcoholic beverages to underage operatives who

volunteered for the Police Department's compliance operation in conjunction with the Arlington Youth and Safety Coalition.

The establishments found to have served/sold beverages to the operatives as detailed in the Incident Reports are as follows:

- Zhu's Garden  
166 Massachusetts Avenue;
- Duet  
190 Massachusetts Avenue;
- Arlington Liquors  
94 Summer Street; and
- Prime, Your Local Butcher  
1398 Massachusetts Avenue

Each of the licensed establishments which failed the compliance checks were notified by first-class mail and certified mail, return receipt requested, to appear at the Board's June 5, 2017 Hearing concerning the alleged violations, and subsequently notified of a postponement until the Board's June 19, 2017 meeting, where three of the four violations will be heard (Prime, Your Local Butcher will appear before the Board of Selectmen at their regular meeting on July 24, 2017).

The events set forth in the attached incident reports, if true, demonstrate violations of the state liquor licensing law and the regulations of the Alcohol Beverages Control Commission ("ABCC"). Specifically, Section 34 of Chapter 138 prohibits the sale or delivery of alcoholic beverages to a person under 21 years of age. The ABCC regulation located at 204 C.M.R. 2.05(2) further prohibits any illegality (such as a violation of Section 34) on licensed premises.

If after a hearing, the Board concludes that violations of the law occurred, it may decide to "modify, suspend, revoke, or cancel" the liquor license of these four establishments. See G.L.

c. 138, § 23. Upon information and belief, none of the establishments at issue previously failed APD compliance check operations. As such, the Board's Alcohol Licenses Policies, Rules, and Regulations (revised on July of 2016), suggests (but does not dictate) a 3-5 day license suspension for a first offense for service of alcohol to an underage person.

Moreover, as the Board may recall, Arlington Liquors is currently on probation (until November 30, 2017), having been issued a 5-day suspension held in abeyance during its probation for a separate violation of G.L. c. 138 sec. 64 and/or 204 C.M.R. 2.05(2) of a different nature (a February 2016 incident involving possession of marijuana on the premises). By the terms of its probation any finding of a violation by Arlington Liquors will automatically trigger a 5-day suspension to begin on a Friday, *in addition to any other penalty the Board metes out for this new violation.*

If the Board does decide to suspend these licenses, I note that under the Board's policy, the suspensions should begin on the same day of the week as the offense occurred following the Board's approval of a written decision developed by this Office.<sup>1</sup>

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<sup>1</sup> With respect to Arlington Liquors, permit me to note that the Board has latitude to decide whether the package store would serve one consecutive suspension including the 5 days held in abeyance (i.e., 8 to 10 consecutive days beginning either on the day of their 2016 violation or the day of their most recent violation) or two separate suspensions of 5 and 3-5 days respectively. Alternatively the Board also has discretion to issue a lengthier suspension, or a modification, or revocation of their license as the Board deems appropriate.


**ARLINGTON POLICE  
ARLINGTON, MA**
INCIDENT # / REPORT #

17005303 / 1

OFFICER

PORCIELLO

RANK

INSP

REVIEW STATUS

APPROVED

**INCIDENT #17005303 DATA**

As Of 03/02/2017 08:02:10

**BASIC INFORMATION**
CASE TITLE

ALCOHOL COMPLIANCE CHECKS

LOCATION

112 MYSTIC ST

APT/UNIT #
DATE/TIME REPORTED

02/28/2017 18:48:30

DATE/TIME OCCURRED

On or about 02/28/2017 18:48

INCIDENT TYPE/OFFENSE

ASSIST

[ NO PERSONS ]

[ NO OFFENDERS ]

[ NO VEHICLES ]

[ NO PROPERTY ]

**OFFICER REPORT: 17005303 - 1 / PORCIELLO (INSP)**
DATE/TIME OF REPORT

02/28/2017 18:48:30

TYPE OF REPORT

INCIDENT

REVIEW STATUS

APPROVED

**NARRATIVE**

On February 28, 2017, I, Inspector Porciello along with Detective Sergeant Gallagher conducted alcohol compliance checks of restaurants and businesses licensed to sell and/or serve alcohol in Arlington. We worked with 2 juvenile operatives. One operative was a male party and the second operative was a female. Prior to conducting the checks both operatives were breath tested using the portable breath test. The female blew a 0.00 (test 107) and the male also blew a 0.00 (test 108). The operatives were photographed and provided me with parental releases. They were given a copy of the recommended guidelines for conducting underage sting operations. They both read, understood and signed the recommended guidelines. Both parties removed all money and forms of identification from their possession and we secured the items and money in a gun locker with the Criminal Investigations Bureau. Ivy Laplant from the Arlington

Youth and Safety Coalition provided us with 100 dollars to conduct the compliance checks on the previous evening and the remaining money was used to conduct the compliance checks on today's date. The operatives were provided with 20 dollars prior to entering any restaurant/business.

The following is a list of restaurants/businesses that were open and compliance checks were completed resulting in NO VIOLATIONS.

-At 4:59PM the operatives entered Sono located at 469 Summer St #3&4. No alcohol was served.

-At 5:32PM the operatives entered Scutra located at 92 Summer St. No alcohol was served.

-At 5:08PM the operatives entered Not Your Average Joes located at 645 Mass Ave. No alcohol was served.

-At 5:15PM the operatives entered Thai Moon located at 663 Mass Ave. No alcohol was served.

-At 5:17PM the operatives entered Pasha Mediterranean located at 669A Mass Ave. No alcohol was served.

-At 5:20PM the operatives entered Tryst located at 689 Mass Ave. No alcohol was served.

-At 5:25PM the operatives entered Mr. Sushi located at 693 Mass Ave. No alcohol was served.

-At 5:53PM the operatives entered Toraya located at 890 Mass Ave. No alcohol was served.

-At 6:00PM the operatives entered the Mystic Wine Shoppe located at 901 Mass Ave. No alcohol was sold.

-At 6:06PM the operatives entered Jimmy's Steer House located at 1111 Mass Ave. No alcohol was served.

-At 6:13PM the operatives entered Szechuan's Dumpling located at 1360 Mass Ave. No alcohol was served.

-At 6:18PM the operatives entered Thai E-Sarn located at 1377-1381 Mass Ave. No alcohol was served.

-At 6:35PM the operatives entered Nina Trattoria & Pizzeria located at 1510 Mass Ave. No alcohol was served. It should noted that this restaurant has not begun selling beer and wine.

The following is a list of the compliance checks that resulted IN A VIOLATION with a brief description of the violation.

-At 4:48PM the operatives entered Arlington Liquors located at 94 Summer St. At 4:50PM the operatives exited Arlington Liquors and returned to our vehicle carrying a six pack of 12 ounce Bud Light cans. The operatives informed us that the cashier sold them the six pack while failing to ask for identification. The operatives provided us with the sales receipt which documented that their purchase of the six pack amounted to \$7.00. The operatives returned the \$13.00 in change. They described the cashier as being a male with dark hair and having a tanned complexion. I entered Arlington Liquors and spoke to the cashier who identified himself as Almaz Imanlieve. I identified myself as an Arlington Police Detective and informed him that he sold a six pack to 2 underage operatives. Almaz acknowledged the sale and reported that he thought he had seen them in the business in the past.

-At 6:21PM the operatives entered Prime, Your Local Butcher located at 1398 Mass Ave. At 6:23 the operatives exited Prime, Your Local Butcher carrying a six pack of 12 ounce Heineken bottles. The operatives informed us that the cashier sold them the six pack while failing to ask for identification. The operatives provided us with a sales receipt which documented that their purchase of the six pack amounted to \$10.99. The operatives returned the \$9.01 in change. The cashier was described as a white male in his twenties with curly brown hair. As we were seated in the car an employee exited the business carrying trash. The operatives identified the employee as being the cashier who sold them the six pack. I then entered the business and spoke to the manager now known to me as Scott Carta. I identified myself as an Arlington Police Detective and informed Carta that a violation had occurred. I then directed Carta's attention to an employee who had been identified by the operatives as selling the six pack. Carta reported that the employee's name is James Cerone. We were able to speak to Cerone who acknowledged selling the six pack of Heineken without asking for identification.

It should be noted that the serves were never witnessed by Inspectors and were reported to us by the operatives.

Once back at the station 2 receipts from Arlington Liquors and Prime, Your Local Butcher were bagged as evidence together. The Bud Light six pack (12 oz cans) and the Heineken six pack (12 oz bottles) were tagged as evidence separately. The evidence bag containing the receipts and the 2 tagged six packs were then secured in evidence locker 3. The operatives were again breath tested using the portable breath test. The female blew a 0.00 (test 109) and the male also blew a 0.00 (test 110). The operative's property was returned. It should be noted that the tagged evidence indicates that the evidence was placed in locker 7. However, locker 7 was not operating correctly and the evidence was then placed in locker 3.

The remaining \$58.47 will be returned to Ivy Laplant.

**ARLINGTON POLICE  
ARLINGTON, MA**INCIDENT # / REPORT #  
17006003 / 1OFFICER  
PORCIELLORANK  
INSPREVIEW STATUS  
APPROVED**INCIDENT #17006003 DATA**

As Of 03/09/2017 07:52:57

**BASIC INFORMATION**

<u>CASE TITLE</u>	<u>LOCATION</u>	<u>APT/UNIT #</u>
ALCOHOL COMPLIANCE CHECKS	112 MYSTIC ST	
<u>DATE/TIME REPORTED</u>	<u>DATE/TIME OCCURRED</u>	
03/08/2017 18:02:16	On or about 03/08/2017 18:02	
<u>INCIDENT TYPE/OFFENSE</u>		
ASSIST		

[ NO PERSONS ]

[ NO OFFENDERS ]

[ NO VEHICLES ]

[ NO PROPERTY ]

**OFFICER REPORT: 17006003 - 1 / PORCIELLO (INSP)**

<u>DATE/TIME OF REPORT</u>	<u>TYPE OF REPORT</u>	<u>REVIEW STATUS</u>
03/08/2017 18:02:16	INCIDENT	APPROVED

**NARRATIVE**

On March 8, 2017, I, Inspector Porciello along with Detective Sergeant Gallagher conducted alcohol compliance checks of restaurants and businesses licensed to sell and/or serve alcohol in Arlington. We worked with 2 juvenile operatives. One operative was a male party and the second operative was a female. The operatives were the same that were used in alcohol compliance checks assigned to incident numbers 17005217 and 17005303. Prior to conducting the checks both operatives were breath tested using the portable breath test. The female blew a 0.00 (test 111) and the male also blew a 0.00 (test 112). The operatives were then photographed. Both parties removed all money and forms of identification from their possession and we secured the items and money in a gun locker with the Criminal Investigations Bureau. Ivy Laplante of the Arlington Youth and Safety Coalition had previously supplied us with money for past

compliance checks. The remaining \$58.47 was used on today's date. The operatives were provided with 20 dollars prior to entering any restaurant/business.

The following is a list of restaurants/businesses that were open and compliance checks were completed resulting in NO VIOLATIONS.

-At 4:28PM the operatives entered the Commune Kitchen located at 203 A&B Broadway. No alcohol was served.

-At 4:43PM the operatives entered Sugo Cucina Italiana located at 164 Mass Ave. No alcohol was served.

-At 5:07PM the operatives entered Little Q Pot-Szechuan House located at 196 Mass Ave. No alcohol was served.

-At 5:12PM the operatives entered Ristorante Olivia located at 193-201 Mass Ave. No alcohol was served.

-At 5:15PM the operatives entered The Capital Theatre located at 204 Mass Ave. No alcohol was served.

-At 5:48PM the operatives entered Sabzi located at 352A Mass Ave. No alcohol was served.

Once back at the station the operatives were again breath tested using the portable breath test. The female blew a 0.00 (test 113) and the male also blew a 0.00 (test 114). The operative's property was returned.

The remaining \$58.47 will be returned to Ivy Laplante.

**ARLINGTON POLICE  
ARLINGTON, MA**INCIDENT # / REPORT #  
17005303 / 2OFFICER  
PORCIELLORANK  
INSPREVIEW STATUS  
APPROVED**INCIDENT #17005303 DATA**

As Of 03/02/2017 08:02:10

**BASIC INFORMATION**CASE TITLE  
ALCOHOL COMPLIANCE CHECKSLOCATION  
112 MYSTIC STAPT/UNIT #DATE/TIME REPORTED  
02/28/2017 18:48:30DATE/TIME OCCURRED  
On or about 02/28/2017 18:48INCIDENT TYPE/OFFENSE  
ASSIST

[ NO PERSONS ]

[ NO OFFENDERS ]

[ NO VEHICLES ]

[ NO PROPERTY ]

**OFFICER REPORT: 17005303 - 2 / PORCIELLO (INSP)**DATE/TIME OF REPORT  
02/28/2017 18:48:30TYPE OF REPORT  
SUPPLEMENTREVIEW STATUS  
APPROVED**NARRATIVE**

On March 1, 2017 at approximately 15:10 hours, the Bud Light and Heineken six packs were removed from evidence, photographed and disposed of. The photographs have been attached to this report.