

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF

EZEQUIEL BARAJAS SANDOVAL
CASA AQUILA RESTAURANT AND
LOUNGE
6980 170TH ROAD
BASIN CITY, WA 98343

LICENSEE

LICENSE NO. 360397
AVN: 4J8033A

LCB NO. 22,819
OAH NO. 2008-LCB-0031

FINAL ORDER OF THE BOARD

The above entitled matter coming on regularly before the Board, and it appearing that:

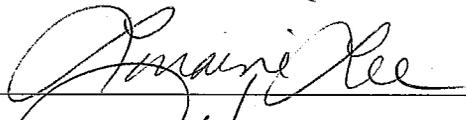
1. An administrative hearing was held on November 5, 2008 at the Licensee's timely request for a hearing on an Administrative Violation Notice issued by the Liquor Control Board on February 8, 2008.
2. On June 27, 2008, the Board issued a Complaint alleging that on or about February 2, 2008 the Licensee, or an employee(s) there of allowed a person under 21 (twenty-one) years of age to frequent a restricted premises contrary to RCW 66.44.310 and WAC 310-11-020(2).
3. At the hearing the Education and Enforcement Division of the Board was represented by Assistant Attorney General Jennifer Elias and the Licensee was represented by Attorney at Law Dean Chuang; an interpreter was also provided.
4. On December 17, 2008 Administrative Law Judge Craig Davenport issued his Initial Order in this matter which sustained the Complaint.
5. No exceptions were received.

6. The entire record in this proceeding was presented to the Board for final decision, and the Board having fully considered said record and being fully advised in the premises; NOW THEREFORE,

IT IS HEREBY ORDERED that the Administrative Law Judge's Findings of Fact, Conclusions of Law and Initial Order heretofore made and entered in this matter be, and the same hereby are, AFFIRMED and adopted as the Findings of Fact, Conclusions of Law and Final Order of the Board, and that the liquor license privileges granted to Ezequiel Barajas Sandoval d/b/a Casa Aquila Restaurant and Lounge at 6980 170th Road in Basin City, Washington, license number 360397, be and the same are hereby suspended for a term of seven days (7) days; effective from 10:00 a.m. on March 5, 2009, until 10:00 a.m. on March 12, 2009. Failure to comply with the terms of this order will result in further disciplinary action.

DATED at Olympia, Washington this 19th day of February, 2009.

WASHINGTON STATE LIQUOR CONTROL BOARD





Kathleen Kurose

Reconsideration. Pursuant to RCW 34.05.470, you have ten (10) days from the mailing of this Order to file a petition for reconsideration stating the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order or (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof,

should be filed by mailing or delivering it directly to the Washington State Liquor Control Board, Attn: Kevin McCarroll, 3000 Pacific Avenue Southeast, PO Box 43076, Olympia, WA 98504-3076, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Board's office. RCW 34.05.010(6). A copy shall also be sent to Martha P. Lantz, Assistant Attorney General, 1125 Washington St. SE, P.O. Box 40110, Olympia, WA 98504-0110. A timely petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on the petition. An order denying reconsideration is not subject to judicial review. RCW 34.05.470(5). The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review.

Stay of Effectiveness. The filing of a petition for reconsideration does not stay the effectiveness of this Order. The Board has determined not to consider a petition to stay the effectiveness of this Order. Any such request should be made in connection with a petition for judicial review under chapter 34.05 RCW and RCW 34.05.550.

Judicial Review. Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE WASHINGTON STATE LIQUOR CONTROL BOARD

In the Matter of:

Ezequiel Barajas Sandoval
Casa Aquila Restaurant and Lounge

LICENSEE

LICENSE NO. 360397

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

I hereby certify that I have this day served a copy of this document upon all parties of record in this proceeding by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.

DATED at Yakima, Washington, this 27th day of January, 2009.

Cary Campbell
Representative, Office of Administrative Hearings

OAH NO. 2008-LCB-0031
NO. 22,819

AMENDED NOTICE TO PARTIES

The attached administrative law judge's findings of fact, conclusions of law and initial order are not effective until a final order of the Washington State Liquor Control Board is issued.

All parties hereto shall have twenty (20) days from the date of service of these proposals to file exceptions as provided by RCW 34.05.464 and WAC 314-29. Exceptions shall be filed in triplicate with the Liquor Control Board, 3000 Pacific Avenue S.E., P.O. Box 43076, Olympia, WA 98504-3076. Replies to exceptions shall be filed with the Board within ten (10) days of the date of service of exceptions as provided by WAC 314-29. The exceptions must be received on or before **February 16, 2009**. One copy of the exceptions or replies must also be served upon all other parties of record, or their attorneys, with proof of service as required by WAC 314-29.

After reviewing the entire record including exceptions, replies, briefs and legal arguments, if any, the board will affirm, reverse or modify these proposals by a final order of the board.

The administrative law judge's proposed decision provides for suspension of your license for seven days.

RECEIVED

JAN 30 2009

LIQUOR CONTROL BOARD
BOARD ADMINISTRATION

**STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE WASHINGTON STATE LIQUOR CONTROL BOARD**

In the Matter of:

EZEQUIEL BARAJAS SANDOVAL
CASA AQUILA RESTAURANT AND
LOUNGE

6980 170th ROAD
BASIN CITY, WA 98343

Licensee

License No. 360397

OAH Docket No. 2008-LCB-0031

LCB Case No. 22,819

INITIAL ORDER

STATEMENT OF THE CASE

Pursuant to notice a hearing was held before Craig Davenport, an Administrative Law Judge, at the Liquor Control Board Office in Pasco Washington, on November 5, 2008, in the matter of Ezequiel Barajas Sandoval, d/b/a Casa Aquila Restaurant and Lounge, LCB Case No. 4J8033A.

The Liquor Control Board was represented by Assistant Attorney General Brian Considine. Casa Aquila Restaurant and Lounge and Ezequiel Barajas Sandoval were represented by Attorney Dean Chuang.

On February 8, 2008 an Administrative Violation Notice issued by certified mail to Casa Aquila Restaurant and Lounge, alleging a violation of RCW 64.44.310, allowing a person under age 21 to frequent a restricted area, occurred on February 2, 2008. As this was the second violation in a two year window a penalty of a 7 day suspension with no monetary option was proposed. Mr. Sandoval objected to the notice and requested a hearing. On June 27th

the Washington State Liquor Control Board issued a complaint charging Ezequiel Barajas Sandoval and Casa Aquila Restaurant and Lounge with allowing a person under 21 years of age to frequent a restricted premises contrary to RCW 66.44.310 and WAC 314-11-020(2).

The Administrative Law Judge having considered the record and testimony enters the following:

FINDINGS OF FACT

1. On February 2, 2008 Officer Rebecca Burnham and Lieutenant Kent Williams and Deputy Rogers from the Franklin County Sheriff's Office went to Casa Aquila Restaurant and Lounge for the purpose of conducting a premises check at the establishment. Officer Burnham entered the restaurant alone while Lieutenant Williams and Deputy Rogers remained some distance away in their vehicles.
2. Officer Burnham entered the Lounge area of the establishment and ordered a drink. She took a seat at the bar. After she had been there for approximately five minutes, she observed a young man enter the lounge. The young man approached Mr. Sandoval who was seated on a bar stool in the lounge. The young man appeared to hug Mr. Sandoval. Sandoval and Garibay spoke for approximately five minutes. The young man, later identified as Jorge A. Garibay, then left the lounge and went to the game room.
3. Lieutenant Williams was then summoned by Officer Burnham. He contacted Mr. Garibay in the game room. He determined that Garibay's date of birth was March 3, 1988. He spoke with Garibay who said he had gone into the Lounge to speak with Sandoval.
4. Casa Aquila has been cited within the last two years for allowing a person under 21 to frequent a restricted area.

CONCLUSIONS OF LAW

1. The Washington State Liquor Control Board has jurisdiction over the licensee, Ezequiel B. Sandoval , dba as Casa Aquila Restaurant and Lounge, who is the holder of a Spirits/ beer/wine liquor license issued pursuant to chapter 66.24 RCW and is subject to the provisions of RCW 66.24.310.

2. Liquor licensees must operate licensed premises in compliance with liquor laws passed by the legislature and regulations adopted by the Liquor Control Board. RCW 64.44.310 provides that it is a misdemeanor to allow a person under 21 years of age to remain in any area classified by the board as off limits to any person under age 21 years.

3. WAC 314-11-020 provides that licensees and employees may not allow persons under twenty one years of age to remain in any premises or area of a premises classified as off-limits to any person under the age of twenty one years.

4. The penalties a licensee may receive for violation of the law and regulation are set out in WAC 314-29-020.

5. The undisputed evidence establishes that Jorge Garibay, a person under twenty-one years of age, was present in the licensed premises on February 2, 2008. While inside the premises, Mr. Garibay entered the lounge area, which was restricted to persons under the age of twenty-one years. Mr. Sandoval allowed Jorge Garibay to remain in the lounge while he spoke to him. This was a clear violation of the applicable statute and regulation.

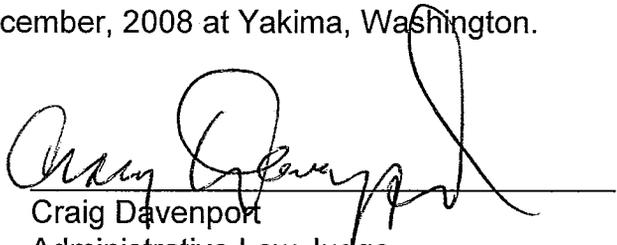
5. WAC 314-29-020 establishes the standard penalty for a second violation of RCW 66.44.310 as a seven-day suspension with no monetary option. WAC 314.29.015 authorizes a variation from the standard penalty when mitigating or aggravating factors exist.

No mitigating or aggravating circumstances have been demonstrated. As the licensee has a previous violation, a seven-day suspension of the licensee's liquor license is the appropriate penalty.

INITIAL ORDER

The Board's Complaint dated June 27, 2008 based on the Notice of Administrative Violation alleging a violation of RCW 66.44.310 and WAC 314-11-202 on February 2, 2008, is Affirmed. The licensee, Ezequiel Barajas Sandoval, d/b/a Casa Aquila Restaurant and Lounge located at 6980 170th Rd, Basin City, in Franklin County, Washington, License Number 360397, shall, on a date to be set by the Board in its final order, be suspended for seven days.

Dated and Mailed this 17th day of December, 2008 at Yakima, Washington.



Craig Davenport
Administrative Law Judge
Office of Administrative Hearings
32 North Third Street, Ste 320
Yakima, WA 98901
(509) 575-2147, or 1-800-843-3491
FAX: (509) 454-7281

Copies mailed to:

Ezequiel Barajas Sandoval, Licensee
Dean Chuang, Attorney for Licensee
Jennifer Elias, AAG
Nellie Chávez, 509-457-2870, Interpreter