

**DOCKET NO. 458-03-1723**

**TEXAS ALCOHOLIC BEVERAGE  
COMMISSION**

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§

**BEFORE THE STATE OFFICE**

v.

**OF**

**TANVIR AHMED MALIK  
D/B/A FOOD BAG  
TARRANT COUNTY, TEXAS**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

The Texas Alcoholic Beverage Commission (TABC) staff (Petitioner) brought this enforcement action against Tanvir Ahmed Malik d/b/a Food Bag (Respondent), alleging that Respondent failed to pay delinquent ad valorem taxes to Tarrant County, in violation of the Texas Alcoholic Beverage Code. Petitioner requested that Respondent's license be canceled. The Administrative Law Judge (ALJ) agrees with this recommendation.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

The Texas Alcoholic Beverage Commission has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. ch. 5 and § 61.36. The State Office of Administrative Hearings (SOAH) has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.

On April 11, 2003, Petitioner issued its notice of hearing, directed to Respondent at its address of record, 1125 West Arkansas Lane, Arlington, Texas, 76013-6325, via certified mail, return receipt requested. The notice 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 particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted, as required by TEX. GOV'T CODE ANN. § 2001.052. The notice was returned by the United States Postal Service with the notation: Return to Sender; Attempted-Not Known.

On April 24, 2003, a hearing convened before SOAH ALJ Monica Garza at 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Tarrant County, Texas. Petitioner was represented at the hearing by Timothy Griffith, TABC Staff Attorney. Respondent did not appear and was not represented at the hearing. Following presentation of evidence, the record closed on April 24, 2003.



## II. APPLICABLE LAW

In reference to a licensee's responsibilities regarding ad valorem taxes, TEX. ALCO. BEV. CODE ANN. § 61.36 provides as follows:

(d) The commission or administrator may cancel or deny a license for the retail sale of alcoholic beverages, including a license held by the holder of a food and beverage certificate, if it finds that the license holder or applicant has not paid delinquent ad valorem taxes due on that licensed premises or due from a business operated on that premises to any taxing authority in the county of the premises. . . .

## III. EVIDENCE

Petitioner offered the following evidence regarding Respondent's license and its ad valorem tax obligations to Tarrant County. Respondent holds Beer Retailer's Off-Premise License, BF-258093, issued by TABC, for its premises located at 109 Martha Street, Euless, Tarrant County, Texas. On October 18, 2002, Betsy Price, Tarrant County Tax Assessor-Collector, notified both TABC and Respondent that it was requesting administrative cancellation of Respondent's license based on Respondent's delinquent ad valorem tax debt of \$3,928.50 for 1997-2001. Ms. Price attested to the existence of this ad valorem tax debt by sworn affidavit. At the hearing, Tom Spencer, Chief Deputy with the Tarrant County Tax Assessor-Collector's Office, testified that Respondent's current balance on the debt was approximately \$3,500.

## IV. ANALYSIS

The evidence clearly establishes that Respondent failed to pay delinquent ad valorem taxes to Tarrant County. As such, Respondent's license should be canceled in accordance with TEX. ALCO. BEV. CODE ANN. § 61.36.

## V. PROPOSED FINDINGS OF FACT

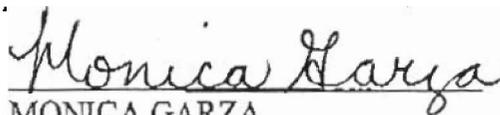
1. Tanvir Ahmed Malik d/b/a Food Bag (Respondent) holds Beer Retailer's Off-Premise License, BF-258093, issued by the Texas Alcoholic Beverage Commission (TABC), for its premises located at 109 Martha Street, Euless, Tarrant County, Texas.
2. As of April 24, 2003, Respondent owed approximately \$3,500 in delinquent ad valorem taxes to Tarrant County for 1997-2001.
3. On April 11, 2003, TABC staff (Petitioner) issued its notice of hearing, directed to Respondent at its address of record, 1125 West Arkansas Lane, Arlington, Texas, 76013-6325, via certified mail, return receipt requested.

4. The notice 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 particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
5. The notice was returned by the United States Postal Service with the notation: Return to Sender; Attempted-Not Known.
6. On April 24, 2003, a hearing convened before State Office of Administrative Hearings (SOAH) Administrative Law Judge Monica Garza at 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Tarrant County, Texas. Petitioner was represented at the hearing by Timothy Griffith, TABC Staff Attorney. Respondent did not appear and was not represented at the hearing. Following presentation of evidence, the record closed on April 24, 2003.

#### VI. PROPOSED CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter. TEX. ALCO. BEV. CODE ANN. ch. 5 and § 61.36.
2. SOAH 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. TEX. GOV'T CODE ANN. ch. 2003.
3. Petitioner issued proper and timely notice of the hearing. TEX. GOV'T CODE ANN. ch. 2001.
4. Respondent failed to comply with TEX. ALCO. BEV. CODE ANN. § 61.36.
5. Respondent's license should be canceled. TEX. ALCO. BEV. CODE ANN. § 61.36.

SIGNED this 13th day of June, 2003.



MONICA GARZA  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

DOCKET NO. 602415

IN RE TANVIR AHMED MALIK	§	BEFORE THE
D/B/A FOOD BAG	§	
LICENSE NO. BF258093	§	
	§	TEXAS ALCOHOLIC
	§	
TARRANT COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-03-1723)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this 11th day of July 2003, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge The Honorable Monica Garza. The hearing convened on April 24, 2003, and adjourned on April 24, 2003. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on June 13, 2003. This Proposal For Decision (attached hereto as Exhibit "A"), was properly served on all parties who were given an opportunity to file Exceptions and Replies as part of the record herein. As of this date no exceptions have been filed.

The Assistant Administrator of the Texas Alcoholic Beverage Commission, after review and due consideration of the Proposal for Decision, Transcripts, and Exhibits, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge, which are contained in the Proposal For Decision and incorporates those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated herein. All Proposed Findings of Fact and Conclusions of Law, submitted by any party, which are not specifically adopted herein are denied.

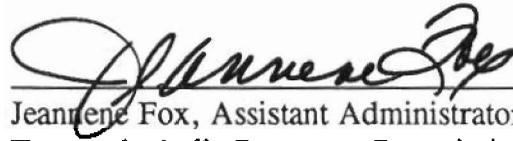
**IT IS THEREFORE ORDERED**, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that License No.BF258093 is hereby **CANCELED FOR CAUSE**.

**This Order will become final and enforceable on August 1, 2003**, unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties by facsimile or through the U.S. Mail, as indicated below.

**SIGNED** this 11th day of July, 2003.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator  
Texas Alcoholic Beverage Commission

/bc

The Honorable Monica Garza  
Administrative Law Judge  
State Office of Administrative Hearings  
VIA FAX (817) 377-3706

TANVIR AHMED MALIK  
D/B/A FOOD BAG  
RESPONDENT  
1125 W Arkansas Ln.  
Arlington, TX 76013-6325  
CERTIFIED MAIL NO. 7001 2510 0003 8686 9752

Timothy E. Griffith  
ATTORNEY FOR PETITIONER  
TABC Legal Section

Regulatory Division

Fort Worth District Office