STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
25 Commerce Drive Cranford, N.J. 07016

BULLETIN 2205 November 18, 1975

TABLE OF CONTENTS

ITEM

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
25 Commerce Drive Cranford, N.J. 07016

BULLETIN 2205 November 18, 1975

1. APPELLATE DECISIONS - FOUR WINDS LIQUOR SHOP, INC. ET AL. v. TEANECK, ET ALS.

Four Winds Liquor Shop, Inc., and Hudson-Bergen Package Stores Association,	)	
Appellants,	)	On Appeal
v.	)	CONCLUSIONS AND ORDER
Township Council of the Township of Teaneck and J. & J. Drug Medical Service and Toscan, Inc.,	)	
Respondents.	)	

Samuel J. Davidson, Esq., Attorney for Appellants
William Smith, Esq., Attorney for Respondent Township of Teaneck
Norman S. Costanza, Esq., Attorney for Respondent Toscan, Inc.
Hein, Smith & Berezin, Esqs., by Seymour A. Smith, Esq., Attorneys for J. & J. Drug Medical Service.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the Township Council of the Township of Teaneck (hereinafter Council) which, on September 3, 1974, approved an application for a person-to-person transfer from respondent Toscan, Inc., to J. & J. Drug Medical Service (hereinafter J & J), a partnership consisting of Jerome Kantor and Jacob Robbins. A companion application for a place-to-place transfer of respondent's licensed premises 540 Cedar Lane to 527 Cedar Lane, Teaneck, was also approved and forms part of this appeal.

In its petition of appeal, appellants contend that the grant of place-to-place transfer is invalid in that the local ordinance (Sec. 4-7 and 4-10), which permits transfer under certain hardship situations is inapplicable in the instant matter, and the Council, in granting the subject transfer as a hardship exception, acted impermissibly. The person-to-person transfer, related only to the new location, was therefore improper.

In answers filed by the Council, as well as the respondent transferee and transferor, it was asserted that the Council acted properly in determining that the transferor was the victim of such hardship situation; and, hence, the appropriate provisions of the local ordinance would apply.

A de novo hearing on this appeal was heard pursuant to Rule 6 of State Regulation No. 15 at which the parties were permitted to introduce evidence and cross-examine witnesses. Additionally, a transcript of the proceedings before the Council was admitted into evidence, in accordance with Rule 8 of State Regulation No. 15.

Since a transferor is neither a necessary nor a proper party to this appeal, it is recommended that the appeal be dismissed as to Toscan, Inc. Re Barrasso v. Irvington, Bulletin 1319, Item 2.

By stipulation, reliance was placed upon the testimony or statements made to the Council at the hearing before it. The testimony of one additional witness was elicited at the de novo hearing in this Division.

The applicable local ordinance, as contained in the Township Code (Article 11-Sec. 4-7) prohibits any transfer of a license "within five hundred feet of any licensed premises." The present transfer is well within that limitation.

The ordinance, however, provides exceptions to that limitation as follows:

> "Sec. 4-10. Waiver of strict compliance.
>
> (a) The distance requirement from licensed premises contained in section 4-7 may be waived by the township council upon application by any licensee holding a license for the sale of alcoholic beverages for a place to place transfer of such license, after public hearing on such application. Notice of such public hearing shall be published in the same manner and as part of and at the same time as the application for such place to place transfer is required to be published. If, after due consideration and deliberation, the township council, by majority vote of the members constituting a quorum at the meeting at which the application is voted upon, shall make a finding of fact in writing and determination that in its judgment strict application of such distance requirement would constitute an unwarranted hardship in the particular case, such distance requirement may be waived by appropriate resolution of the township council. In making such finding and determination, the township council shall give consideration to such factors as the following:
>
> (1) Condemnation by public agency or authority of the licensed premises from which a place to place transfer of such license to sell alcoholic beverage is sought.
>
> (2) Total destruction of such licensed premises by fire or other catastrophe beyond the control of the licensee where restoration is impossible or impracticable.

(3) Proof of refusal by the owner of the licensed premises to renew the lease for such premises to the licensee.

(4) Proof of an excessive, unreasonable or unconscionable increase in the rental of such licensed premises.

(5) Proof of such other facts or circumstances as, in the judgment and candor of the township council, constitute a sufficient hardship to warrant such waiver of the distance requirement.

(6) Mere economic hardship or convenience to the licensee or the desirability to the licensee of a place to place transfer between two places in common ownership, or like business, shall not constitute sufficient reason for such a waiver.

(b) In each such instance where the township council makes a finding and determination to waive the aforesaid distance requirement, it shall specially find that such waiver shall not be detrimental to the health, safety, morals and general welfare of the community, and under no circumstance shall any license for the sale of alcoholic beverages be transferred to any premises which are less than one hundred feet from other licensed premises."

The Council contends that it based its grant of the subject transfer upon its determination that the application of the distance requirement would constitute an unwarranted hardship in this particular case; that under Section (3) there existed proof of refusal by the owner of the licensed premises to renew the lease for the licensee's premises, as well as other facts, as permitted by Section (5), indicative of hardship upon which it could base its finding.

An examination of the transcript of the proceedings before the Council reveals the following facts:

Toscan, Inc., acquired the subject licensed business in 1967 which consisted of a package store within a local supermarket. That supermarket had a lease with the prior owner, but a copy of it was not available at the time of the then-transfer. The same rental as specified under that lease continued and the execution of a new lease was not considered important, since the landlord indicated that a lease could be obtained "at any time".

Thereafter, in its efforts to prepare for an eventual sale of the premises, further emphasized by newspaper announcements of the possibility of closure of the supermarket, a series of letters toward obtaining a new lease were initiated. After two years, the landlord

finally responded that it would not enter into any lease, as its plans for continuing operation were speculative. It was at this juncture that application for a transfer to the respondent transferee was filed.

An initial hearing on the application for transfer resulted in a denial, in that the Council was not then satisfied that the lease between the transferor and its landlord could not be renewed. Upon later rehearing, the transferor produced a letter, marked into evidence, from the landlord to counsel for transferor rejecting a lease, for the reason that the premises including the licensed premises were in process of sale. The production of such letter appeared persuasive to the Council, and it based its approval of the transfer thereon.

In voting to approve the transfer, the Council members asserted that it is "almost impossible" to discover a proper location for a liquor license which would be outside of the proscribed distance. As set forth in the adopted resolution the Council determined that there is no place in the Township of Teaneck where applicant's liquor license could reasonably be located or transferred that would not violate the distance requirements of the ordinance.

At the hearing in this Division, appellants offered the testimony of George Maurer, a licensee in the Township. He recounted an opportunity he had discovered to remove his license to another site, which premises would not be violative of the distance requirements. He described such location to have been a "church book store" which had surrendered its lease and in front of which a 'for rent' sign had been displayed. The implication of this testimony was that there are other available sites, or, at least, that he was able to find an available site in the Township.

An abstract of the tax map of the municipality accepted into evidence discloses that Cedar Street, the street upon which the subject transfer took place, is the small business area of the township. Within a three-block area there presently exists five licensed premises; the premises to which the license was transferred is on the opposite side of the street about three-hundred and fifty feet distant from another plenary retail consumption license. In short, the number of licenses concentrated in this area would not be increased and the Council considered the impact upon that small area when making its determination.

The burden of establishing that the action of the Council in granting the transfer was erroneous and should be reversed rests with appellants. Rule 6 of State Regulation No. 15. The decision as to whether or not a license will be transferred to a particular locality rests in the first instance within the sound discretion of the local issuing authority. Re Hudson-Bergen County Retail Liquor Stores Association v. North Bergen and Najarian Bulletin 997, Item 2.

Where there is an honest difference of opinion in the exercise of discretion for or against the transfer of a liquor license, the action of the issuing authority in approving the transfer should not be disturbed. Paul v. Brass Rail Liquors, 31 N.J. Super.211 (App. Div. 1954).

In such appeals:

"the Director conducts a de novo hearing...and makes him...Under his settled practice, the Director abides by the municipality's grant or denial of the application so long as its exercise of judgment and discretion was reasonable..." Fanwood v. Rocco, 33 N.J. 404,414 (1960).

Further, "once the municipal board has decided to grant or withhold approval of a premises-enlargement application...its exercise of discretion ought to be accepted on review in the absence of a clear abuse or unreasonable or arbitrary exercise of its discretion..." Lyons Farms Tavern v. Mun. Bd. Alc.Bev., Newark, 55 N.J. 292,303 (1970).

Appellant relies on Dal Roth v. Div. of Alcoholic Beverage Control, 28 N.J. Super. 246 (App. Div. 1953) in the belief that the principles enunciated therein are dispositive of the instant matter. That decision holds that the benefit of a waiver of distance provision in a local ordinance does not inure to other than the prejudiced licensee. Appellant contends that the respondent, J. & J. the transferee, obtains the benefit of the ordinance without being privy to the hardship complained of.

The facts in the instant matter do not lend themselves to the applicability of Dal Roth, supra, as there exists a continuity of license ownership; the transferor, Toscan, Inc., maintained the license through the transfer application and it was the licensee whom the Council found to be prejudiced by its landlord. In Dal Roth there was no such licensee, i.e.; "It was a mere applicant for a license, hoping to take advantage of the fact that the former licensee had gone out of business, and it had no premises to vacate, it being stipulated that it had never become a tenant or entered into possession of the premises..." Dal Roth, supra, at 252.

Additionally, the Council found the transferor to have been in hardship position, such finding having been supported by the lengthy correspondence above referred to, together with ambient factors also considered.

Finally, there is no prohibition in the subject ordinance against a person-to-person transfer to be made concurrently with a place-to-place transfer. See Essex County Retail Liquor Stores Ass'n v. Newark, 77 N.J. Super. 70 (App. Div. 1962).

Additionally, it is noted that the proscription contained in Dal Roth, supra, against the approval of the transfer in that matter, resulted from the restrictive language in the applicable ordinance. As the court held, such language prohibited such transfer by express direction. A similar ordinance in Essex County Retail Liquor Stores Ass'n v. Newark, supra, was found to be not totally exclusionary, and the court affirmed the approval of transfer.

The ordinance in the instant matter carries no direct prohibition against applying its benefits to a transferee; it is in fact silent with respect thereto. Hence Essex County, supra, is particularly analagous to the instant matter; Dal Roth, supra is not.

Appellant argues that the juxtaposition of the respondents, transferor and transferee, alters the flow of license change that otherwise might have given the transferor the benefit under the hardship provision. Relying upon Tube Bar, Inc. v. Commuters Bar, Inc. 18 N.J. Super. 351 (App. Div. 1952) which restated the principle that "Nor can such commission, board, body or person set aside, disregard or suspend the terms of the ordinance, except in some manner prescribed by law." at 354.

There has been no avoidance of the local ordinance in the instant matter. To suggest that the transferor, respondent Toscan, Inc. should be required to perfect its transfer to the new location without being permitted to supplement such application with a companion person-to-person application to respondent transferee, which it was legally entitled to do, would require a waiting period neither required by statute nor the determination in Tube Bar, Inc., supra.

In consequence of the landlord's refusal to renew the lease, the Council significantly determined there were no other locations available to the respondent transferor. The testimony of another licensee indicating his discovery of an available store some distance away did not, by this solitary example, negate the general finding of the Council that alternative locations were not available.

I find from the totality of the evidence presented that there was a denial to renew a preexisting lease; that by such denial, the transferor was prevented from effecting a person-to-person transfer at its existing location; that the transfer was not contrary to the public interest; and that the Council's deliberations and ultimate decision was neither improperly motivated nor an unreasonable arbitrary action. Thus, I find that appellants have not sustained their burden of establishing that the action of the Council was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

Accordingly, it is recommended that the action of the Council be affirmed, and the appeal herein be dismissed.

Conclusions and Order

Written Exceptions to the Hearer's report with supportive argument were filed on behalf of appellants, and a written answer to the said exceptions was filed on behalf of the respondents, pursuant to Rule 14 of State Regulation No. 15. I have examined the said Exceptions and find that they have either been considered and correctly resolved in the Hearer's report, or are without merit.

Consequently, having carefully considered the entire record herein, including the transcripts of the testimony, the exhibits, the Hearer's report, the Exceptions filed thereto and the Answer to the said Exceptions, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 29th day of August 1975,

ORDERED that the action of the Township Council of the Township of Teaneck be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

Leonard D. Ronco
Director

2. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against Salvatore's Tavern, Inc. t/a Lou's Tavern & Liquor Store 2115 Mt. Ephraim Avenue Camden, N.J., Holder of Plenary Retail Consumption License C-121, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.	CONCLUSIONS and ORDER

Anthony M. Lario, Esq., Attorney for Licensee
Carl A. Wyhopen, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded "not guilty" to the following charge:

> "On August 30, 1974, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of eighteen (18) years, viz., Eric D. W., age 16; in violation of Rule 1 of State Regulation No. 20."

Eric D. W--, testified as to his parentage and that he was born in May 1958. Thus, he was 16 years of age on the date mentioned in the charge. Upon being informed by the prosecutor that he had the right to remain silent because he might be implicated in a juvenile court proceeding, the minor chose to remain silent. The minor further testified that no charges were brought against him.

ABC Agent I testified that on September 5, 1974, pursuant to assignment, he saw Patrolman Pricolo of the Woodlynne Police Department. As the result of a conversation he had with the officer, Agent I interviewed Eric (who was at the Police Station) and accompanied Eric and a brother into the subject licensed premises. Upon exiting from

the licensed premises, Eric pointed out to Agent I that John G. Spence was the individual who had sold him a half-pint of Seagram's 7. Eric was then returned to the police station. The Agent was then handed a statement which Officer Pricolo explained was given to him by Eric.

Additionally, Agent I testified, that the identification of the licensee's sales clerk was not made by minor within the hearing of the said licensee's clerk.

The only other sworn testimony presented at the hearing was presented by the licensee.

In behalf of the licensee, John G. Spence testified that, in addition to his regular employment with a firm of national prominence, he is employed part time by the licensee.

On September 5, 1974 he observed three males grouped together. Upon asking whether he could help them, the agent identified himself and said that he would be with him in a moment. The trio walked out of the premises. The agent reentered alone and informed Spence that Eric had identified him as the individual who had sold him the aforesaid bottle of whiskey.

Spence did not "get a very good look at" Eric on September 5, 1974. Eric had "his back turned" and "was looking over his shoulder." Spence explained that he could not recall ever seeing him prior to September 5th.

He explained that he would not serve a youthful looking patron unless he presented an identification card issued by the authorities which contained the birthdate and a photograph of the patron.

Prior to hearing the defense, the prosecutor moved for an adjournment of the hearing for the reason that Officer Pricolo who had been subpoenaed by the prosecution to testify had failed to appear and his testimony would be essential particularly in view of the fact that the minor had chosen to remain silent.

At this posture of the proceedings, the record reveals that the parties stipulated that if Officer Pricolo had appeared at the hearing he would have testified that he apprehended the minor in the parking lot of the licensed premises on the date of the alleged subject violation and took him for questioning at the police station in Woodlynne Township; that the officer found a half-pint bottle of Seagram's Seven in the minor's possession; that in the presence of the police officer, the minor signed a statement wherein he acknowledged purchasing the said whiskey at the licensed premises and that the said bottle of whiskey was later delivered to the aforementioned ABC agent.

The accusatory statement signed by the minor at the police station without the presence of the licensee was received in evidence subject to a later determination of its legal admissibility.

It is axiomatic that, in disciplinary proceedings, the finding must be based upon competent legal evidence.

Concerning the conduct of an administrative proceeding, Justice Francis speaking for the Supreme Court in Weston v. State, 60 N.J. 36,51 articulated the following governing principle:

> "Hearsay may be employed to corroborate competent proof, or competent proof may be supported or given added probative force by hearsay testimony. But in the final analysis for a court to sustain an administrative decision, which affects the substantial rights of a party, there must be a residuum of legal and competent evidence in the record to support it."

The prosecution argued that the statement made by the minor to the police officer is admissible under New Jersey Rule of Evidence 63(10) which provides as follows:

> "RULE 63(10). DECLARATIONS AGAINST INTEREST.
>
> A statement is admissible if at the time it was made it was so far contrary to the declarant's pecuniary or proprietary interest or so far subjected him to a civil or criminal liability or so far rendered invalid a claim by him against another or created such a risk of making him an object of hatred, ridicule or social disapproval in the community that a reasonable man in his position would not have made the statement unless he believed it to be true, except that such a statement is not admissible against a defendant other than the declarant in a criminal prosecution."

In his argument the prosecutor further noted that the adoption of this rule, effective September 11, 1967, changed prior New Jersey law in two respects. First, it allows introduction of a declaration against interest whether or not the declarant is available as a witness while under prior case law the declarant had to be unavailable. Secondly, the rule also allows introduction of statements adverse to the declarant's social interest which is also a departure from prior controlling law. Rules of Evidence (with annotations) 1972 ed. p. 255.

> He further argued that declarations against interest are not only received as evidence of the fact directly asserted but of incidental facts fairly embraced within the scope of the declaration. 31A C.J.S. Evidence §217, p. 603 (1964).

On the other hand licensee noted that Sec. 13:2-17.6 (a) 3. of the N.J. Administrative Code, Alcoholic Beverage Control provides "Testimony on behalf of the Division shall be presented by a prosecutor assigned by the Director, and the prosecutor and each defendant

shall have the right to present his case or defense by oral and documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of facts." (emphasis added) And further that, the attempt to introduce the accuser's statement without the opportunity by the Defendant to cross-examine the accuser is absolutely inadmissible as hearsay and its acceptance is reversible error.

Licensee argues that the prosecutor has misconstrued Rule 63(10) of Rules of Evidence which states that "...such a statement is not admissible against a defendant other than the declarant in a criminal prosecution." (Emphasis added)

Licensee further relies upon State v. Green, 46 N.J. 192, 195 (1965) wherein each defendant had been arrested and had signed a detailed typewritten statement describing the events leading up to and after the offense committed. The court held that the out-of court statements of the co-defendants are inadmissible against the defendant.

Licensee further emphasizes that pertaining to the admissibility of police testimony as to what a minor confessed, our Appellate Division held in State v. Wilbely, 112 N.J. Super. 216, 219 (1970), in instructions on a remand, "The police should not be permitted to testify as to what Harris (co-defendant) had told them about defendant. Such testimony is inadmissible hearsay." It is to be noted that this case was decided after the adoption of Evidence Rule 63(10).

Therefore, the critical issue to be resolved herein is the construction and applicability of the aforesaid Rule 63(10) in the subject disciplinary proceeding.

It is my view that the exception cited in the said Rule by the licensee and the cases cited in support of its contentions apply solely to a defendant in a criminal prosecution. Consequently, the exception referred to in Rule of Evidence 63(10) is not applicable to the subject proceedings which have always been considered purely disciplinary actions, civil in nature and not criminal. In re Schneider, 12. N.J. Super. 449 (App. Div. 1951).

It therefore follows that the statement given by the minor to the police officer is admissible as a declaration against the said minor's interest and may be used in adjudging the licensee's guilt or innocence of the subject charge.

Preliminarily, I observe that in arriving at a determination in a disciplinary action, I am mindful that the proof must be supported by a fair preponderance of the credible evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956).

In the statement, the minor indicated that he was aware that it referred to the alleged illegal purchase or sale of the above referred to half-pint of Seagram's 7 whiskey; that he was charged with juvenile

delinquency; that he had a right to remain silent and that he had a right to consult with a lawyer. The statement then contained an admission by the minor that he had purchased the said half-pint of Seagram's 7 from a clerk in the subject licensed premises on the date alleged in the charge and that the clerk did not request identification of any kind.

I have hereinabove set forth the testimony of the sales clerk (Spence) in defense of the charge.

In my opinion, Spence was straightforward in his testimony. However, he did indicate therein that he did not have a "good look" of the minor on the day that the minor was brought in the premises by the ABC Agent; and he did further explain that he did not recall seeing him prior to the day that the agent accompanied him to the premises. The witness' candid statement that he did not recollect the minor's presence in the liquor store falls short of a categorical denial of having seen him therein prior tothe time that he was accompanied therein by the agent.

After considering the entire record herein and the legal arguments advanced, I am persuaded that the Division has met the burden of establishing the truth of the charge by a fair preponderance of the credible evidence. I, therefore, recommend that the licensee be found guilty of the said charge.

The licensee has no prior adjudicated record of suspension of license. I further recommend that the license be suspended for thirty days.

Conclusions and Order

Written Exceptions to the Hearer's report with supportive argument, were submitted by the licensee, and an Answer to the said Exceptions was filed on behalf of the Division, pursuant to Rule 6 of State Regulation No. 16.

In the Exceptions, the attorney for the licensee argues that "it is the understanding of the licensee that the Officer did not apprehend the minor on the parking lot of the licensed premises, but instead apprehended him some distance away from the licensed premises...."

I have examined the transcript and note (on p. 10) the following:

> By Mr. Whyopen: "...but, I will make a proffer of proof, that the police officer in the parking lot of the licensed premises apprehended Mr. Weed, (the minor), and in his possession at that time was a half pint bottle of Seagrams 7, that he took."

And,(on p. 11), the following pertinent response was made by the attorney for the licensee:

By Mr. Lario: "The statement that the Deputy Attorney General makes is absolutely correct...."

The licensee further argues that Rule 63(10) of Rules of Evidence would make inadmissible the minor's statement implicating the licensee, because the Rule states that such statement is inadmissible "against a defendant other than the declarant in a criminal prosecution."

The licensee's reliance on this exception is misplaced and erroneous. As this exception quite clearly indicates, it relates solely to a defendant in a criminal prosecution. The Division proceeding is a civil proceeding, and not criminal. Kravis v. Hock, 137 N.J.L. 252; In re Schneider, 12 N.J. Super 449 (App. Div. 1951). Thus, the said exception is not applicable to this proceeding. The cases cited by the licensee are inapposite, since they refer to criminal proceedings, and stand for the proposition that one defendant's confession is inadmissible against a co-defendant in criminal proceedings.

The Division has properly used the minor's statement, under the authority of Rule of Evidence 63(10) to establish that the minor purchased an alcoholic beverage at the licensed premises. Cf. 31A C.J.S. Evidence 217, p. 603 (1964).

Moreover, I am persuaded that there was substantial substantive evidence produced by the Division to substantiate the said charge.

I have examined and evaluated the other exceptions, and find that they have either been correctly resolved in the Hearer's report, or are lacking in merit.

Licensee's request for oral argument before me is unwarranted and is, therefore, denied.

The licensee finally insists that the recommended penalty is "unduly harsh" and should be modified. However, the recommended suspension of license for thirty days herein is entirely consistent with Division precedent relating to the sale to a 16 year old minor. See Re Cicchino, Bulletin 2153, Item 3.

Having carefully considered the entire record herein, including the transcript of testimony, the exhibits, the Hearer's report, the Exceptions filed thereto and the Answer to the said Exceptions, I concur in the findings and recommendations of the Hearer, and adopt them as my conclusions herein.

Accordingly, it is, on this 27th day of August, 1975

ORDERED that Plenary Retail Consumption License C-121, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Salvarote's Tavern, Inc., t/a Lou's Tavern and Liquor Store

for premises 2115 Mt. Ephraim Avenue, Camden, be and the same is hereby suspended for thirty (30) days commencing at 2:00 a.m. Tuesday, September 9, 1975 and terminating at 2:00 a.m. Thursday, October 9, 1975.

LEONARD D. RONCO
DIRECTOR

3. APPELLATE DECISIONS - TORRES v. HOBOKEN.

Theresa Torres,

Appellant,

v.

Municipal Board of Alcoholic Beverage Control of the City of Hoboken,

Respondent.

On Appeal

O R D E R

Ignacio Saavedra, Esq., Attorney for Appellant
Lawrence E. Florio, Esq., by Thomas P. Calligy, Esq., Attorneys for Respondent.

BY THE DIRECTOR:

Appellant appeals from the action of the Municipal Board of Alcoholic Beverage Control of the City of Hoboken which, by resolution of June 25, 1975, denied appellant's application for renewal of her Plenary Retail Consumption License C-117, for premises 200 Garden Street, Hoboken.

At the appeal de novo hearing in this Division, a stipulation was entered into between the parties hereto, wherein the respondent agrees to renew appellant's license for the 1975-76 license year, expressly subject to the following special conditions: (a) noise from appellant's premises is abated; (b) patrons shall not be permitted to consume alcoholic beverages on the sidewalk in front of the licensed premises; and (c) licensee shall take all steps to prevent loitering in front of the licensed premises. Appellant agrees to these special conditions and requests that her appeal be dismissed. Under these circumstances, I shall grant the request and enter an order dismissing the said appeal.

Accordingly, it is, on this 12th day of September 1975,

ORDERED that the appeal herein be and the same is hereby dismissed.

Leonard D. Ronco
Director

BULLETIN 2205

4. STATE LICENSES - NEW APPLICATION FILED.

Bacchus Selections of New Jersey, Inc.
(formerly Braceras, Inc.)
13 Birkendene Road
Caldwell, New Jersey

Application filed November 17, 1975 for place-to-place transfer of warehouse from 1275 Bloomfield Avenue, Fairfield, New Jersey, to 112 Greenwood Avenue, Midland Park, New Jersey, operated under Wine Wholesale License WW-23.

Leonard D. Ronco
Director