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

BULLETIN 2157 September 16, 1974

TABLE OF CONTENTS

ITEM

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

BULLETIN 2157 September 16, 1974

1. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against

High Step Enterprises, Inc.
t/a High Step Bar & Lounge
2366 Broadway
Camden, N.J.,

Holder of Plenary Retail Consumption License C-120, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

CONCLUSIONS and ORDER

Tomar, Parks, Seliger, Simonoff & Adourian, Esqs., by Michael A. Kaplan, Esq., Attorneys for Licensee
Carl A. Wyhopen, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to a charge alleging that on October 5, 1973, it sold an alcoholic beverage to a minor, age 17, in violation of Rule 1 of State Regulation No. 20.

The Division presented its case through the testimony of the minor and an ABC agent.

Agent G testified that, while in the licensed premises on October 5, 1973, he observed Gregory F---, age 17, enter, sit at the bar, order and receive a mug of beer from the barmaid, identified as Lucille Keefe. The barmaid did not question Gregory concerning his age. After Gregory consumed some of the beer, the agent identified himself to the minor and to the barmaid.

In defense of the charge, Spencer H. Smith, a police officer assigned to the Camden police tactical squad, testified that on June 19, 1973 he was dispatched to the licensed premises to investigate a disturbance. In the barroom, he saw Gregory and his cousin, Hatcher. He requested both of them to produce identification. Gregory produced a high school ID card which included his picture and date of birth. The ID card indicated that Gregory was then eighteen years of age. The officer informed the barmaid, Lucille Keefe, that both youths were of age, and that it was her decision as to whether she wanted them to remain in the premises.

Upon indicating that she did not want them to remain in the premises any longer, Smith requested the youths to leave which they did.

On cross examination, the police officer asserted that he did not request Gregory to make a written representation as to his age.

Lucille Keefe, employed by the licensee as a barmaid, testified that she did not request Gregory to give written representation concerning his age on October 5th, because the police officer had told her that Gregory was of legal age on June 19th, and that she would have to serve him.

The licensee argued that it was exculpated because the barmaid relied upon the representation made to her by the police officer who had examined the minor's identification and who thereupon informed her that he was of legal age.

N.J.S.A. 33:1-77 details the facts which must be established by a licensee to constitute a defense to service to a minor. One of the facts that must be established is that the minor falsely represented, in writing, that he was of legal age.

It is abundantly clear that at no time was the minor requested or required to make a written representation by licensee's agent. Thus, an essential element of a defense was lacking and fails to satisfy the statutory requirements. Sportsman 300 v. Bd. of Com'rs of Town of Nutley, 42 N.J. Super. 488 (App. Div. 1956).

I am persuaded by the clear and convincing evidence presented that the licensee is guilty of the said charge and I, therefore, recommend that licensee be found guilty of said charge.

Licensee has no prior record. The precedential minimum penalty in a violation of this type is twenty-five days. However, upon considering the fact that the licensee relied upon the erroneous advice given it by a local law enforcement officer who also testified at the hearing held herein (which I regard as a mitigating and a special factor which merits consideration), I recommend that the license be suspended for fifteen days.

Conclusions and Order

No exceptions to the Hearer's report were filed by the licensee pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibit and the

Hearer's Report, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Following the receipt of the Hearer's Report, the licensee made application for the imposition of a fine in lieu of suspension of license for fifteen days, pursuant to Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of $870.00 in lieu of suspension of license for fifteen days.

Accordingly, it is, on this 26th day of June 1974,

ORDERED that the payment of a fine of $870.00 by the licensee is hereby accepted in lieu of suspension of license for fifteen (15) days.

JOSEPH H. LERNER
Acting Director

2. APPELLATE DECISIONS - ROGER'S CLUB 435 CORPORATION v. ELIZABETH.

Roger's Club 435 Corporation, t/a Club 435 Appellant, v. City Council of the City of Elizabeth, Respondent.	)	On Appeal CONCLUSIONS and ORDER

Reibel, Isaac, Tannenbaum & Epstein, Esqs., by Hyman Isaac, Esq., Attorneys for Appellant
Frank P. Trocino, Esq., by Daniel J. O'Hara, Esq., Attorney 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 Elizabeth (Council) which, on March 25, 1974 suspended appellant's plenary retail consumption license for premises 435 Spring Street, Elizabeth, for twenty-five days, effective April 8, 1974, upon finding it guilty of a charge alleging that on December 25, 1973, it permitted a disturbance and brawl on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Upon the filing of this appeal, an order was entered by the Director on April 5, 1974 staying the Council's action pending the determination thereof.

In its petition of appeal, appellant alleges that the action of the Council was erroneous in that it was contrary to the weight of evidence. In its answer, the Council contended that its action was proper and in the public interest.

The matter was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to present evidence and cross-examine witnesses.

The minutes of the meeting of the Council, held on March 25, 1974 to consider the subject charge, which contained a capsulated version of the testimony of the various witnesses were admitted in evidence in lieu of a full transcript pursuant to Rule 8 of State Regulation No. 15.

The minutes of the meeting reveal that four females were involved in the alleged incident of December 25, 1973.

Robin Cunningham testified that a fight ensued between her and Evelyn Faniel wherein she was struck on the side of the head by a bottle. Roger Donald (sole stockholder of the corporate licensee) was tending bar. She could not estimate the duration of the incident. At the time of the incident, Donald was not close to the females involved.

Evelyn Faniel stated that she and Cunningham engaged in an altercation wherein bottles and a knife were used. The fight started in a "split second" and Donald broke it up. He cleared the bar of all patrons after the fight erupted. He had been at the other end of the bar when the fight started. The police were called; however, she did not see them arrive. The altercation commenced at approximately 9:30 p.m. and by approximately 9:45 p.m. Donald had the tavern closed. In her opinion, Donald could not have done anything to prevent the altercation "because the argument was not loud, they were not noticed, the bar was crowded, and he was tending bar at the other end."

Jane Dixon, mother of Cunningham, testified that her daughter and Faniel commenced to argue and engaged in bottle throwing. She saw no knife. She could not estimate the duration of the episode. Later, she asserted that it was a short period of time.

Essie Underwood asserted that Faniel and Cunningham were engaged in conversation and then commenced struggling. Prior to the struggle, Faniel and Cunningham did not engage in loud talking or argument. A glass and three bottles were thrown. She, herself, picked a bottle off the top of the bar and threw it at no one in particular. Donald told everyone to leave. All left and the tavern was closed.

In defense of the charge, Roger Donalds' testimony as reflected in the minutes of the hearing held by the Council shows that, on the night of December 25, the tavern was crowded and he was tending bar. At approximately 9:30 p.m. a fight erupted; he had no indication that there was any altercation brewing, it was spontaneous; he heard no argument prior to the altercation; he was at the other end of the bar when it erupted. He immediately dispersed the patronage and closed the tavern at approximately 9:40 p. m. His mother who was in the tavern called the police.

At the Division hearing, Donald testified that as soon as he heard the commotion, he immediately requested his mother to call the police and he proceeded to disperse the crowd, put out the lights and close the tavern.

Robert F. Brojanowski, a detective in the local police force, testified that his examination of the recording of incoming calls made to the police department on December 25, 1973 revealed that no calls had been made to police headquarters between 9:10 and 9:50 p.m. pertaining to the licensed premises.

The paramount issue for determination in this appeal is entirely factual, and the critical issue is whether the evidence supports a finding by the Council that appellant permitted and suffered the violation to occur. In Conner v. Fogg, 75 N.J.L. 245, 247 (Sup. Ct. 1907), the court said:

> "To permit is defined as meaning to authorize or to give leave (McHenry v. Winston, 49 S.W. Rep. 4), but the term 'permit' has been often used synonymously with the doing of a thing which he might have prevented permits it." (Emphasis ours)

In Essex Holding Corp. v. Hock, 136 N.J.L. 28, 31 (Sup. Ct. 1907), the court said:

> "Although the word 'suffer' may require a different interpretation in the case of a trespasser, it imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority. Guastamachio v. Brennan, 128 Conn. 356; 23 Atl. Rep. (2d) 140."

The common sense rule must be applied in each given situation, namely, where the licensee or his employee, acting under the obligation of the tremendous responsibility which is reposed in the holder of a liquor license, exercised that degree of care consistent with such obligation in keeping the premises free from brawls and disturbances.

Although a licensee cannot be expected to anticipate any sudden flare-up, it is well settled that a licensee must keep his place and his patronage under his control and is responsible for conditions inside and outside his premises. Seidel v. Upper Freehold, Bulletin 1246, Item 1. The reason for the imposition of such a strict rule is that the liquor business is an exceptional one, and courts have always dealt with it exceptionally. See X-L Liquors v. Taylor, 17 N.J. 444 (1955); Mazza v. Cavicchia, 15 N.J. 498 (1954).

A licensee must assume full responsibility where he or his employees fail to take appropriate action to prevent the occurrence of a brawl or disturbance on the licensed premises. Re Johnson, Bulletin 603, Item 9.

The evidence herein fails to convince me that the licensee permitted a brawl to take place on the premises. I am persuaded that this incident occurred without warning and that the licensee's agent acted with reasonable dispatch in attempting to terminate the action. I am impressed by the fact that the licensed premises were completely cleared of all patronage and its door shut soon after the outbreak erupted.

The test in matters involving a brawl or act of violence is whether the licensee could reasonably have taken steps to prevent the act of violence and disturbance that took place in its licensed premises, but failed to do so. Cf. Johnson v. Newark, Bulletin 1600, Item 2; Re Hillcrest, Inc., Bulletin 2089, Item 4.

It is my view that the testimony falls short of establishing such conduct which would justify the determination of the Council. Re Euell v. Jersey City, Bulletin 2093, Item 2.

However, in passing, I observe that I do not believe that Donald summoned the police. Where an act of violence such as the type hereinabove described occurs and despite the brevity thereof, I feel that it is incumbent upon all licensees to immediately summon the local police department and solicit its aid and investigative facilities.

I, thus, conclude that appellant has succeeded in sustaining the burden of establishing that the action of the Council was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

I, therefore, recommend that the action of the Council should be reversed.

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 conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 27th day of June 1974

ORDERED that the action of the respondent in finding appellant guilty of the charge preferred herein be and the same is hereby reversed, and the charge be and the same is hereby dismissed.

JOSEPH H. LERNER
ACTING DIRECTOR

3. APPELLATE DECISIONS - ALVAREZ v. PATERSON.

Aurora Alvarez t/a Club Charm Cocktail Lounge, Appellant, v. Board of Alcoholic Beverage Control for the City of Paterson, Respondent	On Appeal CONCLUSIONS and ORDER

Iannaccone, Rapkin, Chessin & Carrion, Esqs., by Neil Chessin, Esq., Attorneys for Appellant
Richard M. Freid, Esq., Attorney 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 Board of Alcoholic Beverage Control of the City of Paterson (hereinafter Board) which on March 27, 1974 suspended the plenary retail consumption license of appellant for ten days, following a finding of guilt to a charge alleging that on January 26, 1974 appellant permitted a female employee of the licensed premises to use indecent and obscene language, in violation of Rule 5 of State Regulation No. 20.

Appellant contended in its petition of appeal that the action of the Board was erroneous in that its findings were contrary to the weight of the evidence. The Board denied this contention.

The Board's order of suspension was stayed by order of the Director on April 4, 1974, pending the determination of this appeal.

By stipulation of counsel, it was agreed that the appeal de novo in this Division would be based upon a transcript of the testimony of the proceedings held before the Board, which transcript was furnished to the Division pursuant to Rules 6 and 8 of State Regulation No. 15. Thus, no further evidence was presented and hearing on this appeal de novo consisted of oral argument by counsel for the parties.

A review of the record of the proceedings before the Board revealed that only three witnesses were heard; two witnesses in support of the charge, and the husband of the licensee who testified in her behalf.

Appearing on behalf of the Board, Officer William VanKluyve testified that he and a fellow officer entered appellant's premises to observe and did notice two patrons who appeared to have become intoxicated. They were asked to depart and the husband of the licensee was advised not to serve them. The apparently intoxicated patrons departed.

The officers remained in the premises whereupon the barmaid, later identified as Barbara Rivers, walked up and down behind the bar emitting foul and filthy language. The specific words were quoted by the officer in the transcript; no useful purpose would be served by their repitition in this report. Suffice to say that, upon hearing this language, the officer who was ten to twelve feet away when the language was spoken, approached the barmaid and informed her of the violation and demanded her name. To that request, she became insulting and walked away. The officers then advised the husband of the licensee of the violation and departed.

Officer Roger Kane corroborated the testimony of Officer VanKluyve, adding that the husband of the licensee, Albert Alvarez upon being apprised of the words used by the barmaid, stated that he would discharge her.

Albert Alvarez, husband of the licensee, testified that the barmaid worked only weekends. He related how the police came into the establishment and indicated that the barmaid "is very nasty, use bad language". In consequence of this allegation by the police, he agreed to discharge the barmaid, which he did at the conclusion of her work on the next day. He denied that he had heard the language which caused the complaint. It is noted that in the transcript of the testimony the language used by Alvarez is rudimentary, indicating some barrier in understanding and response.

There is no question that the use of foul language by a licensee or an employee of a licensee subjects the license to disciplinary action. S. Balish & Son v. Summit, Bulletin 1722, Item 3.

There is little or no conflict between the testimony of the officers and that of the husband of the licensee; hence no factual issue emerges. The penalty imposed, i.e., ten days, is less than the fifteen day suspension of license precedentially imposed in similar matters by this Division. Re Seely Enterprises, A Corp., Bulletin 2012, Item 4. Hence, appellant's contention that the suspension imposed is excessive or unduly harsh lacks merit.

It is, therefore, concluded that appellant has failed to meet the burden of establishing that the Board erred in its determination. Rule 6 of State Regulation No. 15. Accordingly, I recommend that the action of the Board be affirmed, the appeal be dismissed, the Director's order staying suspension be vacated, and that an order be entered reimposing the suspension.

Conclusions and Order

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

I have carefully examined and analyzed the arguments set forth in the exceptions and find that they have been either satisfactorily considered and resolved in the Hearer's Report or are lacking in merit. Additionally, it should be noted that the foul language used was considered in the context and circumstances surrounding its use. The evidence indicates that the subject language represented a continuous insult to a police officer, thus emphasizing the obscene purpose of the foul language. Thus I find that the penalty imposed was neither arbitrary nor excessive.

Consequently, having considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's Report, the exceptions and argument with respect thereto I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 28th day of June 1974,

ORDERED that the action of the respondent in finding appellant guilty of the charge herein be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that my Order of April 4, 1974 staying the suspension pending the determination of this appeal be and the same is hereby vacated; and it is further

ORDERED that any renewal that may be granted of Plenary Retail Consumption License C-199, by the Board of Alcoholic Beverage Control for the City of Paterson for the 1974-75 licensing period to Aurora Alvarez, t/a Club Charm Cocktail Lounge for premises 467 Union Avenue, Paterson be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. on Tuesday, July 9, 1974 and terminating at 3:00 a.m. on Friday, July 19, 1974.

JOSEPH H. LERNER
ACTING DIRECTOR

4. APPELLATE DECISIONS - HAGE v. SOUTH RIVER.

Harry Hage, Jr., t/a Turnpike Inn,

Appellant,

v.

Borough Council of the Borough of South River,

Respondent.

On Appeal

CONCLUSIONS and ORDER

A. Kenneth Weiner, Esq., Attorney for Appellant
Thomas F. Dominiecki, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from action of the Borough Council of the Borough of South River, (hereinafter Council) which, on March 29, 1974, found appellant guilty of violating Rules 1 and 16(c) of State Regulation No. 20. The appellant's license was suspended for ten days in consequence of the violation of Rule 1 and for three days resulting from the violation of Rule 16(c) of State Regulation No. 20. Rule 1 pertains to the sale of alcoholic beverages to a minor, and Rule 16(c) requires a licensee to keep a record of current employees on the licensed premises.

The suspension imposed by the Council was stayed by Order of the Director pending the determination of this appeal.

The appellant's petition of appeal contended that the Council acted contrary to the evidence presented, and that the penalty imposed was unduly harsh. The Council denied these contentions.

By stipulation of counsel, it was agreed that the appeal de novo in this Division would be based upon a transcript of the testimony of the proceedings held before the Council, which transcript was furnished to the Division pursuant to Rules 6 and 8 of State Regulation No. 15. Thus, no further evidence was presented and formal hearing consisted of oral argument by counsel for the parties.

A review of the record of the proceedings before the Council revealed that three witnesses testified in support of the charges; none was produced on behalf of the appellant.

Appearing on behalf of the Council, Police Officer Robert Barge testified that on June 16, 1973 about 1:50 a.m., while on routine duty, he observed two young men exit appellant's premises and depart therefrom in an automobile. The officer followed and eventually stopped that vehicle. He observed that on the rear seat of the said vehicle were two six-packs of beer. Both the driver and passenger, later identified as Robert Frankosky, were minors. Both responded to his inquiry as to where the purchase of the beer had been made by identifying appellant's premises. Both described the person who had served them as a barmaid whose name was Carol Bagan. Upon returning to appellant's premises, it was learned that the barmaid had since gone home.

The minor, Robert A. Frankosky, testified that on the date charged herein, he and his cousin visited appellant's premises and he ordered and received a glass of beer from the barmaid. He was neither asked nor did he offer proof of age. He was seventeen years of age at that time.

Police Officer Richard Fulman testified that he discussed with appellant an incident that took place in appellant's premises and learned that a bartender working on the evening of September 13, 1973 was not registered on the employment list that licensees are required to keep on the premises. The name of the bartender, given only as "Hank", did not appear on the form. No testimony was offered to indicate who Hank was or when he was observed to have worked in the appellant's premises.

The testimony of the minor and that of the police officer who apprehended him was uncontroverted. A sale to a minor in violation of Rule 1 of State Regulation No. 20 was thus established. The remaining question to be resolved is the contention that the penalty imposed, i.e., ten day suspension, was unduly harsh.

By admission, the minor was seventeen years old at the time of the sale. Present Division policy places upon a licensee violating this regulation by sale to a seventeen year old minor the burden of a twenty-five day suspension. This suspension is a minimum penalty imposed by the Division in disciplinary proceedings instituted by the Division. I, therefore, find that the ten day suspension imposed by the Council was neither unduly harsh nor severe.

With respect to the Council's finding of guilt of a charge that the licensee violated Rule 16(c) of State Regulation No. 20, the transcript sets forth the testimony of Police Lieutenant Richard Fulham. He stated that, in a conversation with the appellant he learned that an employee named "Hank" was not connected with

the appellant's premises long enough to have his name included on the proper employee form on which names of current employees are listed. Apparently, the officer had investigated the appellant's premises and learned of this employee, but failed to find the name listed on the employee register.

There was no supportive testimony by the Lieutenant indicating that he had observed some identified person employed by appellant and ascertained that such employee's name did not appear on the registry list; nor was there testimony at all from any source identifying the name and duration of the employment of such person. In the absence of any such testimony, it cannot be fairly concluded that the mere statement by appellant's agent, without supportive evidence represents proof by a preponderance of the credible evidence.

While there is no set formula for determining the quantum of evidence required, each case being governed by its own circumstances, the verdict must be supported by substantial evidence. Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super 501 (1956). In determining the factual complex herein, the guiding rule is that the finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence sec. 1042.

"In order for appellant to prevail in the instant matter it must appear that the evidence did not preponderate in support of the determination of the Board". Feldman v. Irvington, Bulletin 1969, Item 2.

Applying the above principles to the evidence presented before it, I find that the testimony of the witness for the Council was insufficient to justify the determination of the Council.

It is, accordingly, recommended that the appellant having failed to satisfy the requirement of Rule 6 of State Regulation No. 15, pertaining to the action of the Council in finding guilt based upon the violation of Rule 1 of State Regulation No. 20, that manifest error by the Council and that its action was clearly against the logic and effect of the presented facts, the action of the Council in imposing a ten day suspension of license be affirmed.

It is further recommended that the action of the Council in imposing a three day suspension of license in consequence of the alleged violation of Rule 16(c) of State Regulation No. 20 be reversed and the charge herein be dismissed.

It is, further, recommended that the penalty imposed by the Council, as modified by the above recommendation be re-imposed and the order of the Director staying the suspension pending the determination of this appeal be vacated.

Conclusions and Order

No exceptions to the Hearer's Report were filed within time as required by 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 3rd day of July 1974,

ORDERED that my Order dated April 1, 1974 staying the suspension heretofore imposed by respondent Council be and the same is hereby vacated; and it is further

ORDERED that the action of the respondent Council in finding appellant guilty of the charge alleging appellant violated Rule 16(c) of State Regulation No. 20 be and the same is hereby reversed, and that charge be and the same is hereby dismissed; and it is further

ORDERED that the action of respondent Council in finding appellant guilty of the charge alleging a violation of Rule 1 of State Regulation No. 20 be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that Plenary Retail Consumption License C-30, issued by the Borough Council of the Borough of South River to Harry Hage, Jr., t/a Turnpike Inn for premises 148 Turnpike Road, South River be and the same is hereby suspended for ten (10) days commencing at 2:00 a.m. Tuesday, July 16, 1974 and terminating 2:00 a.m. Friday, July 26, 1974.

Joseph H. Lerner
Acting Director

5. APPELLATE DECISIONS - EMERSONS LTD. OF CINNAMINSON, INC. v. CINNAMINSON.

Emersons Ltd. of Cinnaminson, Inc., Appellant,	)	On Appeal
v.	)	O R D E R
Township Committee of the Township of Cinnaminson, Respondent.	)	

Cahill, McCarthy, Bacsik and Hicks, Esqs., by Gordon C. Strauss, Esq., Attorneys for Appellant
Farrell, Eynon and Munyon, Esqs., by George Farrell, III, Esq., Attorneys for Respondent

BY THE DIRECTOR:

Appellant appeals from the alleged failure of respondent, Township Committee of the Township of Cinnaminson to act upon its application for renewal of its plenary retail consumption license for premises 506 Route 130, Cinnaminson Township, for the 1973-74 licensing period.

Prior to the hearing on appeal in this Division, appellant's attorney advised me, by letter dated July 18, 1974, that the respondent has renewed the said license and, therefore, requests that the appeal be dismissed.

Good cause appearing, I shall grant the request.

Accordingly, it is, on this 23rd day of July, 1974

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

Leonard D. Ronco
Director