

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

BULLETIN 2240

December 14, 1976

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1. APPELLATE DECISION - A. N. BUTLER, INC. v. BUTLER BOROUGH.

A. N. Butler, Inc. a New Jersey Corporation,)	
)	
Appellant,)	On Appeal
)	
v.)	CONCLUSIONS
)	AND
Mayor and Council of the Borough of Butler,)	ORDER
)	
Respondent.)	

Shevick, Ravich, Koster, Baumgarten & Tobin, Esqs., by Michael N. Tobin, Esq., Attorneys for Appellant
Young & Sears, Esqs., by Harry L. Sears, Esq., Attorneys for Respondent

BY THE DIRECTOR:

The appellant, a New Jersey Corporation, appeals from the denial of its application for a place-to-place transfer of Plenary Retail Consumption License C-1, from 234 Main Street, Butler to 1277 Route 23, Butler, and a person-to-person transfer of said license from the Estate of Nettie McCormick to A. N. Butler, Inc. The place-to-place transfer was denied on June 15, 1976 because it violated Township Ordinance No. 4-2. This section states, among other things, that no transfer from a presently existing premises shall be granted unless the premises to which the transferee desires to have a license transferred shall be at least 1,000 feet from any other presently established licensed premises. The respondent filed no answer.

An appeal de novo was held in this Division pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and cross-examine witnesses. However, in lieu thereof, both parties relied upon the pleadings herein, which were supplemented by oral summation of counsel.

It was stipulated that, in the instant case, the proposed location is less than 1,000 feet from an existing licensed tavern. It is further stipulated that the only question to be decided is whether or not the afore cited section is constitutional as it applies to appellant. They acknowledge that an administrative board may not entertain constitutional issues, and that this appeal was brought solely to exhaust appellants administrative remedies prior to going to a plenary court of competent jurisdiction.

A challenge to the constitutionality of a statute or rule can only be adjudicated by a court of competent jurisdiction, since statutes are presumed to be valid on their face. Klein and Tucker v. Fairlawn and Schweder, Bulletin 1175, Item 3; Blanck v. Magnolia, 73 N.J. Super. 306 (App. Div. 1962) reversed on other grounds, 38 N.J. 484 (1962). The Director is not empowered to disregard or repeal a statute or a rule. As hereinabove stated, such authority is vested in a court of plenary jurisdiction. Cf. Blanck v. Magnolia, Supra; Phillipsburg v. Burnett, 125 N.J.L. 157 (Sup. Ct. 1940).

At the conclusion of oral argument, the parties waived a Hearer's report and requested an immediate Director's decision.

Accordingly, it is, on this 8th day of September 1976,

ORDERED that the action of the respondent Mayor and Council of the Borough of Butler be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

Joseph H. Lerner
Director

2. APPELLATE DECISIONS - SMALL ET ALS. v. CAPE MAY ET ALS.

Dallas C. Small and Evelyn Small,
his wife, Robert S. Fite and Betsy
Fite, his wife, Daniel Kreh and
Cape May Beverage Control,

Appellants,

v.

City Council of the City of Cape May;
Calvin Satterfield, Jr.; and Mary Morris
Satterfield, t/a Chalfonte Hotel,

Respondents.

On Appeal

CONCLUSIONS
AND
ORDER

Kay, Corino & Dwyer, Esqs., by Louis C. Dwyer, Jr., Esq.,
Attorneys for Appellants
Bruce M. Gorman, Esq., Attorney for Respondent, Cape May City Council
Perskie and Callinan, Esqs. by Kenneth Calloway, Esq., Attorneys for
Respondent Satterfield.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

On April 26, 1976, the Municipal Council of the City of Cape May (hereafter Council) adopted Resolution 59-3-76 whereby it granted to respondent, Mary Morris Satterfield, t/a Chalfonte Hotel, a plenary retail consumption license for premises 301-307 Howard Street and 408 Franklin Street, Cape May, following extensive hearings before it. This appeal from the Council's action followed.

The appellants contend that the Council abused its authority to grant a license for respondent's hotel in that the hotel does not possess one-hundred sleeping rooms available for use; citing N.J.S.A. 33:1-12.20, which provides:

"Nothing in this act shall prevent the issuance in a municipality, of a new license to a person who operates a hotel or motel containing 100 guest sleeping rooms or who may hereafter construct and establish a new hotel or motel containing at least 100 guest sleeping rooms."

The respondents reply that the subject hotel does, in fact, possess more than 100 rooms, and, thus, amply qualifies for such license.

An appeal de novo was heard in this Division, with full opportunity afforded and the parties to present evidence and to cross-examine witnesses, pursuant to Rule 6 of State Regulation No. 15. However, none of the parties presented witnesses; in lieu thereof, the parties submitted a dozen documents, together with oral argument in summation.

The sole issue here presented is: does the Chalfonte Hotel in Cape May possess one hundred sleeping rooms for guests as required by the statute before which a license for the sale of alcoholic beverages may issue.

It is uncontroverted that there are more than 100 rooms in that hotel; however, petitioners maintain that the rooms so designated are, because of the poor construction conditions of the hotel, really not fit for habitation, and hence, are not "guest sleeping rooms" because no guests could be legally quartered in them.

As background for the respondent's application, her counsel addressing the Council at its meeting on March 25, 1976 gave this description of the subject hotel:

"Now Mayor and Council, I'm sure you are aware that this is not a fly-by-night operation. This hotel has been in the Satterfield Family, I understand, since 1910. Sixty-five years in the same family. The oldest building will celebrate its 100th birthday this year; it was originally constructed in 1876, much before the so-called residential area was even constructed around it...."

Appellants introduced into evidence an affidavit of the Building Inspector of Cape May, Arthur Doran, who determined that, in September 1975, of the one hundred rooms in the hotel only sixty-five were fit to accommodate guests; the remaining rooms required rehabilitation and furniture to be useful as guest rooms. They also introduced a report of the Bureau of the State Housing Inspection dated September 3, 1975 which disclosed sixty-eight rooms without violation, the remaining rooms or areas requiring correction of construction violations.

The respondent, Satterfield, introduced a letter from Police Captain Francesconi to the City Manager, dated March 15, 1974 indicating the number of rooms in the Chalfonte Hotel to be one hundred. A later up-date to that letter, November 18, 1975, indicated the same number of rooms to exist. An "Annual Mercantile License Statement" issued by the City of Cape May, showed its number to be over 100.

That the Chalfonte Hotel possesses a potential of over one-hundred guest sleeping rooms is uncontroverted. However, whether it presently possesses a minimum of one-hundred available guest sleeping rooms is arguable. Counsel for the respondent, Satterfield, admits an on-going rehabilitation program is presently under way, so that some of the rooms could well be momentarily "out of use" in consequence, not all of the one-hundred rooms would be totally available at one time.

In a similar factual context, the Director determined that a "hotel" license was improvidently issued, saying:

"In view of all of the facts and circumstances herein, including the admission of the licensee that he never operated or intended to operate these premises as a hotelsaid license be cancelled effective immediately." (underscore added)
Re Cruikshank, Bulletin 1962, Item 4.

The presumption would arise in the above cited matter, that had the owner intended his premises as a hotel, presumably the Director would have approved it for a licensed premises.

Later the Director, faced with a similar challenge, found "....Thus, no hotel was operated by the licensee when the license was originally issued on June 1, 1967, and its issuance was in violation of the applicable statute referred to in the charge herein." Re J.R.N. Corporation, Bulletin 1992, Item 7.

In short, the statute requires that there be a "hotel" or "motel" in the conventional sense and such hotel possesses a minimum of one hundred guest sleeping rooms. Sixty-seven or ninety-nine rooms will not fulfill the statutory requirement; there must be no less than one hundred (N.J.S.A. 33:1-12.20). Until it is clearly established that the subject hotel has 100 guest sleeping rooms available for guests, the statutory prerequisite has not been met.

Information gleaned during the hearing in this Division indicates that the license issued to respondent Satterfield for the subject hotel has not actually been delivered; it is being held pending the completion of the rehabilitation of the necessary rooms. Although there was no evidence offered in support of such information, it is conceivable that the respondent herself may have not obtained the license at this time. In any event, the Council should have withheld delivery of the license pending the complete restoration of the necessary one-hundred rooms.

Accordingly, it is recommended that the action of the Council be affirmed and the appeal be dismissed, expressly subject however, to the directive that the subject license be retained by the Council and not actually delivered to Satterfield until she has established to the satisfaction of the Council that the hotel has

available accommodations for one-hundred guests, as required by the applicable statute.

Conclusions and Order

No Exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

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.

Accordingly, it is, on this 8th day of September 1976,

ORDERED that the action of the respondent, City Council of the City of Cape May, be and the same is hereby affirmed, expressly subject to the following special conditions:

- (1) that the subject license be retained by the Council and not delivered to the applicant unless and until the hotel building upon which the issuance of the license is predicated shall have been completed to contain a minimum of one hundred "guest sleeping rooms", as required under N.J.S.A. 33:1-12.20; and
- (2) the said completion of a minimum of one hundred "guest sleeping rooms", as aforesaid, shall first be approved and certified by the Council as to use and occupancy; and it is further

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

Joseph H. Lerner
Director

3. APPELLATE DECISIONS - MICHAEL VERNON'S CORP. v. NEWARK.

Michael Vernon's Corp.,)

Appellant,)

v.)

Municipal Board of Alcoholic Beverage Control of the City of Newark,)

Respondent.)

On Appeal

CONCLUSIONS AND ORDER

David J. Breitkopf, Esq., Attorney for Appellant
Milton A. Buck, Esq., by Thomas W. Matthews, 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 Municipal Board of Alcoholic Beverage Control of the City of Newark (hereinafter Board) which, on March 18, 1976, denied appellant's application for a person-to-person transfer of Plenary Retail Consumption License C-514 from Big Eddie's Bar and Tavern, Inc. to it, covering premises 316 14th Avenue, Newark.

Appellant contends that the action of the Board was erroneous in that it (1) had improperly rescinded its approval of the subject transfer and (2) its denial of the transfer, based upon an alleged criminal record of appellant, was capricious. The Board, in its Answer, defended its action as both justifiable, and mandated by the statute.

An appeal de novo was held in this Division pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and cross-examine witnesses. However, in lieu thereof, both parties relied upon a transcript of the proceedings held before the Board, which was admitted into evidence. This was supplemented by oral argument of counsel.

A mere glance at the transcript of proceedings held by the Board is sufficient to answer the first of appellant's contentions, i.e., that the Board rescinded its initial grant of application. The action taken by the Board is best reflected in the concluding remarks of its chairman, as follows:

"MR. SLAUGHTER: At this particular time I will ask Commissioner Hopkins to make a motion to reserve decision pending the application from the police department that this Board is governed by. The Board will make its determination as soon as this application is received and you will be notified immediately."

It is obvious that no conclusive action was then taken by the Board, for it awaited the police reports. That action of reserving decision until a police report has been received is uniformly followed by this Board and similar boards in other cities. No prejudice to the applicant (here appellant) was proved because of this practice.

The second and major contention of appellant concerned his admitted criminal record, which, he insisted, must be read in conjunction with N.J.S.A. 2A:168 A-1, which prohibits an issuing authority from discriminating against one because of a prior criminal record. This act entitled "Rehabilitated Convicted Offender's Act" asserted a public interest in the early employment of persons who, by virtue of former statutes, were precluded from obtaining employment or obtaining licenses respecting some forty-nine occupations or professions. Rehabilitated convicted offenders cannot be discriminated against solely upon the existence of their criminal records.

It is to be noted however, that Sec. 7 of the above statute exempts law enforcement agencies from the requirement of the statute. This Division is a law enforcement agency; and in a parallel matter, the Director of this Division determined that the aforesaid statute does not mandate employment or the issuance of an alcoholic beverage license when an issuing authority makes its determination with respect thereto. Cf. Green v. Elizabeth, Bulletin 2184, Item 3.

A copy of appellant's sole stockholder's police record was obtained by this Division; it reflects an arrest record of over twenty arrests in a fourteen year period. Although none of the items listed appear to carry a record of incarceration, the volume of items extending upon six pages, show a complete disregard of existing laws and regulations. In 1974 he pleaded guilty to an indictment and was sentenced to twelve months incarceration, which sentence was suspended and a probation period substituted. He has since been released from probation.

The police record is far too lengthy to be set forth herein; suffice to say that it involves a whole series of petty offenses, including some fifty-eight traffic warrants over a ten year period. Other charges involve bastardy, fraud,

false pretenses, embezzlement, insufficient-funds, non-support, housing violation and contempt of court.

A basic criterion in applications of this kind is the worthiness of persons applying for a license, a matter which resides in the rational and reasonable discretion of the issuing authority. The liquor business should be conducted by reputable people in a reputable manner. Appeal of Schneider, 12 N.J. Super. 449 (App. Div. 1951).

Where, as here, the Board did not consider the appellant clearly worthy of holding a license, and determined that the public interest would not be best served by permitting appellant's major stockholder to conduct a liquor licensed business, its conclusion will not be lightly disturbed. Barresi v. Ridgefield, Bulletin 1770, Item 2.

The record referred to speaks loud and clear that the actions of the Board should be affirmed. I find that the decision of the Board was based upon a sound factual finding buttressed by a long line of decisions of this Division. G.E.L.L., Inc. v. Newark, Bulletin 1911, Item 1; Irizarry v. Passaic, Bulletin 2105, Item 2; New Cotton Club v. Carteret, Bulletin 2217, Item 3; Club Raz-Mor, Inc. v. Passaic, Bulletin 2230, Item 2.

I conclude that the appellant has failed to sustain its burden of establishing that the action of the Board was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

It is, therefore, recommended that the action of the Board be affirmed, and the appeal herein be dismissed.

Conclusions and Order

No exceptions to the Hearer's Report were filed pursuant to Rule 14 of State Regulation No.15.

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.

Accordingly, it is, on this 27th day of September 1976,

ORDERED that the action of the Municipal Board of Alcoholic Beverage Control of the City of Newark in denying the application for a person-to-person transfer of Plenary Retail Consumption License C-514 from Big Eddie's Bar and Tavern Inc. to the appellant, be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

JOSEPH H. LERNER
DIRECTOR

4. APPELLATE DECISIONS - TWIN CORNERS, INC. v. ROSELLE PARK.

Twin Corners, Inc., t/a Twin)
Corners Bar and Grill,)
Appellant,)
v.)
Borough Council of the Borough)
of Roselle Park,)
Respondent.)

O R D E R
Dismissing
Appeal

Wojcik, Salmon and Russell, Esqs., by Daniel J. Russell, Esq.,
Attorneys for Appellant
John P. Dolin, Esq., Attorney for Respondent

BY THE DIRECTOR:

Appellant appeals from the action of respondent Mayor and Council of the Borough of Roselle Park (Council) which on May 13, 1976 suspended appellant's Plenary Retail Consumption License for forty-five days effective June 1, 1976, after finding it guilty in disciplinary proceedings of charges, alleging that; (1) on December 6, 1975, it failed to keep a list of names of all persons currently employed on the licensed premises; in violation of Rule 16(c) of State Regulation No. 20; and (2) on the same date it failed to keep the licensed premises closed between the hours of 2:00 a.m. and 6:00 a.m.; in violation of Section 13 of Ordinance No. 883 of the Borough of Roselle Park.

Subsequent to a hearing de novo held herein, and prior to the filing of a Hearer's report, by letter dated September 13, 1976, the attorney for the appellant advised that appellant withdraws its aforesaid appeal retroactive to September 6, 1976, the date of the corporate appellant's letter addressed to this Division wherein it is alleged that appellant requested withdrawl of its appeal.

I have examined the letter of corporate appellant dated September 2, 1976 and received by this Division on September 3, 1976. In that letter, appellant requests and early determination of the appeal or, in the alternative, that it be permitted to withdraw the appeal; and in either case it desired the suspension to become effective September 6, 1976. I, therefore, find that the letter of the corporate appellant is not an unqualified notice of the dismissal of the subject appeal.

Accordingly, it is, on this 15th day of September, 1976

ORDERED that the action of the respondent be and the same is herein affirmed and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that my order dated June 1, 1976 staying respondent's action pending the determination of this appeal, be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Roselle Park to Twin Corners, Inc., t/a Twin Corners Bar and Grill, for premises 157 East Westfield Avenue, Roselle Park, be and the same is hereby suspended for forty-five (45) days, commencing at 2:00 a.m., Monday, September 29, 1976 and terminating 2:00 a.m. Thursday, November 4, 1976.

Joseph H. Lerner
Director

5. APPLICATION FOR REMOVAL OF DISQUALIFICATION - CONVICTION OF CHARGE OF UNLAWFUL SALE OF MORTGAGED PROPERTY - DISQUALIFICATION REMOVED.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant)
to R.S. 33:1-31.2.)

CONCLUSIONS
and
ORDER

Case No. 3044

-----)
Kovach & Fitzgibbons, Esqs. by Donald L. Kovach, Esq., Attorney
for Applicant.
Donald M. Newmark, Esq., Appearing for Division.

BY THE DIRECTOR:

Petitioner's criminal record discloses that in 1959 he was convicted of the unlawful sale of mortgaged property, in the Sussex County Court, and was sentenced to one to two years in the State Prison, the operation of which was suspended, was fined \$250.00 and placed on probation for a period of three years.

Since the crime of which petitioner was convicted involves the element of moral turpitude (Re Bulletin 209, Item 12) he was, thereby, rendered ineligible to be engaged in the alcoholic beverage industry in this State. N.J.S.A. 33:1-25, 26.

At the hearing held herein, petitioner (age 44) testified that he is married; that for the past 13 years he has lived at 162 Main Street, Franklin, N.J.

Petitioner further testified that he is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State and that, ever since his conviction in 1959, he has not been convicted of any crime.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against petitioner.

Petitioner produced three character witnesses (a Chief of Police, a Detective Sergeant of a Police Department and a patrolman) who testified that they have known petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

Considering all the aforesaid facts and circumstances, I am satisfied that petitioner has conducted himself in a law-abiding manner for five years last past, and that his association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 17th day of September, 1976

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby removed, in accordance with the provisions of N.J.S.A. 33:1-31.2.

Joseph H. Lerner,
Director

6. APPLICATION FOR REMOVAL FROM DEFAULT LIST - APPLICATION DENIED.

In the Matter of the Application
of

Guy J. Lanza
54 Broad Avenue
Palisades Park, N.J.,

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption
License C-12, located at 4 East Columbia
Avenue, Palisades Park, N.J.

Guy J. Lanza, Esq., Pro se

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

The applicant is the holder of a Plenary Retail Consumption License issued by the Borough of Palisades Park, New Jersey, and has requested a hearing in this Division with respect to the propriety and validity of the placement of the license on the "default list" by a liquor wholesaler; and, further, to determine if the debts of the prior holder of the said license may be attributable to him as the transferee of the said license.

At the de novo hearing held in this Division one of the wholesalers explained to the applicant the invoices making up their outstanding obligation. A conference ensued, resulting in a satisfactory determination of the matter between the parties. The remaining wholesaler sent no representative, hence the matter was adjourned to provide the applicant an opportunity to explore the amounts due it.

On the adjourned date, the applicant informed the Division that he had paid the second wholesaler, under protest, because of his belief that all supplies of alcoholic beverages would be stopped to his establishment by action of this Division were he not to pay the bill. In consequence, he demanded that the Director order the Rheingold Brewery to repay to him, the \$438.15 which he had paid to it under protest.

The applicant's request is without merit. There is no statutory machinery or regulatory provision pursuant to which the Director is authorized to inject himself into fiscal disputes between wholesalers and/or retailers beyond the authority to make determinations involving "default" and "non-delivery" lists. The subject hearing was restricted to that. Hence, the applicant having made such payment, and having had his license removed from the "default" or "non-delivery" list, the primary subject of his application became moot.

The applicant further questioned the right of any wholesaler to whom a debt was due by a prior owner of his licensed premises to mark his premises "in default". It was his belief that upon his acquisition of the license, all prior debts against the transferor to him should be personal as to that transferor and not carry over and become his obligation.

The applicant is apparently unaware of Rule 4(c) of State Regulation No. 39 which provides that the name of the transferee of a license shall replace the name of the transferor upon the "default" or "non-delivery" list. Thus, State Regulation No. 39 imposes upon any transferee the duty to investigate the debts of the transferor before the transfer is accomplished.

Although the applicant acquired the subject license on February 13, 1975, the transferor to him, Fred Serr Inc., had been on the default list from August 27, 1973. An official request for the search of the Division records by the applicant (which request was eventually made) concurrently with his acquisition of ownership would have revealed the transferor's indebtedness which, presumably, would have been deducted from the purchase price, and then paid. In short, the regulatory procedure followed by all transferees was not followed by this applicant; and he now wants to have his oversight corrected. As indicated, his position is without legal support.

Accordingly, it is recommended that his application be denied.

Conclusions and Order

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

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

Accordingly, it is, on this 24th day of September, 1976

ORDERED that (a) the placement of the licensee on the "Default List" is hereby declared to be valid; (b) that the debts of the prior holder of the said license are properly attributable to him as the transferee of the said license; and (c) the application in all other respects be and the same is hereby denied.

Joseph H. Lerner
Director

7. DISCIPLINARY PROCEEDINGS - ORDER - STATEMENT OF DIVISION POLICY RESPECTING REHABILITATION EMPLOYMENT PERMITS.

In the Matter of Disciplinary)
Proceedings against)

Philip Cotroneo)
816 Sheridan Avenue)
Elizabeth, N.J.,)

O R D E R

Holder of Unlimited Solicitor's)
Permit No. 946, issued by the)
Director of the Division of)
Alcoholic Beverage Control.)

Sauer, Boyle, Dwyer and Cannellis, Esqs., by George W. Canellis, Esq.,
Attorneys for Permittee

BY THE DIRECTOR:

On August 24, 1976, Conclusions and Order were entered herein cancelling subject permit effective 9:00 a.m. Monday, August 30, 1976, upon the permittee's plea of non vult to a charge alleging that on or about March 5, 1976, he was convicted of a crime involving moral turpitude, which rendered him disqualified to be engaged in the Alcoholic Beverage Industry. The Order further provided the permittee may apply for a Rehabilitation Employment Permit pursuant to State Regulation No. 13 after March 5, 1977, and if said permit is granted he may then be eligible to apply for a Solicitor's Permit.

On August 27, 1976, an Order was entered herein deferring the effective date of said cancellation of subject permit until Monday, September 13, 1976, at 9:00 a.m. in order to afford the permittee an opportunity to move for reconsideration by the director, of the terms of the Order dated August 24, 1976.

In the permittee's motion for reconsideration, he states that representations of the Division Policy and Practice were made to him during former Director Ronco's tenure, which allowed a person who is convicted of a crime involving moral turpitude to obtain a Rehabilitation Employment Permit immediately after conviction of such a crime; and that he relied upon said representations in entering a plea of guilty in the criminal matter.

It is the Division's present policy and practice that an applicant for a Rehabilitation Employment Permit will not be granted said permit until at least one year has elapsed since the date of the applicant's conviction, and if incarceration resulted from the conviction,

then no such Permit will be granted until at least one year from the date of release from incarceration has elapsed.

Having carefully considered the permittee's motion, I have determined to apply the said Division policy and practice prospectively, and allow the permittee to apply for a Rehabilitation Employment Permit pursuant to State Regulation No. 13 after October 5, 1976, and if said permit is granted he may then be eligible to apply for a Rehabilitation Employment Permit pursuant to State Regulation No. 13 after October 5, 1976, and if said permit is granted he may then be eligible to apply for a Solicitor's Permit:

Accordingly, it is, on this 23rd day of September, 1976

ORDERED that my Conclusions and Order dated August 24, 1976, be and the same is hereby modified as follows:

ORDERED that Permittee may apply for a Rehabilitation Employment Permit pursuant to State Regulation No. 13 after October 5, 1976, and if said permit is granted he may then be eligible to apply for a Solicitor's Permit.

JOSEPH H. LERNER
DIRECTOR

8. STATE LICENSES - NEW APPLICATIONS FILED.

Allo Enterprises, Inc.
t/a Allo Wines, Ltd.
654 Rahway Avenue
Union, New Jersey

Application filed December 2, 1976
for place-to-place transfer of Wine
Wholesale License WW-16 from 306-312
Adamsville Road, Bridgewater Township,
PO Somerville, New Jersey.

Peal Trading, Inc.
106-126 Getty Avenue
Paterson, New Jersey

Application filed December 3, 1976
for wine wholesale license.

Joseph H. Lerner
Director