

IN THE THIRTEENTH CIRCUIT COURT FOR THE STATE OF FLORIDA
CIRCUIT CIVIL DIVISION

CARLO BAY ENTERPRISE, INC.,
d/b/a PRANA YBOR'S PREMIER NITESPOT,
Petitioner,

Circuit Ct. Case No.: 21-CA-1109
Division: E

vs.

CITY OF TAMPA,
Respondent.

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This case is before the Court on a Petition for Writ of Prohibition filed February 8, 2021, by Petitioner Carlo Bay Enterprise, Inc. d/b/a Prana Ybor's Premier Nitespot. On review of the petition, appendix, and applicable authority, and being otherwise fully advised in the premises, the Petition is due to be denied for the reasons set forth here.

I. Jurisdiction

This Court has jurisdiction. See Art. V, Sec. 5, Fla. Const.

II. Legal Standard

"Prohibition is an extraordinary writ that is extremely narrow in scope and operation. It exists to prevent an inferior tribunal from acting in excess of jurisdiction but not to prevent an erroneous exercise of jurisdiction." *Panagakos v. Laufer*, 779 So. 2d 296, 297 (Fla. 2d DCA 1999). The only issue relevant in a prohibition proceeding is the nature and extent of a lower court or tribunal's jurisdiction; prohibition is not intended to remedy errors that are capable of correction on an appeal from a final order. *Id.*; *Haridopolos v. Citizens for Strong Schools, Inc.*, 81 So. 3d 465 (Fla. 1st DCA 2011).

III. Facts

On January 1, 2021, the City of Tampa issued Civil Citation number TC-20861 ("**Civil Citation 1**") to Petitioner for violation of Executive Order 2020-42(5). Civil Citation 1 described the violation as "[e]mployee not wearing a mask. No dancing on floor area." It provided two options for a response: either pay the fine of \$150.00 or challenge the citation in court.

On January 8, 2021, the City of Tampa issued Civil Citation number TC-20802 ("**Civil Citation 2**") to Petitioner for violation of Executive Order 2020-42(3)(b). Civil Citation 2 described the violation as "[e]mployees and patrons observed not wearing a facemask and dancing on dance floor, observed." Like Civil Citation 1, Civil Citation 2 provided that Petitioner could either pay a fine or challenge the violation in court.

Petitioner alleges that it timely followed the procedure to challenge Civil Citation 1 and Civil Citation 2 (together, the "**Civil Citations**") in court. Petitioner further alleges that the City has implied that the court challenge provided for in the Civil Citations will not occur and in lieu of the challenge procedure, the City Council will conduct a revocation/suspension hearing to be held on February 22, 2021.

IV. Analysis

The nature of a prohibition proceeding mandates a narrow focus on the issue of whether the City Council has jurisdiction to conduct the revocation/suspension hearing on February 22, 2021. Plainly, it does. See Section 27-318(c)(1) and 27-318(c)(1)(f) of the City of Tampa Code (providing for the revocation or suspension of alcohol sales for cause following a public hearing). As a consequence, the petition is due to be denied.

Accordingly, it is now

ORDERED and ADJUDGED that:

1. The Petition for Writ of Prohibition is DENIED.

Electronically Conformed 2/17/2021

By: Anne-Leigh Gaylord Moe
Anne-Leigh Gaylord Moe, Circuit Court Judge

Electronic copies provided through JAWS