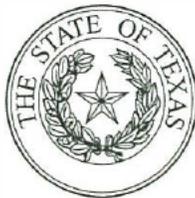


State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge
July 29, 2015

RECEIVED

JUL 31 2015

TABC HOUSTON
LEGAL DEPT.

Sherry K-Cook
Administrator
Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, Texas 78731

VIA REGULAR MAIL

RE: SOAH Docket No. 458-15-4281; Texas Alcoholic Beverage Commission vs. Claudia Yulissa Espinoza d/b/a Gueritas Drive Inn

Dear Ms. Cook:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink that reads "Lindy Hendricks".

Lindy Hendricks
Administrative Law Judge

LH/mr
Enclosure

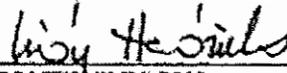
xc Sandra Patton, Texas Alcoholic Beverage Commission, 427 W. 20th Street, Suite 600, Houston, TX 77008
- **VIA REGULAR MAIL**
Martin Wilson, General Counsel, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX
78731 - **VIA REGULAR MAIL**
Judith Kennison, Senior Attorney, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX
78731 - **VIA REGULAR MAIL**
Claudia Yulissa Espinoza d/b/a Gueritas Drive Inn. 14115 Forest Acres Drive, Houston TX 77050 - **VIA
REGULAR MAIL**

3. The notice of hearing informed Respondent of the time, date, and location of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and included a short, plain statement of the matters asserted.
4. The notice of hearing also contained language in 12-point, bold-face type informing Respondent that if it failed to appear at the hearing, the factual allegations against it would be deemed admitted as true, and the relief sought in the notice might be granted by default.
5. The hearing convened on July 17, 2015, before Administrative Law Judge Lindy Hendricks at the State Office of Administrative Hearings (SOAH) office in Houston, Texas. TABC was represented by Staff Attorney, Sandra K. Patton. Respondent did not appear and was not represented at the hearing.
6. Staff moved for a default, which was granted.
7. The allegations contained in the notice are deemed admitted as true.
8. Respondent failed to maintain a performance bond.
9. Respondent or its agent, servant, or employee, sold or offered for sale, distributed, or delivered any alcoholic beverage or permitted one to be consumed while Respondent's permit was under suspension.

II. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter pursuant to Texas Alcoholic Beverage Code (Code) Chapter 5 and §11.61.
2. SOAH has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Government Code Chapter 2003.
3. Proper and timely notice of the hearing was provided as required by Texas Government Code §§ 2001.051 and 2001.052.
4. Respondent violated Code §§ 11.61(b-1), 61.71(a)(1) and (22), and 16 Texas Administrative Code § 33.24(n).
5. Based on the above Conclusions of Law, Respondent's permit should be cancelled.

SIGNED July 28, 2015.



LINDY HENDRICKS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

DOCKET NO. 631642

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner	§	BEFORE THE TEXAS
	§	
	§	
VS.	§	
	§	
	§	
CLAUDIA YULISSA ESPINOZA D/B/A GUERITAS DRIVE INN, Respondent	§	ALCOHOLIC
	§	
	§	
PERMIT BG736244, BL	§	
	§	
	§	
HARRIS COUNTY, TEXAS (SOAH DOCKET NO. 458-15-4281)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 20th day of November, 2015, the above-styled and numbered cause.

After proper notice was given, this case was heard by the State Office of Administrative Hearings (SOAH), with Administrative Law Judge Lindy Hendricks presiding. The hearing convened on July 17, 2015 and the SOAH record closed the same day. Respondent did not appear and was not represented at the hearing. The Administrative Law Judge filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on July 29, 2015. The Proposal for Decision was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the record herein. No exceptions were filed.

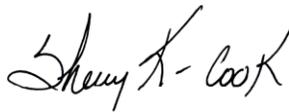
After review and due consideration of the Proposal for Decision, I adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained therein and incorporate those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated herein.

All motions, requests for entry of Proposed Findings of Fact and Conclusions of Law, and any other requests for general or specific relief submitted by any party are denied, unless specifically adopted herein.

IT IS THEREFORE ORDERED that Wine and Beer Retailer's On-Premise Permit BG 736244, and the associated Retail Dealer's On-Premise Late Hours License, are hereby **CANCELLED**.

This Order will become final and enforceable on the 15th day of December, 2015, unless a Motion for Rehearing is filed by the 14th day of December, 2015.

SIGNED this the 20th day of November, 2015, at Austin, Texas.



Sherry K-Cook, Executive Director
Texas Alcoholic Beverage Commission

CERTIFICATE OF SERVICE

I certify that the persons listed below were served with a copy of this Order in the manner indicated below on this the 20th day of November, 2015.



Martin Wilson, Assistant General Counsel
Texas Alcoholic Beverage Commission

Lindy Hendricks
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
2020 North Loop West, Suite 111
Houston, TX 77018
VIA FACSIMILE: (512) 322-2061

Claudia Yulissa Espinoza
d/b/a Gueritas Drive Inn

RESPONDENT

14115 Forest Acres Drive
Houston, TX 77050

VIA FIRST CLASS MAIL, CMRRR # 70090960000121491346

Sandra Patton

ATTORNEY FOR PETITIONER

TABC Legal Division

VIA E-MAIL:sandra.patton@tabc.texas.gov