

Public Notice

Town of Southwest Harbor Denial of Liquor License Renewal Feliciano's, LLC d/b/a Joey's Place

In accordance with the Maine Administrative Procedure Act, 5 M.R.S.ch.375, subchapter IV and 28-A M.R.S. §§ 83-B(2), 653(3) and 654, the Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, will conduct a public hearing on the appeal of the Town of Southwest Harbor's denial of Feliciano's, LLC d/b/a Joey's Place (Joey's Place) application for an on-premises liquor license to determine whether the denial of the Town of Southwest Harbor was without justifiable cause. The hearing will be conducted through the video conference platform Zoom on Thursday, March 11, 2021 at 10:00 am.

The meeting is a de novo hearing on the application. In acting on the appeal, the Bureau will consider the finding in the Town of Southwest Harbor's decision, dated January 16, 2021, denying the license application under §653(2)(D) and §654(1). The Bureau may also consider evidence pertaining to any licensure requirements, including any finding set forth in §653(2) or criteria set forth in §654. Parties to the hearing have a right to present evidence and witnesses at the hearing may be represented by counsel. Any motions or requests by the parties in connection with the hearing shall be forwarded to the Bureau of Alcoholic Beverages and Lottery Operations, 8 State House Station, Augusta, ME 04333-008. Any person may file a formal application for intervention in accordance with 5 M.R.S. §9054 to be received either by email or regular mail on or before March 4, 2021, to the attention of the Liquor Licensing Hearing Officer at Bureau of Alcoholic Beverages and Lottery Operations at the same address or at the email address Carol.Clunie@Maine.gov. A formal application for intervention shall not be construed to limit public participation in the proceeding. Members of the public may make unsworn statements or testify under oath at the hearing. The Bureau, as the basis for its decision in this proceeding, may rely upon that testimony that has been presented under oath.

As authorized by Title 1 section 403-A(1) of the Maine Revised Statutes in March of 2020, the Bureau will conduct this hearing through the video conference platform ZOOM.

The procedure for participating in the public hearing using the video conference platform Zoom is described below in this notice and is also posted on the Bureau's website at <https://www.maine.gov/dafs/bablo/liquor-licensing/liquor-licensing-hearings>.

The procedure for applicant and public access to the hearings on the ZOOM video conference platform is as follows:

1. Applicant, Municipality, and Public access to the meeting shall be through Zoom, a video conference platform.
 - a. Participants may use the video and audio functionality of the platform.
 - b. If a participant is unable to use that functionality, a call-in number will be provided so that the participant may use the call-in feature of the platform.
2. The Meeting ID is: 884 4311 2858
3. The Meeting Password is: 314915
4. Access to the Public Hearing.

- a. Computer access is through the following link:

<https://us02web.zoom.us/j/88443112858?pwd=UWt5YSSt5TXR4ZzJGNWE1eIFBVnUwZz09>

- b. Call-in only is through the following telephone number: 929 205 6099
5. Use of the platform.
 - a. If you are using a mobile device, you will need to download the ZOOM app from the App store or Google Play store or wherever you download apps for the type of device you will be using.
 - b. If you are using a personal computer, there is no app to download, the link provided will execute the Zoom platform.
6. There will be a Hearing host who will perform the duties of organizer such as muting/unmuting speakers and controlling who will be displayed visually as directed by the Hearing Officer.
7. The proceedings will be recorded.
8. The Hearing host will initially take attendance of participants using video and audio components of Zoom and those using only the call-in feature of Zoom.
9. The hearing will generally be conducted with only the following displayed visually and unmuted, the Hearing Officer, the Manager of Liquor Licensing and Enforcement, the Assistant Attorney General assigned to the Bureau, the Bureau's Liquor Licensing Inspector, the Applicant and its counsel, if any, the Municipality and its counsel, if any, and the individual who is testifying. Members of the public who wish to comment will be displayed visually and unmuted during public comment period.
10. Participants are reminded that there are 2 levels of muting and activating video: the user level and the hearing organizer level. If a participant is recognized to speak by the Hearing Officer, it may be necessary for the user to unmute and activate video at the user level even if the Hearing host has unmuted the participant's line.
11. The use of the chat function will be disabled and not used.
12. Order of Proceeding: The Hearing Officer shall:
 - a. Call the hearing to order, present introductory comments.
 - b. Introduce participating staff members and Assistant Attorney General.
 - c. Preside over the hearing on the application and public comment.
 - i. The Hearing Officer will need to administer oaths to those providing testimony.
 - ii. At the time an applicant, witness for the municipality or a member of the public is to provide testimony, the hearing officer will administer the required oath.
13. The procedure for pre-hearing submission of documents by the applicant, the municipality, and the public is as follows:
 - a. The municipality, the applicant and members of the public will be permitted to present evidence in support of or against its position on Joey's Place application for an on-premises liquor license with the following pre-hearing procedure.
 - i. The municipality, the applicant and members of the public must submit all exhibits in support or against the application of Joey's Place on or before Tuesday, March 2, 2021.
 - ii. All exhibits must be emailed to Carol.Clunie@Maine.gov, must be in a pdf format and must be marked in the subject line of the email with the following information:
Joey's Place Hearing submitted on behalf of [insert name of party submitting such as municipality, applicant or member of the public]
 - iii. In the body of the email, the following information must be provided:
 - 1) Name of the person submitting the exhibit or the name of person who will be presenting the exhibit at the hearing, if different; and

- 2) Capacity (applicant, municipal official, member of public etc.) of the person submitting or presenting, if different.
- iv. Documents received after the deadline will not be admitted as exhibits.
- b. The Hearing Officer will cause the documents to be marked as an exhibit for the relevant party in the preceding and will be posted on the Bureau's website at

<https://www.maine.gov/dafs/bablo/liquor-licensing/liquor-licensing-hearings>

on March 4, 2021, by 5:00 p.m. prior to the hearing. Hearing material can be located under the link above.

14. The procedure for public participation on the ZOOM video conference platform is as follows:
 - a. Members of the public may make unsworn statements or testify under oath at the virtual hearing. The Bureau, as the basis for the decision in this proceeding, may rely upon that testimony that has been presented under oath. The Public will use the "raise hand" feature of the ZOOM platform to identify those members of the public who would like to speak. The "raise hand" feature works as follows:
 - i. Move your cursor to the bottom of the screen and a list of options will appear.
 - ii. One of these options is called "Participants" and has an icon of two people and a number, which is the number of participants on this video conference.
 - iii. Click on this icon and a list of participants will appear, which will include your name.
 - iv. At the bottom of the list on the right-hand side will be a button called "raise hand."
 - v. If you click on that button, an icon of a blue hand will appear next to your name on the list.
 - vi. If the blue hand appears next to your name, the Hearing Officer will assume that you want to speak.
 - vii. If you activate the "raise hand" button and then decide you do not want to speak, click the button called "lower hand" and the blue hand next to your name will disappear.
 - viii. When the Hearing Officer is ready for you to speak, the Hearing Officer will tell Hearing Host to unmute you and to activate your video.
 - ix. When the Hearing Officer sees your video image appear, you will be recognized to speak.
 - x. Before making your comments please state your name and where you are from.
 - b. Members of the public not using the video component of Zoom will be called upon once all participants using the "raise hand" feature have provided testimony. The Hearing Officer will ask those who were identified at the beginning of the hearing as using the call-in feature of Zoom only whether they want to provide any testimony on application being considered for the municipality in question. The Hearing Officer will call one at a time.
15. Once all testimony has been received from the applicant, the municipality and the public, if any, the Hearing Officer will close the public hearing for that municipality.