

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

BULLETIN 2256

June 14, 1977

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

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June 14, 1977

1. COURT DECISIONS - IRVING REINGOLD v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-1464-75

IRVING REINGOLD,

Appellant,

v.

DIVISION OF ALCOHOLIC BEVERAGE
CONTROL,

Respondent.

Argued February 15, 1977 - Decided March 11, 1977.

Before Judges Lynch, Milmed and Antell.

On appeal from the Division of Alcoholic Beverage Control.

Mr. Arnold D. Litt argued the cause for appellant (Messrs. Francis B. Rusch and Arnold D. Litt, attorneys).

Mr. Carl A. Wyhopen, Deputy Attorney General argued the cause for respondent (Mr. William F. Hyland, Attorney General, attorney; Mr. David S. Piltzer, Deputy Attorney General of counsel and on the brief).

PER CURIAM

Appellate Division affirmed determination of Director placing licensee on the Non-Delivery List.

2. COURT DECISIONS - SILVERTON BAR & LIQUORS, INC. v. DOVER ET AL.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-3278-75

SILVERTON BAR & LIQUORS, INC.,
t/a SILVERTON HUB,

Appellant,

v.

TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF DOVER AND SILVERTON INVESTORS, INC.,

Respondents.

Submitted March 22, 1977 - Decided April 5, 1977.

Before Judges Lynch, Milmed and Antell.

On appeal from order of State of New Jersey, Department
of Law and Public Safety, Division of Alcoholic Beverage
Control.

Messrs. Paschon & Feurey, attorneys for appellant (Mr.
Abraham M. Bielory, on the brief).

Messrs. Campbell and Sachs, attorneys for respondents (Mr.
Gary S. Beninson, on the brief).

Mr. William F. Hyland, Attorney General of New Jersey,
attorney for Division of Alcoholic Beverage Control, filed
a statement in lieu of brief.

Mr. Raymond A. Hayser, Director of Law, Dover Township Law
Department, attorney for respondent Township Committee, filed a
statement in lieu of brief.

PER CURIAM.

(Appeal from the Director's decision in Re Silvertown Bar &
Liquors, Inc. v. Dover et al. Bulletin 2233, Item 4.
Director affirmed. Opinion not approved for publication by
the Court Committee on Opinions).

3. APPELLATE DECISIONS - MIRAPH ENTERPRISES, INC. v. PATERSON.

#4056

Miraph Enterprises Inc.
t/a The Cabaret,

Appellant,

v.

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

Respondent.

On Appeal

CONCLUSIONS
and
ORDER

 Tanis & Sternick, Esqs., by Michael Sternick, Esq., Attorneys for Appellant
 Joseph A. La Cava, Esq., by Ralph L. DeLuccia, Jr., Esq., Attorneys for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control of the City of Paterson (hereinafter Board) which, on June 23, 1976, denied renewal of appellant's plenary retail consumption License, C-248, for premises 11 Hamilton Street, Paterson.

The appellant contends, in its Petition of Appeal, that the reasoning of the Board upon which its Resolution denying renewal was based, was without substance, and that its action should be reversed. The Board responded that its action was proper under all of the circumstances including its past record, surrounding appellant's application for renewal.

This appeal de novo was heard in this Division pursuant to Rule 6 of State Regulation No. 15, at which the parties were provided full opportunity to introduce evidence and cross-examine witnesses. Additionally, a transcript of the proceedings before the Board was admitted into evidence, in accordance with Rule 8 of State Regulation No. 15. Following the filing of the appeal, the Director of this Division, by Order of June 30, 1976, extended appellant's license pending disposition of this appeal.

At the outset of the hearing, counsel for appellant advanced two motions, one of which was addressed to and of the Hearer assigned to hear the appeal. The appellant contends the Hearer should disqualify himself from hearing this appeal

because a prior appeal recently concluded adverse to the appellant was heard by him, hence any objectivity was destroyed at the outset. The other contention advanced referred to the appeal taken from the determination by the Director early in this year, affirming the action of the Board which found appellant guilty of maintaining a nuisance in consequence of which finding, a license suspension resulted.

Since the denial of renewal referred to the immediate prior suspension and because the Order of Affirmance by the Director of this Division is presently under appeal to the Superior Court, appellant contends that it was erroneous of the Board to have made its determination not to renew, based upon a matter still under judicial review.

I

In reference to the motion relative to the question of disqualification of the Hearer, there was no allegation other than the same Hearer who was assigned to hear this appeal heard the prior appeal, which carried a recommendation adverse to the appellant. The appellant mistakes the essential function of a Hearer. The ultimate decisions and determinations of all matters within this Division are the exclusive province of the Director. N.J.S.A. 33:1-1 et seq, not of the Hearer.

The function of the Hearer is merely to be a conduit through which information in the form of evidence and statements of counsel and applicable law in the form of reference to judicial opinions and prior precedent in this Division, are channeled to the Director. The transcript of the testimony received, the items in evidence, the pleadings filed and Divisional records are all available to the Director upon which to assess his Conclusions. The Report of the Hearing Officer to the Director which carries recommendations may be accepted, modified or rejected by the Director, at his pleasure. Cf. Mazza v. Cavicchia, 28 N.J. Super 280, 15 N.J. 498 (1954).

Should appellant or its counsel feel aggrieved by any action or attitude of the Hearer at this hearing, a proper procedure by which the Director's attention may be called to such prejudice exists by way of Exceptions to the Report, available to the parties pursuant to Rule 14 of State Regulation No. 15.

II

The primary motion advanced by appellant concerned the belief that action of the Board should be stayed by the Director until the Superior Court, Appellate Division, has ruled on the appeal taken by this appellant to the aforesaid determination of affirmance by the Director of the suspension heretofore imposed by the Board.

This contention lacks merit. The Board's denial of renewal is an independent action which could or could not have merit. As the appellant must exhaust its administrative remedies, an appeal to the Director of this Division is a prerequisite to further action, if any. If the Director affirms the action of the Board in this matter, the appellant has a further procedural administrative remedy, by appeal to the Appellate Division of the Superior Court. An appeal has been filed here to the Director who has a duty to bring the matter to prompt determination. It is, thus, recommended that this motion be denied.

III

The record before the Board reflects the testimony of Paterson Police Detectives Morelli and Davis, assigned to the "tavern" and "vice" squads, respectively. Detective Morelli testified that in the hundred or so occasions when he visited appellant's premises, he observed twenty-eight different females known to him to be prostitutes present or frequenting the establishment. He referred to voluminous reports of criminal activities; references to the appellant's establishment were contained in these reports.

Detective Davis gave the Board the names of prostitutes that he had arrested at or near the appellant's establishment, and cited instances of obvious prostitution which occurred in front of and in the premises.

At the conclusion of the testimony of the two detectives, copies of the records of arrest or investigation from the Police Department files were accepted by the Board.

The records of this Division, to which reference was made in respondent's summation, indicated that a suspension was imposed by the Board to which an appeal was taken to the Director of this Division. This suspension was modified by the Director to fifteen days suspension of license. This suspension resulted from charges that appellant employed a criminally disqualified employee, and that a brawl was permitted to occur within the premises in September of 1975.

Thereafter, on November 28, 1975 appellant was charged with having permitted convicted prostitutes to frequent its establishment, and in consequence, the Board suspended the license for thirty days. On appeal to the Director of this Division, the charges were dismissed for the reason that the specific charge related to "convicted" prostitutes whereas the proofs related to "known" but not "convicted" prostitutes.

Appellant was later charged that, in February 1976 it permitted the congregation of known prostitutes in its establishment, in violation of the applicable regulations. Those charges resulted in a suspension of license for one-hundred and fifty days. On appeal to the Director of this Division, the Board was unable to substantiate some of the charges; in consequence of which, the suspension was reduced to ninety days. It is that conclusions, i.e. the finding against the appellant and the affirmance by the Director, that is presently on appeal to the Appellate Division of the Superior Court, and to which appellant had reference in its motion. (Miraph Enterprises Inc. v. Paterson, Bulletin 2235, Items 3 and 4; Bulletin 2238, Item 2).

The Police reported some thirty incidents, arrests or investigations which purportedly concerned patrons of or victims in appellant's premises. The bulk of the reports revolved about a host of prostitution activity some of which were the subject of the two disciplinary actions; the suspension from one is the subject to the present appeal to the Appellate Division of Superior Court, as hereinabove indicated.

The many reports (all of which had reference to some prostitution activity or from victims of robbery initiated by prostitutes or their friends) had reference to "The Cabaret Club" which is the trade name of appellant's premises. The Board had these reports before it, and even the most cursory perusal of these reports lead to the inescapable conclusion that appellant's establishment is a constant source of unlawful activity.

The burden of establishing that the action of the Board was erroneous and should be reversed rests entirely upon appellant. Rule 6 of State Regulation No. 15. The determination by the Board that appellant was not entitled to a renewal of its license due to its callous disregard of initial warning derived from early charges preferred against it, is amply supported by precedent. See Tyrone's Haven Inc. v. South River, Bulletin 2214, Item 1; Gauntt v. Paulsboro, Bulletin 2187 Item 2, Alice G. Townsend, Inc. v. Orange, Bulletin 2186, Item 3; One Ninety Four Bar Inc. v. Passaic, Bulletin 2142, Item 1; Ocean Club Corp. v. Jersey City, Bulletin 2122, Item 2; Greenstein v. Elizabeth, Bulletin 2135 Item 4, aff'd by Superior Court Bulletin 2169, Item 1.

The sorry record of appellant is not, in the least, mitigated by any proof indicating very good faith or effort to correct the evils attendant upon being a way-stop for the local prostitutes. The instant situation is unlike Ishmal v. Division of Alcoholic Beverage Control, 58 N.J. 347, in which the Court found the licensees constant attempts to cooperate with the Police ample proof that the sociological evils present were of the area and not of her establishment.

In the instant matter, there are five taverns on the subject street, all within a few hundred feet of one another. Only appellant's premises appears as a place of comfort to the very many local prostitutes. It is inconceivable that, after harboring them for almost a year, and being referred to in many police reports as the facility from which other assorted criminal activity began, the appellant could, with any sincerity, claim the Board was in error in denying renewal of its license. To have done otherwise, the Board would have been remiss in its duty.

Therefore, I find that the appellant having failed in its duty to establish that the action of the Board was erroneous and should be reversed, I, therefore, recommend that the action of the Board be affirmed, the appeal herein be dismissed, and the Director's Order extending the term of the licensee pending the determination of this appeal, be vacated.

CONCLUSIONS AND ORDER

Written exceptions to the Hearer's Report with supportive argument were filed by appellant pursuant to Rule 14 of State Regulation No. 15. No answer to the said exceptions was filed by the Board.

Appellant contends that the Hearer maintained misconceptions manifested another matter which he heard, by assignment, in the Division, and which is presently now under review before the Appellate Division of the Superior Court, hence, he lacks objectivity, and a hearer should have disqualified himself for this matter. This contention, advanced initially at the outset of the hearing, was correctly answered in the Hearer's Report. I find this argument spurious and devoid of merit.

Appellant requests a stay of the imposition of the recommended affirmance of the Board's denial of renewal predicated upon an appeal, above referred to, presently pending before the Appellate Division. There is no valid basis for this request. The incidents giving rise to the action now on appeal in the Appellate Division are not the same incidents related in the matter sub judice.

Appellant loses sight of the requirement that, in order to prevail in this appeal, it must establish that the finding of the Board was unreasonable, erroneous and arbitrary. Rule 6 of State Regulation No. 15.

The Hearer recommended a finding that the appellant failed to establish that the Board acted erroneously; and the evidence reflected by the transcripts adequately supports such finding.

The well established principle is that the grant or denial of an alcoholic beverage license rests in the sound discretion of the Board in the first instance. Rajah Liquors v. Div. Alcoholic Beverage Control, 33 N.J. Super. 598 (App. Div. 1955). Numerous cases in this Division can be cited in support of the principle that renewal of a license may be denied, even absent a prior record of violations of the Alcoholic Beverage Law or the Regulations of this Division. Cf. R.B. & W. Corp. v North Caldwell, Bulletin 1921 Item 1; R.O.P.E., Inc. v. Fort Lee, Bulletin 1966, Item 1; Ocean Club Corporation v. Jersey City, Bulletin 2122, Item 2, aff'd Appellate Division (1974), opinion not approved for publication, see Bulletin 2148, Item 2. In short, it is the overall conduct of a licensee in managing his licensed premises that is in test; if the licensed business is so conducted as to constitute a nuisance, and its continuance would be inimical to the public interest, renewal of his license will be denied. Cf. Nordco v. State, 43 N.J. Super. 277 (App. Div. 1957).

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

Accordingly, it is, on this 17 day of January 1977,

ORDERED that the action of the Municipal Board of Alcoholic Beverage Control for the City of Paterson be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that my Order of June 30, 1976 extending the term of the said license pending the determination of the appeal be and the same is hereby vacated.

JOSEPH H. LERNER
DIRECTOR

4. APPELLATE DECISIONS - MIRAPH ENTERPRISES, INC. v. PATERSON - ORDER.

#4056)
 Miraph Enterprises, Inc.) On Appeal
 t/a The Cabaret,)

Appellant,)

v.)

O R D E R

Municipal Board of Alcoholic)
 Beverage Control for the City)
 of Paterson,)

Respondent.)

William F. Nesbitt, Esq., Attorney for Appellant

BY THE DIRECTOR:

(1) Appellant has filed an ex parte petition for a new hearing in order to present "additional testimony" in support of its appeal.

(2) Conclusions and Order were entered herein on January 17, 1977 affirming the action of the respondent, Municipal Board of Alcoholic Beverage Control for the City of Paterson which, by resolution dated June 23, 1976, denied renewal of appellant's Flenary Retail Consumption License C-248, for the current 1976-77 licensing period, for premises 11 Hamilton Street, Paterson. In the said Order, I dismissed the appeal and vacated my Order of June 30, 1976 extending the term of the said license pending the determination of the appeal.

(3) In order to entitle a party to a new hearing on the ground of newly discovered evidence, the new evidence must be (1) material to the issue and not merely cumulative or impeaching or contradictory; (2) discovered since original trial and not discoverable by reasonable diligence prior thereto; and (3) of the sort which would probably change the verdict if a new trial was granted. To sustain a motion for a new hearing, the proffered evidence must meet all three aspects of the test. See State v. Puchalski, 45 N.J. 97, 107 (1965); and cases cited therein; Re McCormick, Bulletin 1640, Item 3.

(4) In the affidavit annexed to the petition, appellant alleges that after the hearing before the respondent, certain evidence was "discovered" that would have changed the determination of the respondent. Just what evidence was discovered was not stated in the petition; nor did appellant explain why this was not presented in the hearing de novo in this Division.

(5) Appellant attaches to the said petition a copy of a statement by appellant "granting permission" to the Paterson Police to enter and inspect the subject premises. This statement dated May 13, 1976 is irrelevant since the Police may inspect any licensed premises without warrant pursuant to N.J.S.A. 33:1-35.

(6) Finally, the evidence shows that appellant offered to cooperate with the Police Department came, if at all, long after the appellant raised objection to the numerous investigations with respect to alleged prostitution activity in and upon its premises, on the ground that such investigations were considered "harrassment".

(7) I find that the allegedly newly discovered evidence has not met the test of Puchalski. Furthermore, I find that the proffered evidence does not meet all of the three aspects of the aforementioned test.

Accordingly, it is, on this ~~31st~~ day of January 1977,

ORDERED that the petition for a new hearing herein be and the same is hereby denied.

Joseph H. Lerner
Director

5. APPELLATE DECISIONS - COBOSKO ENTERPRISES, INC. v. PAULSBORO.

Cobosko Enterprises, Inc. .
t/a Golden Spur, .

Appellant, .

On Appeal

v. .

CONCLUSIONS
AND
ORDER

Borough Council of the
Borough of Paulsboro, .

Respondent. .

Novack and Trobman, Esqs., by Malcolm H. Trobman, Esq., Attorneys
for Appellant
Joseph H. Enos, Jr., Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the Borough Council of the Borough of Paulsboro (hereinafter Council) which, by resolution dated June 29, 1976, denied appellant's application for renewal of its Plenary Retail Consumption License C-7, for premises 1100-1102 Delaware Street, Paulsboro.

Appellant contends, in its Petition of Appeal, that the only grounds advanced by the Council for rejecting the subject application was contained in one sentence of its resolution, i.e. "WHEREAS allegations regarding activities inside and outside of these premises were made by certain members of Council....". No further reasons for the denial were stated in the Council's answer filed herein.

A hearing de novo on the appeal was held pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and cross-examine witnesses.

Council members, Mary R. Knestaut, John H. Minix and Mayor John D. Bruzichelli gave testimony outlining their reasons for having denied renewal of appellant's license. The testimony of Mary Knestaut was completely devoid of any facts upon which her action had been based, save for a telephone call which she once received from an irate citizen, which led to her inquiry to this Division concerning possible investigation of the licensed premises.

Councilman Manix described conditions which included constant loitering about appellant's premises as well as in a parking area across the street, the depositing of bottles and glasses by patrons outside of the premises; and there was a constant parking problem there. These conditions on the exterior of appellant's premises were, in his opinion, intolerable and were the basis for his negative vote.

Mayor Burzichelli corroborated the testimony of Manix; however, he admitted that no disciplinary proceedings had ever been instituted against appellant, nor had any officials conferred with appellant to warn of their concern. Nevertheless, after the Council had voted to reject appellant's application, he did participate in a discussion with the president and principal owner of appellant's corporate stock, Kenneth Wood, and outlined what he considered would be remedial of the described conditions. He acknowledged that he anticipated that, if Wood corrected the complained of conditions, the Council would thereafter vote to approve the renewal application. The actual vote among the Council members was a tie which he, the Mayor, broke by way of his negative vote against renewal.

Francis A. Isaac a resident whose home is in view of appellant's establishment, testified that the conditions outside the premises and in the adjacent parking lot were onerous, and had reached the point where correction was required. The loud, vulgar and profane talk by patrons of appellant's premises as they entered or surrounded their cars was revolting to him, his wife and his teenage daughters. This witness is publisher of the local weekly newspaper, but he had registered complaints only in his citizen capacity, not on behalf of the publication.

The president and major stockholder of appellant corporation, Kenneth Wood, testified that he had purchased the subject premises fourteen months ago. The trade name under which the business is operated is "The El Dorado"; it had been known as the "Golden Spur". Since he acquired its controlling interest, he has taken pains to see that the very conditions described by the Council and Isaacs, were eliminated or reduced to an absolute minimum. He has visited with the local Chief of Police to enlist his aid when needed; he has employed a guard-doorman during weekends, and engaged a boy to clean up the area of debris in the early morning hours.

The doorman-guard, Edward W. Ross, Jr. testified that order is fully maintained among the patrons both inside and outside. However, he believed that a number of teenagers who were not patrons, did congregate in the parking areas nearby, and that their conduct reflected upon appellant. He admitted that he was not uniformed and spent three quarters of his time indoors.

The president of the local Tavern Owner's Association, Joseph E. Higgins, testified that appellant's premises is

essentially a "good operation" but that the business has increased during Wood's control and management. He admitted the existence of a parking and traffic problem, particularly when closing hour for taverns arrives. At that time, the departing patrons of appellant's premises and the other nearby taverns, do create a traffic situation which requires control.

From the testimony of the Mayor and members of the Council, other than one or two citizens who regularly attend its meetings, no noticable group of citizens indicated negative sentiment to the grant of license and, other than a self-styled "Citizens Committee" which had once registered a criticism there were no official complaints filed with Council or the Police. It was further apparent that they were unaware that appellant's license could be conditioned, so as to reduce or eliminate the problems.

The crucial issue in this appeal is: does appellant's record in the management of its licensed premises justify Council's action in denying renewal of license. In short; did the Council act reasonably and in the proper exercise of its discretion, and in a manner consonant with its quasi-judicial function, in denying renewal.

Appellant alleges that it did not violate any State regulation governing the conduct of licensees and use of licensed premises, and that no disciplinary proceedings were instituted by the Council against it. It would have been a more satisfactory procedure for the Council to initiate such proceedings upon specific charges, and to base its refusal to renew on an adjudicated record.

It is firmly established that the grant or denial of an alcoholic beverage license rests in the sound discretion of the Council in the first instance and, in order to prevail on this appeal, the appellant must show unreasonable action on the part of the Council constituting a clear abuse of such discretion. Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App. Div. 1955); Blanck v. Magnolia, 38 N.J. 484 (1962).

Although renewal of license may be denied even absent prior record of violations of the Alcoholic Beverage Law of the Division Rules and Regulations, see R. B. & W. Corporation v. North Caldwell, Bulletin 1921, Item 1; Ocean Club Corporation v. Jersey City, Bulletin 2122, Item 2, aff'd. Appellant Division (1974), reprinted in Bulletin 2148, Item 2, such situations are usually the result of a long record of problems emanating from the subject licensed premises. A litany of unacceptable conditions attributable to a licensee's business is usually testified to by numerous adjacent residents, and police reports of a myriad calls to the premises or to incidents caused by its misbehaving patrons are offered into evidence. Such a background situation may often result in denial of renewal. Cf. Nordco, Inc. v. State, 43 N.J. Super. 277 (App. Div. 1957); Atkinson v. Parsekian, 37 N.J. 143, 149 (1962).

In the matter sub judice, there was a recitation by the Mayor, a Councilman and a resident which undeniably supported a conclusion that appellant's premises is undoubtedly a trouble spot; the degree of its causative difficulty, however, is not sufficient upon which the severe penalty of denial of renewal (which is tantamount to revocation) may be based. To support that conclusion, reference is made to the testimony of the Mayor who candidly admitted that, if appellant altered the mode of operation of the licensed business so that the problems would not thereafter arise, "the Council would undoubtedly vote again to restore the license".

There is further no question that the appellant's patrons have been so unruly as to be the source of grief to some of the municipal officials and to some residents. It is a well established principle that a licensee is responsible for conditions both inside and outside the licensed premises. (underscore added) Perkins v. Newark, Bulletin 2083, Item 2. Cf. Tyrone's Haven, Inc. v. South River, Bulletin 2214, Item 1, aff'd. in unreported opinion of Appellate Division, cited in Bulletin , Item .

I find that the appellant has maintained the burden imposed upon it by Rule 6 of State Regulation No. 15, requiring that appellant show that the action of the Council was erroneous and should be reversed. It is apparent that the close vote of the Council followed immediately by a conference with appellant concerning changes that would have to be made to insure continuance of the licensed premises gives substance to the belief that the Council did not intend that its denial of appellant's application for renewal was a terminal action. Hence, it is recommended that the action of the Council be reversed.

However, the conditions giving rise to the denial of renewal must be eliminated so that appellant's premises are not a sore point in the neighborhood. Hence, it is recommended that the Director attach the following special conditions to the license renewal:

- (a) Appellant engage a uniformed guard on the exterior of the premises from eight o'clock p.m. to closing of premises on the evenings of Thursdays through Sundays of each week;
- (b) Appellant have the area surrounding the licensed premises, including the adjacent parking lots, policed each morning for the removal of debris, including bottles, glasses and cans;
- (c) Appellant maintain the doors to the establishment closed when patrons are present, so that sound may not emit therefrom.

In sum, it is recommended that the action of the Council be reversed and that it be directed to renew the subject license for the current licensing year expressly subject however, to the special conditions imposed as set forth hereinabove.

Conclusions and Order

Written Exceptions to the Hearer's report, with supportive argument, were filed by appellant, and Written Answer thereto was filed by respondent, pursuant to Rule 14 of State Regulation No. 15.

Appellant's Exceptions relate specifically to the recommendation of the Hearer that appellant be required, as a condition to renewal of its license, to have debris picked up daily from the parking lots adjacent to the licensed premises. It was argued that such lots are privately owned, by other than appellant, and the use by its patrons of these lots for parking is not authorized or approved by the appellant. In consequence, appellant disputes the proposed requirement that it police private property. I concur that this special condition, if adopted, is unreasonable.

Thus, having carefully considered the entire record herein, including the transcript of testimony, the exhibits, the Hearer's report, the Exceptions and Answer filed thereto, I concur in the findings and recommendations of the Hearer, with the exception of the recommended special condition that appellant be required to remove trash daily from the private lots hereinabove referred to; and I adopt them as my conclusions herein.

Accordingly, it is, on this 3rd day of February 1977,

ORDERED that the action of the respondent Borough Council of the Borough of Paulsboro be and the same is hereby reversed; and it is further

ORDERED that the said Council is hereby directed to renew the subject license for the 1976-77 license period in accordance with the application filed therefor, expressly subject, however, to the following special conditions of said license:

- (a) Appellant shall engage a uniformed guard on the exterior of the premises from eight o'clock p.m. to closing of premises on the evenings of Thursdays through Sundays of each week;
- (b) Appellant shall have a waste area on the outside of and surrounding the licensed premises policed each morning for the removal of debris, including bottles, papers and cans;

- (c) Appellant must keep the doors to the establishment closed when patrons are present, so that sound may not emit therefrom; and it is further

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

Joseph H. Lerner
Director

6. STATE LICENSES - NEW APPLICATIONS FILED.

A.I.G. Trucking Inc.
t/a Kohler Distributing Co.
58 Fifth Avenue
Hawthorne, New Jersey

Application filed May 31, 1977
for place-to-place transfer of
State Beverage Distributor's
License SBD-19 from 85 5th Avenue,
Paterson, New Jersey and application
for additional warehouse license for
premises 85 5th Avenue, Paterson,
New Jersey.

New Parrott & Co.
t/a Parrott & Co.
215 Market Street
San Francisco, California

Application filed June 6, 1977 for
person-to-person transfer of Wine
Wholesale License WW-31 from
Parrott & Co.

Champale, Inc.
1039-1041 Lamberton Street
Trenton, New Jersey

Application filed June 7, 1977 for
plenary brewery license.

Garden State Soda Beer Seltzer Co.
981-983 West Side Avenue
Jersey City, New Jersey

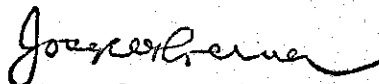
Application filed June 13, 1977 for
place-to-place transfer of State
Beverage Distributor's License SBD-105
from 756 Communipaw Avenue, Jersey City,
New Jersey.

Banner Liquor Co.
615 Rahway Avenue
Union, New Jersey

Application filed June 8, 1977 for
renewal of Plenary Wholesale License
W-70, from premises located at 384
Dorsey St., Perth Amboy, New Jersey.

Flagstaff Liquor Co.
611 Rahway Avenue
Union, New Jersey

Application filed June 8, 1977 for
renewal of Plenary Wholesale License
W-22, from premises 536 Fayette Street,
Perth Amboy, New Jersey.


Joseph H. Lerner
Director