



**DECISION OF THE  
GENERAL MANAGER  
LIQUOR CONTROL AND LICENSING BRANCH**

IN THE MATTER OF

A hearing pursuant to Section 20 of

**The Liquor Control and Licensing Act RSBC c. 267**

<b>Licensee:</b>	Veneto Pizza 1839 Lonsdale Avenue North Vancouver, BC
Case Number:	EH03-110
<b>Appearances:</b>	
For the Licensee	Douglas J. Livesey
For the Branch	Peter Jones
Enforcement Hearing Adjudicator	Suzan Beattie
Date of Hearing	October 15, 2003
Place of Hearing	Vancouver, BC
Date of Oral Decision	October 15, 2003
Date of Written Reasons	November 5, 2003

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**Ministry of Public  
Safety and Solicitor  
General**

Liquor Control and  
Licensing Branch

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## **INTRODUCTION**

The licensee, Veneto Pizza, is located at 1839 Lonsdale Avenue, North Vancouver, BC. It holds a Food Primary Licence Number 161107 with hours of operation in which liquor may be sold, purchased and consumed being 11:00 A.M. to 1:00 A.M. Monday through Saturday and Sunday 11:00 A.M. to 12:00 Midnight.

The maximum licenced capacity is 17 patrons.

## **ALLEGED CONTRAVENTION AND RECOMMENDED PENALTIES**

The Liquor Control and Licensing Branch alleges that on June 28, 2003, the licensee contravened section 12 of the *Liquor Control and Licensing Act* when he failed to have available for inspection the approved red-lined floor plan, contrary to the *Act*.

The Liquor Control and Licensing Branch further alleges that on June 28, 2003, the licensee contravened section 43 of the *Liquor Control and Licensing Regulations* by failing to have a Registered Beverage Service – Serving it Right (RBS) certificate available for inspection by a liquor inspector.

Schedule 4 of the *Liquor Control and Licensing Regulations*, provides a range of licence suspensions and monetary penalties for each contravention. For the contravention of section 12, the penalty range is a one (1) to three (3) day licence suspension or one thousand (\$1,000) to three thousand (\$3,000) monetary penalty for the first contravention. In this case, the branch is recommending a \$1,000 (one thousand dollar) penalty. For the contravention of section 43, the penalty range is a four (4) to seven (7) day licence suspension or five thousand (\$5,000) to seven thousand (\$7,000) monetary penalty for the first contravention. In this case, the branch is recommending a \$5,000 (five thousand dollar) penalty.

The relevant statutory provisions of the *Liquor Control and Licensing Act and Regulations* state:

## **12 Licences**

- (3) Without limiting subsection (2), the terms and conditions referred to in that subsection may:
  - (b) designate the areas of an establishment, both indoor and outdoor, where liquor may be sold and served

## **43 Beverage service training**

- (1) For the purposes of this regulation and section 13 of the Act. "**training program**" means one of the following programs delivered under the auspices of a person or organization approved by the general manager.
  - (a) The training program entitled "Serving It Right: The Responsible Beverage Service Program". Licensee Manual ISBN 0-77261063-3
  - (b) the training program entitled "Serving It Right: The Responsible Beverage Service Program". Server Manual ISBN 0-7726-1035-5

## **13 Training**

- (3) A person must not manage a licensed establishment unless the person has successfully completed a prescribed training program.
- (4) A person must not serve liquor in a licensed establishment unless the person has successfully completed a prescribed training program.

## **ISSUE**

The licensee conceded that the contravention occurred but disputed the proposed total monetary penalty of six thousand dollar (\$6,000.00).

## **COMPLIANCE HISTORY**

There is no record of prior contraventions, offences or enforcement actions of this type for this licensee or this establishment within the year preceding this incident ("compliance history"). Therefore, this contravention, if proved, would be considered a first contravention for the purposes of the Penalty Schedule.

In July 2002 the branch issued a Contravention Notice for failure to comply with the beverage service training program, advertising, and failure to produce a red-line floor plan. The branch did not pursue enforcement action on that allegation.

## **EVIDENCE, SUBMISSIONS AND FINDINGS ON CONTRAVENTIONS**

### **Evidence**

The licensee admitted the alleged contraventions.

### **Finding**

As a result of licensee's admission, I find it contravened section 12 of the *Act* and section 43 of the *Regulations*.

## **PENALTY SUBMISSIONS AND DECISION**

Pursuant to section 20(2) of the *Act*, having found that the licensee has contravened the *Act*, the *Regulations* and/or the terms and conditions of the licence, I have discretion to order one or more of the following enforcement actions:

- impose a suspension of the liquor licence for a period of time
- cancel a liquor licence
- impose terms and conditions to a licence or rescind or amend existing terms and conditions
- impose a monetary penalty
- order a licensee to transfer a licence
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Imposing any penalty is discretionary. However, if I find that either a licence suspension or monetary penalty is warranted, I am bound to follow the minimum set out in Schedule 4 of the *Regulations*.

## Submissions

The licensee agreed to the substitution of the minimum five (5) day licence suspension penalty for the recommended minimum six thousand dollar (\$6,000.00) monetary penalty.

## Decision

The branch's primary goal in determining the appropriate penalty along the scale is achieving voluntary compliance. Among the factors that are considered in determining the appropriate penalty is whether there is a past history of warnings by the branch and/or the police, the seriousness of the contravention, the threat to public safety and the well being of the community.

As noted, this is considered to be a first contravention. I have given weight to the compliance history to the extent that it demonstrates the branch has told the licensee in July 2002 of concerns regarding complying with the beverage training programs and the necessity for producing a red-line floor plan.

I accept the licensee's acceptance of a total five (5) day licence suspension for these contraventions. The legislature has spoken in clear terms about the seriousness of contraventions of the *Act* and *Regulations* and that the penalties that are to be enforced. If there are further contraventions within a year, the penalties facing the licensee increase substantially.

I am convinced, however, that serving a five day licence suspension for these contraventions will have the desired effect of bringing this licensee into voluntary compliance.

**ORDER**

Pursuant to section 20(2) of the *Act*, concerning Licence No. 161107, I order as follows:

For the contravention of section 12 of the *Liquor Control and Licensing Act* on June 28, 2003, I order a suspension of the liquor licence for one (1) day. For the contravention of section 43 of the *Liquor Control and Licensing Regulations*, I order a suspension of the liquor licence for four (4) days.

I order the licence suspension to take effect as of the close of business on Friday, November 7, 2003, and to continue on each successive "business day" until the five (5) day licence suspension is completed.

I direct that the liquor licence be held by the branch from the close of business, Friday, November 7, 2003, until the licensee has demonstrated to the branch's satisfaction that the licenced establishment has been closed for five (5) business days.

The suspension sign notifying the public shall be placed in a prominent location by a liquor inspector. A liquor inspector will attend the premises, take possession of the liquor licence and hold it in safekeeping during the term of the suspension.

*Original signed by*

Suzan Beattie  
Enforcement Hearing Adjudicator

Date: November 5, 2003

cc: Vancouver Police Department

Liquor Control and Licensing Branch, Office  
Attention: Wendy Jones, Regional Manager

Liquor Control and Licensing Branch, Victoria Office  
Attention: Peter K. Jones, Advocate