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

BULLETIN 2104 June 19, 1973

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ITEM

STATE OF NEW JERSEY
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1. APPELLATE DECISIONS - REHLING v. SOUTH ORANGE.

Edward Rehling, Appellant, v. Board of Trustees of the Village of South Orange, and Student Government of Seton Hall University, Respondents.	On Appeal CONCLUSIONS and ORDER

Henry A. Buklad, Jr., Esq., Attorney for Appellant
Schechner and Targan, Esqs., by David Schechner, Esq., Attorneys for Respondent South Orange
Whiting, Moore, Hunoval & Herman, Esqs., by Rodman C. Herman, Esq., Attorneys for Respondent Student Government

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Board of Trustees of the Village of South Orange (hereinafter Board), which, by unanimous vote, granted a club license to respondent Student Government of Seton Hall University (applicant), for premises in the Bishop Dougherty Student Center located on the Village Campus to be operated as a "pub".

The resolution of the Board, adopted on April 13, 1972 and as amended on May 22, 1972 approving the grant of the license, reads as follows:

> "WHEREAS, the Student Government of Seton Hall University has filed an application for a Club License for described premises in the Bishop Dougherty Student Center; and
>
> WHEREAS, the Board of Trustees has considered the application, the supporting documents, the exhibits, the testimony offered, the objections, the arguments of the citizens of South Orange;
>
> NOW, THEREFORE the Board of Trustees makes the following findings of fact:

1. That the Student Government of Seton Hall University is a body having approximately 4,000 members.

2. The Student Government of Seton Hall conducts programs for all the students of Seton Hall University of a social, recreational and athletic nature.

3. The Student Government of Seton Hall University is an association which meets the test of Rule 1 of State Regulation No. 7 and is, therefore a bona fide Club within the meaning of the Alcoholic Beverage Control regulations.

4. The Student Government of Seton Hall University has received a waiver from the Division of Alcoholic Beverage Control pursuant to the requirements of Rule 5 of State Regulation No. 7 of the technical aspects of Rules 3 and 4; and furthermore, we further find that, based upon the evidence in the record, we find that the Student Government of Seton Hall University is a duly enfranchised constituent unit of the United States National Student Association.

5. Seton Hall University has validly waived the protection offered it under N.J.S.A. 33:1-76 of the Statutes of New Jersey.

6. The premises depicted in photographs marked into evidence and described in the application and in the testimony are suitable for the uses described in the application and in the testimony.

7. The Village Police, Fire, Health and Building Departments have inspected the premises and found no problem with the exception of the need for a secondary means of egress provided at a particular location in compliance with the Building Code and the need for limitation of the occupancy of the room to 99 persons or less.

8. We find that the Association, that is, the Student Government of Seton Hall University, and the officers and members of the governing body qualify as individual applicants in all respects, except as to the exceptions therein, and we find that they have complied with those. We further find that the applicant has shown that there will be no sale, service or delivery of any alcoholic beverage to any person who is not a bona fide member of the Club or a bona fide guest of such member. We further find that a list containing the names and addresses of all members of the Club as of the date of filing a Club application was submitted together with the application. We further find that the Charter of Articles of Association of the Club was presented for inspection with the application;

9. We find that the amendment to the application was not substantial and does not require any postponement of the hearing; now, therefore

BE IT RESOLVED that the Board of Trustees does therefore grant to the applicant a Club License for the premises described in the application upon the issuance of a Certificate of Occupancy by the Building Inspector of the Village of South Orange."

Appellant contends that the action of the Board was erroneous for the following stated reasons:

"(a) The Student Government of Seton Hall University is not an association that meets the test or the intent of State Regulation No. 7 and is therefore not a bona fide Club within the meaning or the intent of the Alcoholic Beverage Control regulations.

(b) The so-called amended application was filed too late to meet the rules of the Alcoholic Beverage Control Board.

(c) The changes and new material in the so-called amended application were substantial and should have been considered as a new application with a new hearing date.

(d) The public through the advertisement, correspondence public statements of representative of the Respondent applicant and exhibits were misleading to the nature or essence of the application in that the Respondent applicant continually stated the request was only for a 'beer' license when actually the license is for malt and other alcoholic beverages without restrictions. The full extent of the application was not made known until one day before the public hearing.

(e) There is no evidence that the Respondent applicant has any legal tenancy to the premises.

(f) The Respondent applicant has not shown that there will be no sale, service or delivery of any alcoholic beverages to any person who is not a bona fide member of the so-called Club or a bona fide guest of such member.

(g) The Respondent applicant has not presented any evidence that the ownership of a secondary educational institution for minors has waived the 200 foot rule.

(h) The Student Government of Seton Hall University and the officers and members of the applicant are two separate groups and do not qualify as individual applicants in all respects.

(i) The premises depicted in photographs marked into evidence and described in the application and in the testimony is not suitable for the uses described in the application and in the testimony.

(j) The waiver of requirements of Rule 5 of State Regulation #7 and of the technical aspects of Rules 3 and 4 was based upon erroneous data submitted to the Director by the Respondent applicant and not made available to the Respondent Issuing Authority, nor to the residents of the Village of South Orange, N.J.

(k) The Attorney for the Respondent Issuing Authority improperly charged the Village Trustees as to their responsibilities in the hearing and in the issuance of licenses for the sale of intoxicating liquors.

(l) Witnesses for the Respondent applicant were allowed to make statements to the Village Trustees on the merits of the application without being placed under oath or to submit to cross examination by opponents.

(m) The hearing in the application was allowed to go on beyond a reasonable time and into the following morning. This purposeful stall prevented the testimony of many interested opponents to the application.

(n) The so-called application was submitted without the proper fee and should not have been considered an application. The fee was submitted on April 12, 1972 or one day before the hearing.

(o) Other exhibits submitted by the Respondent applicant are currently under revue by legal counsel and will be questioned at the time of the 'de novo' hearing under Rule 6 of State Regulation No. 15.

(p) We dispute the material facts and agree to no statement of facts."

The respondents, in their answers, denied the substantive allegations above set forth and affirmatively defended that the action of the Board was reasonable and lawful.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded counsel to introduce testimony and cross-examine witnesses. Various exhibits were offered including the original and amended applications with various attachments submitted by the appellant to the Board for its consideration and the transcript of testimony of some of the witnesses who testified at the hearings before the Board.

At the Division hearing, Edward A. Rehling the appellant herein, testified that he objected to the issuance of the license because it was his impression that the applicant Student Government is not a "good-faith" club; that he had heard that the application was for a "beer-only" license; however, the sale of other alcoholic beverages could be permitted; that the applicant had no "legal tenancy" to the premises; that a "pub" would

have an adverse effect upon students who reside on campus; and that the issuance of the license would set a precedent for other university groups to apply for and receive a license for the sale of alcoholic beverages.

On cross examination, Rehling asserted that some of the witnesses who spoke at the hearings held by the Board to consider the application were not placed under oath, and he was not allowed to cross-examine them.

Catherine Denk, who has a son attending the University testified that she was opposed to the establishment of a "pub" on the campus because she did not"know of what positive value it could have on the makeup of Seton Hall University"; that she is opposed to the unsupervised consumption of alcoholic beverages by students; and she would object to any of her children attending an institution where a "pub" was permitted.

On cross examination, Mrs. Denk conceded that "If the university had control over it [students drinking] and took responsibility for any and all violations, I'd have no objection."

Josephine Halmo, who is a mother and a registered nurse, testified that she is opposed to the establishment of the "pub" because she has seen the deleterious effects of the consumption of alcohol, particularly on young people. A "pub" on the campus may introduce students to drinking.

Theodore J. Langan, testified that the first application for the grant of a club license submitted by a Seton Hall Student Group, known as the Buccaneer Club, to the Board in September 1970, was denied by the Board. The Board held a hearing on that application, at which time it considered objections voiced by objectors and a petition opposing the grant.

He asserted that the present applicant is not a validly constituted club; that the application was defective and contained false information; that the safeguarding of the health, welfare and morality of the students dictates the denial of the issuance of the license; that the opening of a new drinking facility for the students, faculty and visitors would lead to possible abuses, infractions of the law and tempt students to drink; and that it was unlawful to permit the sale of liquor on school property.

Finally, he asserted that he is motivated by his sincere regard for the University; that he is an alumnus thereof; that he is a frequent attendant of functions at the campus; that he has two grandsons who attend the "Prep" school located on the campus; and that alcoholism is a major problem in the nation.

An article written in the News-Record (a newspaper distributed in the Village of South Orange) by one of its reporters,

Daniel Warzley, who testified that the article was published substantially in the manner in which he wrote it, was received in evidence. In brief, the article reported that, of the dozen persons he interviewed concerning the establishment of the subject "pub" , some were in favor and some were opposed thereto.

In behalf of the respondent-applicant, Dr. John J. McGuire, a resident of South Orange and a licensed physician who specializes in surgery, testified that he was graduated from Seton Hall Prep and thereafter from Seton Hall College in 1931. He was in favor of the establishment of the subject "pub" because a university is a place where various facets of life should be taught, including a realization of the potency of alcohol. While on hospital duty, he observed many alcoholics, and noted that the incidence of cirrhosis of the liver was far more prevalent in non-college graduates than college graduates. The students would be under better control in drinking on-campus than in drinking off-campus.

On cross examination, the witness testified that there are three hundred-thirty three universities and colleges in the United States where a "pub" has been licensed. In no instance were any of these "pubs" closed down.

Lucille Joel, a professor in the field of psychiatric and mental health nursing at Seton Hall University, testified that she was in agreement with the assertion made by Mrs. Halmo, a previous witness, to the effect that the consumption of alcohol could have deleterious effects upon individuals. However, that conclusion was not relevant to the issue of the establishment of a "pub". Students drinking in an on-campus "pub" under student supervision would be under greater pressure to behave as adults than if they were to drink on an off-campus tavern.

Reverend William M. Giblin, headmaster of the Seton Hall prep School, located on the university campus, testified that the establishment of the "pub" would have no adverse effect upon the "prep" students because they are too occupied with their own activities and curriculum, and the Student Center is out of bounds to them. It was his view that it would be preferable for the community and for the college students, for the college students to be provided with a place on the campus with an atmosphere where they can relax, rather than subject them to the hazards of the road.

Donald H. Lombardi, a professor of psychology at the university, a consulting clinical psychologist for the Essex County Juvenile Court and Youth House, an assistant to the Director of the Mount Carmel Guild Narcotic Clinic and who was about to deliver a paper on alcoholism and drugs at the International Conference on Drug Abuse, expressed his opinion that:

> "...the issuance of a pub license would be consistent with treating college-aged students in a way that we could help them to move towards self-reliance and toward self-sufficiency in a way that would be compatible with the prevention of alcohol use."

and further:

> "...if we were to treat college-aged students in a mature, adult, responsible fashion, I think that many of us might be surprised at what they could do with our trust."

It was his opinion that the establishment of the "pub" used by the students in a mature and responsible manner would be preferable to allowing them to find their own means of obtaining and consuming alcoholic beverages.

Francis Joseph Kelly, Jr., testified that ever since he was graduated from the university in 1960 he has been active in alumni affairs, and has maintained contact with undergraduates. The vast majority of the undergraduates act in a responsible manner, and he is, therefore, in favor of the Board's action. A majority of the alumni with whom he has conferred are in favor of the "pub".

William A. Smith, Jr., testified that he is the Director of the university's Student Center. The "pub" is located on the first floor of the Student Center and seats eighty-four persons. The operation thereof would, at all times, be under the control of a manager or an assistant manager. A bartender and doorman would also be on duty. Entrance would be gained by means of an "ID" card containing a photograph of the member. The card would be issued to one who is of legal age. Food and soft drinks would be sold in the "pub". The "pub" has established rules which were submitted to the Village Board.

The witness asserted that, based upon his experience in operating facilities where food and beverages were served, the subject premises to be used by the "pub" are suitable for such purpose.

Monsignor Thomas G. Fahy, president of Seton Hall University, who resides on its premises, asserted that he is in favor of the issuance of the license because experience has shown that controlled drinking on the campus is preferable to off-campus drinking. Inasmuch as fraternal and service organizations are routinely granted licenses, college students should not be denied the same privilege.

He asserted that it would not be consonant on the one hand to expect the youths to act in a mature and responsible manner and at the same time question their ability to manage a "pub".

The premises in question are owned by Seton Hall University. He represented that his views reflected that of the University Board of Trustees, for whom he testified as its agent and spokesman.

The membership of the Student Government is composed of all undergraduates numbering in excess of four thousand students. All are eligible to vote for the officers and participate in its activities. It is a vehicle to promote their academic and social interest. It has officers, has a constitution and holds meetings. The University Board of Trustees endorsed the Student Government's application for the club license.

Although the University Board of Trustees has executed no instrument granting a legal conveyance or lease to the Student Government for the use of the portion of the Student Center as a "pub", the major portion of the building has been, to a greater or lesser extent, controlled by the Student Government ever since the building was occupied in 1963.

He asserted:

> "So, they [the students] have a vested interest, a vested use of this particular building even though there, obviously, there is no legal lease of things of that sort. Furthermore, we would never sign a lease. It would be unheard of in academic circles that you would lease out your buildings to any individual, any unit of the university."

Robert Munn, a student at the university, testified that he was president of the Student Government at the time the original application was filed on February 28, 1972 with the Board for the club license. The Student Government, a non-profit organization, is governed by its elected officers. During his term of office, the Student Government engaged in civic, social, recreational, educational and fraternal activities.

Charles J. Grandi, who succeeded the previous witness as president of the Student Government in March 1972, testified that an amended application was filed with the Board on April 10, 1972 in order to update the list of officers and to reflect the spring 1972 new registrants. Since its opening, the operation of the "pub" has been "smooth".

Jerome Carlton Hansen, who is engaged in business in South Orange, asserted that he is in favor of the licensing of the "pub" because it would "...serve to broaden the scope of the social and recreational activities of the university itself."

Reverend Edwin Sullivan, who received a doctorate in sociology, testified that, as a sociologist and as an individual, he supports the licensing of the "pub" because it will provide

a normal inter-action for young people. He does not deem it necessary to isolate alcohol from education.

Arthur D. Klimowicz, who is an alumnus of the university, a resident of the Village, the "prep" school librarian and the father of ten children stated that he is in favor of licensing of the "pub". While attending Columbia University for his master's degree he observed that the "pub" at Columbia was operated quietly and efficiently.

William E. Pilot, the South Orange Building Inspector, testified that he examined the premises which are to be used as a "pub" on September 15, 1972 and found them to be suitable for their intended use.

Joseph F. Allen, chief of the South Orange Fire Department, testified that he inspected the subject premises on September 8, 1972, and determined that the premises complied with the local fire code.

Edward S. Hendrickson, who has been serving as director of student affairs at the university since 1967 and held the same office at two other institutions of higher learning prior thereto, asserted that compelling students to seek a drink off-campus would subject them to the hazards of the highways.

Referring to certain measurements contained in the file submitted to the Board, he testified that the proposed "pub" is not within two-hundred feet of any church, chapel or school.

Peter G. Ahr, who resides in this municipality approximately "one hundred or one hundred-fifty yards" distant from the Student Center Building, testified that he is an alumnus of Seton Hall, is an associate professor of religious studies thereat and has taught in philosophy of religion and ethics. In substance, Ahr asserted that although the use of certain matters, including alcohol may be subject to abuse by some individuals, that is no reason for forbidding them in advance of demonstrated abuse.

Leslie A. Fries, who was graduated from the university in 1920, has been active in alumni affairs ever since, has been dean at Jersey City State College and was formerly a dean of athletics, testified that, as an educator he was in favor of the issuance of the license to the "pub" for the reasons hereinabove expressed. He could not envision how the establishment of the "pub" would be inimical to the welfare of the communities of South Orange and of Seton Hall.

At the hearing held by the Board to consider the subject application on April 13, 1972, Louis E. Kernan, a Seton Hall graduate who was engaged in business in South Orange testified that it would be advantageous to both Seton Hall and to South Orange to have a "pub" on campus where drinking would be supervised.

Adrian M. Foley, Jr., an alumnus of Seton Hall, testified at the Board meeting of April 13, 1973 that he was in favor of the licensing of the "pub" because he felt that the proponents thereof had made an exhaustive study of the subject prior to acting thereon. The documents submitted with the application disclosed that the experience of other educational institutions that permitted the sale of alcoholic beverages on-campus was uniformly good. In formulating his opinion, he also took into consideration the possible attitude of the administrators of the university towards the establishment of the "pub".

Preliminarily, I observe that the Director is enjoined from reversing the action of local issuing authorities and substituting his judgment for theirs unless there is clear and convincing proof that reasonable support therefor cannot be found in the record. Cf. Lyons Farms Tavern, Inc. v. Newark, 55 N.J. 292 (1970).

The burden of establishing that the action of a local issuing authority is erroneous and should be reversed rests with the appellant. Rule 6 of State Regulation No. 15. Hudson-Bergen County Retail Liquor Stores Assn. v. North Bergen et als., Bulletin 997, Item 2. Each municipal issuing authority has wide discretion in the issuance, renewal or transfer of a liquor license, subject to review by the Director in the event of any abuse thereof. Passarella v. Atlantic City, 1 N.J. Super 313 (App. Div. 1949). However, action based upon such discretion will not be disturbed in the absence of clear abuse. Blanck v. Magnolia, 38 N.J. 484 (1962). As Justice Jacobs pointed out in Fanwood v. Rocco, 33 N.J. 404, 414 (1960):

> "Although New Jersey's system of liquor control contemplates that the municipality shall have the original power to pass on an application for ... license or the transfer thereof, the municipality's action is broadly subject to appeal to the Director of the Division of Alcoholic Beverage Control. The Director conducts a de novo hearing of the appeal and makes the necessary factual and legal determinations on the record before him ... Under his settled practice, the Director abides by the municipality's grant or denial of the application so long as its exercise of judgment and discretion was reasonable."

And further, in evaluating the action of the Board herein, it might be well to state the view expressed in Ward v. Scott, 16 N.J. 16 (1954), wherein the Supreme Court, dealing with an appeal from a zoning ordinance, set forth the applicable principle (at p.23):

> "Local officials who are thoroughly familiar with their community's characteristics and interests and are the proper representatives

> of its people, are undoubtedly the best equipped to pass initially on such applications for variances. And their determinations should not be approached with a general feeling of suspicion, for as Justice Holmes has properly admonished: 'Universal distrust creates universal incompetence.' Graham v. United States, 231 U.S. 474, 480, 34 S. Ct. 148, 151, 58 L.Ed. 319, 324 (1913)."

I have carefully considered the many points raised by appellant in his petition of appeal and find them to be without merit.

I find as a fact that the Student Government of Seton Hall University, the applicant herein, is an association within the purview of Rule 1 of State Regulation No. 7. It was formed for fraternal, social and recreational purposes and not for private gain, and its formation was therefore in compliance with the said rule. Further, applicant is a member of the United States National Students Association, a national organization, and is, therefore, entitled to the certification it received from the Director dated March 17, 1972 in accordance with Rule 5 of State Regulation No. 7, exempting it from compliance with Rules 3 and 4 of the said regulation.

Appellant's objection that the amended application was not timely filed lacks merit. The amended filing was made for the purpose of updating the information contained in the original filing and was necessitated by the intervening election of officers of the Student Council and the matriculation of new registrants at the university. It was proper for the Board to consider this current information in its deliberations. In any event, appellant neither alleges, nor did he suffer, any personal prejudice by this amended filing. Additionally, mere procedural defects are cured by a plenary de novo hearing. Cino v. Driscoll, 130 N.J.L. 535 (Sup. Ct. 1943).

Appellant questions applicant's legal tenancy to the premises. The testimony of the university president plainly indicates that the Student Government enjoys, at least, a tenancy at will. A tenancy at will is a legal tenancy and thus satisfies the legal requirement of the right to possession.

Appellant argues that applicant has not shown that there will be no sale, service or delivery of any alcoholic beverages to any person who is not a bona fide member or a bona fide guest of such member. This objection is fully answered by the testimony of William A. Smith, Director of the Student Center wherein the "pub" would be located. Smith detailed the safeguards to be employed to assure compliance with the Alcoholic Beverage Law.

Furthermore, the apprehension of the objectors should be put at rest since it must be assumed that the "pub" would be conducted in a lawful manner. A licensee is responsible for the conduct of licensed premises in strict observance of the Alcoholic Beverage Law, State Regulations and local ordinances. Licenses are issued annually and, if applicant conducts these premises in violation of the law and in a manner offensive to the public interest, the Board may consider those factors when the application for renewal is made. Four Corners Bar v. Newark, Bulletin 1152, Item 1.

Appellant next argues that the two hundred foot rule has not been waived. The short answer to this is that appellant submitted no proof, either before the Board or at this appeal hearing, that the "pub" is located within two hundred feet of any church or schoolhouse. The president of the university, and the headmaster of the prep school both testified that the "pub" is not located within two hundred feet of a church or schoolhouse as measured by the normal manner in which a pedestrian would properly walk. Presbyterian Church of Livingston v. Div. of Al. Bev. Control, 53 N.J. Super. 271 (App. Div. 1958). In any event, Monsignor Fahy, the university president, in order to eliminate any question concerning this facet of the application filed a written waiver in compliance with the applicable statute. N.J.S.A. 33:1-76.

No proof was adduced to sustain appellant's allegation that the premises were not suitable for the use intended. On the contrary, the testimony of the local officials who examined the proposed location of the "pub" was uncontradicted that the premises were suitable for its intended use.

Appellant alleged that the Board's attorney improperly advised the Board relative to their responsibilities in the issuance of liquor licenses and specifically argued that there was no showing of public need or necessity for the issuance of the license and that its issuance was contrary to the public interest.

These contentions are without merit. The object of a club license is not to supply the needs of a neighborhood or of a community. The holder of a club license cannot lawfully sell alcoholic beverages to the general public but must confine such sales to bona fide members and their bona fide guests. Ocean County Tavern Tavern Association v. Beach Haven, Bulletin 954, Item 2; Lakewood Estonian Association v. Jackson, Bulletin 1001, Item 1; New Jersey Tavern Owners, Inc., v. Belleville, Bulletin 1182, Item 2, and Bergen County Aerie #3291 of The Fraternal Order of Eagles v. Lodi, Bulletin 1773, Item 1.

Much of the testimony concerned itself with the moral, ethical and theological wisdom or desirability of permitting an on-campus "pub" at the university. The voluminous testimony,

pro and con, on this issue was well-reasoned, and ably presented by individuals who, I deeply feel, were totally sincere in their beliefs and were wholly guided by their interest and regard for the welfare of the university and its students.

However, it is not my function to decide an internal issue of morality and ethics. Nonetheless, it is my view that meaningfully regulated and supervised drinking in a "pub" on-campus is not contrary to the public interest. It is presumed that its operation will be conducted in a law-abiding manner. If not, as pointed out hereinabove, it will subject itself to disciplinary action which may well result in the suspension or revocation of its license privilege. It is apparent from the testimony presented that safeguards will be exercised to guard against this new club license from becoming another "gin mill".

Finally, I observe that the Director supports the principle that, where reasonable men, acting reasonably, have arrived at a determination it should be sustained unless he finds that it was clearly against the logic and effect of the presented facts. Hudson Bergen County Retail Liquor Stores Assn. v. Hoboken, 135 N.J.L. 502 (1947); Fanwood v. Rocco, 59 N.J. Super. 306 (App. Div. 1960).

In the recent case of Lyons Farms Tavern, Inc. v. Newark, supra, the court stated:

> "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. 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."

The Board has, in my opinion, understood its full responsibility, and has acted circumspectly and in the reasonable exercise of its discretion in the grant of the club license. I do not find the objections of sufficient merit and thus conclude that appellant has failed to sustain the burden of establishing that the action of the Board was arbitrary, erroneous or an abuse of its discretion. Rule 6 of State Regulation No. 15.

For the reason aforesaid, it is recommended that an order be entered affirming the action of the Board and dismissing the appeal.

Conclusions and Order

Written exceptions to the Hearer's report, with supportive argument thereto, were filed by the appellant, and written answers to the said exceptions were filed by the respondents, pursuant to Rule 14 of State Regulation No. 15.

I have carefully considered the entire record herein, including the transcripts of the testimony, the exhibits, the memoranda of counsel, the Hearer's report, the written exceptions thereto, and the answers to the said exceptions. I find that the matters contained in the exceptions have either been fully considered by the Hearer in his report, or are without merit. I thus concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 25th day of April 1973,

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

ROBERT E. BOWER
DIRECTOR

2. APPELLATE DECISIONS - BRUNOSKI v. PATERSON - ORDER.

Thomas and Rosalie Brunoski, t/a Tom's Liquors,	)	
Appellants,	)	O R D E R
v.	)	
Mayor and Council of the Borough of East Paterson, *	)	
Respondent.	)	

Walter J. Tencza, Esq., Attorney for Appellants
Ferrara, Glock & Spector, Esqs., by Stephen R. Spector, Esq., Attorneys for Respondent

BY THE DIRECTOR:

Prior to the hearing on appeal in this Division, the respondent, by resolution dated February 1, 1972, reduced the said penalty to suspension of license from sixty days to thirty days.

The attorney for appellants then advised me that appellants desired to withdraw the appeal and make an application for the imposition of a fine in lieu of suspension in accordance with Chapter 9 of the Laws of 1971.

By my Order dated March 14, 1973, the appeal herein was dismissed and the suspension of license was further stayed pending appellants' application and my consideration thereof. (Brunoski v. East Paterson, Bulletin 2096 Item 6 .)

The attorney for respondent has indicated that the respondent has no objection to the imposition of a fine in lieu of suspension.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the appellants to pay a fine of $1,200.00 in lieu of suspension of license for thirty days.

Accordingly, it is, on this 24th day of April 1973,

ORDERED that the payment of a fine of $1,200.00 by the appellants is hereby accepted in lieu of suspension for thirty (30) days.

Robert E. Bower,
Director

*now Borough of Elmwood Park