

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 810

JULY 12, 1948.

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1. COURT DECISIONS - NEW JERSEY SUPREME COURT - AMBIRN REALTY CORPORATION AND MANSION HOUSE WINES & LIQUORS, INC. v. HOCK - WRIT OF CERTIORARI DISMISSED.

NEW JERSEY SUPREME COURT

No. 229, May Term, 1948.

AMBIRN REALTY CORPORATION, and)
MANSION HOUSE WINES & LIQUORS,)
INC.,)

Prosecutors,)

-vs-

ERWIN B. HOCK, Commissioner of)
the Department of Alcoholic)
Beverage Control of the State)
of New Jersey,)

Respondent.)

Argued May Term, 1948, decided

On certiorari.

Before Donges, Colie and Eastwood, J. J.

For Prosecutors, Tepper, Tepper & Verney.

For Respondent, Walter D. Van Riper, Attorney-General of
New Jersey, by Anthony Meyer, Jr., Deputy Attorney-General.

The opinion of the Court was delivered by

EASTWOOD, J.

A writ of certiorari was allowed prosecutors to review an order of the Commissioner of Alcoholic Beverage Control revoking plenary retail consumption license C-41 issued by the City Council of the City of Hackensack to S. Monte Smith for premises known as 52 Main Street, Hackensack and C-50 issued to Mansion House Wines & Liquors, Inc. in renewal thereof. Prosecutors were not parties to the proceedings resulting in the revocation of said license. Ambirn Realty Corporation was the owner of the premises covered by the revoked license and Mansion House Wines & Liquors, Inc. was the assignee of said license, transfer thereof having been approved subsequent to the filing of complaint against the holder thereof for violation of the Alcoholic Beverage Act. By virtue of the provisions of R. S. 33:1-31, said Licensee, S. Monte Smith, was necessarily the sole party to said proceedings. The conclusions and order of the Commissioner in revoking Smith's license have not been attacked by either prosecutor.

Prosecutors contend that the Commissioner's order should be set aside on the ground that they were entitled to notice of and should have been permitted to participate in the revocatory proceedings. Ambirn Realty Corporation argues that revocation of said license might render the licensed premises ineligible for any liquor license for two years thereafter, and that it thereby lost a valuable right. Mansion House Wines & Liquors, Inc. insist that it was deprived of its property without due process of law, alleging that it thereby became ineligible to hold or receive a license for two years following the revocation thereof in a proceeding to which it was not a party. We find no merit in the grounds advanced by prosecutors for a reversal of the Commissioner's order.

Item No. 48 on application dated April 12, 1947, made by Mansion House Wines & Liquors, Inc. to the City of Hackensack for transfer of said license to it, provides:

"48. The applicant agrees, if license is issued to abide by and comply with the provisions of R. S. Title 33, c. 1, and any rules and regulations promulgated heretofore and hereafter by the State Commissioner of Alcoholic Beverage Control pursuant thereto, and with provisions of all duly enacted municipal ordinances and resolutions."

Under rules promulgated by the Commissioner, disciplinary proceedings are not barred or abated by expiration, transfer, surrender, renewal or extension of the license; a license may be revoked notwithstanding the cause occurred prior to transfer or extension of the license or during the term of a predecessor in interest; and, where disciplinary proceedings are instituted and the license is transferred, extended or renewed during the pendency thereof, such proceedings may be carried through to conclusion and any order of suspension or revocation shall apply without further proceedings to the license so transferred, extended or renewed. It is interesting to note that said licensee, S. Monte Smith, has not sought a review of the order revoking his license. Said rules apply to the matter at issue here, as a consequence of which Mansion House Wines & Liquors, Inc. has no standing in law to justify its contest of said order of revocation.

Neither Ambirn Realty Corporation nor Mansion House Wines & Liquors, Inc. had any property right in the license revoked. The legal principle applicable here is so firmly established by the Courts of this State, it requires no extended discussion i.e., a liquor license is purely a personal privilege conferred upon the licensee; no other person is entitled to any interest therein; it does not create any property right in the licensee, and the rights of the licensee and his landlord are subordinate to the police power of the State. In the case at bar, under the ruling law of this State, neither prosecutor had any property right which was superior to the police power of the State, in the exercise of which, under said statute and rules, the Commissioner legally and justifiably revoked said license, notwithstanding prosecutors were not parties to said proceedings.

We find no merit in the contention of the parties that the revocation of said license made either the property of Ambirn Realty Corporation or Mansion House Wines & Liquors, Inc. ineligible to receive a license for a period of two years, as the ineligibility provision of the statute (R. S. 33:1-31) was, by the Commissioner's conclusions and order, made to apply to S. Monte Smith only, the holder of the license at the time of the alleged violation.

The order of the Commissioner is affirmed and the writ is dismissed with costs.

2. APPELLATE DECISIONS - KNAST and KRAUSE v. CAMDEN AND ESHNER.

MICHAEL KNAST and PETER KRAUSE,)
Appellants,)

-vs-

ON APPEAL
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
CAMDEN, and MORRIS ESHNER, trading)
as GIANT TIGER LIQUOR STORE,)
Respondents)

Benjamin J. Dzick, Esq., Attorney for Appellants.
Albert K. Plone, Esq., Attorney for Respondent Municipal Board of
Alcoholic Beverage Control.
Joseph Lipkin, Esq. and Carl Auerbach, Esq., Attorneys for
Respondent Morris Eshner.

BY THE COMMISSIONER:

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control of the City of Camden in granting a place-to-place transfer, from 1432 South Sixth Street to 1064 Kaighn Avenue, of a plenary retail distribution license held by the respondent Morris Eshner.

The appellants allege that the respondent Board erred because the transfer was (1) in violation of an ordinance of the City of Camden providing that no new "D" licenses be issued for premises within 1,000 feet of an existing "D" licensed premises; (2) not pursuant to the public need in the vicinity; (3) contrary to the economic interest of the appellants; (4) too close to a church and proposed high school; (5) not to a commercial neighborhood; (6) and (7) granted at a meeting the call and context of which was fraught with procedural error.

The evidence discloses that respondent Eshner originally obtained his license by transfer from one Gilbert Blom on November 18, 1946. The license was renewed for the then licensed premises for the current fiscal year as of July 1, 1947. Subsequently an application to transfer the license to 201 Broadway was denied by the respondent Board. On December 22, 1947, application for transfer of the license to 1064 Kaighn Avenue, now the basis of this appeal, was filed. Upon the filing of objections, hearings on the application were held -- one on January 27, 1948, at which time all three members of the Board were present and listened to objections and rebuttal. The hearing was adjourned at the request of objectors until January 29th. At the adjourned hearing only two members of the Board attended. Refused further adjournment (requested because of the lack of a full attendance by the Board members), the objectors offered no further testimony. On January 30, 1948, the two members who had been present at all the hearings, in the absence of the other member, granted the transfer unanimously. It appears that this action was legal and sufficient. Cf. Sandfort v. Atlantic City, 134 N.J.L. 311. It therefore would seem that there is no prejudicial error set out in reasons (6) and (7).

As to (1): I believe that we can dispose of the "distance between 'D' licensed premises", as raised herein, by pointing out that the ordinance provided in its pertinent part that "No new (Distribution) such licenses shall be issued for any premises within one thousand (1000) feet of any other Plenary Retail Distribution licensed premises." The matter involved in these proceedings is not the issuance of a

"new" license but rather the transfer of an existing license. Cf. New Jersey Licensed Beverage Ass'n v. Camden, Bulletin 215, Item 5.

As to (2) and (5): The south side of Kaighn Avenue in this block (between 10th Street and Mt. Ephraim Avenue) is developed for retail business, the buildings containing a store on the ground floor and living quarters on the second floor. It appears that they have been so occupied in the past and are now mostly so occupied. This block constitutes a neighborhood shopping center.

Objectors, some eight or ten of whom appeared, are all residents of side streets, some several blocks removed from the section. The weight to be given such objections is, in the first instance, for the determination of the local issuing authority. However, mere general objections of persons who reside on side residential streets are not sufficient to justify refusal of a transfer to premises which are located in a business neighborhood. Brummer v. North Arlington, Bulletin 426, Item 11. The nearest "D" license to the premises is on another street out of the shopping district and 700 or 800 feet away from this location.

As to (3): The fact that the transfer of the license may be contrary to the economic interest of appellants is not a sufficient reason for setting aside the transfer. The test to be applied is the welfare of the community.

As to (4): It is undisputed that the church is much more than 200 feet from the "new" premises. The church has not filed any objection to the license transfer. No school is presently within the proscribed distance, and the proposed school, if built, will be more than 200 feet from the licensed premises. There is no merit in reason (4).

One other point, not raised in the pleadings but submitted in the argument, raised the question of the personal qualification of respondent Eshner to receive and hold the license. It is alleged that he is not now and never has been a resident of the State as required by R.S. 33:1-25, nor a resident of the city as apparently required by local ordinance. It appears from the evidence given by his wife that respondent Eshner was, at the time of filing of his application for renewal, and now is a bona fide resident of New Jersey. Mr. Eshner is ill and I see no necessity for requiring him to present additional testimony. It is further noted that on May 27, 1948, the so-called "local resident" section of the ordinance relative to alcoholic beverage licensees was repealed. I am bound by the law as it appears at the time of my decision. Cf. Re DiSanti, Bulletin 636, Item 11.

For the reasons aforesaid, the decision of the respondent Board will be affirmed.

Accordingly, it is, on this 29th day of June, 1948,

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

ERWIN B. HOCK
Commissioner.

3. APPELLATE DECISIONS - VINCENT v. EGG HARBOR TOWNSHIP.

PHILIP VINCENT,)
Appellant,)

-vs-

TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF EGG HARBOR,)
Respondent)

ON APPEAL
CONCLUSIONS AND ORDER

John Rauffenbart, Esq., Attorney for Appellant.
Harry Souchal, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the denial of a transfer of a plenary retail distribution license from person-to-person and place-to-place by the Township Committee of the Township of Egg Harbor.

Egg Harbor Township is a rural municipality with an area of some 60 square miles, situated in the extreme southerly section of Atlantic County with a long frontage upon the lower reaches of the Great Egg Harbor River and Patcong Creek. Both these waterways are largely undeveloped and the area along them is largely salt marsh and scrub-land. The premises proposed to be licensed are in the extreme south-erly end of the township between the Mays Landing-Somers Point Road and the Patcong Creek. Appellant's land extends back to the Creek and he has heretofore conducted a fishing boat rental business thereon. The Mays Landing-Somers Point Road is an improved highway used by some through traffic as an alternate to the Black Horse Pike. The area adjoining the road, except that fronting it, is largely undeveloped.

Apparently there are very few homes (appellant says ten to fifteen within a half mile) within the immediate vicinity of the proposed premises and appellant says that he will be dependent upon the tran-sient trade, mostly motorists going to vacation spots along the shore. Actually, such persons, as well as those in the neighborhood, can be adequately served by the holder of a consumption license located across the road from appellant's premises. It is noted that on the same road there is, in an adjacent municipality, a "package goods" store one and a half miles from the proposed premises. In addition, there are many consumption licensed premises where those desiring "package goods" may purchase same without any difficulty.

There is some attempt to establish a need and convenience by the residents of the township by the testimony of two residents of the district. Their evidence, while tending to indicate that some folks in the vicinity might purchase their supplies from appellant, does not satisfy me that such purchases cannot now be made and in a manner totally satisfactory to the supposed customers.

The burden of proof in showing a public need to be met and a public convenience to be served is upon the party advancing such proposal. Spector v. Roselle, Bulletin 703, Item 1; Adelphi Witte Hotel Co. v. Wildwood, Bulletin 685, Item 10. This burden is not met by raising the question that some persons might prefer to patronize a "package store" rather than a tavern. There can be little if any merit in such a contention. Russ v. Logan, Bulletin 733, Item 10; Boody v. Gloucester, Bulletin 300, Item 11; Iacovone v. Gloucester, Bulletin 644, Item 4; Becker v. Fair Haven, Bulletin 713, Item 3.

The number of licenses which shall be permitted in any given sec-tion of a municipality is to be determined in the sound discretion of the local issuing authority. Hearty et al. v. Liberty et al., Bulletin 671, Item 5. Under all the circumstances in the instant case I cannot say that the respondent Township Committee has abused its discretion.

For the reasons above stated, the action of the respondent Township Committee will be affirmed.

Accordingly, it is, on this 29th day of June, 1948,

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

ERWIN B. HOCK
Commissioner.

4. APPELLATE DECISIONS - KOOS ET AL. v. OCEAN TOWNSHIP (MONMOUTH COUNTY) AND HARVEY.

CHARLES KOOS et al.,)
Appellants,)
-vs-)
TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF OCEAN (Monmouth)
County), and JOSEPH HARVEY,)
Respondents.)

ON APPEAL
CONCLUSIONS AND ORDER

James L. Handford, Esq., Attorney for Appellants.
Henry H. Patterson, Esq., Attorney for Respondent Township Committee.
Thomas D. Nary, Esq., Attorney for Respondent Joseph Harvey.

BY THE COMMISSIONER:

This is an appeal from the action of respondent Township Committee in granting to respondent, Joseph Harvey, a place-to-place transfer from premises on Green Grove Road to premises 601 Main Street, Loch Arbour, Ocean Township.

The principal reasons advanced by appellants are (a) Loch Arbour is predominantly residential in character; (b) there is no need or necessity for a licensed premises on the site in question; (c) the premises are unfit to be used for the purposes of a licensed premises; (d) the establishment of a licensed premises would create a moral hazard for the young folks using the facilities of the lake upon which the licensed premises borders, and (e) the establishment of a licensed premises on the proposed site would constitute a traffic hazard.

Application of respondent Joseph Harvey for the transfer of the plenary retail consumption license was unanimously approved by the members of the respondent Township Committee of Ocean Township. Although proof has been submitted that notice of application for the transfer of the license was duly published in the "Home News", a weekly newspaper published in Ocean Township, appellants' witnesses disclaim knowledge of the fact that a hearing was to be held before the local issuing authority in order that objectors could be heard. These witnesses claim that they do not subscribe to or read the "Home News" which is published in Oakhurst, a community situated in Ocean Township. Since in this appeal the entire matter was heard de novo, the objectors have been afforded full opportunity to present their testimony. Cf. Marsteller v. Somers Point and Hagenbucher, Bulletin 244, Item 7.

The testimony of appellants' witnesses was in agreement that, in so far as the residents of the Loch Arbour section of the township are concerned, there is no need for, or convenience to be served by, the establishment of a licensed premises at the place in question. However, the evidence indicates that respondent Harvey contemplates catering principally to transients. Several of the witnesses voiced the opinion that a traffic hazard would result in the vicinity of the proposed premises and the noise that might emanate therefrom would

constitute an annoyance to the residents in close proximity thereto. The nearest dwelling, according to the testimony of Seymour L. Guthorn, an engineer who prepared a sketch of the vicinity on behalf of appellants, is located 225 feet from Harvey's premises. It appears that none of the objectors resides within 350 feet of Harvey's premises.

Melvin Goddard, Chairman of the Township Committee, testified that he approved of the transfer of the license because there were no objections; the location is in a business area and suitable for a tavern, and the building containing the licensed premises was going to be improved. Committeeman Goddard also testified that in his opinion the licensed premises at the site in question would not create a traffic hazard. Chief of Police Frank Eisele, of Ocean Township, was of the same opinion as Committeeman Goddard in so far as traffic congestion is concerned.

Respondent Joseph Harvey testified that adequate improvements are being made to the building for which the license had been issued.

The proposed licensed premises are in an area actively devoted to business. The building is located on a county highway. Across the street on one corner there is a milk station, and on another corner of the intersection is an automobile laundry. Some short distance to the north, on Main Street, is a gasoline station and several large buildings operated by a utility company.

Residents of the dwellings in the residential section of Loch Arbour objected to the licensing of the premises because of fear of excessive noise and disturbance. In this regard, if the licensed business is properly conducted it should be no more objectionable than the other types of business now conducted on Main Street. General objections to the issuance of any license for premises located in a business neighborhood do not justify a refusal. See Bisante v. Camden, Bulletin 58, Item 10; DeChristie v. Gloucester, Bulletin 121, Item 10.

The allegation that the licensed premises would create a moral hazard for young folks using facilities of the nearby lake is mere conjecture. If the premises are conducted in a law-abiding manner, persons under twenty-one years of age would not be sold or served alcoholic beverages or be permitted to consume any alcoholic beverages on the licensed premises.

The question of public convenience and necessity as to whether a licensed premises should be permitted in a particular section of a community is a matter confided to the sound discretion of the issuing authority. The burden of showing that the issuing authority abused its discretion rests with the appellants. Segal et al. v. Clifton et al., Bulletin 732, Item 5.

The State Commissioner's function in appeals of this type is not to substitute his personal opinion for that of the issuing authority but, rather, to determine whether reasonable cause exists for its opinion and, if so, to affirm. Rafalowski v. Trenton, Bulletin 155, Item 8; Curry v. Margate City, Bulletin 460, Item 9; Ashton v. Hopewell et al., Bulletin 782, Item 11.

After a consideration of the evidence presented in the instant case, I cannot say that the action of the members of the Township Committee in approving the application of Joseph Harvey to transfer to the premises in question was so arbitrary and unreasonable as to constitute an abuse of discretion warranting a reversal of its action. Cf. Sullivan v. Ocean, Bulletin 38, Item 14.

The action of the Township Committee, therefore, in transferring the plenary retail consumption license from Green Grove Road to premises 601 Main Street, Loch Arbour, Ocean Township, is hereby affirmed.

Accordingly, it is, on this 30th day of June, 1948,

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

ERWIN B. HOCK
Commissioner.

5. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION
v. ELIZABETH AND PYKISH AND PARKER.

UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION,)

Appellant,)

-vs-)

ON APPEAL
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF ELIZABETH, and GEORGE PYKISH and JOHN PARKER, trading as VET'S PROGRESSIVE BEVERAGES,)

Respondents.)

Herman C. Silverstein, Esq., Attorney for Appellant.
Louis P. Longobardi, Esq., by Raymond A. Leahy, Esq., Attorney for Respondent Municipal Board of Alcoholic Beverage Control.
John L. McGuire, Esq., Attorney for Respondents Pykish and Parker.

BY THE COMMISSIONER:

This is an appeal from the granting of a plenary retail distribution license by respondent Municipal Board to respondents George Pykish and John Parker for premises 583 Morris Avenue, Elizabeth, covering the fiscal year ending June 30, 1947, and a renewal thereof for the fiscal year July 1, 1947 to June 30, 1948.

The "reasons" advanced in support of the petition of appeal are:

"1. There were more than sufficient licenses of this type and of consumption licenses to adequately service the public necessity and convenience of the residents of the City of Elizabeth.

"2. The application and data in the license application was not in good faith, and the license application was not executed in good faith.

"3. That the proceedings held by the municipality and the papers filed were not in accordance with the laws of the State of New Jersey, and the rules of the Department of Alcoholic Beverage Control and the ordinances of the City of Elizabeth.

"4. The license was issued contrary to law.

"5. The premises for which the license is sought is not fit and not in accordance with the law of the State and the ordinances and resolutions of the City of Elizabeth.

"6. There is no public necessity or convenience to be served by the issuance of the license.

"7. The application for this license is improper, incorrect and illegal.

"8. The premises indicated in the application and the license are not located on Morris Avenue, the address given but are in fact located upon a street known as Old Road."

This license was originally granted by respondent Municipal Board over the objection of appellant after a full and formal hearing on June 23, 1947. An application for renewal of the license for the year July 1, 1947 to June 30, 1948 was filed June 24, 1947. This application brought forth the same objectors. No hearing was held, but the matter was determined after the objectors filed a written stipulation stating that their objections and their testimony would be the same as that presented at the prior hearing, and asking the Board to consider the question upon that same testimony and argument. Thereafter, on June 27, the Board renewed the license, subject to a condition requiring the completion of the advertising of the "Notice of Intention". Such a "granting" is not illegal. Cf. Mossman v. Irvington et al., Bulletin 715, Item 1. On July 7, the Board again adopted a resolution stating "...this Board having considered all the testimony presented, concluded that the renewal of the license should be granted." At this time the advertising had been completed. While the "resolution" is possibly lacking in formality, it clearly expresses a confirmation of the former action of the Board. I can find no evidence of illegality in the application or the hearing held thereon. This would seem to dispose of reasons 3, 4 and 7.

As to the question of public convenience and necessity (reasons 1 and 6), the only testimony in this regard was that of a member of the appellant association who stated that he believed there were sufficient licenses presently existing in the City of Elizabeth. This witness further testified that he did not want any additional competition. It was stipulated that three other members of the appellant association would testify that they presently provided telephone and delivery service to anyone who wished it in Elizabeth. The licensed premises of all of the above four mentioned licensees are located some distance from the respondent licensee's premises.

Some twelve petitions of general protest against the granting of the license were filed with the local issuing authority and considered by it. These petitions, all apparently signed at the solicitation of members of appellant association, contain names from a wide area of Elizabeth. Respondents Pykish and Parker presented to respondent Municipal Board of Alcoholic Beverage Control one petition favoring their application. The petition contained some eighteen or twenty names, all apparently residents of the neighborhood in which the licensed premises are located. The weight to be given general petitions is for the determination of the local issuing authority. Looloian v. Greenwich et al., Bulletin 504, Item 6.

As to reason 8, the address of the premises: While there may be some slight question as to the official designation of the premises licensed, it appears that the address used in the application is the one by which the premises are known by all the local people and by the U. S. Post Office. It is the "address" used on all the petitions and apparently was not intended to nor did it mislead anyone.

As to the suitability of the premises (reason 5), the building licensed appears to be a one-story frame building in the rear of a dwelling house and was at one time used as a two-car garage. The record indicates that the respondents contemplated conducting primarily a delivery business rather than the generally accepted package store where customers are expected to visit the premises. A telephone has been installed to facilitate this type of business. The law does

not prohibit conducting business in this manner under a plenary retail distribution license or require necessarily that a "package store" be set up so long as the operations thereunder serve public convenience. Cf. Craig v. Orange, Bulletin 251, Item 4, where a mail order business was conducted in an office of a large office building.

The primary responsibility of determining whether the premises are suitable for a license rests with the local issuing authority. R. S. 33:1-24.

It does not appear that the premises in any way violate any local ordinance or regulation. I am not disposed to interfere with municipal findings as to suitability of premises unless it clearly appears that the premises are so unsuitable as to warrant a conclusion that said body abused its discretion. True, a plenary retail distribution license should only be issued under the circumstances outlined herein after the greatest circumspection. However, I cannot say on the record before me that the respondent Board abused its discretion in so far as the suitability of the premises is concerned.

There is no evidence of any other licensed premises within a circle having a radius of 1500 feet. The judgment of the respondent Board determining the number of liquor stores in a given municipality, or in a given area thereof, must be given considerable weight on appeals. South Jersey Retail Liquor Dealers Ass'n v. Burnett, 125 N.J.L. 105.

My function on appeals of this type is not to substitute my personal opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for its opinion and if so to affirm, irrespective of my personal opinion on the subject. Cf. Union County Retail Liquor Stores Association et al. v. Elizabeth et al., Bulletin 756, Item 5.

Appellant has failed to produce any substantial evidence to support reason 2. It has also failed to carry the burden of proof as to any of the other reasons set forth in the petition of appeal. State Regulations No. 15, Rule 6. The action below will be affirmed.

Accordingly, it is, on this 30th day of June, 1948,

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

ERWIN B. HOCK
Commissioner.

6. ACTIVITY REPORT FOR JUNE 1948

July 2, 1948

ARRESTS:

Total number of persons arrested - - - - - 28
 Licensees and employees - - - - - 3 Bootleggers - - - - - 25

SEIZURES:

Motor Vehicles - cars - - - - - 5
 - trucks - - - - - 1
 Stills - over 50 gallons - - - - - 1
 - 50 gallons or under - - - - - 2
 Mash - gallons - - - - - 340.00
 Distilled alcoholic beverages - gallons - - - - - 55.81
 Wine - gallons - - - - - 3.66
 Brewed malt alcoholic beverages - gallons - - - - - 12.08

RETAIL LICENSEES:

Premises inspected - - - - - 866
 Premises where alcoholic beverages were gauged - - - - - 824
 Bottles gauged - - - - - 14,174
 Premises where violations were found - - - - - 33
 Violations found - - - - - 37
 Type of violations found:
 Unqualified employees - - - - - 27 Other mercantile business - - - - - 1
 Probable fronts - - - - - 3 Regulations "38 sign not posted - - - - - 1
 Gambling devices - - - - - 1 Disposal permit necessary - - - - - 1
 Other violations - - - - - 3

STATE LICENSEES:

Premises inspected - - - - - 7
 License applications investigated - - - - - 551

COMPLAINTS:

Complaints assigned for investigation - - - - - 339
 Investigations completed - - - - - 322
 Investigations pending - - - - - 222

LABORATORY:

Analyses made - - - - - 130
 "Shake up" cases (alcohol, water and artificial color) - bottles - - - - - 7
 Liquor found to be not genuine as labeled - bottles - - - - - 21

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - - 46
 Persons fingerprinted for non-criminal purposes - - - - - 317
 Identification contacts made with other enforcement agencies - - - - - 279
 Motor vehicle identifications via N. J. State Police Teletype - - - - - 13

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - - 16
 Violations involved:
 Sale during prohibited hours - - - - - 6 Sale outside scope of license - - - - - 2
 Sale to minors - - - - - 5 Possessing chilled beer (CL licensee) 2
 Sale to non-members by clubs - - - - - 2 Permitting slot machines on premises 1
 Permitting brawls on premises - - - - - 2 Licensee working while drunk - - - - - 1
 Sale to intoxicated persons - - - - - 2
 Cases instituted at Department - - - - - 16
 Violations involved:
 Possessing illicit liquor - - - - - 5 Sale to unlicensed retailer - - - - - 1
 Sale during prohibited hours - - - - - 4 Sale to consumer by solicitor - - - - - 1
 Fraud and front - - - - - 3 Unlicensed storage - - - - - 1
 Sale to minors - - - - - 2 Unlicensed transportation - - - - - 1
 Permitting brawls on premises - - - - - 1 Aiding and abetting unlicensed
 Conducting business as a nuisance - - - - - 1 transportation - - - - - 1
 Sale under Fair Trade price - - - - - 1
 Sale to non-members by clubs - - - - - 1
 Cases brought by municipalities on own initiative and reported to Department - - - - - 4
 Violations involved:
 Sale to minors - - - - - 2
 Permitting brawls on premises - - - - - 1 Permitting gambling on premises
 Conducting business as a nuisance - - - - - 1 (Shuffleboard) - - - - - 1

HEARINGS HELD AT DEPARTMENT:

Appeals - - - - - 10 Tax revocation - - - - - 1
 Disciplinary proceedings - - - - - 22 Application for license - - - - - 1
 Eligibility - - - - - 10 Hearing on petition - - - - - 1
 Seizures - - - - - 3
 Total number of hearings held - - - - - 48

PERMITS ISSUED:

Total number of permits issued - - - - - 742
 Employment - - - - - 145 Social affairs - - - - - 404
 Solicitors - - - - - 67 Special wine - - - - - 4
 Disposal of alcoholic beverages - - - - - 72 Miscellaneous - - - - - 50

- 7. DISCIPLINARY PROCEEDINGS - SUSPENSION OF LICENSE FOR 45 DAYS, WITH LEAVE TO PETITION TO LIFT UPON CORRECTION OF ILLEGAL SITUATION - TRANSFER OF LICENSE GRANTED BY MUNICIPAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED UPON EXPIRATION OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)

THE ARCADE, INC.)
 5301-5305 Bergenline Avenue)
 West New York, N. J.,)

ON PETITION
 O R D E R

Holder of Plenary Retail Consumption License C-66 (for the 1947-48 fiscal year), issued by the Board of Commissioners of the Town of West New York.)
 -----)

Jesse Moskowitz, Esq., Attorney for Petitioner.

BY THE COMMISSIONER:

On May 17, 1948, I suspended defendant's License No. C-66 for the balance of its term, effective at 3:00 a.m. May 24, 1948, and provided therein that, if said license was renewed, it should continue under suspension until forty-five days have elapsed from the effective date of said suspension. See Bulletin 804, Item 2. In said order it was provided that, if the unlawful situation were corrected, a petition might be filed with me to lift the suspension of any renewal of the license.

Pursuant to said leave, Willnet Bar & Grill, Inc. has filed a petition herein, requesting that the suspension be lifted. The petition recites that on June 24, 1948 the Board of Commissioners of the Town of West New York granted a transfer of License C-66 from The Arcade, Inc. to petitioner Willnet Bar & Grill, Inc., and that on the same date said Board granted a renewal of said license for the fiscal year beginning July 1, 1948 to Willnet Bar & Grill, Inc., both of which actions were subject to the suspension imposed herein. The petition further recites that William Weiss, Nettie Weiss and Jesse Moskowitz are the sole stockholders of petitioner corporation, and that each of said individuals is fully qualified to hold a liquor license.

It appearing from the facts recited above that the unlawful situation has been corrected, and it further appearing that forty-five days from the time the suspension became effective will have expired at 3:00 a.m. July 8, 1948;

It is, on this 1st day of July, 1948,

ORDERED that the suspension of License C-66, as renewed for the 1948-49 fiscal year by the Board of Commissioners of the Town of West New York, be lifted at 3:00 a.m. July 8, 1948, and that thereafter the renewed license be restored to full force and operation.

ERWIN B. HOCK
 Commissioner.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

RAFFAELE GUARINO)
T/a RALPH'S BAR & GRILL)
134-138 Hudson Street)
Newark 4, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-77 for the 1947-48 and 1948-49 fiscal years; issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

-----)
Leo J. Berg, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that he possessed a 4/5 quart bottle of "Canadian Club Blended Canadian Whisky", which bottle contained an alcoholic beverage not genuine as labeled, in violation of R. S. 33:1-50.

On May 29, 1948, an ABC agent tested the contents of 25 open liquor bottles at the defendant's premises and seized the one in question. Upon chemical analysis, it was found that the contents of this bottle varied substantially in proof and color from a genuine sample of the same product.

Since no aggravating circumstances appear to have attended the violation and the defendant has no prior adjudicated record, the minimum fifteen-day penalty will be imposed. Re Rudolph, Bulletin 680, Item 1. Five days will be remitted for the plea, leaving a net suspension of ten days. Cf. Re Gelb, Bulletin 741, Item 8.

Although this proceeding was instituted during the 1947-48 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1948-49. State Regulations No. 16.

Accordingly, it is, on this 2nd day of July, 1948,

ORDERED that Plenary Retail Consumption License C-77, issued for the 1948-49 licensing year by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Raffaele Guarino, t/a Ralph's Bar & Grill, for premises 134-138 Hudson Street, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. July 6, 1948, and terminating at 2:00 a.m. July 16, 1948.

ERWIN B. HOCK
Commissioner.

	RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FOR THE FISCAL YEAR 1947-48				July 12, 1948	Total		
	1st Quarter July Aug. Sept.		2d Quarter Oct. Nov. Dec.		3d Quarter Jan. Feb. Mar.		4th Quarter Apr. May June	
ARRESTS:								
Total number of persons arrested	32		39		44		55	170
Licenses and employees	2		11		6		9	28
Bootleggers	30		28		37		46	141
ABC agent impersonator	-		-		1		-	1
SEIZURES:								
Motor vehicles - cars	2		5		2		7	16
- Trucks	1		-		-		1	2
Still - over 50 gallons	3		1		-		3	7
- 50 gallons or under	3		1		5		4	13
Alcohol - gallons	71.45		304.50		640.27		-	1,046.22
Mash - gallons	2,800.00		-		400.00		491.00	3,691.00
Distilled alcoholic beverages - gallons	4.40		26.47		23.22		66.19	120.28
wine - gallons	255.00		417.37		714.21		526.44	1,913.02
Brewed malt alcoholic beverages - gals.	67.93		284.10		72.49		56.65	481.17
RETAIL LICENSEES:								
Premises inspected	2,509		2,707		2,242		2,472	9,930
Premises where alcoholic beverages were gauged	1,799		2,023		2,169		2,344	8,335
Bottles gauged	29,481		32,213		34,734		39,360	135,788
Premises where violations found	232		139		104		128	603
Violations found	306		259		137		170	872
<u>Type of violations found:</u>								
Unqualified employees	58		66		45		94	263
Regs. #58 sign not posted	50		20		19		3	185
Gambling devices	44		3		18		7	92
Probable fronts	20		10		12		9	72
Disposal permit necessary	13		7		12		10	51
Improper beer taps	23		7		1		3	42
Other mercantile business	4		5		3		11	34
Prohibited signs	8		7		3		5	23
Price pamphlet not displayed	2		-		-		1	23
Other violations	19		13		24		27	3
STATE LICENSEES:								
Premises inspected	5		17		46		34	102
License applications investigated	59		40		44		805	912
COMPLAINTS:								
Complaints assigned for investigation	951		821		919		1,103	3,794
Investigations completed	961		887		959		1,065	3,872
Investigations pending	-		-		-		222	222
LABORATORY:								
Analyses made	312		359		347		375	1,393
"Shake-up" cases (alcohol, water and artificial color) - bottles	20		23		12		27	82
Liquor found to be not genuine as labeled - bottles	40		84		66		46	236
IDENTIFICATION BUREAU:								
Criminal fingerprint identifications made	33		45		47		100	225
Persons fingerprinted for non-criminal purposes	787		555		564		729	2,635
Identification contacts made with other enforcement agencies	767		538		527		714	2,546
Motor vehicle identifications via N.J. State Police Teletype	21		20		37		62	140
DISCIPLINARY PROCEEDINGS:								
Cases transmitted to municipalities	44		49		28		55	176
<u>Violations involved:</u>								
Sale during prohibited hours	12		20		11		23	66
Sale to minors	10		9		6		16	41
Mislabeled beer taps	12		4		2		-	18
Permitting bookmaking on premises	3		9		1		4	17
Permitting brews on premises	3		1		4		5	13
Sale to intoxicated persons	1		2		1		2	6
Sale to non-members by clubs	-		1		1		4	6
Possessing chilled beer (DL licensee)	2		-		1		2	5
Unqualified employees	4		-		1		-	5
Sale outside scope of license	2		-		-		-	2
Permitting gambling (numbers)	1		-		2		-	3
Permitting slot machines on premises	-		2		-		1	3
Permitting hostesses on premises	1		1		-		-	2
Permitting immoral activity	2		-		-		-	2
Possessing contraceptives on premises	-		-		1		1	2
Sale on Election Day	-		1		-		1	2
Licensee working while drunk	-		-		1		1	2
Conducting business as a nuisance	1		-		-		-	1
Hindering investigation	-		1		-		-	1
Noise	1		-		-		-	1
Permitting females to tend bar	-		-		-		2	2
Permitting gambling (dice)	-		1		-		-	1
Permitting prostitutes on premises	-		1		-		-	1
Permitting punchboards on premises	-		1		-		-	1

DISCIPLINARY PROCEEDINGS (Cont'd)	1st Quarter			2d Quarter			3d Quarter			4th Quarter			Total
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	
Cases instituted at Department	41			49			43			52			185
<u>Violations involved:</u>													
Fraud and front	9*			18**			7			9			43
Possessing illicit liquor	8			11			9			12			40
Sale to minors	2			7			4			12			25
Sale during prohibited hours	8			3			2			6			21
Sale under Fair Trade price	3			2			7			4			16
Permitting immoral activity on premises	3			2			4			5			14
Conducting business as a nuisance	2			1			1			5			9
Sale to non-members by clubs	2			2			3			2			9
Unqualified employees	2			2***			1			2			7
Permitting pin ball machines on premises	4			1			2			-			7
Sale outside scope of license	4			-			3			-			7
Permitting slot machines on premises	1			1			-			4			6
Sale to intoxicated persons	-			1			1			4			6
Furthering illegal activity	2			-			2			-			4
Hindering investigation	1			1			1			1			4
Permitting bookmaking on premises	1			1			1			1			4
Permitting hostesses on premises	1			2			1			-			4
Serving women at the bar	1			1			1			-			3
Failure to afford view into premises during prohibited hours	1			-			1			-			2
Failure to file notice of change in application	1			-			-			1			2
Licensee working while drunk	1			-			-			1			2
Mislabeled beer taps	-			-			1			1			2
Permitting brawls on premises	-			-			-			2			2
Permitting prostitutes on premises	2			-			-			-			2
Storage off licensed premises	-			-			1			1			2
Aiding and abetting unlicensed transportation	-			-			-			1			1
Employment of solicitor by retailer	-			-			1			-			1
Failure to file notice of retailer's default	1			-			-			-			1
Gambling devices	1			-			-			-			1
Permitting female impersonators	-			1			-			-			1
Permitting lottery activity (punchboard)	1			-			-			-			1
Possessing contraceptives on premises	-			-			-			1			1
Purchase from improper source	-			-			1			-			1
Sale at discount	-			-			1			-			1
Sale to consumer by solicitor	-			-			-			1			1
Sale to retailer in default	1			-			-			-			1
Sale to unlicensed retailer	-			-			-			1			1
Serving beverages other than ordered	1			-			-			-			1
Unlicensed transportation	-			-			-			1			1
*3 cases also involved cancellation proceedings													
**1 case also involved cancellation proceedings													
***1 case includes proceedings to cancel employment permit													
Cases brought by municipalities and reported	9			14			23			16			62
<u>Violations involved:</u>													
Sale to minors	5			5			13			7			30
Sale during prohibited hours	1			1			7			3			12
Permitting brawls on premises	1			4			1			4			10
Failure to afford view into premises during prohibited hours	-			-			1			-			1
Sale to intoxicated persons	-			3			1			2			6
Permitting bookmaking on premises	1			-			-			1			2
Conducting business as a nuisance	-			-			-			1			1
Hindering investigation	-			1			-			-			1
Licensee working while drunk	-			1			-			-			1
Permitting persons of ill repute	-			-			1			-			1
Serving women at the bar	-			1			-			-			1
Violation of special condition	1			-			-			-			1
CANCELLATION PROCEEDINGS instituted at Dept.	1			1			-			2			4
<u>Violations involved:</u>													
Issuance in violation of state Limitation Law	1			-			-			1			2
Issuance in excess of quota and state Limitation Law	-			1			-			-			1
Club licensee lacking requisite possession of quarters	-			-			-			1			1
HEARINGS HELD AT DEPARTMENT:													
Total number of hearings held	129			112			88			121			450
Appeals	55			21			9			16			101
Disciplinary proceedings	38			54			42			58			192
Eligibility	17			20			14			23			74
Seizures	10			15			10			13			48
Application for license	9			-			4			4			17
Tax revocation	-			2			7			6			15
Hearings on petition	-			-			2			1			3

	1st Quarter			2d Quarter			3d Quarter			4th Quarter			Total
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	
PERMITS ISSUED:													
Total number of permist issued			7,677			4,113			2,426			2,558	16,774
Employment			2,158			319			292			411	3,180
Solicitors'			3,034			392			468			390	4,284
Social affairs			1,208			1,105			868			1,175	4,356
Disposal of alcoholic beverages			392			497			529			339	1,757
Special wine			104			1,533			37			4	1,678
Miscellaneous			781			267			232			50	1,330

ERWIN B. HOCK, COMMISSIONER

10. STATE LICENSES - NEW APPLICATIONS FILED.

Central New York Freightways, Inc.
106 Fiske St.
Jersey City, N. J.

Application for Transportation License filed 7/1/48.

Penn Ice and Coal Co., Inc.
118-128 W. Spruce Ave.; 121-129 W. Walnut Ave.
North Wildwood, N. J.

Application filed July 1, 1948 for transfer of Public Warehouse License X-6 from Charles, Frank, John and Rocco Magolda, t/a Penn Ice and Coal Company.

Clarence R. Miller
T/a Beverage Transportation Company
1431 Monroe St.
York, Pa.

Application filed July 12, 1948 for Transportation License.

Erwin B. Hock

Commissioner.