STATE OF NEW JERSEY :
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
NEWARK INTERNATIONAL PLAZA
U.S. Routes 1-9 (Soutbound) Newark, N. J. 07114

BULLETIN 2344

April 8, 1980

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April 8, 1980

1. APPELLATE DECISIONS - BONSANGUE v. LAKEWOOD et al.

#4314 Charles J. Bonsangue and Patricia A. Bonsangue, Appellants, vs. Township Committee of the Township of Lakewood and George's Bar & Grill, Inc., Respondents.	:	ON APPEAL CONCLUSIONS AND ORDER

Piltzer & Piltzer, Esqs., by David S. Piltzer, Esq., Attorneys for Appellants.
Sharkey & Sacks, Esqs., by Richard K. Sacks, Esq., Attorneys for Respondent - George's Bar & Grill, Inc.
John F. Briscoe, Esq., Attorney for Respondent - Township of Lakewood.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

On June 6, 1978, appellants filed with the Township Committee of the Township of Lakewood (Committee) an application for a place-to-place and a person-to-person transfer of Plenary Retail Distribution License No. 1514-44-019-001, held by Luenes Brothers, Inc., for premises 116 Clifton Avenue, Lakewood, to itself, to be located at 1000 Route 70, Lakewood, New Jersey.

On December 28, 1978, the Committee met to hear the objections to said application filed by George's Bar & Grill, Inc. The Committee determined that it was unable to consider the application by virtue of (claimed) conflict on the part of three of its five members, and directed the applicants to appeal to the Division of Alcoholic Beverage Control in order for the matter to be heard.

The appeal when filed, merely recited the chronology and requested the Director act on the matter as if it were an original application of transfer.

Similarly, the objector filed a statement in lieu of an Answer wherein it contends that the "appellant has not demonstrated any public need or necessity for the type of establishment proposed in the immediate neighborhood."

Documents were submitted indicating that the routine background investigation was performed by the local police and nothing adverse ascertained.

A petition consisting of 33 pages containing in excess of 450 signatures, perporting to be area residents who were in favor of a package store at that location, was submitted in support of the application. It was intended to establish that the location of a retail distribution license at the proposed site would serve a genuine public need.

Charles J. Bonsangue testified in support of the application. He is a builder who constructed and owns the mini-center which is the proposed situs of the subject license. With the assistance of his wife and daughter, he solicited signatures of shoppers who frequented the center. It is his opinion that public sentiment is strongly in favor of a retail distribution license at the proposed location, as it would facilitate one-stop shopping.

Bonsangue admitted that he had had a conditional contract to purchase a retail consumption license, and filed an application for a person-to-person and place-to-place transfer to the same location he now proposes for the distribution license. However, before it could be heard and acted upon by the local issuing authority, the time expired and he made no effort to obtain an extension.

James Murray, Harry Porcello, Donald Hogan, Louis Wenninger and Thomas Cottain, all retirees residing at Leisure Village, the primary area the license is intended to serve, all testified in support of the application. In sum, they stated that it would be convenient to have this license at the location as they patronize other stores in the center and it would make for one-stop shopping. The nearest package store in the Township is more than a mile distant.

The objector, George's Bar and Grill, Inc. (George's) had engaged a detective agency to conduct a telephone survey. Jackie Philippe, who had prior, though somewhat limited experience, in polls and surveys, prepared and conducted it.

A voters list of Leisure Village residents was obtained. There are 2002 households in the community and 200 (10%) were

contacted. This was, in her opinion, a fair number to obtain an accurate sampling. Of the 200 calls made, she received 118 responses or 5.9% of the total Leisure Village households. The specific purpose was to see whether a restaurant-lounge and/or a liquor store was needed or wanted in the area by the residents.

The residents were offered eight choices of personal and professional services and asked to express whether there was a need for any of them. A restaurant-lounge placed fourth and a package liquor store, fifth.

- I -

The sole question to be determined is whether or not there exists a public need or necessity for this type of establishment in the neighborhood.

The objector established on cross-examination that the witnesses who testified on behalf of the proposed transfer were the most modest of drinkers. They purchased alcoholic beverages in sealed, original containers for off-premises consumption very infrequently. However, they are members of the public whose "need" must be considered by issuing authorities in making their determination.

While the petition does contain names without addresses, thus diminishing its effect, it does nevertheless establish that more than a residuum of residents and/or area shoppers have favorably responded to the suggestion that a license at this location would serve their needs.

I am aware that in 1977, George's attempted to transfer its consumption license to this area. The residents of Leisure Village vigorously opposed it at the local hearing and it was, supposedly, one of the main reasons the application for transfer was rejected. The Division affirmed the local issuing authority's determination upon appeal.

I find no conflict between the vigorous opposition expressed by Leisure Village residents regarding the proposed transfer of a consumption license and the absence of negative sentiment from that community towards this proposed transfer. Virtually all of the nuisance type problems attendant to the operation of some consumption licenses are absent at the situs of a distribution license.

I find that the applicant has established that a public need does exist and his proposed establishment at the location would satisfy that need.

I, therefore, recommend that the joint application herein be approved granting the person-to-person transfer of Plenary Retail Consumption License No. 1514-44-019-001, from Luenes Brothers, Inc. to Charles J. and Patricia A. Bonsangue, and the place-to-place transfer from 1600 Clifton Avenue to 1000 Route 70, Lakewood, New Jersey.

CONCLUSIONS AND ORDER

Written Exceptions to the Hearer's Report were filed by the respondent-objector, George's Bar & Grill, Inc. and written Answers thereto were submitted on behalf of the appellant.

In its Exceptions, the objector argues that the proofs adduced at hearing were insufficient to establish a public need for a plenary retail distribution license at the proposed situs. It specifically contends that its poll, conducted by Ms. Philippe, of Leisure Village residents, should be given greater evidential weight than appellant's witnesses and the petition submitted. The proffered result would then be a denial of appellant's transfer application.

The Answer to the Exceptions states that the proposed premises are, at least, five miles distant from the nearest other distribution licensee in the Township, and two miles in the adjacent municipality. The proposed situs is in an area convenient to thousands of shoppers who live nearby, and the petition of approximately 600 persons, plus the testimony of seven of eight witnesses at the hearing, supported the grant of the application of appellant. The only objector was George's Bar & Grill, Inc., a retail consumption licensee which desires to locate its license in the same area..

I am particularly cognizant that the respondent Township Committee has taken no position on the merits of this application, and, in consequence, I am required to determine this matter basically on the proofs submitted by two adversary interested parties. From the record before me, and particularly considering the absence of any proximate other distirbution licensees and the type of other business uses in the area sought to be licensed, a prima facie finding of public need has been shown. The objector's proofs do not negate such finding. Therefore, I find the Exceptions of the respondent-objector to be without merit.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the written summations of the parties, the Hearer's Report, and

the written Exceptions, and written Answers submitted thereto, I concur in the findings and recommendation of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 7th day of September, 1979,

ORDERED that the action of the Township Committee of the Township of Lakewood, in its de facto denial of appellant's application for person-to-person and place-to-place transfer of Plenary Retail Distribution Lic. #1514-44-019-001, be and the same is hereby reversed, and said Township Committee of the Township of Lakewood be and is hereby directed to approve said transfers, in accordance with the application filed therefore.

Joseph H. Lerner
Director

2. APPELLATE DECISIONS - BEVACQUA, INC. v. VINELAND.

#4212 James J. Bevacqua, Inc. t/a Del Way Tavern,		
	Appellant,	ON APPEAL
vs.		CONCLUSIONS AND ORDER
City Council of the City of Vineland,		
	Respondent.	

Tuso, Gruccio, Pepper, Giovinazzi, Brionadonna & Pepper, Esqs., by Robert F. Butler, Esq., Attorney for the City Council.
Robert S. Greenberg, Esq., Attorney for Appellant.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

This is an appeal from the action of the City Council of the City of Vineland (Council) which, on March 14, 1978, suspended appellant's Plenary Retail Consumption License for twenty-one (21) days, following a finding that appellant permitted the sale of an alcoholic beverage to a minor (age 16) on July 29, 1977.

In its Petition of Appeal, appellant alleges that Council's action was erroneous, in that it was against the weight of the evidence and that the penalty was excessive.

In its Answer, the Council denies these contentions and asserts that its action was proper, fair and just.

Upon the filing of the appeal, the Director, by Order dated April 11, 1978, stayed the effective date of suspension pending disposition of the appeal.

A hearing de novo was scheduled in this Division, pursuant to N.J.A.C. 13:2-17.6, with full opportunity afforded the parties to introduce evidence and cross-examine witnesses.

Thereafter, appellant abandoned its challenge to the factual determination of guilt and directed its challenge solely to the penalty imposed.

Appellant asserts that the penalty should have been less severe because the owner was not personally involved in the sale. Not so. N.J.A.C. 13:2-23.28 relating to the responsibility of licensee in disciplinary proceedings provides as follows:

> In disciplinary proceedings brought pursuant to the alcoholic beverage law, it shall be sufficient, in order to establish the guilt of the licensee, to show that the violation was committed by an agent, servant, or employee or the licensee. The fact that the licensee did not participate in the violation or that his agent, servant or employee acted contrary to instructions given him by the licensee or that the violation did not occur in the licensee's presence shall constitute no defense to the charges preferred in such disciplinary proceedings.

This rule has been followed undeviatedly by the Division in disciplinary proceedings and the principles contained therein have met the approbation of the courts. Vide, In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). Thus, this contention is devoid of legal merit.

The Legislature invested the Director and the local issuing authority (the Council) with the power to suspend or revoke licenses, after hearing, for certain enumerated violations, including violations of the law or of the State or local regulations. N.J.S.A. 33:1-31.

It follows that the Council had the statutory mandate to determine, in the exercise of its discretion, whether appellant's license should be suspended or revoked.

The adjudicated cases are legion which hold that the penalty to be imposed in disciplinary proceedings instituted by the Board rests within its sound discretion in the first instance, and the power of the Director to reduce or modify it on appeal should be exercised sparingly, and only where such penalty is manifestly unreasonable and clearly excessive. Harrison Wine and Liquor Company, Inc. v. Harrison, Bulletin 1296, Item 2; Kosinski v. Wallington, Bulletin 1744, Item 2; Gach v. Irvington, Bulletin 2058, Item 1, and cases cited therein.

The Director's function on appeal is not to substitute his personal opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal view. Tumulty v. Dunnellen, Bulletin 1487, Item 4; Central Jersey PSA et als v. Pohatcong and Falk's etc., Bulletin 1768, Item 2. Indeed, as the court stated in Lyons Farms Tavern, Inc. v. Newark et al, 55 N.J. 292 (1970) reprinted in Bulletin 1905, Item 1:

> "The conclusion is inescapable that if the legislative purpose is to be effectuated the Director and the courts must place much reliance upon local action. Once the municipal board has decided to grant or withhold approval of a premises-enlargement application of the type involved here, its exercise of discretion ought to be accepted on review in the absence of a clear abuse or unreasonable or arbitrary exercise of its discretion. Although the Director conducts a de novo hearing in the event of an appeal, the rule has long been established that he will not and should not substitute his judgment for that of the local board or reverse the ruling if reasonable support for it can be found in the record."

Lyons Farms then added this guiding principle (55 N.J. at p. 307):

> "Our penetrating review of all the evidence was engaged in by retreating to the fundamental issue in these cases: Did the decision of the local board represent a reasonable exercise of discretion on the basis of evidence presented? If it did that ends the matter of review both by the Director and by the courts...."

In the matter sub judice the imposition of a twenty-one (21) day suspension for the sale to a minor, sixteen years of age, is not so manifestly unreasonable or excessive as to compell an intrusion upon the Council's action.

Appellant has failed to sustain the burden of establishing that the Council's action was erroneous and should be reversed, as required by N.J.A.C. 13:2-17.6 (formerly State Regulation No. 15, Rule 6). Therefore, I recommend that an order be entered affirming the Council's action and reimposing the aforesaid suspension of twenty-one (21) days.

CONCLUSIONS AND ORDER

No written Exceptions to the Hearer's Report were filed by the parties, pursuant to N.J.A.C. 13:2-17.14.

In lieu thereof, the appellant applied to the Director to pay a fine, in compromise, in lieu of suspension of license for twenty-one days, pursuant to N.J.S.A. 33:1-31.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits and the Hearer's Report, I concur with the findings and recommendations of the Hearer and adopt them as my conclusions herein, subject to the fine request.

I have considered the appellant's application and also note that the appellant has no prior adjudicatory record. I shall accept an offer, in compromise, by the licensee to pay a fine of $1,050.00, in lieu of suspension of license for twenty-one days.

Accordingly, it is, on this 4th day of September, 1979,

ORDERED that the action of the City Council of the City of Vineland be and the same is hereby affirmed, and the appeal be and is hereby dismissed; and it is further

ORDERED that my Order of April 11, 1978, staying the suspension pending determination of the appeal, be and is hereby vacated; and it is further

ORDERED that the payment of a fine of $1,050.00 is hereby accepted in lieu of suspension of license for twenty-one (21) days.

JOSEPH H. LERNER
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - ALLOWING GAMBLING UPON LICENSED PREMISES (NUMBERS GAME AND RAFFLE) BY EMPLOYEES - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against

X-47,800-I
S-11,334

Golden Warriors Corp., Inc.
t/a Hollywood Lounge
594-97 South Orange Avenue
Newark, New Jersey

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License No. 0714-33-295-001 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Leonard Peduto, Esq., Deputy-Attorney General, Appearing for Division.
Lofton, Lester & Smith, Esqs., by Oliver Lofton, Esq., Attorney for Licensee.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

The licensee initially entered a "not guilty" plea to two charges alleging that its predecessor-in-interest had (1) on November 10, December 8, 1976, March 2 and 23, April 6, 12, 25 and 26 of 1977, permitted gambling in the form of "numbers game" upon the licensed premises, and (2) on April 26, 1977, it permitted gambling in the form of "raffle slips and game" upon the licensed premises, both in violation of N.J.A.C. 13:2-23.7.

Pursuant to N.J.A.C. 13:2-19.6 a hearing on the charges was scheduled in this Division, and the licensee and its counsel were notified of the date and time of hearing. However, neither the licensee's agents, employees or counsel appeared to defend or gave any reason for such failure to appear; hence, the matter proceeded ex parte.

ABC Agent M testified that, on March 2, 1977, he visited the licensed premises in the company of two other agents about 9:35 in the morning. He overheard the bartender and another male patron discuss racing bets. He observed a Tom Murray, identified by the bartender as the owner, give the patron four one-dollar bills and write down

numbers on a paper, which he placed in his pocket. Immediately thereafter, the Agent asked the unidentified male who had taken the money from Murray if he, the agent could place a bet. Upon an affirmative reply, the Agent then placed such a bet on two "numbers" for a total of one dollar. The bartender and Murray were both observed leaning over the bar watching the male write down the bet.

On March 23, 1977, Agent M returned to the subject premises accompanied by Agent MN. The same male with whom Agent M had made a previous bet was in the premises. Agent M placed another bet with this male, whom he identified as "John." The same bartender, Ware, observed the agent making the bet with John.

On April 6, 1977, Agent M again returned to the licensed premises, but on this occasion alone. The bartender, Ware, was engaged in conversation with another patron, identified as "Joe", relating to making numbers bets. After determining the numbers in a voice audible to the Agent, the bartender gave money to "Joe" who wrote the numbers on a paper. On this occasion the Agent did not place any bet within the premises.

On April 12, 1977, Agent M again returned to the licensed premises accompanied by ABC Agent MN. He observed the same male who had been previously identified as "Joe" present. He observed Joe accept money from a male patron after a whispered conversation, which was followed by Joe making written notations. Agent M then placed his own bet with Joe on two numbers for a total bet of a dollar. Shortly thereafter, Joe announced to the bartender that he was going to leave "because he had spent just as much money for the drink that he had taken in for gambling bets . . "

On April 25, 1977, Agent M returned to the licensed premises alone. On this occasion the patron "John" with whom he had first placed a bet entered. The Agent requested John to take his bet. John asked him to come to the rear of the bar, and when Agent M did so, John accepted a two dollar bet on four numbers. John entered the bets upon a piece of paper.

The following day, April 26, 1977, Agent M prepared a "marked money" list on which a marked $5 bill was noted. Agents G and MC were then assisting Agent M. On that date at 9:30 a.m., Agent M entered and sat at the bar to the left of "Joe." The bartender, Ware, was on duty. Agent

M observed raffle tickets lying upon the bar and the Agent purchased one. About the same time, the Agent placed a "numbers" bet with "Joe" who was later identified as Joseph Smith of East Orange. The bet slips were placed by "Joe" into his mouth as he observed the two Agents who had accompanied Agent M enter the premises. The other ABC Agents asked Agent M, along with the other patrons in the premises, to depart.

ABC Agent MN testified in corroboration of the testimony of Agent M. He further testified that, on March 2, 1977, when he had accompanied Agent M and ABC Agent J, he observed a Mr. Murray, whom he believed to be an owner of the establishment, place a "numbers" bet with an unidentified male standing at the bar. He further observed Agent M place a bet with the unidentified male while the owner and bartender looked on.

On March 23, 1977, he returned to the premises with Agent M and observed the bartender, Ware, converse with the male with whom Agent M had placed a bet at their last visit. That male was identified as "Joe." He further observed that Agent M placed a bet with "Joe" before he, "Joe", departed the premises.

On April 12, 1977, Agent MN returned to the premises in the company of Agent M, who shortly thereafter placed a bet with "Joe." He heard "Joe" announce to the bartender that he was leaving, and that he had only written $6 in numbers and the drinks he bought had cost $5.

ABC Agent G testified that, on April 26, 1977, he and Agent MC prepared a "marked money" list for Agent M and then proceeded to the Prosecutor's Office in Essex County to await telephone signal that Agent M had placed bets. At 9:45 a.m. after receiving a signal, he and ABC Agent MC arrived at the licensed premises and placed Joseph Smith under arrest after discovering a betting slip and the marked $5 bill on his person. Lottery slips were found alongside the cash register and other slips were discovered in the refuse can.

In the adjudication of this matter, I am mindful that we are guided by the basic principle that disciplinary proceedings against liquor licensees are civil in nature, and not criminal. Thus, they require proof of the charge by a preponderance of the believable evidence only. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956).

The testimony of the ABC agents clearly indicated that professional "numbers" gambling was occurring with regularity within the licensed premises, which was condoned if not encouraged by management. The ease and openness with which Agent M was able to place bets in the presence of both the owner and bartender empties the licensee of any defenses whatever.

I find that the charges have been proven by a fair preponderance of the evidence, indeed by substantial evidence, and recommend that the licensee be found guilty thereof.

This licensee has no prior chargeable record of suspension of license. It is, therefore, recommended that the license be suspended for ninety days on the charges herein. Re LaCalandra, Bulletin 2152, Item 6; Re Pabian, Bulletin 2230, Item 3; Re Gino's Bar & Grill, Bulletin 2299, Item 2.

CONCLUSIONS AND ORDER

No written Exceptions to the Hearer's Report were filed pursuant to N.J.A.C. 13:2-19.6.

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

I find the licensee guilty of the charges.

Accordingly, it is, on this 5th day of September, 1979,

ORDERED that Plenary Retail Consumption License No. 1714-33-295-001 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Golden Warriors Corp., Inc., t/a Hollywood Lounge for premises 594-97 South Orange Avenue, Newark be and the same is hereby suspended for ninety (90) days commencing 2:00 a.m. Tuesday, September 18, 1979 and terminating 2:00 a.m. Monday, December 17, 1979.

JOSEPH H. LERNER
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - CANCELLATION PROCEEDINGS - IMPROVIDENTLY GRANTED TRANSFER - MOTION FOR RECONSIDERATION GRANTED - ORIGINAL CONCLUSIONS AND ORDER REAFFIRMED - SIX MONTHS STAY GRANTED TO PERFECT PLACE-TO-PLACE TRANSFER OF LICENSE.

In the Matter of Disciplinary Proceedings against

City Hall Sandwich, Inc.
938-940 Broad Street
Newark, New Jersey 07102

Holder of Plenary Retail Consumption License No. 0714 32-143-001 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

S-11,261
X-54,026-A

SUPPLEMENTAL CONCLUSIONS AND ORDER

Skoloff & Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorney for Licensee.
Leonard A. Peduto, Jr., Esq., Deputy Attorney General, Appearing for Division.

BY THE DIRECTOR:

Conclusions and Order were entered herein on May 30, 1979 declaring null and void the action of the Municipal Board of Alcoholic Beverage Control of the City of Newark which, by Resolution dated May 25, 1976, improvidently granted a place-to-place application to transfer Plenary Retail Consumption License No. 0714-32-143-001 then issued to Paul Lustig's, Inc., t/a Paul's Lounge and Liquor, (Lustig) for premises at 938-940 Broad Street, Newark, in violation of the City's distance-between-premises ordinance.

Subsequent to the place to place transfer approval, a person-to-person transfer of the subject license was approved from Lustig to City Hall Sandwich, Inc. on July 12, 1976. Thus, the current licensee was the subject of the cancellation proceeding herein. N.J.A.C. 13:2-19.2. In the Order of May 30, 1979, the licensee was given three months within which to relocate the license to a situs consistent with municipal ordinances.

The licensee has now filed a motion requesting reconsideration of the decision and rehearing or oral argument to supplement the record. I scheduled the matter for Oral Argument wherein the legal arguments and briefs of counsel were presented.

The licensee argues that by virtue of the subsequent transfer of license to itself (1) it is a bona fide purchaser for value; (2) that it should not be penalized for the transgression of the issuing authority in improvidently approving a transfet to its predecessor in interest; (3) that the Division's reliance on Re 808 South Orange Avenue Corp., Bulletin 2191, Item 1 is distinguishable from the facts sub judice and not dispositive; (4) that the Newark distance ordinance is unreasonable as applied and should be so declared on the facts of this case; and (5) that the delay in institution of proceedings, plus the monetary expenditures of the licensee, should estop the Division in this proceeding.

The facts established in the adjudication of this matter do not establish any overriding equity in the licensee. The improvident transfer was to premises owned by the current licensee and to be used in conjunction with their existing restaurant operation. The person-to-person transfer was granted less than three weeks after the place-to-place transfer. Knowledge of the situs and the contemplated user at that location was known to the subject licensee from inception.

I find that City Hall Sandwich, Inc. was part and parcel of the improvident transfer application as an interested party. I further find that it was not a bona fide purchaser for value without notice, and that no equitable rights were created, or estoppel established, by a three-week intervention of license ownership by Lustig.

While I do not find it necessary to support this determination, I believe a reasonable inference can be drawn from the circumstances that all the parties "tested the waters" by seeing if the place to place transfer would be approved before the current licensee acquired the license.

There is no factual basis to support the contention that the Newark distance ordinance is unreasonable as applied to the licensee, and this argument is rejected. See Colallillo and Malloy v. Bound Brook, Bulletin 2270, Item 1. Additionaly, the licensee was aware of the Division's investigation of this transfer approximately one month after the place-to-place transfer approval. The asserted good faith expenditures and alleged delay in Division proceedings are seriously undermined by this factor.

Lastly, the Division's holding in Re 808 South Orange Avenue Corp., supra represented a mandated response to the Newark Board's failure to comply with its own ordinance provisions and its statutory duties set forth in N.J.S.A. 33:1-24. The decision

therein represented notice to all potential licensees, and I do not find the asserted distinction advanced by the licensee applicable to the facts herein, particularly because of the close relationship and actual knowledge and participation in the improvident place-to-place transfer by the current licensee.

Subsequent to 808 South Orange Avenue Corp. the Division ascertained another improvident transfer approved by the Newark Board of Alcoholic Beverage Control. Re Leste Holding Corporation, Bulletin 2267, Item 4. The subject transfer approval clearly warrants an investigation of the circumstances surrounding the transfer approval and the manner of review by the Newark Board of liquor license applications. To that end, I shall notify the Attorney General and request the assistance of other appropriate Divisions of the Department of Law and Public Safety.

Thus, I shall deny the licensee's request to reverse the determination set forth in my Conclusions and Order of May 30, 1979. I will however, grant the licensee's request to extend, and shall extend for six months the time in which the licensee may perfect an appropriate place-to-place transfer of license.

Accordingly, it is, on this 14th day of September, 1979,

ORDERED that my Conclusions and Order of May 30, 1979 be and the same is hereby reaffirmed, as supplemented herein, and licensee's motion be and is hereby dismissed; and it is further

ORDERED that the time within which the licensee may perfect an appropriate transfer of license be and is hereby extended for six months from the date of this Order, and, in the event such transfer is not effected within said time period, said license shall be cancelled immediately. I shall permit the operations of the licensee herein to continue during the six months period of search for an appropriate and approved situs for this license,

Joseph H. Lerner

JOSEPH H. LERNER
DIRECTOR