STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
NEWARK INTERNATIONAL PLAZA
U.S. Routes 1-9 (Southbound) Newark, N. J. 07114

BULLETIN 2337 January 14, 1980

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1. DISCIPLINARY PROCEEDINGS - LEWDNESS - IMMORAL ACTIVITY - LICENSE SUSPENDED FOR 35 DAYS - FINE IN LIEU OF SUSPENSION APPROVED.

In the Matter of Disciplinary Proceedings against

Arlington Lounge, Inc.
338-40 Belleville Pike
North Arlington, N.J.

Holder of Plenary Retail Consumption License 0239-33-003-001 issued by the Mayor and Council of the Borough of North Arlington.

S-11,683

X-50,468-E

CONCLUSIONS

AND

ORDER

Joseph F. McCarthy, Esq., Attorney for Licensee.
Mart Vaarsi, Esq., Deputy-Attorney General, Appearing for Division.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

Licensee pleads "not guilty" to a charge alleging that, on April 28 and May 5, 1978, it allowed and permitted lewdness and immoral activity, to wit, indecent entertainment performed by a female entertainer, in the licensed premises; in violation of N.J.A.C. 13:2-23.6.

ABC Agent M testified in support of the Division charge that, accompanied by ABC Agent G, he entered the licensed premises on April 28, 1978 about 1:10 p.m. He described the bar as "U" shaped, at the open end of which is a stage enabling patrons seated at the bar to have an unobstructed view of performers on the stage.

The agents positioned themselves at a point at the bar in close proximity to the stage. The patronage consisted of twenty or more males. A lone female patron performed a go-go dance on the stage, and, shortly thereafter, was succeeded by a dancer employed by the licensee identified as "Kim".

Following Kim's entry on to the stage, which commenced with a typical go-go dance, the agents observed her to begin a series of acts or gestures consisting of using her finger

to her mouth and, thereafter, using the neck of a beer bottle in a fashion to simulate oral intercourse.

After playing with the fingers of a patron in an extremely suggestive fashion, Kim desended the stage to a point within the bar area, whereupon patrons at the bar were given water pistols and urged to squirt water upon Kim's chest. Shortly thereafter, the T-shirt which she was wearing became transparent. To all of which, the male patrons applauded enthusiastically.

ABC Agent G corroborated Agent M's testimony in each detail, adding significantly that he was given one of the water pistols and was urged to squirt at the T-shirt of Kim following like efforts of other patrons; and he did so.

Both agents testified that Kim's performance on May 5,1978 was reasonably identical to that of her April 28, 1978 performance.

One of the principal stockholders of the licensee corporation, Charles J. Manara, testified in defense of the charge that he is employed in the establishment. He was not present on April 28th, but was on May 5th. He conceded solely that Kim is employed there, but denied that her "act" was in any way lewd or improper. He contended that he had made inquiry and had found out that "wetting a T-shirt is prohibited", hence, he would not have approved the squirting of Kim's dress. He admitted that he was extemely busy assisting in the kitchen and serving lunches to patrons that he did not observe Kim's performance on that date.

The licensee introduced the testimony of three patrons. Leonard Caruso, Jerry Valasso and Cornelius Kearney. Caruso was present on both of the charged dates and, at neither time, did he observe Kim's dance to be lewd. He admitted however that she played with a beer bottle and sucked foam from it, but denied this had any lewd connotation. He does not see well, but did observe a water pistol in Kim's hand and that the upper part of her costume was wet. He presumed this to be from perspiration. Her playing with the bottle and drinking foam was repeated in her subsequent performance at a subsequent date. He described himself as an old acquaintence of one of the two major stockholders of the licensee corporation.

Galasso stated that his attention was not solely on Kim during her performance because he was eating. He did recall that she placed her fingers about her face, but he did not see her sucking on her fingers. He recalled that she drank foam

from the beer bottle and that "a couple of people shot a water pistol at Kim's T-shirt". He admitted that the manner with which Kim had been drinking from the beer bottle could be interpreted as a sex act, but he didn't feel that it was.

Kearney too observed Kim drinking the foam from the bottle and admitted that she had passed the bottle to him so that he could drink from it. He affirmed that patrons shot a water pistol at Kim, and that he did too. The water made the garment "tighter" but he did not know if the squirting of the water was intended for that purpose. He admitted on cross-examination that he is Menara's superior on the Newark Fire Department.

The details of the gestures of Kim and the agent's implication of what those gestures were intended had not been detailed here as such details would serve no useful purpose. The solitary issue presented is: Was the performance of the dancer such that a reasonable person would consider same lewd and immorally suggestive?

Preliminarily, it is observed that, in evaluating the testimony and its legal impact, we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and thus require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956).

Testimony to be believed must not only proceed from the mouths of credible witnesses, but must be credible in itself. It must be such as common experience and observations of mankind can approve as probable in the circumstances.. Spagnuolo v. Bonnet, 16 N.J. 546 (1954). It is fundamental that the interest or bias of a witness is relevant in evaluating his testimony. In re Hamilton State Bank, 106 N.J. Super. 285 (App. Div. 1969).

Licensee has contended that the performance of Kim was essentially an amusing one and that the implications of lewdness and immorality was entirely in the eyes of the agents who, from their long experience of seeing the seamy performances in other premises, have developed such a jaundiced eye that innocent actions take on an evil connotation.

As the court has held in In re Club "D" Lane, Inc., 112 N.J. Super. 577, 579 (App. Div. 1971):

> We are not here concerned with censorship of a book, nor with the alleged obscenity of a theatrical performance.

> Our immediate interest and attention is confined to the disciplinary action taken against the licensee of a public tavern whose privileges may lawfully be tightly restricted to limit to the utmost the evils of the trade. McFadden's Lounge, Inc. v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 61 68 (App. Div. 1954). Lewdness or immorality for the purpose of alcoholic beverage control may be determined on a distinctly narrower basis than for purposes of regulation of commercial entertainment generally. Davis v. New Town Tavern, 37 N.J. Super. 376 (App. Div. 1955); Jeanne's Enterprises, Inc. v. New Jersey, etc. 93 N.J. Super. 230 (App. Div. 1966) aff'd o.b., 48 N.J. 359 (1966).

The agents in this matter testified with a high degree of specificity and gave a detailed account of Kim's performance. That performance must be viewed in its entirety to carry with it the connotations imposed upon it by the agents. No single gesture in and by itself need be found to be lewed, if as described by the agents and which I find herein, the total of her performance, culminating in the wet T-shirt can be viewed only as a lewd and suggestive performance.

The licensee's witnesses in part corroborated the agent's description of the dancer's performance. Fondling the beer bottle was admitted by all of them as was the wetting of the T-shirt. The solitary defense that the girl's act was not intended to be lewd and was so only to the agents is specious. Re Lardon Associates, Inc., Bulletin 2281, Item 4.

After careful consideration and an evaluation of the entire record herein, I conclude that the Division has met its burden of establishing the truth of the charge by a fair preponderance of the credible evidence, indeed by clear and convincing evidence. I, therefore, recommend that the licensee be found guilty of the charge.

Licensee has a prior dissimilar record of having paid a fine, in lieu of suspension, for possession of alcoholic beverages not truly labeled on July 29, 1976.

It is recommended that the license be suspended thirty days on the charge herein, to which should be added five days in view

of prior dissimilar violation, making a total suspension of thirty-five (35) days.

CONCLUSIONS AND ORDER

No written Exceptions to the Hearer's Report were filed by the parties pursuant to N.J.A.C. 13:2-19.6.

In lieu thereof, the licensee requested the opportunity to pay a fine, in compromise, in lieu of suspension, pursuant to N.J.S.A. 33:1-31. In support thereof, it indicated that the license was the subject of an agreement of sale and was pending transfer application approval. The Borough of North Arlington has no objection to the payment of a fine. Good cause appearing, I shall grant the request.

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. I will, however, permit the payment of a fine, in compromise, in lieu of license suspension.

Accordingly, it is, on this 21st day of June, 1979,

ORDERED that the payment of a $3,500.00 fine by the licensee is hereby accepted in lieu of a suspension of license for thirty-five (35) days.

JOSEPH H. LERNER
DIRECTOR

2. APPELLATE DECISIONS - ZENGEL AND CONNITO v. POINT PLEASANT.

#4224 & #4246 Francis Zengel, John Zengel and Mark Connito, t/a The Silver Dollar, Appellants, vs. Mayor and Council of the Borough of Point Pleasant, Respondent.	:	ON APPEAL CONCLUSIONS AND ORDER

Stanzione & Stanzione, Esqs., by Alphonse Stanzione, Esq., Attorney for Appellants.
Lomell, Muccifori, Adler, Kearney, Ravaschiere & Amabile, Esqs., by Robert A. Fall, Esq., Attorneys for Respondent.
Sim, Sinn, Gunning, Serpentelli & Fitzsimmons, Esqs., by Dennis J. Cantoli, Esq., Attorneys for Objectors.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

This is an appeal from the action of the Mayor and Council of the Borough of Point Pleasant (hereafter Council) which, when approving a person-to-person transfer of Plenary Retail Consumption License No. 1524-33-001-001, to appellants attached thereto special conditions, detailed hereinafter, and, two months following, denied renewal of said license for the 1978-79 license term.

In appellants' Petition of Appeal, it contends that both actions of the Council were erroneous and should be reversed. Firstly, the conditions imposed were totally unreasonable, and an occupancy limitation was in direct contrast to a determination by Borough officials that the premises could accomodate three times the number permitted. In respect to the action resulting in a denial of renewal of license, appellants contend that such denial is unreasonable in that there have been no disciplinary proceedings instituted against the license during the two months they have had ownership.

In its Answer, the Council denies all of the contentions advanced by the appellants, adding that the special conditions imposed were reasonable and had been imposed by the Council only after lengthly deliberations and the receipt of abundant

evidence. In respect to the denial of renewal of appellants' license, it set forth its Resolution which detailed what it considered to be a continuation of the situation which gave rise to the imposition of the special conditions intially. As the conditions imposed had not ended the nuisance created by appellants, it was determined that the sole remedy to insure peace and quiet in the area was to deny renewal of the license.

An appeal de novo was heard in this Division pursuant to N.J.A.C. 13:2-17.6, with full opportunity to introduce evidence and cross-examine witnesses. Additionally, transcripts of hearings held by the Council, both prior to the imposition of the conditions and upon denial of renewal, were furnished the Division in accordance with N.J.A.C. 13:2-17.8. At the hearing, numerous objectors were present with counsel prepared to offer testimony in support of the Council's action.

At the outset of the hearing, it was abundently clear that in order to focus upon the specific issue involved, it was appropriate to review the transcripts of the hearings before the Council, which consisted in 503 pages of testimony and argument. In consequence of that requirement, no testimony was taken at the hearing in this Division until such testimony and argument in the several transcripts was digested. It was later suggested that a visual inspection of the licensed premises be made in order to assist the Hearer in understanding the testimony. In consequence, an inspection of the exterior of appellant's premises was made.

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In its meeting of May 2, 1978 the Council approved the license transfer to appellants with the following special conditions attached:

A. Security Guards are to be posted;

B. Litter to be removed within three blocks of the licensed premises before 8:00 A.M.;

C. Two hours prior to closing, employees are to be stationed outside to reduce patron departure problems;

D. Security Guards are to patrol the exterior, during operation;

E. Doors and windows are to be closed except when used;

F. Sale of alcoholic beverages for off-premises consumption is prohibited after 10:00 P.M.;

G. Forty per-cent of the interior is to be used as a restaurant;

H. Number of bars is limited to two;

I. Capacity of the establishment is limited to 400 persons; and

J. Premises are to be closed until over-flowing septic tank is repaired.

The above special conditions as stated are an abstract of those adopted and are synopsized for brevity purposes.

To condition A. appellant had no objection. It is inferred that there would be no objection to conditions C. and D. as both are related to A. Testimony by one of the appellants indicated that there is a present program to police the area for the removal of litter discarded by patrons. The licensed premises adjoins three streets and it is further presumed that the condition relates to those "three blocks" on which the premises abut.

As the premises are air-conditioned, the requirement that the doors and windows be closed as required by condition E. should pose no problem. Similarly, Condition F. is a mere restatement of regulatory requirement found in N.J.A.C. 13:2-38.1, with the exception of packaged beer sales, and hence should not be objected to. Obviously, as the premises cannot operate without running water and sewage, the requirement set forth in condition J. could not pose serious objection.

The remaining special conditions, G. H. and I. pose the only serious problems. It is clear from the lengthly testimony before the Council that these conditions were imposed solely in an endeavor to overcome municipal frustrations caused by the numbers and type of patrons encouraged to frequent the appellants' establishment. From the extensive oral opinions expressed by the respective members of the Council, it was obvious that none were seriously disturbed by any failure of appellant to conduct a restaurant, or that there were five bars in the premises instead of the required two. What the Council emphasized was the concern over the number of patrons, the type of patronage and how to reduce the numbers of them and how to correct their behavior.

From the extensive testimony presented to the Council, it is obvious that the discontent of the neighbors arose from the large gathering of young people in the licensed premises

for the disco, country and rock-roll music. From the substantial number of drinking youths, a few became factious, argumentative, unthinking and generally obnoxious. Regretably this was a constant situation resulting in rage of the neighbors and frustration to the Council. Thus the restrictive conditions were imposed.

The situation described in this matter is common to the experiences that have resulted in similar operations in other communities. Surf Villa v. Surf City, Bulletin 2289 Item 2; 111 Club Inc. v. Boonton, Bulletin 2288, Item 2; Emersons Ltd. v. Ciniminson, Bulletin 2250, Item 3; Stampac Inc. v. Pt. Pleasant, Bulletin 2252, Item 3.

The great divergence of positions between the municipality and the licensee in such matters revolves about the great expenditure of funds required to create an establishment that caters to patrons numbering in the hundreds of young persons. Having expended such funds, licensees are often under the impression that that alone clothes their operation with immunity from public censure.

In a recent matter similar in nature, the Director found that:

> "There is further no question that the appellants' patrons have been so unruly as to be the source of grief to some of the municipal officials and to some residents. It is a well established principle that a license is responsible for conditions both inside and outside the licensed premises. (underscore added) Perkins v. Newark, Bulletin 2083 Item 2. CF. Tyrone's Haven, Inc. v. South River, Bulletin 2214, Item 1, aff'd in unreported opinion of Appellate Division, cited in Bulletin 2242, Item 2."

Cobosko Enterprises, Inc. v. Paulsboro, Bulletin 2256, Item 5.

The responsibility of appellants for the situation created by their patrons is in no way diminished because of the amount of their investment. To the contrary, as appellants have encouraged the huge numbers of patrons with the concomitant proportion of unruly patrons, their responsibility has increased.

Testimony relating to the prior use of the premises upon which the special condition that the operation therein include a proportion of the interior area for restaurant use, does not

clearly indicate that the premises as used by the former owners was known as a restaurant. To the contrary, one of the former owners used the premises with the same general type of entertainment as does the appellants. In any event the license had not been previously conditioned for restaurant purposes. In consequence, to impose such requirement on a person-to-person transfer has no legal support. Robert Lynn, Ltd. v. Orange, Bulletin 2204, Item 2.

However, transcending this requirement and that special condition under which the number of bars must be reduced from five to two, the overriding thrust of all conditions is the occupancy limit of 400 persons. That is the condition to which appellants have gravest concern. From the testimony of appellant-Zengel, a sprinkler system to combat fire had to be installed in the premises at a cost of about $19,000.00. From the testimony of John DePolo, a building inspector of the Borough of Point Pleasant, such a system is required when occupancy is to reach a certain level.

Appellants had offered into evidence a letter that they had received from DePolo in which he required a posted occupancy limit of 1350, indicating that such number was permitted in that "the approved sprinkler system has been installed". Testimony in this Division by DePolo revealed that such number related to physical construction criterion, such as extent of exit areas and doors, not to the type of use.

It struck appellants as an example of bureaucratic injustice for one branch of the government to approve a high number for occupancy limit and thereafter for the other branch to slice that number by more than two-thirds. However, the appellants failed to distinguish that a permitted use for one purpose is not a permission for all purposes. Here the Council could and did set a limitation for occupancy weighed against the use to which appellants operated the premises.

Additionally, there was no reference in the determination of the construction limitations to the exterior parking spaces available. A physical inspection of the exterior of the premises reveals that there are parking spaces on appellant's land for about seventy cars. The remainder of the patron's cars must park on the street and that street is a busy highway. Parking has been prohibited on the adjacent side streets. Although arrangements have been made for a limited number of spaces at nearby business establishments, testimony indicates that there is no fixed number presently permitted in such locations.

In short, four hundred persons within the licensed premises will result in far more cars than appellants have space to

accomodate. Hence, a greater number only exacerbates the problems.

From all of the factors before the Council relating to the use and occupancy of the appellant's premises, I find that the limitation to a maximum of four hundred persons at one time within those premises is neither onerous or unreasonable. I do further find that there was inadequate evidence contained in the testimony before the Council in order to support the imposition of Conditions G. (Restaurant use requirement) and H. (restriction on number of bars). In respect to that condition only, I find the Council acted unreasonably.

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Two months after the subject conditions were imposed, the Council denied renewal of appellant's license. The Resolution denying such renewal was explicit in setting forth the reasons for the action.

An abstract of the substance of the Resolution reveals that, although conditions upon the license were imposed and, with the exception of the occupancy limitation and the requirement to reduce the number of bars, all the conditions were in force, nonetheless there had been thirty-two separate police incident reports received between the time of the adoption of the conditions and the date of hearing on the renewal.

These incidents included fights resulting in bodily injuries, instances of assault inside and outside the Silver Dollar, excessive noise late at night, drunkenness and disorderly conduct within and outside, suspected larceny, urinating on the street by patrons, and other incidents detrimental to health, safety and welfare of the community.

The Resolution further listed the number of incidents that occurred prior to the hearing relating to the transfer, as well as the opinion the Council received from six neighborhood residents indicating that the conditions had not changed following the imposition of the conditions. The Chief of Police further opined that he would not recommend renewal of the license. The licensed premises are operated as a nightclub and is intended to be continued as such. Hence, the Resolution concluded, the operation of the establishment would be against the public interest and the application for renewal is denied.

The evidence upon which the Council made the foregoing findings consisted of copies of police reports and the testimony from several residents who were personally effected by conduct

of patrons of appellants' premises and who were speaking in representative capacity for other residents similarly situated.

Without listing each of the more than thirty police reports covering the period from the grant of transfer with conditions to appellant to the date of hearing resulting in the denial of renewal, these reports designated the appellants' premises or nearby as the place of incident which evidenced a constant, almost daily occurrance of some act requiring police intervention. A collection of incidents during that short period runs the gamut from attrocious assault to revelry in the late hours.

None of the incidents however, resulted in the issuance of disciplinary charges against the appellants' license. Further, it appeared that many of the situations related resulted from calls for assistance by the management of appellants' premises. In short, it can be reasonably concluded that this social nuisance was the result of the numbers and type of patronage attracted to the appellants' establishment.

Earlier the Council had recognized the need for corrective action, hence imposed the subject special conditions. The principal special condition, i.e., the occupancy limitation to 400 persons was not put into force as the appellants obtained a stay of the imposition of such condition by the Director of this Division pending the determination of this appeal.

The Council finding the situation not corrected despite being explicitly articulated in its Resolution, obviously considered that there was no alternative to outright denial of renewal of license. However, the occupancy limitation having never been successfully implemented, there was no evidence before the Council that such limitation would or would not be curative.

In a similar matter decided by the Director four years ago, the then appellant advanced the same contentions relating to the occupancy limitation imposed as in the matter sub judice, to which the Director said:

> "The vigorous and lengthly attack upon the imposition of the limitation of patrons was instituted by appellant solely as a result of apparent financial consequences. The proofs amply substantiate that the large numbers of patrons, particularly of young people, entering and leaving a popular establishment in a shore community caused numerous problems to the police and

> to the surrounding neighbors, Appellant has no legal right to be secure in his income from his business; to the contrary, as the court has held in Dal Roth v. Div. of Alcoholic Beverage Control, 28 N.J. Super. 246, 255; "Restrictive liquor regulations may, and sometimes do, result in individual hardships. However, where larger social interests justify a restrictive policy, private individual interests must give way."

A's Inn, Inc. v. Deal, Bulletin 2139, Item 3.

In some matters an issuing authority has denied the renewal of a plenary retail consumption license as a means of ending social nuisances stemming from tavern operations. In several instances, the Director has reversed such action and has permitted continuance of the license with specific conditions attached. Simonsen Inc. v. Asbury Park, Bulletin 2217, Item 1; Darren Inc. v. Pohatcong, Bulletin 2219, Item 2; Sue & Frank Club, v. Newark, Bulletin 2032, Item 2 (Aff'd App. Div. in unreported opinion, Bulletin 2040, Item 1).

Even in the situation where the imposition of conditions by the Director was not ameliorative of the nuisance, further action by the issuing authority resulted in eventual closure. Moon Star, Inc. v. Jersey City, Bulletin 2130, Item 3.

In short where conditions imposed are designed to quell the on-going nuisances, an opportunity should be afforded to test the sufficiency of the conditions and appellants' contribution of effort to eliminate the problem. In the matter sub judice, the occupancy limitation of 400 was never put into force; hence the effectiveness of such condition was never sufficiently tested.

Thus, I find that appellant has established that the Council has acted erroneously in denying renewal of its plenary retail consumption license and recommend that its action be reversed, as required by N.J.A.C. 13:2-17.6. I further find that the special conditions imposed on the said license at the time of transfer approval should be modified to delete special conditions G and H as heretofore discussed in Part I of this report; the remaining conditions to be in full force.

It is further recommended that the stay of the imposition of the conditions set forth in the Resolution, by Order of the Director of May 17, 1978, be vacated and that the Council be ordered to renew the subject license with the above special conditions set forth thereof.

Appellants should take little solace from the recommendations herein requiring renewal of their license privilege. They should be reminded that neither the Borough officials nor the residents need a continuing nuisance thrust upon them, and, if the occupancy limitation and their total dedication toward the reduction of the many complaints against them do not eliminate the problems so graphically described, the Council may again deny renewal at the end of the current licensing period. The Director of this Division has not, in the past, and will not here permit a licensed establishment to be operated to the despair of the residents and frustration of local officials. Appellants would do well to take heed.

CONCLUSIONS AND ORDER

Written Exceptions to the Hearer's Report were filed by the appellant and written Answers were submitted thereto by respondent, pursuant to N.J.A.C. 13:2-17.14.

In its Exceptions, appellant takes issue with only one recommendation of the Hearer, to wit, the affirmance of Special Condition No. I limiting capacity to 400 persons. It argues that the evidence was insufficient, and/or incompetent and irrelevant, to support such finding; that there is adequate parking available sans alleged municipal interference in its efforts to acquire same; that the Hearer's reasoning with respect to occupancy and the building inspector's determination of occupancy is unclear, and that the limitation on occupancy, as proposed, would foster greater problems and difficulties.

In its Answer to Exceptions, the respondent specifically replies to each aspect of the Exceptions.

I am satisifed that sufficient credible evidence, in the form of testimony from police incident reports, municipal police officers and citizens, exists to support the finding that a nuisance situation prevailed at appellant's premises. The absence of parking was a factor therein. I find no basis to support the allegation of municipal interference in attempts to increase appellant's parking facilities. Nor do I find unclear the reasoning of the Hearer as to occupancy distinctions in an alcoholic beverage control framework as compared to a building inspector's evaluation. Lastly, it is the appellant's responsibility to control its patrons, and meet

any alleged problems engendered by a reduced patronage. Thus, I reject the appellant's Exceptions as without merit.

Having carefully considered the entire record herein, including the transcripts of the testimony, the exhibits, the Hearer's Report, the written Exceptions filed by appellant and written Answers submitted thereto by respondent, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 29th day of June, 1979,

ORDERED that the action of the Mayor and Council of the Borough of Point Pleasant, in imposing special conditions to the approval of a person-to-person transfer application to appellant, be and the same is hereby affirmed; except as to Special Conditions G and H; and it is further

ORDERED that the action of the Mayor and Council of the Borough of Point Pleasant, in denying appellant's application for renewal for the 1978-79 license term, be and the same is hereby reversed, and the Council shall renew said license upon payment of the proper fee subject to the following Special Conditions:

A. Security Guards are to be posted;

B. Litter to be removed within three blocks of the licensed premises before 8:00 a.m.;

C. Two hours prior to closing, employees are to be stationed outside to reduce patron departure problems;

D. Security Guards are to patrol the exterior, during operation;

E. Doors and windows are to be closed except when used;

F. Sale of alcoholic beverages for off-premises consumption is prohibited after 10:00 p.m.;

G. Capacity of the establishment is limited to 400 persons; and

H. Premises are to be closed until over-flowing septic tank is repaired.

And, it is further Ordered that my Order of June 28, 1978 staying certain Special Conditions pending determination of the appeal, be and the same is hereby vacated.

JOSEPH H. LERNER
DIRECTOR

3. STATE LICENSES - NEW APPLICATION FILED.

Regal Wine Imports Inc.
220 Adams Street
Riverside, New Jersey
Application filed January 10, 1980
for wine wholesale license.

Joseph H. Lerner
Director