

STATE OF RHODE ISLAND

WASHINGTON, SC.

SUPERIOR COURT

(FILED: July 23, 2025)

NARRAGANSETT CASINO, LLC,	:	
<i>Appellant,</i>	:	
	:	
v.	:	C.A. No. WC-2025-0353
	:	
STATE OF RHODE ISLAND	:	
DEPARTMENT OF BUSINESS	:	
REGULATION, ELIZABETH	:	
KELLEHER DWYER, in her capacity	:	
as Acting Director, and CATHERINE	:	
WARREN, in her capacity as Hearing	:	
Officer for the Department of	:	
Business Regulation,	:	
<i>Appellees,</i>	:	
AND	:	
	:	
TOWN OF NARRAGANSETT TOWN	:	
COUNCIL, Sitting as Liquor Licensing	:	
Committee, BEACHCOMBER	:	
PROPERTIES, LLC, J.T. O'CONNELL	:	
REALTY, LLC,	:	
<i>Interested Parties</i>	:	
	:	
AND	:	
	:	
HITESH PATEL, SURESH PATEL,	:	
PRITY PATEL and NAYAN PATEL, as	:	
former members of the now revoked	:	
entity and legal fiction, SAH	:	
HOSPITALITY, LLC, as well as JOHN	:	
DOE and JANE DOE, to the extent that	:	
there are any additional members.	:	

DECISION

TAFT-CARTER, J. Before this Court is Narragansett Casino, LLC’s (Appellant’s) Emergency Motion to Stay the Director of the Department of Business Regulation’s Decision and Order that stayed the Town of Narragansett’s granting of a class BV liquor license to Appellant. (Appellant

Narragansett Casino LLC's Emergency Mot. to Stay (Appellant's Mot.).) The Department of Business Regulation (the Department) objects to the motion. (Department of Business Regulation's Obj. to Emergency Mot. to Stay (DBR's Obj.).) Jurisdiction is pursuant to G.L. 1956 § 42-35-15(c).

I

Facts and Travel

This action involves Appellant's efforts to secure a liquor license in the Town of Narragansett. Applicable law permits adjoining property owners to object to the issuance of a liquor license. *See* G.L. 1956 § 3-7-19(a). If the owners "of the greater part of the land within two hundred feet (200') of any point of the building" properly object, then the objectors have demonstrated a legal remonstrance, and the license shall not issue. *Id.* Here, the interested parties are individuals and businesses that own property within 200 feet of Appellant.

Appellant owns the Narragansett Movie Theatre Building and controls the ground beneath the building pursuant to a ground lease. (Appellant's Mot. 4.) Beachcomber Properties, LLC, an interested party, leases space to two tenants in the area that each possess a class BV liquor license. (The Department's Order Re: Motion for Stay 6.) J.T. O'Connell Realty, likewise, possesses a class BV liquor license in the area. *Id.* SAH Hospitality, LLC, owned by Hitesh Patel, Suresh Patel, Prity Patel, and Nayan Patel, formerly held a class BV liquor license, but has since become a defunct entity after the Rhode Island Secretary of State revoked its entity status on September 17, 2024. *Id.*

On June 2, 2025, the Narragansett Town Council, acting as the Liquor License Committee, considered Appellant's application for a class BV liquor license. (DBR's Obj. 2.) During the hearing, adjoining property owners, including Beachcomber Properties, LLC and J.T.

O’Connell Realty objected. (Appellant’s Mot. 7.) In addition, SAH Hospitality LLC objected through counsel *Id.* at 5. “SAH Hospitality, LLC” was not, however, a legal entity. (Appellant’s Mot. Ex. B at 1.)

Notwithstanding the objections, the Narragansett Town Council approved Appellant’s liquor license application at the June 2, 2025 hearing. (Appellant’s Mot. 7.)

Following the Narragansett Town Council’s approval, Beachcomber Properties, LLC, J.T. O’Connell Realty, and SAH Hospitality, LLC appealed the decision to the Department. (Appellant’s Mot. Ex. C. at 1.) The interested parties also filed a joint motion for a stay of the issuance of the liquor license. (DBR’s Obj. 2.) Following a hearing on the matter, the Department granted the motion to stay the issuance of the liquor license pending agency review. (Appellant’s Mot. Ex. D. at 2.) The Department based its decision, in part, on its finding that “Appellants are likely able to show that a legal remonstrance was established, and that the Town was without jurisdiction to grant the liquor license.” *Id.* On the same day that the stay issued, Appellant filed the present emergency motion to stay the agency decision. (Appellant’s Mot. 1.)

II

Standard of Review

“Any person, including any small business, who has exhausted all administrative remedies available to him or her within the agency, and who is aggrieved by a final order in a contested case is entitled to judicial review under [the Administrative Procedures Act.]” Section 42-35-15(a). In addition, “[a]ny preliminary, procedural, or intermediate agency act or ruling is immediately reviewable in any case in which review of the final agency order would not provide an adequate remedy.” *Id.*

III

Analysis

A

Exhaustion of Administrative Remedies

Appellant argues that the Department’s order staying the issuance of the liquor license is a final interlocutory order that is therefore immediately reviewable. (Appellant’s Mot. 9.) The Department disagrees, arguing that the Department’s order is interlocutory and therefore not ripe under the Administrative Procedures Act (APA) because Appellant has failed to exhaust administrative remedies. (DBR’s Obj. 3.) The Department further argues that even if the interlocutory order is properly before the court, Appellant “has failed to show that any delay in licensure creates a harm that requires immediate need for review that could not be addressed by appeal of any final DBR decision to this Court.” *Id.* at 4.

1

The Department’s Issuance of the Stay Is not a Final Order

An administrative order is “final” when two conditions are satisfied: “First, the action must mark the ‘consummation’ of the agency’s decision[-]making process—it must not be of a merely tentative or interlocutory nature. And second, the action must be one by which ‘rights or obligations have been determined,’ or from which ‘legal consequences will flow[.]’” *Banki v. Fine*, 224 A.3d 88, 96 (R.I. 2020) (quoting *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997)).

Here, by its own terms, the Department’s order is interlocutory. (Appellant’s Mot. Ex. D at 3 “THIS DECISION CONSTITUTES AN INTERLOCUTORY ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-15.”)) (Emphasis in original.) Given that the order is interlocutory, it cannot satisfy the first

requirement of finality, as expressed in *Banki*.¹ See *Banki*, 224 A.3d at 96 (where our Supreme Court was “in complete disagreement with the [appellants’] position that an interlocutory order can be a ‘final’ order under the Administrative Procedures Act”). Thus, for judicial review to be appropriate in this case, Appellant is “required to meet the exception laid out in § 42-35-15(a) concerning the appealability of interlocutory orders.” *Id.*

2

Appellant Has Not Demonstrated Exceptional Circumstances to Warrant Judicial Review

Our Supreme Court has adopted four exceptions to the general requirement of exhaustion of administrative remedies: “(1) the administrative process would be ‘futile or inadequate;’ (2) the administrative process would ‘waste resources, and work severe or irreparable harm on the litigant;’ (3) the issues raised ‘involve purely legal questions;’ or (4) the agency prevents ‘the litigant from pursuing [its] claim at the administrative level.’” *Doe ex rel. His Parents and Natural Guardians v. East Greenwich School Department*, 899 A.2d 1258, 1266 (R.I. 2006) (quoting *Pihl v. Massachusetts Department of Education*, 9 F.3d 184, 190-91 (1st Cir. 1993)).

Here, Appellant has not demonstrated that any of the above exceptions to the doctrine of exhaustion of administrative remedies exist. Appellant has not argued, nor is there any indication on this record, that administrative proceedings will be futile or inadequate. Furthermore, it has not alleged that the issues herein involve purely legal questions. Finally, it does not allege that the Department has prevented it from pursuing its claim at the administrative level.

¹ To the extent that Appellant argues that the “Superior Court has the power to stay the Department proceeding below, because the Department explicitly stated so here: [via the notice of appellate rights],” the argument is incorrect. (Appellant’s Mot. 10.) The notice of appellate rights states that the order *may* be appealed to the superior court; this statement does not exempt the order from the laws governing judicial review of agency appeals. And in any event, “[a] hearing officer’s belief that [an] Order [is] final and [their] inclusion of a notice of a right to appeal along with the Order does not bind [the Supreme Court,] nor does it bind the Superior Court.” *Banki v. Fine*, 224 A.3d 88, 97 (R.I. 2020).

Rather, Appellant asserts that “[Appellant] wishes to pursue its appeal rights, procedurally, to have the Decision immediately reviewed, so that way, the Department proceeding can be corrected and narrowed for the clear error including the Patels and SAH Parties.” (Appellant’s Mot. 10.) While judicial review may be Appellant’s preferred course of action, the desire for immediate review is not a recognized exception to the requirement that a party exhaust its administrative remedies.

Likewise, Appellant’s argument that it “will be irreparably harmed absent a Stay because it was awarded a Liquor License for the summer, for a property it has been litigating for years, on an application in which Hitesh Patel, Suresh Patel, Prity Patel and Nayan Patel did not object to[,]” is unpersuasive. *Id.* at 20. Appellant’s position that lacking a liquor license “for the summer” will cause harm is akin to a claim for lost income.² In *In re State Employees’ Unions*, 587 A.2d 919 (R.I. 1991), our Supreme Court was clear that “a complaint relating to lost income is, in its essence, a claim for money damages. [And] [i]t is axiomatic in equity law that a claim for monetary damages will ordinarily not invite injunctive relief, as there is an adequate remedy at law.” *In re State Employees’ Unions*, 587 A.2d at 926. Thus, Appellant cannot demonstrate irreparable harm warranting a stay by claiming that its future profits will be reduced.

Given that the Department’s decision is an interlocutory order, and Appellant has not shown that an exception applies to the requirement that it exhaust all administrative remedies before pursuing an appeal, judicial review of the Department’s decision would be inappropriate at this time. *See Banki*, 224 A.3d at 98 (holding that judicial review by the superior court is inappropriate when a party has failed to exhaust administrative remedies or show that exhaustion was not required).

² Further, if Appellant was concerned about its ability to operate with a liquor license during the summer season, it could have begun the process of procuring the license earlier in the year.

Exhaustion of Administrative Remedies Promotes Judicial Economy and Provides Avenues for Redress of Contested Issues

Finally, the Court notes that the exhaustion of administrative remedies is an important component of the dispute resolution process. “Requiring the exhaustion of administrative remedies (1) ‘aids judicial review by allowing the parties and the agency to develop the facts of the case, and (2) . . . promotes judicial economy by avoiding needless repetition of administrative and judicial factfinding, perhaps avoiding the necessity of any judicial involvement.’” *Almeida v. Plasters’ and Cement Mason’s Local 40 Pension Fund*, 722 A.2d 257, 259 (R.I. 1998) (internal quotations omitted). For these reasons, our Supreme Court has stressed that “[j]udicial review of interlocutory rulings of administrative agencies must be ‘sparingly exercised in order to avoid inundation by preliminary issues that may ultimately be resolved or become moot in the course of litigation at the administrative level.’” *Banki*, 224 A.3d at 98 (quoting *North Kingstown School Committee v. Wagner*, 176 A.3d 1097, 1099 n.3 (R.I. 2018)).

Regarding the potential to resolve preliminary issues at the administrative level, Appellant raises a concern that in the absence of judicial review of the interlocutory order, the inclusion of SAH Hospitality, LLC as an objector to the liquor license application will be conclusively decided by the Department. *See* Appellant’s Mot. 10. However, Appellant retains multiple opportunities to contest this finding both during the agency appeal and after its conclusion. For instance, Appellant’s Motion to Dismiss SAH Hospitality, LLC from the matter is pending before the Department. (Appellant’s Mot. Ex. E). Likewise, SAH Hospitality, LLC’s Motion to Intervene is pending before the Department. (DBR.’s Obj. 3.) In addition, if the issue of the inclusion of SAH Hospitality, LLC remains at the conclusion of the agency proceedings, then Appellant can seek judicial review of the issue at that time. *See Banki*, 224 A.3d at 97

(“Even though interlocutory orders . . . are not immediately appealable, this rule does not foreclose the possibility of review of the correctness of the order after a final order or judgment has been entered.”).

IV

Conclusion

For the above stated reasons, Appellant’s Emergency Motion to Stay the Decision of the Department of Business Regulation, DBR No.: 25LQ005, is DENIED. Counsel shall prepare the appropriate order for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

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Department of Business Regulation, et al.

CASE NO: WC-2025-0353

COURT: Washington County Superior Court

DATE DECISION FILED: July 23, 2025

JUSTICE/MAGISTRATE: Taft-Carter, J.

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