Mr. Gossweiler

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1376 February 15, 1961

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8. STATE LICENSES - NEW APPLICATIONS FILED.

New Jersey State Library

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1376 February 15, 1961

1. APPELLATE DECISIONS - CLARK AND MATZ v. PASSAIC AND HOME LIQUORS.

ELEANOR CLARK AND NATALIE MATZ,)
Appellants,)
v.) ON APPEAL CONCLUSIONS AND ORDER
BOARD OF COMMISSIONERS OF THE CITY OF PASSAIC, AND HOME LIQUORS (A CORP. OF N. J.),)
Respondents.)

Theodore D. Rosenberg, Esq., Attorney for Appellants.
Martin Klughaupt, Esq., Attorney for Respondent Board of Commissioners.
Abe W. Wasserman, Esq., Attorney for Respondent Home Liquors.

BY THE DIRECTOR:

This is an appeal from the action of respondent Board of Commissioners on July 26, 1960, whereby it approved an application filed by respondent Home Liquors to transfer its Plenary Retail Distribution License D-8 from 357 Passaic Street to 593 Main Avenue, Passaic. The approval was subject to the special condition that the transfer should not be endorsed and effective unless and until the proposed premises at 593 Main Avenue are first duly completed in keeping with the filed and approved plans and specifications.

The Hearer who presided at the hearing held herein recently retired before he had an opportunity to prepare a Hearer's Report and the attorneys for all parties have consented to waive the filing of a Hearer's Report as required by Rule 14 of State Regulation No. 15.

The petition of appeal alleges, in substance, that respondent Board acted in an arbitrary and capricious manner and that there was no need for a license at 593 Main Avenue because there were sufficient licenses in that section of the City.

The evidence shows that Main Avenue (along which a railroad runs) is one of the principal business streets of Passaic; that the original licensed premises of Home Liquors at 357 Passaic Street are located on the northerly side of Passaic Street about 100 feet east of its intersection with Main Avenue, and that the premises at 593 Main Avenue are located on the westerly side of Main Avenue about 175 feet south of its intersection with Passaic Street. It appears that plenary retail consumption licenses have been issued for two premises on Main Avenue within the same block on which No. 593 is located; that appellant Clark holds a plenary retail consumption license for premises at 473 Main Avenue (about six blocks from No. 593) and that appellant Matz holds the nearest plenary retail distribution license for premises at 513 Main Avenue (about two and one-half blocks from No. 593). It further appears that Home Liquors' new location will provide for off-street parking, whereas there is no provision for off-street parking at its original location.

At the hearing herein Commissioner David B. Kaplan testified that on July 26 there was a full hearing upon the application and that all interested persons were then given an opportunity to be heard. He further testified that, after considering the testimony and the petition objecting to the transfer, he voted in favor of approval of the application because, in his opinion, both premises were within the same business area and because the nearest distribution license was over two blocks from the proposed premises. He further testified that three Commissioners voted in favor of approval, one Commissioner voted against approval and one Commissioner was absent.

Both appellants and Andrew Matz (husband of Natalie Matz) testified that they believed there were already sufficient licenses on the westerly side of Main Avenue, despite the fact that this is a business area.

The question whether there is a need or necessity for a liquor outlet at a particular location is within the sound discretion of the issuing authority. Krogh's Restaurant, Inc., et als. v. Sparta et al., Bulletin 1258, Item 1, and cases therein cited. The fact that the transfer may be contrary to the economic interests of appellants is not a sufficient reason for setting aside the transfer. Knast et al. v. Camden et al., Bulletin 810, Item 2.

After carefully reviewing all the evidence and exhibits herein, I conclude that the action of respondent Board was not arbitrary or capricious or constituted an abuse of discretion. I conclude, therefore, that appellants have failed to sustain the burden of establishing that the action of respondent Board was erroneous. Rule 6 of State Regulation No. 15.

Accordingly, it is, on this 5th day of January 1961,

ORDERED that the action of respondent Board be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - LUBLINER ET AL. v. PATERSON AND HUTCHINS.

MORRIS LUBLINER AND CONGREGATION)
LENATH HAZEDIC,)
Appellants,)
v.) ORDER
BOARD OF ALCOHOLIC BEVERAGE CONTROL)
FOR THE CITY OF PATERSON AND)
AUGUSTUS HUTCHINS, t/a HUTCH'S)
TAVERN,)
Respondents.)

BY THE DIRECTOR:

On June 16, 1959, I affirmed the action of the Board of Alcoholic Beverage Control for the City of Paterson whereby on January 14, 1959, it approved by resolution the transfer of a plenary retail consumption license held by the respondent Augustus Hutchins from 34 Straight Street to 39 Carroll Street, Paterson. Bulletin 1289,

Item 3. Thereafter an appeal was taken to the Superior Court, Appellate Division, which affirmed my action, and from such affirmance an appeal was taken to the New Jersey Supreme Court. The latter court on November 7, 1960, entered an order modifying said affirmance to the end that my order affirming the transfer in question shall expressly provide that the licensed premises must be operated and conducted as a bona fide restaurant and suitable off-street parking facilities must be maintained for its patrons, but in all other respects affirmed the action of the Superior Court, Appellate Division. On December 17, 1960, the record and proceedings were remitted to this Division by the latter Court in an order embodying the aforementioned modification.

The records of this Division disclose that Augustus Hutchins has received renewal of his license at 39 Carroll Street, Paterson, for both the 1959-60 and 1960-61 licensing years and is presently conducting his licensed premises at said location. Therefore, modification of my order affirming the transfer in question may be effected at this time.

Accordingly, it is, on this 4th day of January 1961,

ORDERED that my order dated June 16, 1959, affirming the action of respondent Board of Alcoholic Beverage Control for the City of Paterson and dismissing the appeal herein be and the same is hereby modified to the extent that respondent Board is directed to amend its resolution granting the transfer in question by imposing special conditions that the licensed premises must be operated and conducted as a bona fide restaurant and suitable off-street parking facilities must be maintained for the licensee's patrons, but in all other respects it remains unchanged; and it is further

ORDERED that the respondent Board amend its resolution granting renewal of the license in question for the current 1960-61 licensing year to reflect continuance of the above mentioned conditions and that the same be endorsed upon the current license certificate.

WILLIAM HOWE DAVIS
DIRECTOR

Accordingly, it is, on this 9th day of January 1961,

ORDERED that the matter be remanded to respondent in order that it may schedule a hearing and then proceed pursuant to the provisions of the local ordinance applicable thereto.

WILLIAM HOWE DAVIS
DIRECTOR

4. APPELLATE DECISIONS - SYBEL v. UNION BEACH.

William W. Sybel, t/a Village Inn,)
Appellant,)
v.)
Borough Council of the Borough of Union Beach,)
Respondent.)

On Appeal
O R D E R

James F. McGovern, Jr., Esq., Attorney for Appellant.
Reussille, Cornwell, Mausner & Carotenuto, Esqs., by Patrick J. McGann, Jr., Esq., Attorneys for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby on July 14, 1960, it suspended appellant's license for a period of three days, effective August 1, 1960, after finding him guilty on a charge alleging that on May 27, 1960 or in the early morning hours of May 28, 1960, appellant permitted the sale of alcoholic beverages to a minor and permitted consumption of alcoholic beverages by said minor on his licensed premises, in violation of Rule 1 of State Regulation No. 20.

On July 29, 1960, I entered an order staying respondent's order of suspension pending determination of the appeal herein.

After a number of adjournments, the hearing on the appeal was scheduled to be heard on Wednesday, December 21, 1960. By letter dated December 14, 1960, appellant's attorney requested permission to withdraw the appeal and respondent's attorney advised that they had no objection thereto.

No reason appearing to the contrary, it is on this 10th day of January, 1961,

ORDERED that the within appeal be and the same is hereby dismissed; and it is further

ORDERED that Plenary Retail Consumption License C-11, issued by the Borough Council of the Borough of Union Beach to William W. Sybel, t/a Village Inn, and thereafter transferred to Julia Sybel, for premises 900-902 Union Avenue, Union Beach, be and the same is hereby suspended for a period of three days the effective date of which will be fixed by subsequent order when I am satisfied that the licensed business is being operated in substantial degree, as upon the date of the violation herein.

WILLIAM HOWE DAVIS
DIRECTOR

5. APPELLATE DECISIONS - WHITLEY v. KENILWORTH. (CASE #1)

Case No. 1 Water Andrew Whitley, t/a Maple Inn, Appellant, v. Mayor and Council of the Borough of Kenilworth, Respondent.	)	On Appeal CONCLUSIONS AND ORDER

Calvin J. Hurd, Esq., Attorney for Appellant.
Earl Pollack, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent on July 28, 1960 whereby it suspended appellant's license for thirty days, effective September 1, 1960. The suspension was imposed after respondent heard testimony in disciplinary proceedings as a result of which it found appellant guilty of a charge alleging that on May 7, 1960 the licensee allowed, permitted and suffered in and upon his licensed premises a brawl, act of violence and unnecessary noise in violation of Rule 5 of State Regulation No. 20.

"Appellant's licensed premises are located at 17th Street and Monroe Avenue, Kenilworth, New Jersey.

"Upon the filing of the appeal an order was entered by the Director on September 2, 1960 staying respondent's order of suspension until entry of a further order herein. R.S. 33:1-31.

"In his petition of appeal, appellant alleges that the action of respondent was erroneous in that the finding of guilty was contrary to the law and evidence. Respondent's answer denies that such is the fact.

"The appeal was heard _de novo_ pursuant to Rule 6 of State Regulation No. 15.

"The basis for the charge is an alleged attack in the licensed premises by the licensee's wife upon a woman with whom the wife considered her husband to be on familiar terms. The licensee testified at the appeal hearing that he operates a 'grill' as well as a bar and that his wife 'handles' or 'runs' the kitchen and at times serves alcoholic beverages; that on the date charged he was tending bar and that his wife told him she had a fight with this woman. Hence, it does not matter whether, as such licensee, he had an opportunity to prevent the incident or not since his wife is to be considered an employee and he is, in any event, responsible for any misconduct of his employees on the licensed premises. Rule 33 of State Regulation No. 20.

"It should be observed additionally from the facts set forth below that the licensee knew or should have expected trouble when he permitted the woman who was attacked to remain in the premises.

"That the incident was not trivial is demonstrated by a brief reference to the evidence presented. The woman in ques-

to-person and place-to-place transfer of a plenary retail distribution license from Florence Gilchrist, t/a Colony Liquors, and from 322 Central Avenue to 250 Central Avenue, Orange.

"One of the individual respondents, namely, Florence Gilchrist, t/a Colony Liquors, is neither a necessary nor a proper party to this appeal. Livingston Land Corporation v. Livingston et als., Bulletin 1136, Item 3.

"Although appellants herein have set forth various reasons in their respective petitions of appeal wherein they alleged that the action of respondent Board should be reversed, it will be necessary to consider first the main reason advanced and to determine whether the nearest entrance to the premises sought to be licensed is within 200 feet of St. Venantius Church, one of the appellants herein. If so, the application to transfer approved by the respondent Board is in violation of the applicable provisions of R.S. 33:1-76 which provides as follows:

> '...no license shall be issued for the sale of alcoholic beverages within two hundred feet of any church... Said two hundred feet shall be measured in the normal way that a pedestrian would properly walk from the nearest entrance of said church...to the nearest entrance of the premises sought to be licensed....'

"The answers filed by respondent Board and respondent Food Market, Inc. contend, among other things, that the proposed premises are in excess of 200 feet from appellant church.

"The proposed premises are a supermarket located diagonally across Central Avenue from the side and nearest entrance to the church in question. The steps leading to the side entrance to the church are constructed at the end of a paved walk which extends from the sidewalk to said steps. On both sides of the paved walk is a lawn running parallel with the sidewalk. The paved walk, according to a survey prepared by Frank H. McDonald, license surveyor (relied upon by the respondent Board) and also a survey prepared by Louis DiMarzo, professional engineer and surveyor (offered in evidence by the respondent Food Market, Inc.) discloses that the said walk is 7 feet 7½ inches in length. The distance between the entrance to the proposed licensed premises and to the steps leading to the church at the side entrance (inclusive of the length of the paved walk from the sidewalk) is 201 feet 11 inches. If the entrance is ruled to be at the walk where it meets the public sidewalk, the distance between said entrances is 194 feet 3½ inches.

"The question to be resolved by the proofs submitted herein is what constitutes the proper measurement between the entrances of the church and that of the proposed premises, pursuant to R.S. 33:1-76.

"Over the years this Division has been called upon from time to time to determine measurements of this type. For the sake of clarity, I shall cite herein some of the decisions which appeared to be applicable in matters of this kind.

"In Ackerman v. Paterson, Bulletin 48, Item 11, it was said:

> 'Furthermore, the Second Reformed Church is surrounded by a fence, and the gate leading to the entrance is 13' 5" distant therefrom. Between

> the gate and the entrance door are steps elevated from the level of the sidewalk. Under these facts the entrance to the church, within the meaning of Section 76, must be considered as the point at which the gate is located, rather than the entrance door. It is significant that Section 76 contains no mention of the phrase "entrance door" and refers solely to "entrance". The gate clearly separates the church from the walk used by the general public, and persons passing through the gate would be considered as entering the church.'

"In Goldberg v. Little Falls, Bulletin 177, Item 4, it was stated:

> 'The entrance door to the church edifice itself is located approximately 42 feet from the sidewalk; about 9 feet from the sidewalk there are three steps connecting with a raised concrete path leading directly to the entrance door. There is a lawn located on both sides of the concrete path. The objectors contend that under these circumstances the 200 feet referred to in Section 76 should be measured from the beginning of the three steps to the entrance of the licensed premises, whereas the appellant contends that the measurement should be from door to door. The contention of the objectors is sound. Section 76 contains no mention of the phrase "entrance door" and refers solely to "entrance". The steps and raised path clearly separate the church from the walk used by the general public. The three steps constitute the entrance to the church.'

"In Re Grove Liquors Inc., Bulletin 397, Item 3, it was ruled that although an entrance to church is frequently separated from a public way by a gate or similar enclosure 'such an enclosure is not a requisite but is merely evidential of how far the public may go'.

"In Presbyterian Church of Livingston v. Division of Alcoholic Beverage Control et al., reported in 53 N.J. Super. 271, Judge Freund, speaking for the Appellate Division of the Court, stated that for many years the State Director has given R.S. 33:1-77 a practical construction, i.e., 'that the measurement should be, not between the actual entrances, but between points on the sidewalk intersecting any walk which a person would use in entering the properties in question'. (Emphasis mine.)

"Rt. Reverend Monsignor Peter Kurz testified that although he did not recall observing people walk on the grass area between the edge of the sidewalk and the concrete wall on which an iron fence is located, people could do so if they so desired. However, it is obvious from the respective surveys and pertinent photographs of the area of the church that the paved walk is normally used by a person or persons entering the church and not by the general public.

"In Saint Paul and Saint Philips Episcopal Church et al. v. Newark et al., Bulletin 993, Item 1, it was reiterated by former Director Cavicchia that:

> 'Revised Statutes, 33:1-76 (and see, also R.S. 33:1-73) is to be liberally construed in favor of churches and schools. "It is to be noted

> that the statute provides that the distance is to be measured from the nearest entrance of the church to the nearest entrance of the premises sought to be licensed, thus indicating that churches are to be protected to the full limit of the law.... The required 200 feet may not be pieced out by technicalities. Memorial Presbyterian Church v. Newark, Bulletin 191, Item 8. The rule must be applied realistically." (Ormond v. East Orange, and The Park Avenue Methodist Church v. East Orange, Bulletin 627, Item 1.)'

"Respondent Food Market, Inc. contends that the paved walk is public property and asserts that the property line is located at the beginning of the steps leading to the church. Assuming but not admitting this to be so, it does not change the fact that the said walk is used practically exclusively by those entering the church. (See Presbyterian Church of Livingston v. Division of Alcoholic Beverage Control et al., supra.)

"I am satisfied from the proofs submitted herein that the entrance to the church begins at the paved walk where it meets the sidewalk and not at the end of the walk where it meets the steps. Thus, the distance between the entrance to the church as aforementioned and the entrance to respondent Food Market, Inc. is less than 200 feet and, therefore, is in violation of the statute in such case made and provided. Therefore, I recommend the action of respondent Board in approving the application for the transfer of the liquor license to respondent Food Market, Inc. must be reversed. In view of the above recommendation, it is unnecessary to consider any other reasons advanced by appellants herein."

Written exceptions to the Hearer's Report and written argument thereon were filed with me by the attorney for respondent Food Market, Inc. pursuant to Rule 14 of State Regulation No. 15. The attorney for appellant Essex County Retail Liquor Stores Association advised that said appellant would not file argument in answer to that filed by respondent Food Market, Inc., but relied on the record and the argument theretofore made during the hearing of the instant appeals. Neither the attorneys for appellant St. Venantius Church nor for the respondent Board, respectively, have communicated with this Division within the time limited by Rule 14 of State Regulation No. 15.

After carefully considering the evidence, exhibits and memoranda filed with the Hearer after completion of the within hearing and also the exceptions taken to the Hearer's Report and the arguments pertaining thereto, I concur in the conclusions of the Hearer and adopt them as my conclusions herein. I shall reverse the action of the respondent Municipal Board.

Accordingly, it is, on this 12th day of January, 1961,

ORDERED that the action of the respondent Municipal Board in granting the transfer in question be and the same is hereby reversed.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - FALSE ANSWER IN APPLICATION - AIDING AND ABETTING NON-LICENSEES TO EXERCISE THE PRIVILEGES OF A LICENSE - FAILURE TO FILE NOTICE OF CHANGES IN APPLICATION - FAILURE TO KEEP TRUE BOOKS OF ACCOUNT - CANCELLATION PROCEEDINGS DISMISSED - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO FILE APPLICATION TO LIFT SUSPENSION AFTER 20 DAYS UPON CORRECTION OF ILLEGAL SITUATION.

In the Matter of Disciplinary Proceedings against	
Whippoorwill Social Club 327 Evesham Avenue Lawnside, New Jersey	CONCLUSIONS AND ORDER
Holder of Club License CB-2, issued by the Borough Council of the Borough of Lawnside.	

David Novak, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The defendant club licensee pleaded not guilty to the following charges:

'1. In your application dated June 3, 1959, filed with the Lawnside Borough Council, upon which you obtained your current club license, you falsely stated 'No' in answer to Question 29, which asks: 'Has any individual,... other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact Harry Sadler and Oscar Sadler had such an interest in that they were the real and beneficial owners of the licensed business; said false statement being in violation of R.S. 33:1-25.

'2. From about March 1959 until the present time, you knowingly aided and abetted Harry Sadler and Oscar Sadler to exercise, contrary to R.S. 33:1-26, the rights and privileges of your successive club licenses; thereby yourself violating R.S. 33:1-52.

'3. In your aforesaid application, you falsely stated the residence address of Trustee Marvin Wingate in answer to Question 15 as 1434 Lambert Street, Philadelphia, whereas in truth and fact said Marvin Wingate resided at 1518 North 60th Street, Philadelphia; said false statement being in violation of R.S. 33:1-25.

'4. You failed to file with the Lawnside Borough Council, within ten days after the occurrence thereof, written notice of change in facts set forth in answer to Question 14 of your aforesaid application, such change being that in or about August 1959 Ruth Brown, your business manager, changed her residence address from Evesham Avenue, Lawnside (the address stated in the application) to Park Avenue, Lawnside; your failure to file such notice being in violation of R.S. 33:1-34.

'5. From about March 1959 until about September 1959 you, a club licensee, failed to have and keep a true book or books of account wherein were entered all monies received and the source of such receipts and wherein were entered all monies expended from such receipts and the names of the persons receiving such expenditures and the purpose for which such expenditures were made; in violation of Rule 12 of State Regulation No. 7.'

"The club was also served with an order to show cause why its liquor license should not be cancelled because at the time of the issuance of such license and prior thereto, it was not a bona fide club.

"Without relating the specific details, it appears from minutes of the club meetings for the period January 1954 to the date of the hearing, as presented in evidence, and the testimony of two Councilmen of the Borough, one of whom has been a member of the club a year or more, that it is an unincorporated club organized about 1946, which held a club retail liquor license since that time; that the club has been and is engaged in social activities directed to the welfare of the community and its members; that the minutes of such meetings held at the premises disclose such interest in addition to occasional references to the conduct of the liquor business. While the members who actively participate in its affair have declined in number, with hundreds of so-called non-participating members who pay an annual fee for a membership card, in my opinion, aside from the manner in which such liquor activities were carried on, as hereinafter set forth, it is a bona fide club. Hence, I recommend that the cancellation proceedings be dismissed. Cf. Re Morganville Independent Club, Bulletin 1199, Item 1.

"On the score of the operation of the licensed business, various officers of the club, and perhaps the two Councilmen in question, mistakenly believed that officials of the club could conduct its liquor activities as their individual, private enterprise.

"The specific details, as set forth in the signed statement of Harry Sadler, Sr., President of the club, is that when the owners of the building (referred to as Wingate, Kelly and Jackson) were about to lose the property because the club was in financial difficulties, Harry Sadler and his brother, Oscar Sadler, decided to take over the property; that in payment each executed a mortgage of $15,000 on property individually owned by them, and a mortgage of like amount on the premises in question; that the deed to them listed their names t/a Whippoorwill Social Club; that the transaction included a bill of sale dated March 17, 1959 witnessed by an attorney of this state, made by Samuel Kelly and Marvin Wingate to Harry Sadler, Sr. and Oscar Sadler, individually, for the fixtures and equipment in the premises, including bar stools and a beer cooler; and that the two brothers invested a substantial amount of cash used in part to purchase a stock of alcoholic beverages; that the club does not own any articles in the establishment, and the only payment for the use of the premises by the club ostensibly is the payment of a weekly salary of $75 each to Harry and Oscar; that other employees do not receive a salary; that the club has no bank account--instead Harry and Oscar opened a bank account shortly after they purchased the property, which account was used to deposit some of the receipts of the licensed business and payment of bills, including alcoholic beverages purchased, some of the bills being paid in cash; that any profits of the licensed business would be used for wages, upkeep of the building,

and charitable donations; that no account for receipts and disbursements of the licensed business were presented to members of the club; and that no books of account were maintained prior to the first visit of ABC agents in May 1959.

"Oscar Sadler's statement is in substantial accord with that of his brother, Harry, and, in addition, he asserts that the proceeds of the licensed business are also applied to mortgage payments on the premises and that he and Harry decide what disposition is made of the receipts of the licensed business, and that they would have to suffer any losses in the operation of such business.

"The testimony of Harry Sadler, Sr. and that of Oscar Sadler at the hearing reiterated the substance of these statements.

"Signed statements of Marvin Wingate, a trustee of the club, Augustus Wilmer, another trustee, Samuel Kelly, another trustee (who formerly 'ran the club' with Wingate, and sold the property to the Sadlers), Ruth Brown, designated as Business Manager of the club, Thelma Green, designated as Financial Secretary (who states that she has no duties as such), Carl Quillin, who described himself as President of the Board of Directors of the club, and Nellie Brown, Recording Secretary, all declare that they do not know what is done with the receipts of the licensed business, do not know about the finances, or whether any salaries are paid.

"The basis for Charges 3 and 4, as established by the evidence, is that the application for the license for the 1959-1960 licensing year lists the address of Ruth Brown, Business Manager, as Evesham Avenue, and that thereafter she moved to Park Avenue without notifying the issuing authority of such change of address, and that Marvin Wingate's address as listed in the application is given as 1434 Lambert Street, Philadelphia, Pennsylvania, whereas in fact he then resided at 1518 N. 60th Street, Philadelphia.

"It is clear that the method of operation under the defendant's club license does not meet the requirements of the Alcoholic Beverage Law and the Division regulations relating to club licenses. However, I am of the opinion that the club, as such, had no deliberate intent to circumvent the Alcoholic Beverage Law. Nevertheless, I recommend that the defendant-licensee be found guilty of all charges.

"Defendant has a prior adjudicated record. Effective January 21, 1952 the club license was suspended by the local issuing authority for five days for an 'hours' violation. Since the dissimilar violation occurred more than five years ago, I recommend no increase in penalty on that score.

"Since there has been no evidence presented that the unlawful situation has been corrected, it is recommended that defendant's license be suspended for the balance of its term, with leave to submit adequate proof that all necessary steps have been taken and accomplished to operate the club in such manner as to be completely compatible with law and regulations, and, upon application to present such proof and lift the suspension, such application not to be entertained until twenty days have elapsed from the effective date thereof. Re Shackamaxon Country Club, Bulletin 1317, Item 4."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the testimony taken and exhibits introduced at the hearing herein, I concur in the Hearer's findings and conclusions. Hence I find defendant guilty as charged. I shall enter an order as recommended.

Accordingly, it is, on this 4th day of January 1961,

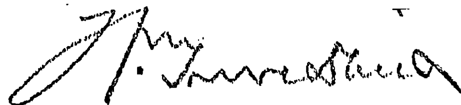
ORDERED that Club License CB-2 (for the 1960-61 licensing year), issued by the Borough Council of the Borough of Lawnside to Whippoorwill Social Club, for premises 327 Evesham Avenue, Lawnside, be and the same is hereby suspended for the balance of its term expiring June 30, 1961, effective at 3 a.m. Wednesday, January 11, 1961, with leave to file a petition to lift said suspension after the expiration of twenty (20) days from the effective date thereof and to present in said petition adequate proof that the unlawful situation has been corrected.

WILLIAM HOWE DAVIS
DIRECTOR

8. STATE LICENSES - NEW APPLICATIONS FILED.

Phillips Distributing Company, Inc.
700 Somerset Street
New Brunswick, New Jersey
Application filed February 6, 1961
for additional warehouse license on
State Beverage Distributor's License
SBD-58 for premises 1470 South Olden
Avenue, Hamilton Township, New Jersey.

Elliott Home Beverages
454 Union Avenue
Bound Brook, New Jersey
Application filed February 9, 1961
for place-to-place transfer of State
Beverage Distributor's license SBD-154
from Rear 326 Talmadge Avenue, Bound
Brook, New Jersey.



William Howe Davis
Director

New Jersey State Library