

STATE OF NEW JERSEY      MR. ZEMEL  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1610

April 22, 1965

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STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1610

April 22, 1965

1. COURT DECISIONS - PACKARD-BAMBERGER & CO., INC. v. OAKLAND  
and DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
A-436-62

PACKARD-BAMBERGER & CO., INC., )  
Appellant, )  
vs. )  
BOROUGH COUNCIL OF THE BOROUGH )  
OF OAKLAND & DIVISION OF ) 87 N.J. Super. 92  
ALCOHOLIC BEVERAGE CONTROL, )  
Respondents, )  
and )  
HOWARD KAHN, t/a OAKLAND WINE and )  
LIQUOR STORE, and HUDSON BERGEN )  
COUNTY RETAIL LIQUOR STORES )  
ASSOCIATION, a New Jersey Corp. )  
not for pecuniary profit, )  
Intervening Objectors. )

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Argued February 8, 1965 -- Decided March 15, 1965

Before Judges Conford, Kilkenny and Lewis

Mr. Daniel Amster argued the cause for appellant

Mr. Burrell Ives Humphreys argued the cause for  
respondent, Borough Council of the Borough of  
Oakland (Mr. Nathan Bernstein, attorney).

Mr. Samuel J. Davidson argued the cause for  
intervening objectors (Mr. Samuel Moskowitz,  
attorney).

Mr. Samuel B. Helfand, Deputy Attorney General,  
argued the cause for respondent, Division of  
Alcoholic Beverage Control (Mr. Arthur J. Sills,  
Attorney General of New Jersey, attorney).

The opinion of the court was delivered by

CONFORD, S.J.A.D.

This is an appeal from the decision of the Director of the Division of Alcoholic Beverage Control affirming the denial by the Mayor and Council of the Borough of Oakland of an application for the transfer of an alcoholic beverage license. (Packard-Bamberger & Co., Inc. v. Oakland, Bulletin 1497, Item 3.) The denial was based upon the prohibition by N.J.S.A. 33:1-12.31 to 12.37 (L. 1962, c. 152) of the acquisition by any person of a "beneficial interest" in more than a total of two such licenses, appellant already being the owner of two or more licenses.

Appellant on July 9, 1962 entered into a contract of purchase of the alcoholic beverage licenses now in question, that issued to Pleasureland, a New Jersey corporation, for premises at 23 Doty Road, Oakland, N. J. On July 20, 1962, appellant filed an application for the transfer of that license to it with the Mayor and Council of the Borough of Oakland. Proper notice of the application was published.

On August 3, 1962, the cited statute became effective. It provides (N.J.S.A. 33:1-12.31):

"On and after the effective date of this act no person, as the same is defined in section 33:1-1 of the Revised Statutes, shall, except as hereinafter provided, acquire a beneficial interest in more than a total of 2 alcoholic beverage retail licenses, but nothing herein shall require any such person who has, on the effective date of this act, such interest in more than 2 such licenses to surrender, dispose of, or release his interest in any such license or licenses."

N.J.S.A. 33:1-12.35 provides: "Nothing in this act shall affect the right of any holder of retail licenses heretofore acquired to continue to hold, use and renew such licenses."

The matter of the application for transfer of the license was first heard by the Mayor and Council on August 7, 1962 and continued to September 4. On that date, the Mayor and Council denied the application on the ground stated above, and, as noted, that action was affirmed by the Division.

The problem before us is whether a party who had entered into a contract to purchase a license prior to the effective date of the cited act was entitled to have the issuing authority pass upon its application thereafter (1) on the theory that it would not thereby be acquiring a "beneficial interest" in the license since it already held such an interest therein, and (2) by virtue of the statutory saving clause, "but nothing herein shall require any such person who has, on the effective date of this act, such interest in more than 2 such licenses to surrender, dispose of, or release his interest in any such license or licenses."

Appellant's position is, simply, that it had a "beneficial interest" in the license in question prior to the effective date of the act because of its contract and by virtue of the fact that in the ordinary course, and had the statute not been used as a reason for denial by the control agencies, the transfer would have been approved. However, appellant supports its argument solely by resort to dictionary definitions of the words, "beneficial interest." Solution of the problem cannot be had in such manner, but must be approached in the light of settled concepts as to the nature and exercise of a liquor license under the regulatory statute and the interpretive cases.

Some light is cast upon the problem by the recent decision upholding the constitutionality of the cited 1962 enactment, Grand Union Co. v. Sills, 43 N.J. 390 (1964). In dealing with the contention that the statute was void for vagueness, the court said (at 408-09):

"Notwithstanding its somewhat awkward terminology, section 1 is to be read as limiting the holding of retail liquor licenses to two per person, without, however, disturbing existing multiple holdings and their renewal.

The purpose underlying the legislative use of the phrase 'beneficial interest,' a phrase which appears throughout the law (Montana Catholic Missions v. Missoula County, 200 U.S. 118, 127-128, 26 S. Ct. 197, 50 L. Ed. 398, 402 (1906); In re Rogers' Estate, 15 N. J. Super. 189, 206 (Essex Cty. Ct. 1951); In re Armistead, 362 Mo. 960, 245 S.W. 2d 145, 148 (1952)), seems clear enough; it, along with the comparable phrase 'directly or indirectly interested,' was contained in the original Control Act (L. 1933, c. 436, pp. 1193, 1205) and was intended to include ownership interests in the broad or equitable sense rather than in the narrow or technical sense. That certain marginal situations may present close questions for determination does not indicate that the statutory language is too uncertain. State v. Hudson County News Co., *supra*, 35 N.J., at pp. 297-298. It is worthy of note that the many references to beneficial and direct or indirect interests which appear in the regulations or application forms issued by the Division of Alcoholic Beverage Control have long been applied administratively without any significant difficulty." (emphasis added).

The foregoing excerpt, although not addressed to the precise question at hand here, inspires the thought that a contractor to purchase a license is not a "holder" of a license in the sense of the quoted language, "multiple holder"; nor one encompassed by the reference to "ownership interests in the broad or equitable sense." A contract vendee of a license has such little status under the alcoholic beverage control statute that the courts will refuse to grant him specific performance against the vendor because so to do would be inconsistent with the inability of the court to control the exercise of discretion by the local board, Iavicoli v. DiMarco, 142 N.J. Eq. 699 (E. & A. 1948), and because it would impair the absolute control which holders of licenses should retain over them. Walsh v. Bradley, 121 N.J. Eq. 359, 360 (Ch. 1937). See also Novack v. Krauz, 138 N.J. Eq. 241 (Ch. 1946); Rawlins v. Trevethan, 139 N.J. Eq. 226 (Ch. 1947); Takacs v. Horvath, 3 N.J. Super. 433 (Ch. Div. 1949). This line of cases was cited with approval in The Boss Co., Inc. v. Bd. of Com'rs of Atlantic City, 40 N.J. 379, 388 (1963). See an expression of the same principle, in another area of the law, in Popular Refreshments, Inc. v. Fuller's Milk Bar, etc., 85 N.J. Super. 528, 540 (App. Div. 1964), certif. denied, \_\_\_ N.J. \_\_\_ (1965).

In relation to the reference by the Supreme Court in Grand Union Co. to administrative regulations governing "beneficial interests," we observe that appellant cites no such regulation pertaining to the status or rights of a contract vendee of a license. Indeed, the statute itself declares that a license or rights thereunder shall not be property or subject to sale except to the extent expressly provided by the act. R.S. 33:1-26. The act does regulate transfers of licenses but not contracts of sale or sales thereof.

For purposes of this case we need not delineate the whole range of "beneficial interests" in a license within the contemplation of the legislature in the enactment of the 1962 statute. For the reasons stated, we are satisfied that a contract vendee does not have such an interest and gains none until there is an actual transfer of the license to him by the action of the vendor and the due approval thereof by the specified statutory authority.

The judgment is consequently affirmed.

2. APPELLATE DECISIONS - GLITTER CLUB, INC. v. NEWARK.

GLITTER CLUB, INC., )  
Appellant, )  
v. )  
MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF NEWARK, )  
Respondent. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

-----  
Jack Trugman, Esq., Attorney for Appellant.  
Norman N. Schiff, Esq., by Paul E. Parker, Esq., Attorney  
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Appellant appeals from the action of respondent Board (hereinafter respondent) whereby the members thereof unanimously voted to deny the application for renewal of appellant's plenary retail consumption license for 1964-65 for premises 687 Springfield Avenue, Newark.

Upon the filing of the appeal, an order dated June 30, 1964, was entered by the Director extending the term of appellant's 1963-64 license until further order herein. Rule 12 of State Regulation No. 15.

Appellant's petition of appeal, in substance, alleges that the action of respondent was erroneous because (a) appellant was not given ample notice of the hearing held before respondent, (b) the testimony of objectors was insufficient to deny renewal of its license, and (c) the reading into the record and consideration of the contents of the police report recommending denial, without producing the author thereof, were unjustifiable.

The answer of respondent denies appellant's allegations and contends that respondent exercised the discretion vested in it based on the testimony presented at the hearing held before respondent.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15. The stenographic transcript of the hearing

below was submitted in accordance with Rule 8 of State Regulation No. 15, and was supplemented at this hearing by testimony of witnesses produced on behalf of the parties hereto. Apparently, twelve objectors appeared at the hearing before respondent, four of whom voiced objections to the renewal of appellant's license.

William S. MacDonald (a member of respondent) announced that respondent was in possession of a petition with names of ninety-six objectors.

John E. Jones, residing at 698 Springfield Avenue, stated, "Well, first, it is the noise that is up there, you know, and the fighting that is going on up there, outside of the Glitter Club. When they are emptying out at night there is fighting and noise." Mr. Jones further complained that the disturbance begins at "about one o'clock, sometimes" on Thursday, Friday, Saturday and Sunday nights when "the cops come and have to chase them away." Thereafter, persons would drink in their cars which at times were parked double, and sometimes fights would ensue; "after the places are closed and they have to go to the toilet, they would go into our hallway and use it for a lavatory;" that the condition has been going on for three years. The witness related a street brawl which he stated occurred last summer, but in response to a question from the chairman of respondent, answered he did not see the men come from appellant's establishment.

When examined by the attorney for appellant, John E. Jones stated that appellant's premises was located on the south side of Springfield Avenue near South 18th Street, in the block between South 18th Street and South 19th Street. The apartment occupied by him is in a building located on the north side of Springfield Avenue, corner of South 19th Street, in the block between South 19th Street and South 20th Street. He further testified that his daughter-in-law is the superintendent of the apartment house where he resides, and at her request he signed a petition opposing the renewal of appellant's license. He stated that he did not know from where the persons seated in cars come, and that he never spoke to any employee at appellant's premises or had he ever complained to respondent because of the alleged conditions existing in the vicinity of appellant's establishment. The witness also stated that he does not drink and therefore does not patronize any of the five taverns in the immediate area of his home, one of the taverns being two doors away from his residence.

The objections voiced by Mrs. Roman Rabyk, residing at 696 Springfield Avenue; Mrs. John Jones, residing at 694 Springfield Avenue, and Lauretta Jones, residing at 698 Springfield Avenue, were substantially similar to those stated by John E. Jones.

Washington Koonce (president of appellant) testified that he has been an officer of the said Glitter Club, Inc. since December 20, 1963, and during that time none of the objectors ever made any complaints that they had any difficulty with sleeping because of noise; that during the seven-month period he had occasion to call police three or four times; that there is a ladies' room and also a men's room in the licensed premises, and that he could not understand any person leaving appellant's establishment and going across the street to use a hallway as a lavatory; that he does not permit any patron to carry out a bottle of any kind when leaving the premises; that the application

for renewal of the license was filed and the fee submitted on May 25, 1964, but he had no knowledge that anyone had objected to said renewal until late afternoon of June 24, 1964 (the day before the time scheduled for the hearing in the matter).

Over the objection of appellant's attorney, the chairman of respondent read into the record a recommendation made by Police Captain Charles M. Zizza, that the renewal of appellant's license should be denied. The recommendation contained general allegations of improper conduct of the appellant's licensed premises. At the hearing before respondent, and at the instant appeal hearing, Captain Zizza was not produced as a witness. At each hearing the attorney for appellant objected to the failure to produce Captain Zizza in order that he (the attorney) might have an opportunity to cross examine the Captain with reference to the contents of the report. In order that appellant's attorney be given the opportunity to examine Captain Zizza and any other police officer familiar with the licensed premises, I, as Hearer, scheduled a supplemental hearing and requested that the aforementioned police officers be produced.

At the return date of said supplemental hearing, Captain Zizza testified that he was acting as Police Captain in the precinct in which appellant's premises are located. He assumed the said duties on April 20, 1964, and remained in charge thereof until June 9, 1964. During that time, he testified, he had occasion to pass appellant's establishment and disperse people who gathered in front of the premises. His first and only occasion to enter the tavern in question was on May 30, 1964, when some trouble occurred. Captain Zizza testified that he had received two anonymous telephone calls complaining about the conduct of appellant's business and, as a result thereof, initiated an investigation by assigning Lieutenant Curtiss to talk to the people in the neighborhood to ascertain their sentiment with reference to the premises; that on June 7, 1964 Lieutenant Curtiss submitted a report, and on June 8, 1964 a petition containing ninety-six signatures (many of the persons admitted by Captain Zizza did not live in the area) was received by him; that, relying on the report and petitions, he (Captain Zizza) based his recommendation to the respondent that appellant's license be denied renewal.

Captain Zizza was subjected to extensive cross examination on the contents of the report wherein he had stated that, for a period of five months, appellant's place of business constituted a continuous nuisance.

It appears that the same area where the appellant's establishment is situated has five or six other licensed premises in fairly close proximity to one another. Captain Zizza testified that the area is a trouble spot, and specialized patrols are assigned thereto. Furthermore, he testified that he is an administrator and relied "very heavily" on Lieutenant Curtiss, who has patrolled the area for the past two and one-half years from 7 p.m. to 3 a.m., for information before submitting the report to respondent. Captain Zizza produced numerous activity reports from police officers which refer to the entire area but did not specifically attribute the conditions then existing to appellant.

Lieutenant John E. Curtiss testified that since October 1963, on four or five occasions, he was dispatched to

appellant's premises. Also, during May and June 1964, he contacted people in the neighborhood and received complaints from them. Although he had occasion to be in the area, at no time, with the exceptions of May 30, 1964, had he ever entered appellant's premises. He further testified that, since the area had been designated as "a lookout", it was a regular routine for him, when appellant was closing its premises, to go there and see that people leaving the establishment would not congregate in front of the premises, and he also noticed that others who had left the establishment would wait for buses at the corner. He stated some people patronized the restaurant next door to appellant's establishment after leaving the latter. He said that he had never had any occasion to arrest anyone. Lieutenant Curtiss said that in his opinion the proprietor of the appellant had not encouraged, invited, tolerated or known that the people leaving his establishment caused any unnecessary trouble. Furthermore, Lieutenant Curtiss said that, since the license renewal had been denied, "I ride up there now, and I wouldn't find a double parked car. And I will ride past there, and I wouldn't find anybody hanging around there now. And this has been going on several months since the action that we have taken. I have no complaint about the Glitter Club. In the past months it's been beautiful, but prior to that which we were referring to it was a problem."

Lieutenant Reinhold J. Schorn testified that he has been attached to the precinct wherein appellant's premises are located for the past thirty-nine years. He has been assigned to inspect establishments with a restaurant or liquor license during the day time. He further testified that he never observed anything out of the ordinary with regard to appellant's operation.

It has been stated that an owner of a license or privilege acquires through his investment therein an interest which is entitled to some measure of protection in connection with a transfer. Lakewood v. Brandt, 38 N.J. Super. 462 (Sup. Ct. 1955). This naturally also applies to a licensee seeking a renewal of the license. Furthermore, in the aforesaid Brandt case it was ruled that under the law, a case is heard de novo by the Director (Cino v. Driscoll, 130 N.J.L. 535 (Sup. Ct. 1943)), and he may properly rely on additional evidence brought out in the Division. See Florence Methodist Church v. Township Committee, Florence Tp., 38 N.J. Super. 85 (App. Div. 1955).

In the instant case the evidence discloses that the complaints advanced with reference to appellant's license are based on happenings outside the licensed premises. It might be reiterated that a licensee, or anyone in charge of licensed premises, must keep the premises and the patronage under strict control because of the licensee's responsibility for conditions both inside and outside the licensed premises. Galasso v. Bloomfield, Bulletin 1387, Item 1.

There is no dispute that it is within the sound discretion of an issuing authority to determine in the first instance whether an applicant is worthy of renewal of the license privileges. However, it is necessary that complaints of mismanagement of a licensed premises be attributable to the premises under investigation. There are five or six other licensed liquor outlets in the immediate vicinity and, according to the statement of Captain Zizza, the entire area is known as a trouble spot. The complaints made by the four residents before

the local Board that noise existed at certain times in the late evening or early morning in the neighborhood, no doubt are justifiable. However, when examined, the said complainants did not with adequate proof attribute the conditions existing to only appellant's establishment. It seemed farfetched and not quite understandable that a person should leave appellant's licensed premises and go several hundred feet on the other side of the street to use the entrance of an apartment house as a lavatory.

Lieutenant Curtiss, on whom Captain Zizza placed his reliance for information as to happenings in the area, testified that in his opinion the owner or manager of appellant's establishment in all probability was not aware of troublesome conditions created by his patrons when leaving the premises. There is no evidence that anyone--neighbor or those in authority--at any time made mention to any of appellant's officers that annoyance was being caused to neighbors. Many of the incidents that were mentioned by Captain Zizza which required police action were not attributable in any manner whatsoever to appellant.

I was impressed by the testimony of Lieutenant Curtiss wherein he has stated that, since the action of respondent in denying the application for renewal of appellant's license, the conditions in the area have greatly improved. Thus, I am satisfied that those in charge of appellant's business, after ascertaining that conditions near its premises were troublesome, have done everything possible and with great success to alleviate bad conditions in the vicinity of the licensed premises.

The case under consideration discloses the evidence to be somewhat similar to that which existed in Freeland v. Roselle, Bulletin 352, Item 5; Vasto v. Atlantic Highlands, Bulletin 622, Item 4; Monesson v. Lakewood, Bulletin 657, Item 1; Salmanowitz v. Hightstown, Bulletin 807, Item 2; Seidel v. Upper Freehold, Bulletin 1246, Item 1; Galasso v. Bloomfield, supra. Also cf. Leedie v. Trenton et al., Bulletin 863, Item 4.

In the matter of B & L Tavern, Inc. v. Bayonne, Bulletin 1459, Item 1, conditions such as those voiced by objectors allegedly existing outside of the licensed premises were shown. The then Director, considering the entire situation was not satisfied that the alleged events should cause the local issuing authority to deny renewal of the license in question. On appeal to the Superior Court of New Jersey, Appellate Division, the Director's determination was affirmed. Bayonne v. B & L Tavern, Inc. and Division of Alcoholic Beverage Control, decided April 15, 1963, not officially reported, reprinted in Bulletin 1509, Item 1.

It might be well to repeat what was said by Judge Kilkenny in said case:

"We do not condone the manner in which this tavern was conducted...If the tavern was as bad as the City now says it is, it should have instituted disciplinary proceedings long ago. Had it done so, or had it even warned tavern owners generally, or the B & L Tavern specifically, that the policy of benevolent blindness was a thing of the past, we are certain that the Director would have sustained the refusal to renew. That is not

to say that prior warning is necessary in every case. There may be conduct so indisputably bad that a single instance would warrant revocation or the refusal to renew, but this is not such a case."

An appeal taken by the municipality to the Supreme Court of New Jersey from the decision of the Appellate Division aforementioned was affirmed. Bayonne v. B & L Tavern, Inc. and Division of Alcoholic Beverage Control, 42 N.J. 131.

It might be well to remind appellant of its responsibility to conduct the licensed premises in strict observance of the law and especially with reference to the rights of persons residing in the area. There is no question but that some of the noise was created by patrons of appellant, especially at closing time, and no doubt it had interfered with the quiet enjoyment of the people residing in the vicinity. However, it must also be taken into consideration that there are five or six other liquor establishments in the area. Appellant should be warned that any resumption of any annoyance to the neighbors by patrons from appellant's premises will no doubt react unfavorably for the licensee.

Under the circumstances herein, it is recommended that an order be entered in this matter reversing the action of respondent to give appellant the opportunity to demonstrate its worthiness to hold a liquor license, with the further understanding, however, that if in the future conditions should warrant, respondent should not hesitate to institute disciplinary proceedings or to disapprove appellant's application for renewal of its license for the succeeding licensing term.

#### Conclusions and Order

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of the testimony and the oral argument of the attorneys for the respective parties, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 1st day of March, 1965,

ORDERED that the action of respondent be and the same is hereby reversed and respondent is hereby directed to issue a renewal license to appellant for the 1964-65 licensing period, in accordance with the application filed therefor.

JOSEPH P. LORDI  
DIRECTOR

3. APPELLATE DECISIONS - COOK v. HOPE.

EDWARD COOK,	)	
Appellant,	)	
v.	)	ON APPEAL
	)	CONCLUSIONS
TOWNSHIP COMMITTEE OF THE	)	AND ORDER
TOWNSHIP OF HOPE,	)	
Respondent.	)	

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 Robert W. Wolfe, Esq., Attorney for Appellant.  
 Richard D. Van Horn, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Appellant appeals from the action of respondent whereby it denied his application for a person-to-person and place-to-place transfer of a plenary retail consumption license from American House, Incorporated, and from premises on Route 521, to appellant for premises on Route 521 one mile south of Hope.

The petition of appeal alleges that the action of respondent was arbitrary, capricious, an abuse of discretion and improperly motivated and contrary to the concensus of opinion of the neighborhood.

Respondent's answer admits that no reasons for its action were given and that appellant was never served with a notice that his application was denied. However, in justification for its action respondent contends that appellant was not a suitable person to hold a license.

The sole question raised herein is the fitness of appellant to hold a liquor license.

Appellant testified that he has resided in Hope since 1955, having been born in Blairstown (an adjacent municipality); that he is married and is the father of five children, and he has never been convicted of a crime; he has assisted in various functions in the Township, among which was that he was president of the local Chamber of Commerce and president of the local fire company.

Reverend Richard L. Stinson (rector of St. Luke's Episcopal Church in Hope) testified that appellant's reputation, in so far as he (Reverend Stinson) was concerned, for honesty and integrity was flawless and that he has no objection to the transfer of the license in question.

Nine other witnesses, some of whom own property in the community and reside near the proposed premises, testified that in their opinion appellant possesses a good reputation.

They also stated that they were in favor of the transfer of the license.

The testimony of three members of the respondent Committee was in agreement that on occasions in the past they had dealings with appellant which were not too satisfactory. More specifically, the respondent received complaints from residents in the area where appellant resides that at times he (appellant) permitted his horses to stray on the school grounds and on other persons' property; that appellant allowed and was instrumental in having old automobiles stored upon his land which, in the opinion of the members of respondent Committee, constituted in effect "a junk yard problem;" and that appellant had allegedly violated the health code which necessitated an investigation.

All the committeemen testified that, although appellant was reluctant to cooperate with them in order to alleviate the conditions complained of, he finally did so after a lapse of time. However, with reference to the storage of old cars on his land, it was necessary to threaten court action before appellant eliminated the undesirable condition.

Proper liquor control dictates that an issuing authority should be free within the confines of sound discretion to determine whether or not a person is fit to hold a liquor license. However, the determination of unfitness must in every case be founded upon valid and substantial grounds. Re Sudol, Bulletin 276, Item 7.

The fact that a person has never been convicted of a crime would not in itself preclude an issuing authority from denying a license to an applicant. Marsillo v. Randolph, Bulletin 1367, Item 3.

On the one hand, the attitude of appellant in procrastinating in the correction of matters when called to his attention should not be condoned. However, on the other hand, the testimony of witnesses who appeared at the hearing herein and expressed their sentiments as to appellant's good reputation weighs in his favor. There were no objections from anyone attending the hearing herein with reference to the proposed premises or its location. However, there was a petition containing twenty names of residents submitted to the respondent wherein the signers thereof voiced objections to the transfer. Another petition containing one hundred signatures indicated that they were in favor of the transfer.

The fear expressed by the members of the respondent Committee that appellant's hesitation to cooperate with the municipal authorities as aforementioned might occur in the operation of a licensed premises is mere conjecture. If appellant does not comply with the alcoholic beverage law or the rules and regulations promulgated by the Division, disciplinary proceedings to suspend or revoke his license may and should be instituted. Moreover, if a serious violation occurs, failure to renew appellant's license might be warranted.

After consideration of all the evidence herein, and upon observing appellant's demeanor as a witness, I am of the opinion that he is a fit person to be associated with the alcoholic beverage industry in this State.

The action of respondent in denying appellant's application for transfer, based on the reasons stated at the hearing herein, appears unreasonable and should be reversed.

I therefore recommend that an order be entered reversing the action of respondent and, since no other reason for denial appears, that the respondent be directed to transfer the license in accordance with the application made by appellant.

Conclusions and Order

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 14 of State Regulation No. 15.

After carefully considering the testimony, exhibits and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 2nd day of March 1965,

ORDERED that the action of respondent in denying the transfer herein be and the same is hereby reversed, and respondent is directed to grant the transfer of the license in accordance with appellant's application.

JOSEPH P. LORDI  
DIRECTOR

4. APPELLATE DECISIONS - CLIFTON LICENSED BEVERAGE ASSOCIATION  
v. CLIFTON AND KORTREL REALTY.

CLIFTON LICENSED BEVERAGE ASSOCIATION,	)	
	)	
Appellant,	)	ON APPEAL
	)	ORDER
v.	)	
	)	
MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF CLIFTON, and KORTREL REALTY (a corporation),	)	
	)	
Respondent.	)	

-----  
Robert W. Wolfe, Esq., Attorney for Appellant.  
Nicholas G. Mandak, Esq., Attorney for Respondent Municipal Board.  
John Koribanics, Esq., Attorney for Respondent Kortrel Realty.

BY THE DIRECTOR:

Appellant appeals from grant on December 21, 1964, by Municipal Board of Alcoholic Beverage Control, of transfer of plenary retail consumption license from Anthony Alaburda, t/a Anthony's, to respondent Kortrel Realty, and from premises 2-4 Pleasant Avenue to premises 900 Route S-3, Clifton.

Prior to the hearing on appeal, by letter dated March 4, 1965 the attorney for appellant advised me that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 4th day of March 1965,

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

JOSEPH P. LORDI  
DIRECTOR

5. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1964 to DECEMBER 31, 1964 AS REPORTED TO THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19 (INCLUDING 57 ISSUED BY THE DIRECTOR PURSUANT TO R.S.33:1-20)

C L A S S I F I C A T I O N   O F   L I C E N S E S

County	Plenary Retail Consumption		Plenary Retail Distribution		Club	Limited Retail Distribution		Seasonal Retail Consumption		Licenses Expired	Licenses Surrendered *Revoked	Number Licenses in Effect	Total Fees Paid	
	No. Issued	Fees Paid	No. Issued	Fees Paid		No. Issued	Fees Paid	No. Issued	Fees Paid					No. Issued
Atlantic	485	\$ 207,610.00	73	\$ 27,525.00	28	\$ 2,520.00						586	\$ 237,655.00	
Bergen	813	323,705.05	301	90,906.00	146	13,411.35	50	\$ 2,361.50	5	\$ 1,398.75	5	1	1309	431,782.60
Burlington	197	90,869.00	40	13,360.00	49	6,669.04	1	50.00					287	110,943.00
Camden	455	224,983.97	84	36,220.61	79	7,759.45			1	450.00	1	2	616	269,414.00
Cape May	137	77,450.00	13	4,700.00	18	2,200.00							163	84,350.00
Cumberland	80	34,500.00	15	4,200.00	32	4,250.00							127	42,950.00
Essex	1540	860,680.00	349	210,650.00	96	13,325.00	26	1,300.00	2	1,500.00	1		2011	1,037,455.00
Gloucester	109	39,540.00	15	3,845.00	22	2,020.00							146	45,405.00
Hudson	1480	673,514.05	298	122,400.00	81	9,570.97	60	2,550.00					1919	808,035.00
Hunterdon	79	28,620.00	13	6,210.00	13	1,357.80							105	36,187.80
Mercer	421	262,132.60	61	25,110.00	57	8,481.49			1	114.21	2	1	538	295,833.30
Middlesex	633	322,833.63	88	30,370.62	119	10,163.97	4	200.00					844	363,563.30
Monmouth	555	295,046.89	126	45,095.00	63	6,861.06	10	435.00	24	11,629.93	24		754	359,067.80
Morris	355	144,813.73	106	43,394.00	67	6,372.50	15	750.00	5	1,440.78	5		543	196,771.00
Ocean	194	108,905.84	49	21,452.00	37	4,400.00							280	134,757.80
Passaic	851	353,409.00	170	52,700.00	48	5,506.00	7	350.00					1076	411,965.00
Salem	51	19,892.50	8	1,590.00	19	1,625.00							78	23,107.50
Somerset	189	89,055.00	45	13,325.00	30	3,475.00							264	105,855.00
Sussex	163	45,805.00	21	4,260.00	11	645.00	1	50.00	1	225.00	1		196	50,985.00
Union	550	316,896.00	144	72,076.00	73	8,950.00	29	1,425.00					796	399,347.00
Warren	148	44,560.00	21	5,270.00	30	3,250.00			2	338.40	1		200	53,418.40
<b>Total</b>	<b>9485</b>	<b>4,564,822.26</b>	<b>2040</b>	<b>834,659.23</b>	<b>1118</b>	<b>122,813.63</b>	<b>203</b>	<b>9,471.50</b>	<b>41</b>	<b>17,097.07</b>	<b>40</b>	<b>4</b>	<b>12843</b>	<b>5,548,863.00</b>

\*Bergen 1 CB surr.  
Camden 1 CB Cancelled - 1 D cancelled  
Mercer 1 CB surr.

Joseph P. Lordi  
Director

March 16, 1965

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE  
SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

In the Matter of Disciplinary Proceedings against )

PETER PERCUDANI )  
t/a FLICK'S BAR & GRILL )  
9025-27 River Road )  
North Bergen, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-48, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen )

-----)  
Auto. Susp. #257  
In the Matter of the Automatic Suspension of License C-48, held by )

ORDER

PETER PERCUDANI )  
t/a FLICK'S BAR & GRILL )  
(same address) )

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Capone and Gittleman, Esqs., by Melvin Gittleman, Esq., Attorneys for Licensee.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 29, 1965, he sold drinks of beer to four minors, ages 15, 16, 17 and 18, in violation of Rule 1 of State Regulation No. 20.

On February 11, 1965, the licensee was convicted in the North Bergen Municipal Court of sale of alcoholic beverages to the minors, in violation of R.S. 33:1-77, and fined \$250. This conviction resulted in the statutory automatic suspension of the license by virtue of the provisions of R.S. 33:1-31.1. However, because of the pendency of these proceedings, the statutory automatic suspension has not been effectuated.

Absent prior record, the license will be suspended for forty days (cf. Re Tarlowe, Bulletin 1580, Item 6; Re Fogler, Bulletin 1145, Item 7), with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 2d day of March, 1965,

ORDERED that Plenary Retail Consumption License C-48, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen to Peter Percudani, t/a Flick's Bar & Grill, for premises 9025-27 River Road, North Bergen, be and the same is hereby suspended for thirty-five (35) days, commencing at 3:00 a.m. Tuesday, March 9, 1965, and terminating at 3:00 a.m. Tuesday, April 13, 1965; and it is further

ORDERED that in view of the penalty of suspension imposed herein, the statutory automatic suspension of said license resulting from the conviction of Peter Percudani, be and the same is hereby lifted effective at 3:00 a.m. Tuesday, April 13, 1965

JOSEPH P. LORDI  
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

BRASS RAIL LIQUORS, INC.  
t/a BRASS RAIL LIQUORS, INC.  
20 Market Street  
Camden, N. J.

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)  
) CONCLUSIONS  
) AND ORDER  
)

Holder of Plenary Retail Consumption License C-159, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

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Licensee, by Stanley Sparkler, President, Pro se.  
Morton B. Zemel, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 20, 1965, it sold a pint bottle of wine for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for ten days effective July 20, 1959, for sale during hours prohibited by local ordinance. Re Brass Rail Liquors, Inc., Bulletin 1291, Item 12.

The prior record of suspension for similar hours violation occurring more than five but less than ten years ago considered, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Santanello, Bulletin 1549, Item 3; cf. Re DeVries, Bulletin 1555, Item 9.

Accordingly, it is, on this 4th day of March, 1965,

ORDERED that Plenary Retail Consumption License C-159, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Brass Rail Liquors, Inc. for premises 20 Market Street, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Thursday, March 11, 1965, and terminating at 2:00 a.m. Friday, March 26, 1965.

JOSEPH P. LORDI  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

FRANK NOVAK  
306 Smith Street  
Perth Amboy, N. J.

Holder of Plenary Retail Consumption License C-110, issued by the Board of Commissioners of the City of Perth Amboy.

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) CONCLUSIONS AND ORDER  
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Licensee, Pro se.  
Morton B. Zemel, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 2, 1965, he possessed alcoholic beverages in two bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for ten days effective November 2, 1959, for similar violation. Re Novak, Bulletin 1312, Item 5.

The license will be suspended for fifteen days (Re Orlando, Bulletin 1601, Item 7), to which will be added five days by reason of the record of suspension of license for similar violation occurring more than five but less than ten years ago (Re Lafayette Bar, Inc., Bulletin 1603, Item 7), or a total of twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days.

Accordingly, it is, on this 4th day of March, 1965,

ORDERED that Plenary Retail Consumption License C-110, issued by the Board of Commissioners of the City of Perth Amboy to Frank Novak for premises 306 Smith Street, Perth Amboy, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Thursday, March 11, 1965, and terminating at 2:00 a.m. Friday, March 26, 1965.

JOSEPH P. LORDI  
DIRECTOR

9. STATE LICENSES - NEW APPLICATIONS FILED.

Dennis & Huppert Inc., 1790 Broadway, New York, N.Y.  
Application filed April 8, 1965 for Plenary Wholesale License.

Suffern Distributors, Inc., 27-33 Franklih Turnpike, Mahwah, N.J.  
Application filed April 13, 1965 for Additional Warehouse License on Limited Wholesale License WL-41 for premises 118 Route 17, Upper Saddle River, N. J.

The House of Seagram, Inc., 23 Willett St., Bloomfield, N.J.  
Application filed April 19, 1965 for place-to-place transfer of Plenary Wholesale License W-85 from Suite 2647-2649, 1180 Raymond Boulevard, Newark, N. J.

F & A Distributing Co., 15 Pulaski Street, Bayonne, N.J.  
Application filed April 19, 1965 for place-to-place transfer of Plenary Wholesale License W-54 from 235-241 W. 1st Street, Bayonne, N.J.

  
Joseph P. Lordi  
Director