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April 7, 2020

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Albany, NY

SLA ISSUES EMERGENCY SUSPENSIONS FOR WESTERN NEW YORK BARS

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SLA ISSUES EMERGENCY SUSPENSIONS FOR WESTERN NEW YORK BARS

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Suspensions Ordered for Two Bars Found Operating in Violation of Emergency Shutdown Order

The New York State Liquor Authority (SLA) summarily suspended the liquor licenses of Swannie House Ltd., doing business as the “Swannie House” at 170 Ohio Street in Buffalo, and Toralti & Marfurt Restaurant Inc., doing business as “AJ’s” at 10250 Main Street in Clarence. Both bars were found operating in violation of the Governor’s Executive Order, which requires restaurants to cease on-premises service of food and alcoholic beverages to combat the spread of the coronavirus.

On March 27th Erie County Health officials received a complaint that the Swannie House was continuing normal daily operations despite restrictions to combat the coronavirus put into effect on March 16th. The complaint included a video showing approximately twelve patrons inside the bar consuming alcoholic beverages. On March 27th, an inspector with the Erie County Department of Health arrived at the premises at 8:30 p.m., observing approximately twelve patrons inside the bar. When Erie County Sheriffs' deputies arrived at 9:00 p.m. they found the front door locked and observed patrons exiting the premises through a rear door. The bar was served with a closure order from the Erie County Health Department closing the premises immediately.

Also on March 27th, Erie County Health officials received complaints that AJ's in Clarence continued to operate in violation of the emergency shutdown since the order went into effect. On March 27th, an inspector with the Erie County Health Department surveilled the premises for about 30 minutes, observing eleven patrons inside the bar. Sheriffs and health inspectors entering the bar were met by the owner, who maintained he could not prevent patrons from mingling and consuming alcohol inside the premises after being notified he was in violation of the Governor's order. The bar was served with a closure order from the Erie County Health Department closing the premises immediately.

On April 2, 2020, the SLA charged both AJ's and the Swannie House with two violations for failure to comply with Governor Cuomo's Executive Orders concerning COVID-19 restaurant restrictions and for its failure to supervise the licensed premises. Both restaurants remained closed under Erie County's Health Department as of April 7, 2020.

"Continuing to operate business-as-usual during this crisis demonstrates a dangerous indifference to the health and safety of others, and the SLA will not hesitate in taking immediate actions to shut these businesses down," said SLA Chairman Vincent Bradley. "We understand suspending dine-in service has caused a major, though necessary economic disruption for our licensees, and we thank the overwhelming majority of businesses who are prioritizing the public's best interest in our cooperative efforts to stem the tide of the coronavirus."

The emergency suspension was ordered by Chairman Vincent Bradley, Commissioner Lily Fan, and Commissioner Greeley Ford at a special meeting of the Full Board, conducted by videotaped conference call under social distancing guidelines, on April 7, 2020.

The State Administrative Procedure Act authorizes a State agency to summarily suspend a license when the agency finds that public health, safety, or welfare requires emergency action. When the SLA summarily suspends a license, it also serves a Notice of Pleading alleging one or more disciplinary violations. In invoking a summary suspension, the SLA has deemed the violation to be sufficiently serious upon initial review to warrant an immediate suspension. The SLA's decision to summarily suspend a license is not a final determination on the merits of the case. The licensee is entitled to an expedited administrative law hearing before an Administrative Law Judge. An order of summary suspension remains in effect until such time as it is modified by the SLA or a reviewing Court.

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