

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

DR Grocery
Carlos Rodriguez, Permittee
DR Grocery LLC, Backer
Case No. 2014-91
Permit No. LGB.14439

Docket No. 14-328
June 10, 2014

MEMORANDUM OF DECISION

This matter involves a grocery store beer liquor permit issued to DR Grocery, 215 Capen Street, Hartford, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on June 5, 2014. Carlos Rodriguez, permittee and member of the backer limited liability company, appeared.

The following charges are alleged against the Respondent. It is alleged that on January 27, 2014, the Respondent violated Sec. 30-20(b), Sec. 30-76 and Sec. 30-77(a) of the Connecticut General Statutes and Sec. 30-6-A41(a) of the Regulations of Connecticut State Agencies in that alcohol other than beer was found on the permit premises. Mr. Rodriguez denied the charges and the matter proceeded to a hearing.

We find the following facts. On January 27, 2014, liquor control agents were part of a multiagency inspection team conducting inspections of stores in the North End of Hartford. Special Agent Colla and Agent Lewis entered the premises. Agent Lewis began her inspection at the front of the store and Agent

Colla began his inspection in the rear of the store. Agent Lewis located interior access between the premises and an adjacent business. The access issue was resolved following a compliance meeting and is not the subject of this hearing.

Agent Colla's inspection was concentrated in a backroom storage area where he located four 200 ml. bottles of alcohol in a plastic bag on the floor underneath a shelf. The alcohol was seized as evidence.

Mr. Rodriguez denied that the alcohol was his and stated that since a similar incident in 2011 he has not sold alcohol other than beer in his store. Mr. Rodriguez was not in the store at the time of the agents' inspection.

Sec. 30-75 of Connecticut General Statutes provides in relevant part that

... The presence in or upon the premises covered by any permit of alcoholic liquor of a kind or character which may not legally be sold under such a permit shall be *prima facie* evidence that such liquor is kept by the permittee with intent to sell the same in the place for which such permit was issued.

There is no dispute that the bottles were located on the permit premises. Although Mr. Rodriguez testified that he has not sold alcohol other than beer since 2011, the mere presence of the alcohol gives rise to a violation. Based upon the testimony and documents submitted at the hearing, the Respondent must, therefore, be found in violation of the charges alleged. The Liquor Control Act grants the Liquor Control Commission a liberal discretionary power to determine factual matters with regard to liquor permits and to suspend or revoke the permit after a hearing. Balog v. Liquor Control Commission, 150 Conn. 473, 191 A.2d 20 (1963).

Accordingly, we hereby suspend the Respondent's grocery beer liquor permit for three days. In lieu of such three day suspension, however, we will accept payment of a fine of \$225 in accordance with Sections 30-6-A8(i) and (k) of the Regulations of Connecticut State Agencies.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION**

BY:

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Carlos Rodriguez, Permittee, DR Grocery, 215 Capen Street, Hartford, CT 06120
(Via US Mail and Certified Mail #2012 2920 0000 4559 9838)
Carlos Rodriguez, 32 Franklin Avenue, Hartford, CT 06114-1031

Non-Parties:

John Suchy, Director, Liquor Control Division
Connecticut Beverage Journal
Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106