

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

BULLETIN 1611

April 28, 1965

1. COURT DECISIONS - WALLY'S TAVERN, INC. v. DIVISION OF
ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-865-63

WALLY'S TAVERN, INC.,)
Appellant,)
v.)
DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL,)
Respondent.)

Argued March 22, 1965 -- Decided March 26, 1965.

Before Judges Goldmann, Sullivan and Labrecque.

Mr. Albert L. Cohn argued the cause for appellant
(Messrs. David & Albert L. Cohn, attorneys;
Mr. Daniel Crystal, on the brief).

Mr. Samuel B. Helfand, Deputy Attorney General,
argued the cause for respondent (Mr. Arthur J. Sills,
Attorney General, attorney).

The opinion of the court was delivered by GOLDMANN,

S.J.A.D.

(Appeal from Director's decision in Re Wally's
Tavern, Inc., Bulletin 1568, Item 2. Director affirmed.
Opinion not approved for publication by the Court committee
on opinions.)

2. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION STAYED DURING PENDENCY OF APPEAL.

In the Matter of Disciplinary Proceedings against
 WALLY'S TAVERN, INC.
 196 Monroe St.
 Passaic, N. J.
 Holder of Plenary Retail Consumption License C-159, issued by the Board of Commissioners of the City of Passaic.

SUPPLEMENTAL ORDER

 David & Albert L. Cohn, Esqs., by David Cohn, Esq., Attorneys for Licensee.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On May 11, 1964, I entered Conclusions and Order herein suspending the license for twenty-five days for possession of indecent pictures and contraceptives. Re Wally's Tavern, Inc., Bulletin 1568, Item 2.

Prior to the effectuation of the suspension, upon appeal filed, the appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

The court affirmed my action on March 26, 1965. Wally's Tavern, Inc. v. Division of Alcoholic Beverage Control (App. Div. 1965), not officially reported, recorded in Bulletin 1611, Item 1. Mandate on affirmance having been received on April 7, 1965, the suspension may now be reimposed.

Accordingly, it is, on this 12th day of April, 1965,

ORDERED that the twenty-five (25) day suspension heretofore imposed, and stayed during the pendency of proceedings on appeal, be reinstated against Plenary Retail Consumption License C-159 issued by the Board of Commissioners of the City of Passaic to Wally's Tavern, Inc. for premises 196 Monroe Street, Passaic, commencing at 3:00 a.m. Monday, April 19, 1965, and terminating at 3:00 a.m. Friday, May 14, 1965.

JOSEPH P. LORDI
DIRECTOR

3. APPELLATE DECISIONS - CHURM v. JEFFERSON TOWNSHIP.

#2984)
 HENRY K. CHURM,)
)
 Appellant,)
)
 v.)
)
 TOWNSHIP COMMITTEE OF THE)
 TOWNSHIP OF JEFFERSON,)
)
 Respondent.)

ON APPEAL
CONCLUSIONS
AND ORDER

-----)
 #2999)
 HENRY K. CHURM,)
)
 Appellant,)
)
 v.)
)
 TOWNSHIP COMMITTEE OF THE)
 TOWNSHIP OF JEFFERSON,)
)
 Respondent.)

-----)
 Joseph P. Dunn, Esq., by Robert D. Corbin, Esq., Attorney for)
 Appellant.)
 Schenck, Price, Smith & King, Esqs., by Alten W. Read, Esq.,)
 Attorneys for Respondent.)
 Robert W. Wolfe, Esq., Attorney for Objectors.)

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

In Case #2984 appellant appeals from respondent's action on May 27, 1963 in denying his application for a place-to-place transfer of his 1962-63 plenary retail consumption license from the site of his former licensed premises (which premises had been destroyed by fire) on Longwood Valley Road to premises to be constructed on Lot 5, Lakeside Shopping Center, Route 15, Township of Jefferson.

In Case #2999 appellant appeals from the action of respondent in refusing to renew his license for the 1963-64 licensing period for premises to be constructed on the site of his former licensed premises (which premises had been destroyed by fire) on Longwood Valley Road, Township of Jefferson.

At the hearing both appeals were consolidated, and thus they may be determined simultaneously.

Four of the five members of respondent Committee voted to deny the two applications. One member thereof abstained from voting on both matters.

In 1961 similar applications were made by appellant for a place-to-place transfer of the license to the proposed site and renewal of appellant's license for premises to be

constructed on the former site of his licensed premises for the 1961-62 licensing period, respectively. Churm v. Jefferson, Bulletin 1459, Item 2.

At the prior hearing in the matter of the denial of the application by appellant for a place-to-place transfer to the shopping center, Director Davis upheld the action of respondent because, in his opinion, the transfer of the license would violate the distance-between-premises ordinance #79 adopted by respondent on April 5, 1954. Said ordinance (a supplement to an ordinance relating to the sale of alcoholic beverages and the regulation thereof) provides as follows:

"BE IT ORDAINED by the Township Committee of the Township of Jefferson, in the County of Morris:

1. In addition to the limitation as to the number of licenses and transfers to be permitted, no transfer of a presently existing license shall be granted from its present location to a newly constructed or heretofore unlicensed premises, unless the premises to which the transferee desires to transfer shall be at least one mile from any other presently established licensed premises.
2. This ordinance shall take effect immediately."

The evidence presented at said hearing disclosed that the nearest licensed premises to appellant's proposed site in the shopping center was 246 feet distant, and that four other licensed premises located on Route 15 were 1,320 to 1,396 feet distant from the proposed premises. Also there was another liquor outlet located 4,224 feet from appellant's proposed establishment. Furthermore the distance between the present site and the proposed site in the shopping center is 3.40 miles. This situation has not changed in any respect since the prior hearing in this matter. Moreover, another reason given by the respondent for denial of the transfer now under consideration was that, because of the number of licensed premises in the surrounding area, there is no need or necessity for any additional outlets there.

It has been ruled by the court that, although restrictive liquor regulations may result in individual hardships, where larger social interests justify a restrictive policy, private individual interests must give way. Dal Roth v. Div. of Alcoholic Beverage Control, 28 N.J. Super. 246, 255. It might be well to repeat what was said by Director Davis in the conclusions on the previous appeal, supra:

"Inasmuch as Ordinance No. 79 of the Township of Jefferson was adopted April 5, 1954, it is obvious that there can be no charge of improper motivation on the part of the members of the respondent Committee who voted to deny the transfer in question."

I shall now consider the matter of denial of the application for renewal of appellant's license for the 1963-64 licensing period. Among the reasons given by respondent for denial of the renewal of the license for the 1963-64 period was

that appellant had no license for the 1962-63 licensing year and thus no renewal could be granted for the succeeding licensing period. It appears, on Page 93 of the Minute Book, that at the regular meeting of the respondent on August 6, 1963, the following resolution was adopted:

"BE IT RESOLVED that a resolution adopted July 16, 1962, insofar as it purports to grant 1962-63 renewal of License C-16 to Henry K. Churm, is hereby amended to provide that the application for such 1962-63 renewal is granted, as of July 16, 1962, subject to the special condition that the license shall not be issued unless and until the proposed premises shall first have been duly completed in keeping with the plan filed with such application."

I might mention at this time that, although the license certificate was never actually delivered for failure to complete premises in accordance with plans and specifications filed at the time the renewal application was made, this cannot change the fact that the application for transfer had been approved. The mere endorsement and delivery of a license certificate is purely a ministerial act on the part of the issuing authority before actual issuance of the license. At the within hearing appellant testified that he made application to the building inspector for a building permit, and submitted plans to construct a building on the site where the premises were formerly located. Appellant contends that such permit was refused because of an adoption of a zoning ordinance (July 21, 1962) whereby the site of appellant's plan on Longwood Valley Road was zoned for residential purposes. Assuming that appellant made such application, there is no indication that appellant appealed from the action of the building inspector for refusing to issue said permit to the proper tribunal in order to obtain a variance which, if granted, would permit him to construct a building on the site in question for use as a licensed premises.

The appellant's licensed premises was destroyed by fire in 1960. Although the license had been renewed annually since that time, appellant failed to construct a suitable building to be used as the licensed premises on the site where appellant's former premises existed.

At the hearing herein appellant produced Joseph G. Mintz, an assistant corporation counsel of Jersey City, who testified concerning appellant's property that:

"Whether it is condemned or whether it is purchased is a matter that has to be determined, but I could say this: That the property is so situated that it will be taken by the city and inundated when the reservoir is constructed."

Mr. Mintz further testified that he could not give any fixed time as to the month or year when the reservoir would be constructed.

A liquor license is a temporary permit or privilege to conduct a business otherwise illegal. Mazza v. Cavicchia, 15 N.J. 498, 505 (1954). Whether it is to be renewed rests in the sound discretion of the local issuing authorities, and

a reviewing court should not interfere unless the evidence indicates an abuse of that discretion. 279 Club v. Mun. Bd. of Alcoh. Bev. Cont. of Newark, 73 N.J. Super. 15, 21 (App. Div. 1962). In the instant matter the local issuing authority was confronted with a non-user of the license for a period of four years. The test in the establishment and issuance of such license is whether the public good requires it. Blanck v. Mayor and Borough Council of Magnolia, 38 N.J. 484, 491 (1962). In connection therewith the respondent could well have concluded from appellant's failure to use the license that the necessity for it no longer existed. Moreover, a municipal issuing authority should not be required to renew a license under which no business has been conducted for a protracted period unless convincing evidence in explanation and justification of non-user is adduced. Hall v. Mt. Ephraim, Bulletin 786, Item 2. It is axiomatic that no one is entitled to a renewal of a license as a matter of right. Zicherman v. Driscoll, 133 N.J.L. 586. See also Re Smith, Bulletin 784, Item 5, wherein (the fact being a six-year non-use of the license) the then Commissioner said:

"This practice of non-user over a substantial length of time does violence to the paramount principle underlying the issuance of licenses, to wit, that licenses shall be issued only in the interest of the public necessity and convenience."

See also Kalman and Prickett v. Southampton and Division of Alcoholic Beverage Control, App. Div. 1963, not officially reported, reprinted in Bulletin 1527, Item 1.

Appellant testified at the within hearing that, when he first learned that there was a possibility of a reservoir and dam being built on his property, he felt that it would be an unwise financial investment to construct a building at the original site, and thus he made application to transfer his license to the shopping center. This being the third application for transfer (two of which having heretofore been denied) to the identical site in the shopping center, it is apparent by appellant's attitude that he is still of the same opinion and has no intention of constructing a building on the site of his former licensed premises.

There has been nothing presented at this hearing which might in anyway indicate that any member of the respondent issuing authority was improperly motivated. I am satisfied that proper consideration was given to the applications in question before action was taken in each case. Thus appellant has failed to sustain the burden of establishing that there has been any abuse of discretion on the part of respondent. Rule 6 of State Regulation No. 15.

For the reasons aforesaid, it is recommended that orders be entered affirming the action of respondent in both appeals, and that said appeals be dismissed.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, the attorney for appellant filed written exceptions to the Hearer's Report and the attorneys for respondent filed answering argument. Thereafter, oral argument was presented before me in these matters.

In exceptions to the Hearer's Report, it was pointed out that there were three votes to deny and not, as stated in the Report of the Hearer, four votes to deny and one abstention. It is sufficient to remark that the denials were effected by a majority vote of a quorum present.

The Hearer's Report indicated that it was possible for appellant to have constructed new premises at the old site in keeping with an amendatory resolution adopted by respondent on August 6, 1963 (1962), and the exceptions to the Report alleged that the Hearer was in error in this regard since the zoning ordinance adopted July 31, 1962 "prohibited" appellant from constructing a tavern on the site by zoning the same for residential purposes. The allegation bespeaks a misunderstanding. In Lubliner et al. v. Paterson et als., 59 N.J. Super. 419 (App. Div. 1960), it was argued that the Paterson Board's approval of place-to-place transfer was illegal and erroneous because the City's zoning ordinance prohibited a tavern at the new location. On that point the Court's decision, affirming the Director's affirmance of the Board's grant of the transfer, read as follows (at p. 433):

"It is not clear from the evidence that the ordinance does so provide, but even if it does that does not make the grant of the transfer improper or its approval by the Director error. The issuance of a license or the grant of a transfer does not permit the licensee to operate without complying with all applicable statutes and ordinances, including zoning ordinances, building codes, health codes and the like. It may be that Hutchins will need a variance or other relief before he can operate a tavern at 39 Carroll Street, but he is not required to obtain it before the grant of the transfer. Cf. Passarella v. Board of Comm., 1 N.J. Super. 313 (App. Div. 1949)."

Certification to the Supreme Court was granted at the request of objectors. The Appellate Division's affirmance was modified as to one matter altogether immaterial here and in all other respects affirmed. In its decision of affirmance, delivered by Jacobs, J., the Court stated that in dealing with the contention regarding the zoning ordinance, "the Appellate Division properly pointed out that the grant of Mr. Hutchins' application would in nowise permit him to operate in contravention of any applicable zoning provisions; if he ever attempts to so operate, relief is readily available. See Garrou v. Teaneck Tryon Co., 11 N.J. 294 (1953)." Lubliner et al. v. Paterson et als., 33 N.J. 428, 435 (Sup. Ct. 1960).

The Hearer's Report indicated that there had been a non-user of appellant's license for a period of four years, citing Re Smith, Bulletin 784, Item 5, and that respondent was justified in assuming that appellant had no intention of proceeding with construction. Exceptions to the Report set forth that respondent was not confronted with a non-user of the license "for a period of four years but at best a non-user of the license for a period of two years, appellant's tavern having been destroyed by fire in April 1961 (not in 1960 as stated by the Hearer)." (On page 2 of the Brief on Behalf of Appellant the following statement appears: "The tavern which Mr. Churm had previously occupied on this site had been destroyed by fire in 1960.") The exceptions continued as follows: "It is of course true that appellant does not wish to construct a building on the

site of his former premises inasmuch as the site is subject to acquisition by the City of Jersey City to be used as a reservoir, but this is entirely different from saying that he does not intend to do so. Certainly, if necessary to preserve his license, he would do so if permitted." A man's true intentions are subjectively his own, but it is clear that appellant's primary effort in these appeals is in seeking a reversal of the denial of the application for place-to-place transfer and that the seeking of a reversal of the denial of renewal was secondary and stop-gap in nature. With respect to non-user, I find that the circumstances in this case are special and peculiar and that Re Smith, supra, is not in point. I find the same with respect to the other "non-user" case cited in the Hearer's Report.

The exceptions to the Hearer's Report contend, further, that in relying upon former Director Davis' decision on the prior appeal in connection with the Township's distance-between-premises Ordinance No. 79, "the Hearer erred in failing to take cognizance of the effect of the Township's adoption of its zoning ordinance which completely changed the situation from that which existed at the time of Director Davis' decision. At the time of Director Davis' decision, there were other sites to which Mr. Churm might have transferred his license, even though from an economic viewpoint they were completely undesirable and impracticable. However, by the enactment of the zoning ordinance, the Township completely ruled out all possible sites for transfer of any licenses, since there is presently in Jefferson Township no commercial site available which is not within one mile of an existing tavern...Ample authority for declaring that Ordinance 79 is harsh and arbitrary as applied to this particular set of circumstances is found in Shenise v. Jefferson Township, Bulletin 1155, Item 2." In his Conclusions and Order of May 14, 1962 in Mr. Churm's prior appeals (Bulletin 1459, Item 2), the Director adopted the Hearer's revised recommendation that denial of the place-to-place transfer be affirmed "because of a definite violation of the distance-between-premises ordinance known as No. 79 which does not appear to be unreasonable as it applies to the facts in this case." There is no evidence that the zoning ordinance was superimposed upon Ordinance No. 79 through improper motivation on the part of respondent Committee -- no evidence that the zoning ordinance was to any extent initiated and enacted as an anti-Churm measure. It is unnecessary for me to make a finding or determination herein with respect to the reasonableness or unreasonableness of Ordinance No. 79 as here applied. As noted, a separate and independent ground for respondent's denial of the place-to-place transfer was that in consideration of the number of licenses near the new location sought, there is no need or necessity for any additional license there. I find that the denial of the transfer did not constitute an abuse of discretion and that appellant has failed to sustain the burden of establishing that respondent's denial of his application for the place-to-place transfer was erroneous and should be reversed. (See Willner's Liquors v. Irvington, Bulletin 1192, Item 2; Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1.)

It does not follow that denial of an application for place-to-place transfer of license to a different location would necessarily be affirmed on appeal. If such application were for transfer to a location other than the shopping center

(near which a concentration of licensed premises exists) and with any other licensed establishment or establishments located at a substantial distance from the new location sought, it is conceivable that an appeal from denial of the application might result in a finding (cf. Shenise, supra) that the distance ordinance was unreasonable in its application to the particular case and in a reversal of the denial.

Further, the exceptions to the Hearer's Report contend that the Hearer failed to give consideration to the fact that appellant, if the transfer were granted, would (the license having acquired the "Broad Package Privilege" pursuant to P.L. 1948, c. 98) use the premises for a package store only; and that "it is apparent that the purpose of Ordinance 79 was to restrict the distance between taverns." No plenary retail distribution license (R.S. 33:1-12, Paragraph 3a) is issued in Jefferson Township wherein thirty-four plenary retail consumption and three club licenses are outstanding. Ordinance No. 79 does not mention license types. It relates (with respect to place-to-place transfers) to "licenses" -- to all club licenses and all plenary retail consumption licenses with no distinction or exception as to transfer of a plenary retail consumption license carrying the "Broad Package Privilege". I find no merit in either of these two contentions. With respect to lack of merit in the first of the two contentions, cf. Gorcica v. Wallington, Bulletin 659, Item 10; Moller v. Middletown Township, Bulletin 779, Item 3.

The exceptions to the Hearer's Report contend, further, that in recommending affirmance of denial of place-to-place transfer, the Hearer failed to give proper consideration to the testimony of Joseph D. Mintz, Esq. (Re: approximate date when the reservoir might be constructed) and to the testimony of Vincent Annino (Re: appellant's situation of "financial hardship"). The date of the proposed construction, subject to the outcome of the pertinent litigation, was of course not known nor was it immediately material, and the Hearer's Report did refer explicitly to the matter of "individual hardships", citing Dal Roth v. Div. of Alcoholic Beverage Control, 28 N.J. Super. 246, 255.

As set forth in the Hearer's Report, among the reasons given by respondent for denial of application for 1963-64 renewal was that appellant had no license for 1962-63 and, thus, that no renewal for 1963-64 could be granted; but application for 1962-63 renewal was granted by respondent on July 16, 1962, subject to a completion-of-premises special condition which was not complied with.

In the face of the entire background and record, Mr. Churm's adamant course in seeking transfer to the shopping center has not been a wise one, but a sympathetic appraisal of all attendant circumstances leads me to the definite conclusion that, in the situation in which he finds himself, the prospect of a continuing license should not be ruled out for technical procedural reasons. Thus, the 1962-63 renewal of his 1961-62 license will be deemed effective as of June 30, 1963, for the sole purpose of permitting 1963-64 renewal, and the 1963-64 license will be deemed effective as of June 30, 1964, for the sole purpose of permitting grant of application for 1964-65 renewal. Furthermore, under the circumstances and pursuant to the powers granted to me by R.S. 33:1-19, I shall enter an order herein permitting appellant to file application for a 1964-65 license,

and such application shall be deemed an application for renewal if filed within thirty days from the date hereof and respondent shall grant such renewal application as hereinafter set forth. (See, on the strait point, Shenise v. Jefferson Township, supra, citing Wardach and Jaskulski v. Camden and Oreb, Bulletin 487, Item 4.)

Having carefully considered the entire record and the oral argument in these appeals, I agree with the recommendation of the Hearer in Case #2984, but I disagree with the Hearer's recommendation in Case #2999.

Accordingly, it is, on this 3d day of March, 1965,

ORDERED that the action of respondent in denying application for place-to-place transfer of appellant's 1962-63 license be and the same is hereby affirmed, and that such appeal be and the same is hereby dismissed; and it is further

ORDERED that the action of respondent in denying appellant's application for 1963-64 renewal be and the same is hereby reversed; and it is further

ORDERED that renewal of appellant's 1961-62 license for 1962-63 shall be deemed effective as of June 30, 1963, for the sole purpose of permitting 1963-64 renewal; and it is further

ORDERED that such 1963-64 license shall be deemed effective as of June 30, 1964, for the sole purpose of permitting grant of application for 1964-65 renewal; and it is further

ORDERED that an application filed by appellant with respondent within thirty days from the date hereof for premises at the old location on Longwood Valley Road shall be deemed a renewal application, and that respondent grant such application subject to a completion-of-premises special condition, and subject to the special condition that there shall be no operation under the license at such location unless such operation is in compliance with the Township's zoning ordinance; but it is further

ORDERED that if, prior to issuance of a license for 1964-65, the now-pending litigation results in the acquisition of the land for purposes of a reservoir and dam, the 1964-65 license shall be deemed to have been granted, effective as of the date of such acquisition, for the purpose of permitting (but not requiring) grant of application for transfer of the license to premises other than premises at the shopping center.

JOSEPH P. LORDI
DIRECTOR

ACTIVITY REPORT FOR MARCH 1965

ARRESTS:		
Total number of persons arrested	-----	43
Licensees and employees	22	
Bootleggers	21	
SEIZURES:		
Motor vehicles - trucks	-----	1
Stills - 50 gallons or under	-----	4
Alcohol - gallons	-----	31
Mash - gallons	-----	800
Distilled alcoholic beverages - gallons	-----	121
Wine - gallons	-----	9
Brewed malt alcoholic beverages - gallons	-----	15
RETAIL LICENSEES:		
Premises inspected	-----	834
Premises where alcoholic beverages were gauged	-----	690
Bottles gauged	-----	10,012
Premises where violations were found	-----	73
Violations found	-----	92
Unqualified employees	20	Prohibited signs 4
Application copy not available	14	Disposal permit necessary 3
Other mercantile business	8	Improper beer taps 1
Reg. #38 sign not posted	8	Other violations 34
STATE LICENSEES:		
Premises inspected	-----	11
License applications investigated	-----	7
COMPLAINTS:		
Complaints assigned for investigation	-----	418
Investigations completed	-----	382
Investigations pending	-----	197
LABORATORY:		
Analyses made	-----	106
Refills from licensed premises - bottles	-----	15
Bottles from unlicensed premises	-----	39
IDENTIFICATION:		
Criminal fingerprint identifications made	-----	10
Persons fingerprinted for non-criminal purposes	-----	318
Identification contacts made with other enforcement agencies	-----	211
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	16
Violations involved	-----	19
Sale during prohibited hours	8	Sale outside scope of license 1
Sale to minors	6	Possessing chilled beer (DL lic.) 1
Failure to close prem. dur. proh. hrs.	2	Sale to non-member by club 1
Cases instituted at Division	-----	23
Violations involved	-----	27
Sale during prohibited hours	6	Failure to file notice of change in lic. application 1
Sale to minors	4	Failure to close prem. dur. proh. hrs. 1
Possessing liquor not truly labeled	3	Hindering investigation 1
Sale below filed price	3	Sale to intoxicated person 1
Sale to non-members by club	1	Conducting business as a nuisance 1
Possessing pinball machine on prem.	1	Employing police officer on prem. 1
Permitting immoral activity on prem.	1	Permitting lottery activity 1
Fraud and front	1	
Cases brought by municipalities on own initiative and reported to Division	-----	34
Violations involved	-----	38
Sale to minors	24	Conducting business as a nuisance 1
Permitting brawl on premises	4	Sale to intoxicated person 1
Sale during prohibited hours	3	Permitting bookmaking on premises 1
Failure to close prem. dur. proh. hrs.	2	Unqualified employees 1
Employee working while intoxicated	1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	48
Appeals	10	Eligibility 2
Disciplinary proceedings	35	Seizures 1
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	980
Licenses	7	Social affair permits 419
Solicitors' permits	57	Miscellaneous permits 102
Employment permits	153	Transit insignia 104
Disposal permits	67	Transit certificates 71
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued	216	
Enforcement files established	2	

JOSEPH P. LORDI
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: April 8, 1965

5. DISCIPLINARY PROCEEDINGS * LEWDNESS AND IMMORAL ACTIVITY (STRIP TEASE) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5, FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MC LOUGHLIN & STOCK, INC.)
t/a "Shamrock Bar")
94-96 Beachway)
Keansburg, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Borough Council of the Borough of Keansburg.)

Licensee, by Edward J. McLoughlin, President, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge as follows:

"On Thursday night February 11 and early Friday morning February 12, 1965, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises, viz., in that you allowed, permitted and suffered a female person to perform on your licensed premises for the entertainment of your customers and patrons in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20."

Reports of investigation disclose that on the dates alleged, a female entertainer appeared fully clothed and, to musical background, successively removed her various items of apparel to a bare minimum, meanwhile performing "bumps and grinds" and engaging in other suggestive bodily movements and gestures--a standard strip routine.

Absent prior record, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Paddock International, Bulletin 1429, Item 2.

Accordingly, it is, on this 10th day of March, 1965,

ORDERED that Plenary Retail Consumption License C-11, issued by the Borough Council of the Borough of Keansburg to McLoughlin & Stock, Inc., t/a Shamrock Bar, for premises 94-96 Beachway, Keansburg, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, March 15, 1965, and terminating at 2:00 a.m. Friday, April 9, 1965.

JOSEPH P. LORDI
DIRECTOR

6. DISQUALIFICATION REMOVAL PROCEEDINGS - MAINTAINING DISORDERLY HOUSE (GAMBLING) - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application)
to Remove Disqualification because) CONCLUSIONS
of a Conviction, Pursuant to) AND ORDER
R.S. 33:1-31.2.)

Case No. 1887

Thompson and Convery, Esqs., by Vincent J. Convery, Esq.,
Attorneys for Petitioner.

BY THE DIRECTOR:

Petitioner's criminal record discloses that on February 28, 1949 he pleaded non vult in the Mercer County Court to (a) carrying a concealed weapon (knife), as a result of which he was placed on probation for three years and fined \$50, and (b) maintaining a disorderly house (gambling), as a result of which he was sentenced to a year in the county workhouse, the execution of the sentence being suspended and the petitioner fined \$150.

At the hearing held herein, petitioner (57 years old) testified that he is married and living with his wife; that he has lived at his present address for the past ten years, and for the past twenty-two years has been employed as a polisher-finisher by a nationally known automobile corporation.

Petitioner further testified that, while a "craps game" was in progress in his house, law enforcement officers entered, and during an inspection of the premises found a knife on his person.

The common law offense of keeping a disorderly house was established when it is proved that one permits his place to be used by persons whose conduct, to his knowledge, rendered the place disorderly, regardless of his intent (R.S. 2:135-3, since superseded by R.S. 2A:112-3) but the statutory offense mentioned of keeping a gambling place requires proof that the persons resorted to the place for the purpose of gambling. State v. Costa, 20 N.J. Super. 28, aff'd 11 N.J. 239.

Petitioner pleaded non vult to the charge of maintaining a disorderly house and at the hearing herein (in addition to the said plea) testified that he was operating a dice game at the time "the place was raided."

Under the circumstances appearing in this matter, in my opinion the crime of maintaining a disorderly house (gambling), to which petitioner pleaded non vult, involves the element of moral turpitude. Thus it will be unnecessary to determine whether the crime of carrying a concealed weapon, to which petitioner also pleaded non vult, involves that element.

The Police Department of the municipality wherein petitioner resides has reported that there are no complaints or investigations presently pending to which petitioner is a party.

Petitioner produced three character witnesses (a construction worker, a polisher and finisher, and an equipment cleaner -- the latter two witnesses being employed by an

automobile manufacturer) who testified that they have known petitioner for eight or more years and that, in their opinion, he bears a good reputation in the community for being a law-abiding person.

Under the circumstances and based on the record herein, I find that petitioner has conducted himself in a law-abiding manner for five years last past. Thus I conclude that petitioner's association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 9th day of March, 1965,

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

JOSEPH P. LORDI
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - GAMBLING (WAGERING) - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MARY ELLEN AURYANSON)
t/a Aury's Tavern)
150 E. Ridgewood Avenue)
Paramus, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-28, issued by the Mayor and Council of the Borough of Paramus.)

Robert W. Wolfe, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 6, 1965, she permitted gambling (wagering at cards) on the licensed premises, in violation of Rule 7 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 Fluckiger, Bulletin 1590, Item 5.

Accordingly, it is, on this 8th day of March, 1965,

ORDERED that Plenary Retail Consumption License C-28, issued by the Mayor and Council of the Borough of Paramus to Mary Ellen Auryanson, t/a Aury's Tavern, for premises 150 East Ridgewood Avenue, Paramus, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. Monday, March 15, 1965, and terminating at 3:00 a.m. Thursday, March 25, 1965.

JOSEPH P. LORDI
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - EMPLOYMENT OF SOLICITOR BY RETAILER - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JEAN TOZZIE)
t/a Hamilton Wines & Liquors)
22 Hamilton Street)
Paterson, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-355, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

Edward H. Saltzman, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on December 23, 1964, she (1) sold a case of 4/5 quart bottles of whiskey below filed price, in violation of Rule 5 of State Regulation No. 30, and (2) employed as a sales clerk James C. Pisacane, holder of a solicitor's permit, in violation of Rule 29 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for ten days (Re Kurtzman, Bulletin 1604, Item 5) and on the second charge for five days (cf. Re Gitter, Bulletin 1575, Item 2), or a total of fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days.

Accordingly, it is, on this 15th day of March, 1965,

ORDERED that Plenary Retail Consumption License C-355, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Jean Tozzie, t/a Hamilton Wines & Liquors, for premises 22 Hamilton Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. Monday, March 22, 1965, and terminating at 3:00 a.m. Thursday, April 1, 1965.

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SOLICITOR EMPLOYED BY RETAILER - PERMIT SUSPENDED FOR 5 DAYS.

In the Matter of Disciplinary Proceedings against
 JAMES PISACANE
 336 - 5th Avenue
 Paterson, New Jersey
 Holder of Solicitor's Permit No. 2827, issued by the Director of the Division of Alcoholic Beverage Control.

CONCLUSIONS AND ORDER

 Edward H. Saltzman, Esq., Attorney for Permittee.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Permittee pleads non vult to a charge alleging that on December 23, 1964, while holding a solicitor's permit, he was employed as a sales clerk by a retail licensee, in violation of Rule 7 of State Regulation No. 14.

Absent prior record and considering the lack of aggravating circumstances as well as the plea entered, the permit will be suspended for five days. Re Bauman, Bulletin 1323, Item 11.

Accordingly, it is, on this 15th day of March, 1965,

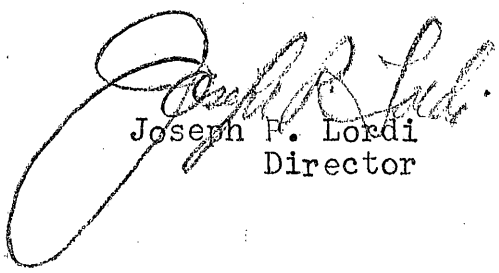
ORDERED that Solicitor's Permit No. 2827, issued by the Director of the Division of Alcoholic Beverage Control to James Pisacane, 336 - 5th Avenue, Paterson, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, March 22, 1965, and terminating at 9:00 a.m. Saturday, March 27, 1965.

JOSEPH P. LORDI
DIRECTOR

10. STATE LICENSE - NEW APPLICATION FILED.

Peter J., Joseph, August, Julian and Arthur Mustardo
 t/a Lyndale Beverage Co.
 650 Valley Brook Avenue
 Lyndhurst, New Jersey

Application filed April 26, 1965 for place-to-place transfer of State Beverage Distributor's License SBD-173 from 15-17 Hackensack Avenue, Ridgely Park, New Jersey.



Joseph P. Lordi
Director