

TEXAS ALCOHOLIC BEVERAGE COMMISSION	§	BEFORE THE STATE OFFICE
	§	
	§	
VS.	§	
	§	
ELVIA SAUCEDO BELMONTE	§	OF
D/B/A LA ESTRELLA MEXICAN RESTAURANT	§	
PERMIT NO. BG-428177 & CERTIFICATE NO. FB-428178	§	
TRAVIS COUNTY, TEXAS	§	
(TABC CASE NO. 579654)	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Alcoholic Beverage Commission (Staff) brought this action seeking cancellation of the permits held by Elvia Saucedo Belmonte, d/b/a La Estrella Mexican Restaurant (Respondent), because it has not paid a local permit fee levied by the City of Austin. Following a hearing that Respondent failed to attend, the Administrative Law Judge recommends the permits be canceled.

I. Procedural History

On December 2, 1998, a public hearing was convened before Barbara C. Marquardt, Administrative Law Judge (ALJ), in the State Office of Administrative Hearings at the Stephen F. Austin Building, 1700 North Congress, Austin, Travis County, Texas. Staff was represented by Clyde Burleson, an attorney with the Commission's Legal Division. Respondent failed to appear and was not represented by an attorney.

II. Reasons for Decision

Respondent failed to appear at the hearing. Staff proved that appropriate notice of the hearing was sent to Respondent's address of record and presented evidence proving the violation. Because Staff's case was not contested, jurisdiction, notice, the violation and the recommended punishment are addressed in the Findings of Fact and Conclusions of Law without discussion.

III.

PROPOSED FINDINGS OF FACT

1. Elvia Saucedo Belmonte, d/b/a La Estrella Mexican Restaurant (Respondent), is the holder of Wine and Beer Retailer's Permit BG-428177 and Food and Beverage Certificate FB-428178 issued by the Texas Alcoholic Beverage Commission (Commission) for the

premises known as La Estrella Mexican Restaurant located at 6201 Highway 290 East, Austin, Travis County, Texas.

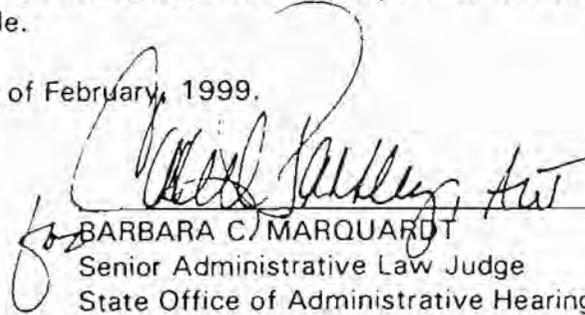
2. On October 22, 1998, Staff sent, by certified mail, a Notice of Hearing to Respondent, which contained a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the statutes and rules involved; and a statement of the matters asserted.
3. The Notice of Hearing was sent to Respondent at its mailing address of record with the Commission, 6201 Highway 290 East, Austin, Texas 78723 by certified mail (No. P 419 580 173), return receipt requested, and it was returned to Staff marked "undeliverable as addressed" on October 26, 1998.
4. On December 2, 1998, a public hearing was convened before Barbara C. Marquardt, Administrative Law Judge (ALJ), in the State Office of Administrative Hearings in the Stephen F. Austin Building, 1700 North Congress, Austin, Travis County, Texas. Staff was represented by Clyde Bureson, an attorney with the Commission's Legal Division, but Respondent failed to appear and was not represented by an attorney.
5. Respondent has not paid a local permit fee levied by the City of Austin.

IV.

PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. (the Code) §§11.38 and 11.61 (Vernon 1999).
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003 (Vernon 1999).
3. As referenced in Findings 2 and 3, Staff complied with the legal requirement that it notify Respondent at its address of record with the Commission of the conduct alleged, an opportunity to show compliance with the law, and of the hearing, pursuant to the Code §11.61 and TEX. GOV'T CODE ANN. ch. 2001 (Vernon 1999).
4. Based on the foregoing, Respondent has not paid a local permit fee authorized by § 11.38(a) of the Code, which warrants cancellation of the permits referenced in Finding 1 under §11.38(b) of the Code.

SIGNED this 12/2 day of February, 1999.


for BARBARA C. MARQUARDT
Senior Administrative Law Judge
State Office of Administrative Hearings