

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

BULLETIN 2338

January 29, 1980

TABLE OF CONTENTS

ITEM

1. NEW LEGISLATION - AS OF JANUARY 2, 1980 - AGE FOR CONSUMPTION AND PURCHASE OF ALCOHOLIC BEVERAGES INCREASED TO NINETEEN (19) YEARS OF AGE - OTHER RELATED LAWS ENACTED CONCERNING INCREASED SCOPE OF AND PENALTIES FOR VIOLATION OF N.J.S.A. 33:1-81; PHOTO IDENTIFIED DRIVERS' LICENSES; ALCOHOL INSTRUCTIONAL PROGRAMS IN SCHOOLS; and PROHIBITION OF POSSESSION OR CONSUMPTION BY PERSONS UNDER THE LEGAL AGE IN SCHOOLS, PUBLIC CONVEYANCES, MOTOR VEHICLES OR PUBLIC PLACES.
2. ADVISORY OPINION - REGULAR POLICEMAN'S MEMBERSHIP IN CLUB LICENSED FRATERNAL ORGANIZATION AND ASSUMPTION OF LEADERSHIP POSITIONS.
3. APPELLATE DECISIONS - QUEEN CITY LOUNGE, INC. v. PLAINFIELD.
4. APPELLATE DECISIONS - PARRILLO'S, INC. v. BELLEVILLE - ORDER DENYING EXTENSION OF LICENSE PENDING FINAL DETERMINATION OF APPEAL.
5. APPELLATE DECISIONS - 1030 NEW WILLOW STREET CORP. v. TRENTON.
6. NOTICE TO WHOLESALERS - ALCOHOLIC BEVERAGES PREPACKED FOR HOLIDAY USE WITH OTHER ITEMS - WARNING THAT N.J.A.C. 13:2-23.15 LIMITS SUCH GIFT SETS TO SUITABLE GLASSWARE ONLY FOR THE PURPOSE OF PRICE FILINGS IN THE MINIMUM CONSUMER RESALE PRICE PUBLICATION.

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1. NEW LEGISLATION - AS OF JANUARY 2, 1980 - AGE FOR CONSUMPTION AND PURCHASE OF ALCOHOLIC BEVERAGES INCREASED TO NINETEEN (19) YEARS OF AGE - OTHER RELATED LAWS ENACTED CONCERNING INCREASED SCOPE OF AND PENALTIES FOR VIOLATION OF N.J.S.A. 33:1-81; PHOTO IDENTIFIED DRIVERS' LICENSES; ALCOHOL INSTRUCTIONAL PROGRAMS IN SCHOOLS; and PROHIBITION OF POSSESSION OR CONSUMPTION BY PERSONS UNDER THE LEGAL AGE IN SCHOOLS, PUBLIC CONVEYANCES, MOTOR VEHICLES OR PUBLIC PLACES.

NOTICE TO RETAIL LICENSEES, MUNICIPAL ISSUING AUTHORITIES AND POLICE CHIEFS:

On Wednesday, January 2, 1980, Governor Brendan Byrne signed into law five related bills concerning alcoholic beverages which, unless indicated, are effective immediately.

Senate Bill No. 1126 amends N.J.S.A. 9:17B-1 and now prohibits the purchase and consumption of alcoholic beverages by any person under the age of 19 years. Persons who were 18 years of age, but not 19 years, before January 2, 1980 are not affected by the law; and there was no change in the law which permits any person 18 years of age to own a licensed premises or to be employed thereon.

Assembly Bill No. 3265 amends N.J.S.A. 33:1-81 and conforms that law to the new age provisions. In addition to prohibiting a person under the legal age from purchasing, consuming or misrepresenting their age, it now provides that any person who enters a retail liquor licensed premises for the purpose of purchasing, or does purchase, alcoholic beverages for a person not of legal age is also guilty of a disorderly persons offense. The penalty for any violation is increased to (1) eliminate the previous maximum fine of \$200.00; (2) permit the court to suspend or postpone for up to 30 days the driving privileges for any violator; and (3) may require a violator to participate in an alcohol education or treatment program authorized by the Department of Health.

Senate Bill No. 3044 amends N.J.S.A. 39:3-10 and provides that any initial driver's license issued after January 2, 1980, to a person under 21 years of age, shall have a color photograph. Any existing driver may have a color photograph affixed to the license at the time of renewal. Photograph licenses shall be issued for thirty-six month periods. The provisions of this law shall become effective 9 months after adoption (October 2, 1980), except the photograph on renewal licenses shall remain inoperative for two years (January 2, 1982).

Assembly Bill No. 3260 amends N.J.S.A. 18A:35-4 and N.J.S.A. 18A:26-8 and provides that the Commissioner of Education, in consultation with the Department of Health, shall provide Boards of Education with necessary curriculum guidelines to incorporate instructional programs in schools on the nature of alcoholic drinks; their effects upon the human system; and the adoption of procedures for the treatment of alcohol users.

Assembly Bill No. 3262 supplements the new Penal Code to make the possession or consumption of alcoholic beverages in any school, public conveyance, motor vehicle or public place by a person under the legal age to purchase alcoholic beverages a disorderly persons offense. The penalties applicable are basically the same as set forth in Assembly Bill No. 3265.

Joseph H. Lerner
Director

Dated: January 2, 1980

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2. ADVISORY OPINION - REGULAR POLICEMAN'S MEMBERSHIP IN CLUB LICENSED FRATERNAL ORGANIZATION and ASSUMPTION OF LEADERSHIP POSITIONS.

July 9, 1979

Mr. Bob Herb
Maywood, N. J.

Re: N.J.A.C. 13:2-23.31

Dear Sir:

Receipt is acknowledged of your letter received in this Division on June 26, 1979 and proposed regulatory amendment to permit regular police officers to hold leadership positions in club licenses.

I am not in favor of such amendment. The club licensee has basically similar privileges as a retail consumption licensee. While limited in patronage, in practice, with eight (8) guests available to each member and the public-at-large invited to special events and affairs pursuant to social affairs permits, a club licensee's activities have broad municipal impact in its alcoholic beverage activities.

The club licensee is subject to all alcoholic beverage regulations. Enforcement of same is vested in the municipal law enforcement agency. A person who attains a leadership position in a club is able to dictate policy and practices which include alcoholic beverage activity. It is a "conflict of interest" to vest in police officers control over alcoholic beverage policies and activities, while requiring that they enforce the same regulations and laws.

Myriad actual and potential situations exist where the police officer in control of a club license could affirmatively act or unreasonably forbear in a violative alcoholic beverage law situation, and taint entire disciplinary proceeding by claims of unfair, preferential, vindictive or discriminatory enforcement for the benefit of the club licensee.

Very truly yours,

JOSEPH H. LERNER
DIRECTOR

Michael C. Parks, Assistant Deputy
Public Advocate
Department of the Public Advocate
Trenton, N. J.

August 9, 1979

Re: N.J.A.C. 13:2-23.31

Dear Mr. Parks:

In connection with your letter of July 25, 1979 concerning the above regulation, enclosed find reply sent to Mr. Herb which is self-explanatory.

In lieu of discussion on your specific inquiries, I direct your attention to the "conflict of interest" concept embodied in Pataikis v.

City Council, New Brunswick, 126 N.J. Super 233, 237 (App. Div. 1974) applicable to the Alcoholic Beverage Law; the Appellate Division's most recent affirmation of the subject regulation in Freehold P.B.A. Local 159 et al. v. Division of Alcoholic Beverage Control, (App. Div. Docket No. A-4316-76) unreported decision decided September 28, 1978; and Re Kerner, Bulletin 298, Item 9, an early compilation of disqualification and "conflict of interest" rulings of the Division.

In essence, the membership in a club licensed fraternal organization by a police officer is permitted by the Division as an accommodation and a recognition of community service some organizations provide. When leadership positions in the club license are involved, the public policy protections must prevail.

Very truly yours,

JOSEPH H. LERNER
DIRECTOR

3. APPELLATE DECISIONS - QUEEN CITY LOUNGE, INC. v. PLAINFIELD.

#'s 4335 and 4383	}	ORDER VACATING
Queen City Lounge, Inc.,		
Appellant,	}	LICENSE EXTENSION
v.		
City Council of the City	}	AND STAY OF REVOCATION
of Plainfield,		
-----Respondent.	}	

BY THE DIRECTOR:

On July 17, 1979, Conclusions and Order were entered by the Director in Appeals Nos. 4229 and 4251; (1) reversing a denial of renewal of the subject license for the 1978-79 license term, subject to a security guard special condition continued on the license; and (2) affirming the respondent's license suspension for violation of the aforementioned special condition, but modifying the term thereof to ten (10) days.

The within appeals concern a revocation of license by Resolution of the respondent dated May 15, 1979 and a subsequent denial of appellant's application to renew its license for the 1979-80 license term. Orders of the Director in these appeals stayed the revocation and extended the license, respectively, pending determinations of the appeals. These Orders were predicated upon the appellant's compliance with a special condition, originally imposed by Order of the Director dated February 10, 1978 (Appeal No. 4151) which provides as follows:

A uniformed professional security guard shall be engaged to patrol the outside of the premises and immediately adjacent areas during the hours of 7:00 p.m. until closing, to curtail breaches of the peace, the use of abusive language, littering, loitering, accosting of innocent passersby, gambling and similar acts offending the public sensibility.

In addition to the above cited appeals, this Division filed charges alleging that the appellant allowed, permitted and suffered controlled dangerous substance activity on its licensed premises on January 11, 18 and 23, 1979. These charges are awaiting hearing.

Having set forth the past and pending status of the license, I have determined for the following reasons to vacate my orders extending the license for the 1979-80 term and staying the the respondent's revocation, effective immediately:

(1) I have ascertained through recent inspections by agents of this Division made on August 20 and 21, 1979 that the appellant is not in compliance with the special conditions imposed on the extension of license;

(2) the past adjudicated history of this appellant and the serious nature of the pending charges and appeals raises doubt as to the fitness of the appellant to conduct a law-abiding business at this location; and

(3) correspondence from officials of the City of Plainfield and the Resolution of respondent revoking the appellant's license assert that the continued operation pending appeal constitutes an imminent threat to the safety, health and welfare of the residents of Plainfield.

Accordingly, it is, on this 22nd day of August, 1979,

ORDERED that my Order of May 23, 1979 (Appeal No. 4335) staying the revocation of license, and my Order of July 20, 1979 (Appeal No. 4383) extending the appellant's license for the 1979-80 license term, be and the same are hereby vacated, effective immediately.

JOSEPH H. LERNER
DIRECTOR

4. APPELLATE DECISIONS - PARRILLO'S, INC. v. BELLEVILLE - ORDER DENYING EXTENSION OF LICENSE PENDING FINAL DETERMINATION OF APPEAL.

#4372

Parrillo's, Inc.,
t/a Parrillo's,

}

Appellant,

ON APPEAL

vs.

}

ORDER DENYING EXTENSION

Board of Commissioners of
the Town of Belleville,

OF LICENSE

Respondent. }

Allen C. Marra, Esq., Attorney for Appellant.

Appellant appeals from the action of the Board of Commissioners of the Town of Belleville which, by Resolution dated June 26, 1979, denied appellant's application to renew Plenary Retail Consumption License No. 0701-33-032-001 for premises 104 Harrison Street, Belleville, N.J. for the 1979-80 license term.

N.J.S.A. 33:1-22 provides, in essence, that the Director may, in his discretion, extend the license pending determination of the appeal. However, I have determined, in the exercise of such discretion, that no good cause exists for the extension of the subject license pending determination of this appeal for the following reasons:

(1) On November 9, 1978 the Board of Commissioners of the Town of Belleville suspended the subject license for 120 days upon findings of guilt to various regulatory violations occurring between September 13, 1978 and October 28, 1978. Subject to a modification of suspension to 105 days upon reversal of one charge, the Director, Division of Alcoholic Beverage Control affirmed said action on March 14, 1979. Parrillo's vs. Belleville, Bulletin _____, Item _____. The Superior Court, Appellate Division affirmed the Director's action by Order dated June 26, 1979 (App. Div. Docket No. A-2498-78). The suspension has not yet been reimposed.

(2) On January 30, 1979 the Board of Commissioners of the Town of Belleville suspended the subject license for 180 days upon findings of guilt to various regulatory violations occurring between October 31, 1978 and January 7, 1979. The Office of Administrative Law, after hearing, recommended affirmance of said action, and the Director, Division of Alcoholic Beverage Control affirmed the Board's action on April 26, 1979. Parrillo's v. Belleville, Bulletin _____, Item _____. The license sus-

pension has been stayed by the Superior Court, Appellate Division, pending its review on appeal.

(3) The aforesaid violations, which have been adjudicated by the local issuing authority and subject to appellate review (twice on the first appeal), involve substantial anti-social, dangerous and nuisance activities detrimental to the physical and well being of citizens of Belleville. The regulatory infractions have been clearly demonstrated and amply support the characterization of appellant's premises as a "trouble spot." Nordco, Inc. v. State, 43 N.J. Super. 277 (App. Div. 1957).

(4) Upon the application for renewal of appellant's license for the 1979-80 license term, the Board of Commissioners of the Town of Belleville held two hearings on June 13, 1979 and June 18, 1979. In its Resolution denying the renewal application it recites that 215 residents, by petition, objected to the license renewal; set forth specific categories of nuisance situations incorporated herein by reference; and as indicated in Paragraph 3 of the petition of appeal supplemented the record with testimony concerning activities from January, 1979 to June, 1979, as well as considering the prior adjudicated record of appellant. See Downie v. Somerdale, 44 N.J. Super. 86, 88 (App. Div. 1957).

Thus, for the aforesaid reasons and such other supplemental factors I may submit in the event of an appeal from this order by appellant, Rule 2:5-6(c), I have determined that an extension of appellant's license pending appeal would be contrary to the public interest, and detrimental to the health, welfare and safety of the residents of Belleville. I further find that the continuous and past violations of the Alcoholic Beverage Law and the Regulations of this Division by appellant is of such magnitude that the overriding public interest requires immediate cessation of the licensed business.

Accordingly, it is, on this 3rd day of July, 1979,

ORDERED that the application for an extension of Plenary Retail Consumption License No. 0701-33-032-001 formerly issued to Parrillo's, Inc., t/a Parrillo's, for premises 104 Harrison Street, Belleville, be and the same is hereby denied pending determination of this appeal; and it is further

ORDERED that the entire license fee accompanying appellant's application shall be retained by the respondent. In the event the action of the respondent is sustained, it shall be returned to appellant less the statutory investigation fee. In the event the appellant shall prevail on appeal, said fee shall be pro-rated to such periods that appellant is permitted to operate under the subject license.

JOSEPH H. LERNER
DIRECTOR

5. APPELLATE DECISIONS - 1030 NEW WILLOW STREET CORP. v. TRENTON.

#4245

1030 New Willow Street Corp.,
t/a New Willow Bar,

Appellant,

v.

City Council of the City of
Trenton,

Respondent.

ON APPEAL

CONCLUSIONS

AND

ORDER

 Stockman, Mancino, Marinari, Smithson & O'Donnell, Esqs.,
 by Andred J. Smithson, Esq., Attorneys for Appellant.
 George T. Dougherty, Esq., by Michael L. Bitterman, Esq.,
 Attorneys for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

This is an appeal from the action of the City Council of the City of Trenton (hereafter Council) which, on June 15, 1978, denied renewal of appellant's Plenary Retail Consumption License No. 1111-33-222-001, for premises known as "New Willow Bar" at 1030 Willow Street, Trenton. Upon the filing of the subject appeal, the Director of this Division, by Order of June 28, 1978, extended the current license pending the determination of this appeal.

Appellant in its Petition of Appeal contends that the Council's action was erroneous, in that there was insufficient evidence before it upon which a determination not to renew the license could be based; and further, while the basis for its determination was a finding that the area in which the premises are located is a focus of brawls, drug traffic, criminal element and similar evils; there was no determination of breaches with respect to the interior management of appellant's premises. Hence, the basis for its conclusions were groundless.

The Council in its Answer denies appellant's contentions, adding that there was ample evidence to support its conclusions.

A de novo hearing on the appeal was held in this Division pursuant to Rule 6 of State Regulation No. 15 (now N.J.A.C.

13:2-17.6) at which the parties were permitted to introduce evidence and to cross-examine witnesses. Additionally, copies of a series of police reports, photographs of the sidewalk, street and entranceway of appellant's premises, letter of the Housing Authority, statistics compiled by the Police Department and a Petition signed by area residents were introduced into evidence at the hearing.

Trenton Police Sergeant George Findler testified on behalf of respondent that he is assigned to the Vice Enforcement Unit, and has been so assigned for the past eight years. He recounted receiving a series of police reports which reflected police activity from May 3, 1977 through May 4, 1978. During that year, there were reports of twenty-five instances when police activity in the area of appellant's premises were required. He recollected that on October 11, 1977 the owner of the capital stock of appellant corporation, whom he identified as Mr. W. Brown, took part in a meeting with Captain Luccirino, Lieutenant Shaw and himself. The purpose of the meeting was to warn Brown that if he did not improve conditions surrounding his tavern, he could lose his license. He described the corner at which appellant's premises are located as the "worst corner" in Trenton.

Sgt. John T. Coy of the Trenton Police Department, next testified for respondent that in May of 1977 and thereafter in April 1978, he made investigations in an undercover capacity of certain patrons of appellant's premises who were suspected of engaging in narcotic activity. From a vantage point he observed what were obviously sales of narcotic drugs made by patrons of the premises to others on the steps of the tavern. One known narcotic dealer, identified as a "Mr. Z." was seen entering and leaving the establishment in quick succession in connection with some apparent sales of drugs.

He admitted, on cross-examination, that the area in which the subject premises are located are the situs of major drug activity, and this is not confined to the appellant's premises alone.

From the testimony of Patrolman Alex Nomejko of the Trenton Police Department, the appellant's premises were the focal point of such illegal activity that he was assigned to keep it under surveillance. His partner assisted him in the observation of the premises and adjacent area in January of 1978.

He recited seven incidents which occurred during that period. On January 3rd, he retrieved marijuana from the men's room of the premises, and three hours later on the same day, he made an arrest of a person fifteen feet away from the front doorway. The arrest resulted from this person's unlawful possession of a loaded .38 caliber hand gun.

On January 6th, a packet of cocaine was discovered on the floor and on January 9th, a patron dropped tin packets containing heroin within appellant's premises. On January 25th, a car parked in front of appellant's premises was watched and in detaining a male within, found he carried an eleven inch knife. The owner of the car was a patron of the premises.

On January 27th, a car, double-parked in front of appellant's establishment, was discovered to contain marijuana. On the next day, a man found loitering in front of the premises was discovered to have a hand gun.

Patrolman Nomejko had no knowledge of any efforts whatsoever which the owner of the appellant's establishment might have made to rid the premises of the narcotic pushers, users or other undesirables.

Sgt. Findler, recalled for further cross-examination, stated that, although Brown had told the Police that narcotics were present in his establishment, such notice followed police discovery of the narcotics, and the disclosure merely confirmed what the police already knew.

A "project coordinator" in the public housing adjacent to appellant's establishment, Margaret Grant, testified on behalf of respondent. She had vigorously objected to the continued licensing of the subject premises in that it is a haven for drug addicts, pushers, sellers of stolen goods and prostitutes. This sanctuary for unlawful activity remains so as the approach of local police is preceded by warnings by the loiterers in the vicinity.

Margaret Grant graphically described the front steps and sidewalk of the subject premises as containing groups of young men playing "craps" and blocking the sidewalk. Others are pocketbook snatchers and muggers. The elderly living in the public housing nearby have to walk several blocks out of their way because of fear or an inability to get around these groups. She denied that the people she described came from the area. She believed that they

congregate about appellant's premises because a notorious hangout for them several blocks away had been closed.

She opined that, as another tavern a few blocks away, and similarly located in relationship to the housing project, does not permit the congregation of the described undesirable patrons, there is clearly no effort made by the owner of the appellant's premises to correct the situation.

Numerous objecting residents attended the hearings both before the Council and at this Division, for whom Margaret Grant and Jane Hill acted as spokesmen. Jane Hill testified that she has lived, for the past twenty years, a few doors away from appellant's premises. She described appellant's premises as having a wide reputation for the presence of drug addicts, prostitutes and shoplifters, as well as being a dangerous influence on the pre-teenagers and young teenagers.

Loud music constantly blares from the open doors and the neighbors lose sleep during the warm months. The loiterers constantly harass neighbors and when the police approach, they yell "police up" and the loiterers all run into the subject tavern. She estimated that the number of loiterers in front of the establishment varies between ten and fifteen people from seven o'clock in the morning until four o'clock the following morning. She further described the litter and broken and empty beer bottles which cause problems. A number of homes surrounding the premises are up for sale, which she attributes as to their owners reluctance to live under the conditions she described.

An objector, claiming to represent ninety-two local residents, Kenneth Leary, testified that he made his own investigation of the complaints that appellant's premises was a shelter for the local criminal element. He visited the premises as a patron and observed the open sale of narcotic drugs within. He also described how he was offered drugs by a pusher there under such circumstances that the bartender could have known of the offer. So flagrant are the criminal activities that neighborhood residents believe law enforcement officials must be paid by appellant's management or the criminal element not to make arrests. Otherwise the public cannot understand how the premises can remain open.

Appellant offered the testimony of Kate Washington and Geraldine Allen, neighbors to appellant's premises, who,

by proffer of proof, would affirm the good reputation for citizenship of William Brown, who, with his wife, is the owner of the corporate stock of appellant corporation. Similar testimony of James Bereen and Police Officer Isreal Brittingham was offered in support of the effort that Brown has made to enlist police aid in ridding the area of loiterers and drug pushers. Finally, the testimony of William Brown was presented, which expanded on his testimony given before the Council. He now contends that the problems have dramatically lessened since the initial action of the Council denying renewal of the license.

It is observed preliminarily, that the critical and decisive issue is whether the action of the Council in denying renewal of appellant's license was reasonable under the circumstances presented to it. It has long been established that the grant or denial of an alcoholic beverage license rests in the sound discretion of the Council in the first instance. In order to prevail on this appeal, appellant must show that the action of the Board was unreasonable and a clear abuse of its discretion. Blanck v. Magnolia, 38 N.J. 484(1962); Rajah Liquors v. Div. of Alcoholic Beverage Control, 33 N.J. Super. 598(App. Div. 1955).

The burden of proof in these cases, which involve discretion, falls upon the appellant to show manifest error or abuse of discretion by the issuing authority. Downie v. Somerdale, 44 N.J. Super. 84(App. Div. 1957); Nordco, Inc. v. State, 43 N.J. Super. 277 (App. Div. 1957).

The denial of renewal has been held not to represent a forfeiture of any property right. A liquor license is a privilege and a renewal license is in the same category as an original license. There is no inherent right in a citizen to sell intoxicating liquor at retail. No licensee has a vested right to the renewal of a license. Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946).

In matters relating to the denial of a renewal of licenses, the Director of this Division has unhesitatingly affirmed the action of the local issuing authority in denying renewal where the licensee fails to correct intolerable conditions either inside or outside the licensed premises. Delroz, Inc. v. West Orange, Bulletin 2027, Item 2; Perkins and Silver Edge Corp. v. Newark, Bulletin 2083, Item 2.

In a very early matter in this Division, the principle was expressed that a licensee is responsible for conditions both in and outside his licensed premises which are caused

by patrons thereof. Conte v. Princeton, Bulletin 139, Item 8 (1936); Cf. Garcia v. Fair Haven, Bulletin 1149, Item 1. A licensee must keep his place and his patronage under control both outside and inside his premises. Galasso v. Bloomfield, Bulletin 1387, Item 1; 111 Club v. Boonton, Bulletin 2288, Item 2.

From extensive testimony developed concerning the area in which appellant's premises is located, together with photographs introduced into evidence, it appears that the subject premises are directly across the street from a low income housing development where drug users, pushers and social malcontents escape from routine police patrols. It was further admitted that, in the past, Brown has not exercised the control over the premises that he should have. However, since the initial hearing in this Division, he has taken a militant attitude in keeping undesirables from his premises. Local officials admit the situation has improved markedly from that time to the present.

In recognition of the obvious problem in the area, and consistent with appellant's recognition of required patrol deterrents, I recommend that the action of the Council be reversed, solely to permit renewal subject to the following special conditions attached to the license:

1. A uniformed professional security guard shall be engaged to patrol the outside of the premises and immediate adjacent areas every day, during the hours of 2:00 p.m. until closing, to contain and control breaches of the peace, the use of abusive language, loitering, littering, accosting of passersby, gambling, narcotic activity and similar acts offending the public sensibility; and
2. Appellant shall continue the responsibility of maintaining clean sidewalks and gutters surrounding its property, keeping it free of all bottles, cans, glass and other debris.

In recommending that the appellant be given another opportunity to demonstrate its worthiness to hold a license, subject to the attached special conditions, I, in no wise approve of it's past failure to provide adequate supervision until it realized that its license was in jeopardy.

In the event appellant fails to maintain and supervise the public areas adjacent to it's tavern, as well as its interior, in a manner consistent with that reasonable required of a licensee, it is expected that the Council will institute disciplinary proceedings to effect the suspension or revocation of the said license in accordance with the provision of N.J.S.A. 31:1-31. Queen City Lounge, Inc. v. Plainfield, Bulletin 2290, Item 1.

Accordingly, I recommend that the action of the Council be reversed and the Council be directed to renew appellant's plenary retail consumption license for the 1978-79 license term in accordance with the application filed therefore, expressly subject to the two special conditions heretofor noted.

CONCLUSIONS AND ORDER

Written Exceptions to the Hearer's Report were filed by the appellant pursuant to N.J.A.C. 13:2-17.14.

In its Exceptions, the appellant argues that the uniformed professional security guard special condition should be modified to require same only from 6:00 p.m. to closing and to eliminate the requirement for the late fall and winter periods.

In reviewing the exhibits and testimony herein, I am satisfied that a reasonable basis exists for year-round security guards from 2:00 p.m. to closing. The police reports and photos (R-2 to R-7 in evidence), establish a continuing problem spanning the entire year, with incidents as likely to occur between noon and 4:30 p.m. as in the evening hours. Thus, I find these Exceptions to be without merit. Appellant's request for oral argument is denied.

Accordingly, it is, on this 3rd day of July, 1979,

ORDERED that the action of the City Council of the City of Trenton be and the same is hereby reversed, and the Council be and the same is hereby directed to renew appellant's license

for the 1978-79 license term in accordance with the application filed therefore, expressly subject to the following special conditions:

1. A uniformed professional security guard shall be engaged to patrol the outside of the premises and immediate adjacent areas every day, during the hours of 2:00 p.m. until closing, to contain and control breaches of the peace, the use of abusive language, loitering, littering, accosting of passersby, gambling, narcotic activity and similar acts offending the public sensibility; and
2. Appellant shall continue the responsibility of maintaining clean sidewalks and gutters surrounding its property, keeping it free of all bottles, cans, glass and other debris.

JOSEPH H. LERNER
DIRECTOR

6. NOTICE TO WHOLESALERS - ALCOHOLIC BEVERAGES PREPACKED FOR HOLIDAY USE WITH OTHER ITEMS - WARNING THAT N.J.A.C. 13:2-23.15 LIMITS SUCH GIFT SETS TO SUITABLE GLASSWARE ONLY FOR THE PURPOSE OF PRICE FILINGS IN THE MINIMUM CONSUMER RESALE PRICE PUBLICATION.

TO: ALL WHOLESALERS

N.J.S.A. 33:1-12 stipulates that Retail Consumption and Distribution licensees may offer for sale ".....distillers and vintners packaged holiday merchandise prepacked as a unit with suitable glassware as gift items to be sold only as a unit....." (underscoring added). We have, therefore, accepted price filings for such parcels.

However, some wholesalers have recently listed gift packs containing such items as Wine Buckets, Cork Pullers, and Spice Racks, which have inadvertently been published in the current (July 1, 1979) Minimum Consumer Resale Price Publication.


In addition, we are currently in receipt of price filings for the forthcoming October 1, 1979 MCRP issue which include such gift items as tools, playing cards, and others identified only as "gift sets" without a clear definition of what comprises a "gift set."

N.J.A.C. 13:2-23.15 precludes "combination sales"..... "consisting of more than one article, whether it be an alcoholic beverage or something else, at a single aggregate price....."

It is incumbent upon the wholesale licensee, therefore, to make certain that he lists only those "gift items" or "gift sets" which include "suitable glassware."

Any attempt to list an inappropriate article will be treated by this Division as a violation of N.J.S.A. 33:1-12 and/or N.J.A.C. 13:2-23.15.

Dated: August 23, 1979


Joseph H. Lerner
Director