

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

September 24, 1968

BULLETIN 1815

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STATE OF NEW JERSEY
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BULLETIN 1815

September 24, 1968

1. APPELLATE DECISIONS - LYONS FARMS TAVERN, INC. v. NEWARK.

LYONS FARMS TAVERN, INC.,)

Appellant,)

v.)

ON APPEAL
SUPPLEMENTAL
CONCLUSIONS
AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)

Respondent.)

Rocco F. Senna, Esq., Attorney for Appellant
Philip E. Gordon, Esq., by Louis A. Vespasiano, Esq., Attorney
for Respondent
Cummis, Kent & Radin, Esqs., by David Samson, Esq., Attorneys
for Objector Newark Beth Israel Hospital

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Conclusions and Order in the within case were entered by former Director Lordi on December 18, 1967. It appears therein that the action of respondent in denying the application to transfer appellant's plenary retail consumption license to include as part of its licensed premises the addition thereto, when completed in accordance with the plans submitted, was reversed on appeal to the Director. Lyons Farms Tavern, Inc. v. Newark, Bulletin 1777, Item 2.

Subsequently Newark Beth Israel Hospital, on whose behalf an objection was made before respondent, advised that it had no notice of the appeal hearing held on August 3, 1967, at this Division. Although the period for an appeal to the Superior Court of New Jersey (Appellate Division) had elapsed, the Director allowed the hearing to be reopened to afford an opportunity for the hospital to present testimony in opposition to the extension of appellant's licensed premises.

Murray Aboff testified that his objections to the transfer were that, by enlargement of the premises, he was of the opinion that trouble would arise. Moreover, Mr. Aboff said that at the present time there are several signs on the outside of the licensed premises which give the appearance of "a honky-tonk" area. On cross examination Mr. Aboff was asked his opinion concerning the operation of appellant's premises and he stated, "From what I saw on the outside in the last eight or ten months, I saw no trouble" and that the tavern closes "comparatively early in the evening, by midnight, I believe, maybe eleven-thirty." Moreover, Aboff said he discussed the matter with "Captain Steinberg" who pointed out that it (appellant's place of business) was "relatively clean."

Isaac Thomas, Jr. testified that he is "chairman of the Clinton Place Block Association;" that he resides "about two blocks" from appellant's licensed premises; that in his opinion an extension in the size of the premises "would warrant other extensions of taverns also in the area;" that "we don't want taverns." On cross examination Thomas said that, because the members are working people, he was the only member of the association to appear at the instant hearing; that he never observed any disturbance at appellant's establishment and had no knowledge of the time it closes. Moreover, Thomas stated that he has no complaint with the manner in which this appellant's tavern has been operated but fears that, if appellant is permitted to enlarge the building, it would operate differently.

Stephen Minatee testified he is the founder of the Renner Avenue Civic Association and lives three blocks distant from the appellant's premises; that, if the application for extension of the licensed premises is approved, the neighborhood will gradually deteriorate so as to become detrimental to his and other properties in the area. On cross examination Minatee stated he was the only member of the association present, and that he has no knowledge concerning the operation of appellant's establishment.

Maurice Bernardik testified that for nine months he has been director of public relations at Newark Beth Israel Hospital. Mr. Bernardik testified that "there is no question in my mind based on the research I have done and, No. 2, on the basis of experience with the New York State Division of Housing that both the extension or steps to increase the number of bars in an area will undoubtedly make problems and alter the neighborhood, which is still a middle-class neighborhood." Moreover, Mr. Bernardik said that the hospital has already invested a large amount of money in the present buildings and is planning to expend a larger sum in the future for the operation of the hospital. Furthermore, he stated that the "Essex Community College is taking over the school of nursing at the hospital" which will result in youngsters coming in during the day and evening. On cross examination Mr. Bernardik testified that there are six stores situated between appellant's licensed premises and the hospital; also, on the other side of Lyons Avenue there are additional stores. He further stated that he had occasion to observe the parking facilities provided by appellant and he is of the opinion that at present there is sufficient available parking space. Mr. Bernardik also stated that he knew of no trouble involving appellant's premises and, "as far as my observations from the outside, it is a well-kept and well-run establishment; no question about it." Moreover, he said that at the time of the hearing before respondent there were no plans for the new nurses' school.

Sol Parent testified that he is a physician and full-time director of medical education at the hospital, and the objection of the hospital is its difficulty to obtain interns because of their reluctance to live in the neighborhood. Dr. Parent says they are fearful for the safety of their wives when shopping and for their children who might attend the schools in the area. Dr. Parent stated that, although liquor establishments were not specifically mentioned, it was his opinion that liquor

outlets in the area had been taken into consideration by the young doctors.

Jacqueline Posner, administrative pediatric supervisor at the hospital, testified that in September 1968 classes will begin for a two-year course of nursing at the hospital; starting with two hundred students; that many of the students will use public transportation, whereas some will use their cars which will involve a parking problem; that many of the female personnel employed at the hospital would agree to work overtime but are afraid to leave the hospital after dark. Furthermore, Mrs. Posner stated that, although the students are prohibited from patronizing appellant's tavern, it is her opinion that, if there is an expansion in appellant's liquor facilities, it will add to the fear and concern of the hospital personnel. On cross examination Mrs. Posner said that, to her knowledge, there has never been any incident involving the nurses as a result of appellant's operation of its business.

Rabbi Herman L. Kahan testified that he is associated with Torah Chaim Jewish Center which is located on Schley Street, seven blocks distant from the appellant's premises; that the synagogue now on Lyons Avenue and Maple Avenue will be removed and a public school is to be erected; that some of those children will also attend Hebrew school on Schley Street between the hours of 4 p.m. to 7:30 at night; that the traffic at the corner where appellant's premises are located is very heavy. On cross examination Rabbi Kahan said he has no knowledge concerning the operation of appellant's place of business other than a few incidents happening some time ago pertaining to parking on the street.

Phyllis Hamilton testified that she lives on Irving Avenue north of appellant's licensed premises, and in the past has experienced trouble with garbage on appellant's property adjacent to her back yard. She said that, although she caused a fence to be erected, there is still a garbage situation! Mrs. Hamilton further stated that she has heard no disturbances or noise from the licensed premises; that Alex Neu, an officer of the appellant, is friendly to her and that she patronizes appellant's establishment. Mrs. Hamilton said that she has seen "quite a few" cars parked in the parking lot but it has never been "full."

Oscar Kline testified that he is the rabbi of a synagogue on Chancellor Avenue, located five blocks from appellant's licensed premises and that the said premises have had a liquor license since 1898. Rabbi Kline further stated that the appellant "is entitled to make a living. But we are not interested in extension because it certainly will not help the neighborhood, and this is my objection." Moreover, Rabbi Kline stated that, "as far as I am concerned, I am against Lyons Farms Tavern. I am against any expansion of whatsoever of any tavern in the area, and not only I but the clergy of all faiths, regardless of race, color, or creed. We have been faced with this problem. We have had to suffer along with these problems, and we will not go along with any expansions whatsoever." He further said, "These gentlemen may be wonderful business people, they may control their customers, but on the whole the clergy are not interested in increasing the business of taverns."

Maurice Berlinrut testified that he is first vice

president of the weequanic Community Council and resides "about two and one-half or three blocks" from appellant's place of business. Mr. Berlinrut further said that he is opposed to the new extension of appellant's licensed premises because "it doesn't do us any good to keep new taverns from coming in when old ones are allowed to build extensions." He further said that "we are not overly impressed that the tavern has a good record. We only know one thing: Whiskey is the root of much evil. In a changing community it brings all kind of problems; slums, crime, lawlessness, and degradation."

Marvin Mann, an objector, testified that for seventeen years he has lived "approximately fifty feet away from Lyons Tavern;" that, if the extension is approved, "it would cause an unconscionable amount of damage and injury to the owners of my property, it would cause my house to decrease in value, and make it almost impossible in the future for resale value." Mr. Mann further stated that, although it was agreed by Mr. Neu that a large sign on which the word "Liquors" appeared would be removed, the promise had never been fulfilled. He presented various photographs which he had taken the day previous to the present hearing (marked in evidence without objection) showing his own home and the signs attached to and located near appellant's licensed premises advertising the sale of beer and liquor. Mr. Mann further testified the signs make the area appear like "Coney Island or some honky-tonk district." Moreover, Mr. Mann stated he is aware that during the past few months appellant closes the premises at "nine or ten o'clock;" that he (Mann) believes "once the decision is made", the tavern "will stay open to late in the morning, with a tremendous amount of noise, disturbances, and what not in a few months."

Alex Neu, secretary and treasurer of appellant, testified that the parking facilities at appellant's premises will provide parking space for twenty or twenty-four cars and thus will be more than adequate to accommodate any increase in business which may occur. He also said that, if the extension to the premises is granted, the bar will be relocated but there will be no increase in the number of stools which presently exist. Also, that, if the addition is approved, anything that is objectionable will be altered or removed.

The municipality wherein a liquor license is located has original power to pass on an application for transfer. However, its action is subject to appeal to the Director of the Division of Alcoholic Beverage Control. On such appeal the Director conducts a de novo hearing and makes the necessary factual and legal determinations on the record before him. Hightstown v. Hedy's Bar, 86 N.J. Super. 561; Fanwood v. Rocco, 33 N.J. 404. I might reiterate what was said in Bivona v. Hock, 5 N.J. Super. 816, reprinted in Bulletin 860, Item 1, by the court with reference to the place-to-place transfer of a plenary retail consumption license to larger premises located across the street from its then location -- that an objection that the new premises would be more attractive for business could not be accepted as a reason for denying a transfer of the license in the immediate area where it formerly existed. In the case herein, the application by the appellant is merely to enlarge its present licensed premises. It will in no way increase the number of licenses which presently exist in the area. Where similar applications to extend premises such as is now under consideration

were denied by the local issuing authorities, its action has been reversed by the Director.

It is understandable that apprehension may exist for the welfare of hospital personnel. However, if the premises are conducted in a law-abiding manner (and it must be assumed that such will be the case), neither children nor persons employed or residing in the area have anything to fear. However, if the licensed premises are operated in violation of the Alcoholic Beverage Law or municipal ordinances pertaining thereto, appellant will subject its license to suspension or revocation. It is particularly significant that, of the various witnesses who testified, there was only one who objected to the manner in which appellant's premises have been operated. The objectors who had knowledge of appellant's place of business testified that it was operated in a proper manner and that for several months appellant has closed its establishment early in the evening.

There is one matter which bears discussion, that being the objectionable sign or signs that are now displayed at or near the appellant's licensed premises. At the previous hearing Alex Neu (an officer of appellant corporation) agreed to remove the sign that seemed to be most objectionable to persons who reside in the area. This had not been done to the date of the instant hearing. I might suggest that appellant cooperate with the neighbors and remove any objectionable signs which might be detrimental to the appearance of the neighborhood.

I am satisfied, after taking into consideration the evidence produced at this supplemental hearing, that it is insufficient to deny appellant an opportunity to extend the premises in accordance with the application filed in this matter. Therefore I conclude that the action of the respondent in denying the appellant's application for the place-to-place transfer was unreasonable, arbitrary and an abuse of discretion. I therefore again recommend that its action be reversed and that the previous Conclusions and Order herein be reaffirmed.

Supplemental 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, including the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 8th day of August, 1968,

ORDERED that the action of respondent be and the same is hereby reversed; and it is further

ORDERED that respondent transfer appellant's license to include as part of its licensed premises the addition thereto when completed in accordance with the plans submitted with appellant's application.

Joseph M. Keegan
Director

2. APPELLATE DECISIONS - ROWEIT LIQUORS, INC. V. LAKEWOOD.

Roweit Liquors, Inc., t/a)
East Fourth Street Bar,)
Appellant,)
v.)

On Appeal

CONCLUSIONS and ORDER

Township Committee of the)
Township of Lakewood,)
Respondent.)
-----)

Giordano, Giordano & Halleran, Esqs., by Raymond H. Leahy,
Esq., Attorneys for Appellant
James P. Jeck, Esq., Attorney for Respondent
Novins and Novins, Esqs., by Michael E. Levin, Esq.,
Attorneys for Objectors

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This appeal addresses itself to the action of the respondent Township Committee of the Township of Lakewood (hereinafter Committee) which on February 21, 1968, denied the application of Roweit Liquors, Inc. for the transfer of its plenary retail consumption license from premises 143 East Fourth Street to premises to be constructed at the north side of Kennedy Boulevard adjacent to the east side of existing Shop-Rite Foodarama in Lakewood.

The Committee's determination was made at a meeting on February 21, 1968, after a public hearing held on February 13, 1968. The resolution sets forth in its pertinent part as follows:

"WHEREAS, at said meeting prior to the vote on said resolution, the following reasons for their vote were given by the respective committeemen:

"Mr. D'zio and Mr. Carr voted affirmative for the transfer stating generally that the Shoprite Foodarama would be a proper location for the transfer, that there were no indicated problems and that the present location of the licensed premises was one where great objection and numerous problems have occurred due to overcrowded conditions and licensed premises in too close proximity.

"Mr. Franklin and Mr. Bartolf stated generally that they voted against the transfer because no sufficient need or necessity was shown as there were two package stores and one tavern in the immediate area in Lakewood and two consumption licenses only a few hundred yards away in neighboring Howell Township, additionally the Shoprite Foodarama location was a family store frequented by many women and children and not a good location for a

plenary retail consumption license even for limited consumption as shown in the application, considering the availability of numerous better locations in the Township.

"NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lakewood in the County of Ocean, 'the other issuing authority' that the application of Roweit Liquors Inc., as above set forth for place to place transfer be denied because of the failure of a majority of the members of said Township Committee to vote an approval of the granting of said transfer."

In its petition of appeal appellant alleges that the action of the Committee was erroneous and an abuse of its discretion for reasons which may be briefly summarized as follows: (a) its action was not based upon the "economic facts in the record below" and also contrary to the public interest because this area has "grown into the retail commercial center of the Township of Lakewood;" (b) the motive in denying said application was the protection of existing licenses; (c) the proposed facilities would be an improvement over the facilities in which the license is presently being operated by the appellant; (d) the Committee did not take into consideration public convenience and necessity.

The answer of the Committee denies the substantive allegations of the petition and sets forth that its action was lawful and reasonable because (a) property owners in the vicinity objected to the transfer, (b) no such need or necessity was shown by the appellant, (c) that there are presently two plenary retail distribution licensees and two plenary retail consumption licensees located within a distance of "a few hundred yards or less" from the proposed premises, (d) that the proposed location is in a Shop-Rite Foodarama "which is a family store frequented by many women and children" and therefore not a good location for this type of license, (e) there are numerous better locations available for the proposed transfer.

An answer was also filed on behalf of objectors which substantially supports the reasons advanced in the answer of the Committee.

This appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity for the parties herein to present evidence and to cross-examine witnesses. The transcript of the proceedings below was admitted into evidence by stipulation of counsel.

At the appeal hearing Roweit produced Edward D. Berger (a realtor) who testified that in his opinion the license is presently located in a "depressed area" and that there are four or five other licensees within the immediate area. He felt that the transfer of this license to the proposed shopping center would be more advantageous to the community because the said site is in a "more dynamic and better type of area." He explained that there is a site located on the west side of Route 9 which is being planned

as a shopping center, although no construction has taken place on that side. On cross examination he added that the closest plenary retail consumption license is at least one-quarter of a mile from the present licensed premises. He also agreed that, at least at the present time, the present location of the licensed premises is in downtown Lakewood which is the physical heart of the Lakewood shopping area. Furthermore, Route 9 (a heavily trafficked highway) intersects the site of the proposed shopping center located on its westerly side from the present Shop-Rite Foodarama which is located on its easterly side. Village Liquors (a package liquor store) is located directly across the street from the proposed site, and another package liquor store (Lloyd's Liquors) is located on the same side, adjacent and contiguous to the Shop-Rite property. In addition, there are two plenary retail consumption licenses located within a short distance from the proposed site; also the shopping center is only about two thousand feet from other retail licensed establishments located in adjacent Howell Township. Finally, this witness admitted that it would be more reasonable and, indeed, "a good logical alternate location" for a license to be transferred to the site of the proposed shopping center on the west side of Route 9 if and when that site is finally developed.

John J. Franklin (a member of the respondent Committee), called on behalf of the Committee, set forth substantially the same reasons as were reflected in the aforementioned resolution for voting against the application for transfer. He "didn't feel that a bar belonged in that area and/or the package store at this time. There is nothing that showed me that we needed anything more in this area. I feel that the present stores are handling the job adequately."

Several witnesses testified on behalf of the objectors to the effect that they found no difficulty in making purchases at the present licensed premises in the immediate area of the shopping center, and they felt there is no need or necessity for any additional liquor licenses in that area. Both liquor licensees who are operating in that area testified that they have adequate facilities for meeting the needs of the residents, that there are adequate parking facilities, and that the present needs of the residents in that area are adequately served by the available facilities. It was pointed out that the proposed site would be in a building to be constructed which would be directly adjacent to the existing Shop-Rite Foodarama but would have its own entrance. It was also explained that at the present time the site which was indicated as the proposed site for the shopping center is swampy land and is being filled in with sand. There is no evidence that any substantial construction is going on at the present time.

In order for the appellant to succeed in this appeal it is necessary to present proof that the Committee abused its discretion in denying the application for the transfer. The proof must show further that there was manifest error on the part of the Committee. Nordco, Inc. v. State, 43 N.J. Super. 277 (App.Div. 1957); Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App.Div. 1955). It has been consistently ruled that the transfer of a liquor license is not an inherent or automatic right. The issuing authority may grant or deny a transfer in the exercise of reasonable discretion.

If denied on reasonable grounds, such action will be affirmed. Gentes v. Middletown, Bulletin 1327, Item 1; Biscamp v. Teaneck, 5 N.J. Super. 172 (App. Div. 1949). Or, to put it in another way: The question to be posed is -- could reasonable men, acting reasonably, have arrived at the determination being attacked? If the answer is in the affirmative, the Director should not reverse. Discretion must be based on right judgment, governed by reason fair and suitable in the circumstances. 75 C.J.S. 634, and cases therein cited. What is reasonable must, of course, be determined according to the context and circumstances in each particular case. As the court pointed out in Blanck v. Magnolia, 38 N.J. 484, 491:

"The test in the establishment and issuance of liquor licenses is whether the public good requires it."

Thus, unless it can be established that the action of the Committee was "clearly against the logic and effect of the presented facts", the Director must affirm. Hudson Bergen County Retail Liquor Stores Ass'n, Inc. v. Board of Com'rs. of City of Hoboken, 135 N.J.L. 502, at 511.

Further, the rationale for giving considerable weight to the determination of the issuing authority is well stated in Ward v. Scott, 16 N.J. 16 (a Supreme Court decision of an appeal from a zoning ordinance), which is cited in Fanwood v. Rocco, 59 N.J. Super. 306, at p. 322, as follows:

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

In the Fanwood case the court further stated, at p. 321:

"The legislature has entrusted to the municipal issuing authority the right and charged it with the duty to issue licenses (R.S. 33:1-24) and place-to-place transfer thereof '[O]n application made therefor setting forth the same matters and things with reference to the premises to which a transfer of license is sought as are required to be set forth in connection with an original application for license, as to said premises.' N.J.S.A. 33:1-26. As we have seen, and as respondent admits, the action of the local board may not be reversed by the Director unless he finds 'the act of the board was clearly against the logic and effect of the presented facts.' Hudson Bergen County Retail Liquor Stores Ass'n, Inc. v. Board of Com'rs. of City of Hoboken, supra, 135 N.J.L., at page 511."

As Mr. Justice Jacobs pointed out in Fanwood v. Rocco, 33 N.J. 404, 414:

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

See Common Council of Hightstown v. Hedy's Bar, 86 N.J. Super. 561 (App. Div. 1965).

My evaluation of the testimony satisfies me that the Committee acted circumspectly and quite logically in denying this application. It is quite clear that the immediate vicinity of the proposed site has adequate liquor facilities. The proofs establish that there are two plenary retail distribution licenses in the immediate area of the proposed transfer site, one tavern and five other plenary retail consumption licenses located within less than a half-mile of the proposed site. Thus this situation is substantially distinguishable from the factual context in Township Committee of Lakewood Township v. Brandt, 38 N.J. Super. 462, 466 (App. Div. 1955), cited by the appellant. In that case the nearest liquor facility was two-tenths of a mile away from the proposed transfer site, and the second nearest tavern was about 2.5 miles away. The argument that another liquor store and tavern should be located contiguous to the Shop-Rite Foodarama, when there is a package liquor store directly across the street and another adjacent to that, overwhelms reason.

Furthermore, there is considerable force to the resistance of the Committee to another liquor license because it conceives that the Shop-Rite Foodarama is a "family store" catering largely to women and children. The Committee properly felt that such ready accessibility may present certain safety problems which they felt might be compounded by the addition of this facility.

Appellant advocates that a site on the westerly side of Route 9 is being prepared as a shopping center and, thus, the addition of another liquor outlet on the easterly side of Route 9 at the proposed site would be reasonably anticipative of new business consistent with the potential dynamic growth in this area. I conceive that this is an unrealistic and if not even a disingenuous rationalization. The fact is that, according to the testimony of some witnesses, that site is still in a swampy condition and is being filled in with sand. No present construction has taken place for some period of time. Even if that site were eventually developed as an additional shopping center, it would, in the words of the appellant's own witness, be a logical and, indeed, reasonable alternative choice for a liquor outlet. If and when that

happens, the Committee might well consider an application for that area. But the Committee felt, and with considerable merit, that the area in which the proposed transfer is sought to be made does not require an additional facility and this is consistent with its general view in that respect when another liquor application was made for a transfer to this site only six months prior to the date of this application. The transfer would bring another liquor outlet from another part of the municipality to this area, which the Committee properly felt was adequately serviced. See Bar Rest, Inc. v. Fort Lee, Bulletin 1712, Item 2.

Finally, it is understandable that the appellant seeks a transfer from premises which may be less desirable than the premises which it contemplates constructing at the new site and from an area which was characterized as "depressed" to a relatively new shopping center. However, the fact is that there are less liquor outlets in the general area in which they are presently located. And, in the final analysis, the primary consideration in these matters is the general welfare of the municipality and that, in a conflict between private interests and the interests of the community, the latter must prevail. Blanck v. Magnolia, *supra*; see Sylvestri v. Jersey City, Bulletin 1554, Item 2; Shop-Rite Liquors of Cliffside Park, Inc. v. Cliffside Park, Bulletin 1681, Item 1.

Finally, where the Committee has denied a transfer rather than granted it, it is sufficient to show that this was done in good faith, not with the intention of oppressing the individual applicant but merely because the Committee wanted it that way. "Convenience" to persons seeking to purchase liquor "is rarely, if ever, a valid basis upon which the Director may compel the municipality to [grant the transfer]." If the motive of the governing body is pure, its reasons, whether based on morals, economics, or aesthetics, are immaterial. Fanwood v. Rocco, *supra*, at pp. 320 and 323.

To reverse the Committee's action would be tantamount to a finding that the grant of a transfer to this site contiguous to the Shop-Rite Foodarama would be in the best interest and welfare of the community. In the face of the Committee's determination to the contrary, and in the absence of any proof of improper motivation, such finding would be inconsistent with the established record. Shop-Rite of Monmouth, Inc. v. Middletown, Bulletin 1728, Item 1. It should be noted, significantly, that none of the members of the Committee who had expressed any feelings in support of such grant was produced at this plenary de novo hearing.

In view of the aforesaid, I conclude that the appellant has failed to establish that the Committee's action was unreasonable or an abuse of its discretion. Rule 6 of State Regulation No. 15. I therefore recommend that an order be entered affirming the said action and dismissing the appeal.

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, including the transcript of testimony, the exhibits, the argument of counsel in summation and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 7th day of August, 1968,

ORDERED that the action of respondent Township Committee of the Township of Lakewood be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed.

JOSEPH M. KEEGAN
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)	
Proceedings against)	
Hi-Town Realty Company)	
t/a Town House Motel)	
New Jersey State Highway Route #33)	CONCLUSIONS
East Windsor Township)	AND ORDER
PO Hightstown, N.J.)	
Holder of Plenary Retail Consumption)	
License C-4 issued by the Township)	
Committee of the Township of)	
East Windsor)	

David A. Friedman, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 19, 1968, it possessed alcholic beverages in five bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Heaney, Bulletin 1783, Item 6.

Accordingly, it is, on this 8th day of August, 1968,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of East Windsor to Hi-Town Realty Company, t/a Town House Motel, for premises on New Jersey State Highway Route #33, East Windsor, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Thursday, August 15, 1968, and ter-

minating at 2:00 a.m. Wednesday, September 4, 1968.

JOSEPH M. KEEGAN
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Edward Buchanan and Elizabeth)
Buchanan)

t/a Buchanan's Beer Distributor)
Herbertsville Road and 17th Avenue)
Brick Township)
P.O. Brick Town, N. J.)

CONCLUSIONS
AND ORDER

Holders of State Beverage Distributor's)
License SBD-34 issued by the Director)
of the Division of Alcoholic Beverage)
Control.)
-----)

Licensees, by Elizabeth Buchanan, Pro se
Louis F. Treole, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that
on May 10, 1968, they sold two cases of beer to a minor, age
18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended
for fifteen days, with remission of five days for the plea
entered, leaving a net suspension of ten days. Re Mercurio,
Bulletin 1798, Item 3.

Accordingly, it is, on this 6th day of August 1968,

ORDERED that State Beverage Distributor's License
SBD-34, issued by the Director of the Division of Alcoholic
Beverage Control to Edward Buchanan and Elizabeth Buchanan,
t/a Buchanan's Beer Distributor, for premises on Herberts-
ville Road and 17th Avenue, Brick Township, be and the same
is hereby suspended for ten (10) days, commencing at 9:00 a.m.
Tuesday, August 13, 1968, and terminating at 9:00 a.m. Fri-
day, August 23, 1968.

JOSEPH M. KEEGAN
DIRECTOR

5.

ACTIVITY REPORT FOR JULY 1968

ARRESTS:

Total number of persons arrested	-----	15
Licensees and employees	----- 10	
Bootleggers	----- 5	

SEIZURES:

Motor vehicles - cars	-----	1
Still - 50 gallons or under	-----	1
Mash - gallons	-----	125
Distilled alcoholic beverages - gallons	-----	34.27
Wine - gallons	-----	12.02
Brewed malt alcoholic beverages - gallons	-----	55.41

RETAIL LICENSEES:

Premises inspected	-----	702
Premises where alcoholic beverages were gauged	-----	606
Bottles gauged	-----	9,552
Premises where violations were found	-----	159
Violations found	-----	204
No Form E-141-A on premises	----- 88	Disposal permit necessary ----- 3
Unqualified employees	----- 65	Other mercantile business ----- 1
Application copy not available	----- 24	Other violations ----- 20
Prohibited signs and practice	----- 3	

STATE LICENSEES:

Premises inspected	-----	22
License applications investigated	-----	9

COMPLAINTS:

Complaints assigned for investigation	-----	453
Investigations completed	-----	405
Investigations pending	-----	264

LABORATORY:

Analyses made	-----	109
Refills from licensed premises - bottles	-----	66
Bottles from unlicensed premises	-----	8

IDENTIFICATION:

Criminal fingerprint identifications made	-----	3
Persons fingerprinted for non-criminal purposes	-----	594
Identification contacts made with other enforcement agencies	-----	344

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	-----	4
Violations involved	-----	4
Sale during prohibited hours	----- 2	
Sale to minors	----- 2	
Cases instituted at Division	-----	24
Violations involved	-----	28
Permitting lottery acty. on premises	----- 8	Hindering investigation ----- 1
Sales to minors	----- 7	Permitting foul language on prem. ----- 1
Possessing liquor not truly labeled	----- 4	Sale & possession of narcotics ----- 1
Sale during prohibited hours	----- 2	Fraud in application ----- 1
Unqualified employees	----- 1	Failure to close premises during
Perm. lottery & bookmaking on prem.	----- 1	prohibited hours ----- 1
Cases brought by municipalities on own initiative and reported to Division	-----	14
Violations involved	-----	17
Sales to minors	----- 11	Conducting business as a nuisance ----- 1
Sale during prohibited hours	----- 1	Sale outside scope of license ----- 1
Permitting foul language on prem.	----- 1	Permitting lottery & bookmaking on prem. ----- 1
Permitting brawl on premises	----- 1	

HEARINGS HELD AT DIVISION:

Total number of hearings held	-----	52
Appeals	----- 7	Eligibility ----- 3
Disciplinary proceedings	----- 39	Seizures ----- 2
Applications for license	----- 1	

STATE LICENSES AND PERMITS:

Total number issued	-----	2,451
Licenses	----- 619	Wine permits ----- 12
Solicitor's permits	----- 44	Miscellaneous permits ----- 365
Employment permits	----- 634	Transit insignia ----- 294
Disposal permits	----- 91	Transit certificates ----- 56
Social affair permits	----- 336	

OFFICE OF AMUSEMENT GAMES CONTROL:

Licenses issued	----- 12	Number of violations found ----- 55
State Fair licenses issued	----- 16	Disciplinary proceedings instituted ----- 1
Enforcement files established	----- 43	Violations found ----- 2
Premises inspected	----- 689	Operating controlled game ----- 1
Premises where violations were found	----- 46	Deceptive practice ----- 1

Dated: August 14, 1968

Joseph M. Keegan
 JOSEPH M. KEEGAN
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

6. DISCIPLINARY PROCEEDINGS - LOTTERY (50-50 CLUB) -LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

The Disabled American Veterans Home)
Association of Ham. Twp., Mercer)
County, N. J.)

911 Arena Drive)
Hamilton Township)
PO Trenton, N.J.)

CONCLUSIONS
AND ORDER

Holder of Club License CB-11 issued)
by the Township Committee of the)
Township of Hamilton, Mercer County)

Vincent J. Convery, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that
between July 1, 1967 and May 11, 1968, it conducted a lottery,
viz., a "50-50 club", on the licensed premises, in violation
of Rule 6 of State Regulation No. 20.

Absent prior record, the license will be suspended
for fifteen days, with remission of five days for the plea
entered, leaving a net suspension of ten days. Re Francis W.
Robbins Post No. 194. American Legion, Bulletin 1015, Item 9.

Accordingly, it is, on this 19th day of August, 1968,

ORDERED that Club License CB-11, issued by the
Township Committee of the Township of Hamilton, Mercer County,
to The Disabled American Veterans Home Association of Ham.
Twp., Mercer County, N.J. for premises 911 Arena Drive,
Hamilton Township, be and the same is hereby suspended for
ten (10) days, commencing at 2:00 a.m. Monday, August 26,
1968, and terminating at 2:00 a.m. Thursday, September 5,
1968.

JOSEPH M. KEEGAN
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Erwin & Winnie Meisegeir)
t/a The Stillwater Inn)
Main Street)
Stillwater, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption)
License C-3 issued by the Township)
Committee of the Township of)
Stillwater)

Dolan and Dolan, Esqs., by Lewis P. Dolan, Jr., Esq.,
Attorneys for Licensees
Louis F. Treole, Esq., Appearing for Division of Alcoholic
Beverage Control

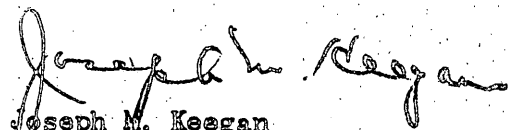
BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that
on May 30, 1968, they sold twelve containers of beer to a
minor, age 18, in violation of Rule 1 of State Regulation
No. 20.

Absent prior record, the license will be suspended
for fifteen days, with remission of five days for the plea
entered, leaving a net suspension of ten days. Re Mercurio,
Bulletin 1798, Item 3.

Accordingly, it is, on this 27th day of August, 1968,

ORDERED that Plenary Retail Consumption License C-3,
issued by the Township Committee of the Township of Stillwater
to Erwin and Winnie Meisegeir, t/a The Stillwater Inn, for
premises on Main Street, Stillwater, be and the same is hereby
suspended for ten (10) days, commencing at 7:00 a.m. Tuesday,
September 3, 1968, and terminating at 7:00 a.m. Friday, Septem-
ber 13, 1968.


Joseph M. Keegan
Director