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

BULLETIN 2249 March 24, 1977

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ITEM

STATE OF NEW JERSEY
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March 24, 1977

1. APPELLATE DECISIONS - COLON v. UNION CITY.

Luis Colon and Connie Colon,	:	
Appellants,	:	On Appeal
v.	:	
Board of Commissioners of the City of Union City,	:	CONCLUSIONS and ORDER
Respondent.	:	

Boffa & Willis, Esqs., by Dennis M. Salerno, Esq., Attorneys for Appellants
George J. Kaplan, Esq., by Edward J. Lynch, Esq., Attorneys for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Board of Commissioners of the City of Union City (hereinafter Board) which, on February 11, 1975, revoked appellant's Plenary Retail Consumption License C-178, for premises 200-49th Street, Union City, in consequence of its finding that on November 24, 1974, appellant permitted several infractions of State Regulation No. 20. The specific charges are not herein detailed for reasons hereinafter set forth.

At the de novo hearing in this Division, appellant indicated that the substance of the appeal was contained in the transcript of the testimony offered before the Board at its hearing, which transcript would be submitted pursuant to Rule 8 of State Regulation no. 15. Counsel stipulated that no testimony would be then offered and total reliance would be placed upon such transcript.

Permission was extended to counsel to present oral argument with the understanding that a transcript of the said testimony would be prepared and submitted to this Division. Following the hearing, which took place on March 24, 1975, this Division, on many occasions, made inquiry and requested a copy of the proffered transcript from both counsel; but to no avail.

As appellant has the burden of establishing that the action of a municipal issuing authority is erroneous and should be reversed, pursuant to Rule 6 of State Regulation No. 15, the appellant has the burden of going forward with the evidence. Not having done so, and with full opportunity hav ing been afforded the appellant to fulfill the stipulation made at the hearing in this Division to deliver the transcript of testimony referred to, there is no alternative but to dismiss the appeal. Parenthetically, it has been called to my attention that

appellant's license was not renewed for the 1975-76 licensing period.

Accordingly, it is recommended that the action of the Board be affirmed, the petition of appeal filed herein be dismissed, and the Director's order of February 14, 1975 staying the Board's action for record purposes, pending determination of this appeal be vacated.

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

Accordingly, it is, on this 3rd day of December 1976

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

ORDERED that the Order dated February 14, 1975, staying the revocation of appellant's license pending the determination of this appeal be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-178, issued by the respondent Board of Commissioners of the City of Union City to Luis Colon and Connie Colon, for the premises 200-49th Street, Union City, be and the same is hereby revoked, effective immediately.

JOSEPH H. LERNER
DIRECTOR

2. APPELLATE DECISIONS - ONORE v. BRICK TOWNSHIP ET AL.

Frederick A. Onore and Constance D. Onore Appellants, v. Township Committee of the Township of Brick and Jerry R. Monroe Respondents.	On Appeal CONCLUSIONS and ORDER

Frederick A. Onore, Esq., Pro Se
Sim, Sinn, Gunning, Serpentelli & Fitzsimmons, Esqs., by Kenneth B. Fitzsimmons, Esq., Attorneys for Respondent - Township
Gertner, Silverman & Smith, Esqs., by Robert B. Silverman, Esq., Attorneys for the Respondent - Jerry R. Monroe

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellants challenge the action of the respondent Township Committee of the Township of Brick (hereinafter, Committee) which, by resolution dated July 20, 1976, granted a plenary retail distribution license to the respondent, Jerry R. Monroe, for the current licensing period, for premises situated at Lanes Mill Road, Pine Shopping Center, Brick Township.

Appellants contend that such action was:

(1) violative of appellants' constitutional rights of equal treatment under the law;

(2) based upon considerations other than those recognized under the laws of the State of New Jersey, and without regard to the public interest;

(3) unreasonably and improperly grounded, in that no present and demanding public need or convenience was fulfilled by the granting of the license to the respondent, to take effect in the remote and uncertain future.

In their answers, the respondents deny the substantive allegations contained in the petition of appeal.

A de novo hearing was held in this Division pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and cross examine witnesses.

The factual background giving rise to the action of the Committee, complained of in this appeal, is not in controversy. In accordance with a valid ordinance, the Township of Brick increased the number of plenary retail distribution licenses available by one. Appellants and Monroe were among twenty-three applicants who filed for the new license. It was the grant of this new license to Monroe by the Committee, and the steps leading to Monroe's selection over appellant and all others that are the issues raised in this appeal.

The hearing held by the Committee leading to the final selection of a licensee was protracted. There were two "executive" meetings and one "special" meeting, all open to the public, at which all applicants had the opportunity to, and most, in fact, did appear. Objections from interesed residents were voiced at the first two meetings, and all applicants were afforded several minutes each to answer them as they affected their respective locations. No one was afforded an opportunity to be heard beyond this, however.

The Committee determined that there were two sections of the Township which, because of recent, rapid growth, were not being properly served, and concluded that the grant of the license would be to one of the seven applicants who proposed to locate in one of these two areas.

In behalf of the Committee, the Township Clerk testified that, at the Committee's request, he graphically pin-pointed each applicant on a large Township map in red, and each existing license in green, so that, as the Committee deliberated, the merits of the various applicants, it could perceive their respective proposed locations including their proximity to existing licenses.

Alan Thiele, Committee President, testified that the various members did consult the map in their deliberation, as well as the applications of those who proposed to locate in either of the desired zones. Other criteria used included the residence in the Township, whether a new ratable was proposed by the appellant, and the proximity to existing licensees.

Ultimately, the license was granted to Monroe by a split vote (4 in favor, 3 against).Thiele cast one of the negative votes because the Township did not gain a new tax ratable.

Jerold Monroe, the son of the respondent, Monroe, testified that his father's license would be located in an existing shopping center, which would have been contiguous to one owned by appellants, were it not for the intrusion of an exit road from the Garden State Parkway, where the appellants proposed to locate their

business. He stated that the premises will be opened for business on October 18, 1976, actively managed by his father, a Township resident with many years experience operating a retail liquor establishment.

Constance D. Onore, one of the appellants, and an unsuccessful applicant for the license, (with Frederick A. Onore, her husband) testified that none of the applicants was afforded an opportunity to speak in support of the respective applications. She conceded on cross-examination, that the applicants were able to rebut the objections raised by interested residents relative to their applications. She was also permitted to state, for the record, that she, and her husband owned a home in the Township for more than twenty-five years. I cannot find anything to support the claim of unequal treatment.

Nelson Stousland, the President of Homeowners of Greenbrier, Inc., a community organization within the Greenbrier development (1,052 occupied homes) testified in support of the relative convenience of shopping at the Center where the license is located as compared to the Center where the Onore's proposed to locate a license. He opined that Onore's location was more convenient for Greenbrier residents. He also defined the distance one must travel presently to obtain alcoholic beverages.

Stephen Lane, President of Lane Drugs, a 13-store chain, set forth his reasons for moving a drug store (greater volume of shoppers and therefore increased sales and profit) from the shopping center where licensee is about to locate, to the adjacent center owned by the Onores.

The governing legal principle has long been established in Fanwood v. Rocco, 33 N.J. 404,414 (1960), wherein the court stated:

> "....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 judgement and discretion was reasonable....."
>
> Since the Council's action in matters of this kind is discretionary, appellant, to prevail on appeal, must show manifest error or clear abuse of discretion. Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super, 598 (App. Div.1955)

The testimony establishes that the Committee determined the areas which are presently being inadequately served; and then, from those applicants who indicated they proposed to locate in either of the areas so designated, selected the one they felt was most suitable.

Township residence was viewed as an essential condition. This criteria is neither unreasonable or improper. Since the successful candidate did not provide the Township with a new tax ratable, the argument raised by Onore is moot, and need not be discussed here.

Onore's witness, Stousland, clearly established that the Committee did, in fact, "fulfill a demanding public need or convenience" by the granting of this license.

In sum, I find all of appellant's contentions lacking in merit.

Upon considering the totality of the record herein, and the legal precedents, I find that the Committee has, in my opinion, understood its full responsibility, has acted circumspectly and in the reasonable exercise of its discretion. However, neither manifest error or abuse of discretion by the Committee has been shown. Zicherman v. Driscoll, 133 N.J.L. 586;(Sup. Ct. 1946); Blanck v. Magnolia; 33 N.J. 484 (1962).

Accordingly, I find that the appellant has failed to meet the burden of establishing that the action of the Committee was erroneous and should be reversed. Rule 6 of State Regulation No. 15.

It is, therefore, recommended that the action of the Committee be affirmed, and the appeal be dismissed.

Conclusions and Order

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

Having carefully considered the entire record herein, including the transcript of the testimony, the argument of counsel, the exhibits, and the Hearer's report, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 2nd day of December 1976

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

JOSEPH H. LERNER
DIRECTOR

3. APPELLATE DECISIONS - FIRST BAPTIST CHURCH OF BLOOMFIELD ET AL. v. BLOOMFIELD ET AL.

First Baptist Church of Bloomfield, and Robert C. Becker, Pastor, Appellants, v. Town Council of the Town of Bloomfield and Proud Mary's Inc. Respondents.	On Appeal CONCLUSIONS and ORDER

Robert F. Colquhoun, Esq., by James F. Sullivan, Esq. Attorneys for Appellant
Joseph D. Lintott, Esq., Attorney for Respondent-Town Council
John R. Scott, Esq., Attorney for Respondent- Proud Mary's Inc.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the Town Council of the Town of Bloomfield (hereinafter, Council) which granted renewal of respondent, Proud Mary's Inc., Plenary Retail Consumption License, C-26, for premises 409 Franklin Street, Bloomfield.

In their petition of appeal, the appellants contend that the action of the Council is erroneous in that the licensed premises and appellant's nearby Church are within the prohibited two hundred foot measurement as restricted by N.J.S.A. 33:1-76. Appellant further contends that, as there were significant public objection to the renewal of the license, the Council should have denied the renewal application.

The Council countered by averring that the appeal was filed out of time, and that the objections raised had been previously determined by the Director of this Division in a parallel matter involving the same respondents and subject matter.

A hearing was held de novo in this Division pursuant to Rule 6 of State Regulation No. 15 with full opportunity provided the parties to introduce evidence

and to cross-examine witnesses. However at the outset of the hearing, it became readily apparent that, as a preliminary to the development of any evidence by either party, two fundamental issues were required to be determined.

The first issue presented was the timeliness of the appeal. Rule 3 of State Regulation No. 15 provides:

> "Appeals from the issuance of a license and from the granting of an application for the extension or transfer of a license must be taken within thirty (30) days from the date of the action appealed from; all other appeals must be taken within thirty (30) days after the service or mailing of notice by the municipal issuing authority of the action appealed from."

The instant matter is an appeal from the issuance of a license; in consequence the appeal must be taken within thirty days from the date of the action appealed from. At the outset of the hearing in this Division, it was stipulated that the Notice of Appeal was filed with the Director of this Division of July 26, 1976 and that the action appealed from occurred on June 21st, 1976. Hence, the appeal was filed five days beyond time, or at least four days after the statutory time limitation.

The issue of timeliness of an appeal to an administrative agency was determined by the Appellate Division of the Superior Court in the matter of Hess Oil & Chem. Corp. v. Doremus Sport Club, 80 N.J. Super. 393 (App.Div.1963) wherein the court stated:

> "Since the appeal was untimely, the Division acted properly in refusing to hear it. Indeed, the Division had no jurisdiction to accept the appeal....." p.396." (underscore added)

It is then obvious that, as the Director has no jurisdiction to accept an appeal, neither has he jurisdiction to hear one which has been filed out of time. As appellant has candidly admitted that the filing is beyond time, and in view of the fact that the Director lacks jurisdiction to entertain the matter, the appeal perforce fatally defective.

The second issue posed at the outset of the hearing with respect to the theorem of res adjudicata, reached a similar result as in the first issue. Although the res adjudicata doctrine does not properly belong in an area where a license is subject to an annual renewal, and a decision applies to a prior licensing period, the facts relating to both can be identical, and, hence, require no additional fact presentation.

The sole question posed in that connection is the distance between the appellant-church doorway and the respondent's licensed premises. At the prior hearing entitled Thompson v. Bloomfield, Bulletin 2232, Item 3, the factual question of distance was explored and determined by the Director. At the instant hearing, the question was asked of all counsel if there had been any changes in the doorways to the respective buildings in the prior year, to which each counsel affirmed that the situation was essentially identical.

In that connection then, the Director, having made a determination of the distances, and having found that they were not violative of the statute, N.J.S.A. 33:1-76, the conclusion is inescapable; there is no further issue respecting distance with which the Director of this Division should permit a re-litigation thereof.

Thus, I find that the appeal was untimely filed, and the Director has no jurisdiction to entertain it; and further, the subject matter of the appeal has been earlier determined by the Director, therefore, there exists no valid reason for a redetermination of the question.

I conclude that the appellant has not maintained its burden of establishing that the action of the Council is erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

It is, accordingly, recommended that the action of the Council be affirmed and the appeal be dismissed.

Conclusions and Order

Written exceptions to the Hearer's Report were filed by the Appellant and written answer to the said exceptions was filed by respondent pursuant to Rule 14 of State Regulation No. 15.

Appellant challenges the Hearer's finding that the appeal was filed out of time, and cites Shop Rite of Hunterdon County v. Raritan, 131 N.J. Super. 428 (App.Div. 1974) as support for its contention that the appeal need not be filed within the thirty-day statutory period.

Reliance upon Shop-Rite, supra for that purpose is misplaced. The thrust of that opinion centered about the rejection notice within thirty days of which the appeal had not been filed. In the instant matter there was no such "functional performance" situation. See Hess Oil and Chem. Corp, v. Doremus Sports Club, (80 N.J. Super at p. 396).

Secondly, appellant excepts to the Hearer's conclusion that, although the doctrine of res adjudicata may not be strictly adhered to, a prior factual

determination by the Director in a parallel matter was used as a basis as establishing sufficient grounds upon which to dismiss the appeal. This exception fails to note that, at the outset of the hearing, the Hearing Officer sought a proffer of proof that there had been any changes in the factual situation from that of the prior year, when the Director had made his determination.

At that point all counsel admitted that there were no changes in the factual situation during the intervening period. Hence, the Hearing Officer properly relied upon the existing factual information upon which to base his recommendation. From the record in the parallel matter of Thompson v. Bloomfield, Bulletin 2232 Item 3, it is singularly apparent that the doorway markings on the sidewalk in front of the principal church doorway and that of respondent licensed premises are more than the minimum 200 feet apart. (Underscore added).

Having carefully considered the entire record herein, including the transcript of the proceedings held in this Division, the argument of counsel, the Hearer's Report, the Exceptions thereto and the answer to the said exceptions, I concur in the findings and recommendations of the Hearer, and adopt them as my conclusions herein.

Accordingly, it is, on this 9th day of December 1976

ORDERED that the action of the Town Council of the Town of Bloomfield be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

JOSEPH H. LERNER
DIRECTOR

4. APPELLATE DECISIONS - GOROSKI v. PATERSON ET AL.

Mitchell Goroski t/a Mitchell's Bar & Grill,	:	
Appellant,	:	
v.	:	On Appeal
Board of Alcoholic Beverage Control for the City of Paterson, Richard and Harriet Garod, a partnership, and S. Alexander & Co., Inc, t/a Rasa's Farm Fresh	:	CONCLUSIONS and ORDER
Respondents.	:	

John Koribanics, Esq., Attorney for Appellant
Joseph A. LaCava, Esq., by Ralph L. DeLuccia, Jr., Esq. Attorneys for Respondent-Board
Cole, Geaney & Yamner, Esq., by John F. Fox, Esq., Attorney for Respondent- S. Alexander

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control for the City of Paterson (hereinafter Board) which, on July 14, 1976, approved a person-to-person and place-to-place transfer of Plenary Retail Distribution License, D-16, from Richard and Harriet Garod, a partnership, to S. Alexander & Co., t/a Rasa's Farm Fresh, and from premises 175 Market Street to 247-249 Buffalo Avenue, Paterson.

In his petition of appeal, appellant contends that the Board (a) failed to conduct a proper hearing, (b) approved transfer to a restricted zone (c) did not require pre-compliance with regulatory requirements of municipal authorities; and (d) acted without evidence of need for the establishment in the area. The Board denied each of these contentions.

An appeal hearing de novo was held in this Division pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and cross-examine witnesses. Additionally, a transcript of the proceedings before the Board was admitted into evidence, in accordance with Rule 8 of said Regulation.

At the said hearing in this Division, neither party availed themselves of the opportunity to introduce evidence; rather it was stipulated that the facts involved in the matter were not in serious contention. Thus counsel relied upon oral argument only in supplementing the transcript of the proceedings before the Board.

From an examination of the transcript of the testimony presented before the Board, a copy of the application of respondent and a copy of the subject resolution, together with the argument of counsel, it is clearly apparent that the several con-

tentions of appellant are totally without merit.

The record reveals that on July 14, 1976, the Board conducted a plenary hearing respecting the subject transfer, at which appellant's counsel participated and outlined appellant's objections. Such objections were considered by the Board prior to its determination. Hence, the objection that the Board did not conduct a proper hearing has no factual basis.

Secondly, in its Resolution, the Board conditioned the subject transfer to the approval of and upon proper application to the Board of Adjustment of the City of Paterson. Such condition is well within the guidelines set forth in Lubliner v. Paterson 59 N.J. Super. 419, aff'd as modified 33 N.J. 428 (1960), which approve a transfer to an area which could be subject to later municipal land-use approval.

Thirdly, the contention that the Board did not require pre-compliance of the varied municipal boards and bodies, whose approval is required for building use is, similarly, without merit. The Resolution conditions the transfer to approval by the Board of Health, Fire Department and Electrical Board. Obviously, no applicant would construct the proposed premises and apply for municipal sanctions based upon an unapproved use. Therefore, approval for use must first be sought of the primary agency, which, in this case is the Board.

The final objection, i.e. that the Board did not obtain evidence of the need of appellant's establishment in the area is totally devoid of merit. The appellant and sole objector is a competitor who owns a tavern across the street from the subject premises. The thrust of appellant's purpose in objecting is the potential loss of package goods sales for off-premises consumption that could occur as a result of the transfer. While no such statement of purpose was made, appellant's motivation is transparent.

There was no neighborhood sentiment opposing the transfer which the Board should consider. Cf. Lyons Farms Tavern, Inc., v. Newark, 68 N.J. 44 (1975). As indicated, with exception of appellant, there were no objectors whatever.

There was no evidence presented contrary to the supposition that the proposed site would increase service to the public and thus inure the benefit of the public. Hence, the action of the Board, absent proof to the contrary, should be affirmed. Hudson-Bergen Retail Liquor Stores Assn. v. Hoboken, 135 N.J.L. 502 (1942).

It is, therefore, recommended that the action of the Board be affirmed and the appeal be dismissed.

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 matter herein, including the transcript of the testimony, and the Hearer's report, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 2nd day of December 1976,

ORDERED that the action of the Board of Alcoholic Beverage Control for the City of Paterson approving the person-to-person and place-to-place transfer of Plenary Retail Distribution License D-16, from Richard and Harriet Garod, a partnership, to S. Alexander & Co., Inc. t/a Rasa's Farm Fresh, and from premises 175 Market Street to 247-249 Buffalo Avenue, Paterson, be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

JOSEPH H. LERNER
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - LICENSEE DISQUALIFIED - FAILURE TO CITE CONVICTION ON APPLICATION FOR LICENSE - LICENSE CANCELLED.

In the Matter of Disciplinary Proceedings against Lawrence M. Black t/a Black's 1554 Maple Avenue Hillside, N.J. Holder of Plenary Retail Distribution License D-2, issued by the Municipal Board of Alcoholic Beverage Control of the Township of Hillside.	CONCLUSIONS and ORDER

No appearance on behalf of Licensee
Carl A. Wyhopen, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Charges were preferred against the licensee, as follows:

"1. On or about August 20, 1976, you, the holder of a plenary retail distribution license were convicted of a crime which involves the element of Moral Turpitude, viz., on or about August 20, 1976 in the New Jersey Superior Court, Union County, Law Division (Criminal), under Count 2 of Indictment #690, Term 1974, alleging that on or about January 25, 1975, in the Township of Hillside, County of Union, you did commit the crime of Bribery in that you did give certain monies and alcoholic beverages to an agent of the Division of Alcoholic Beverage Control to obtain, secure, and procure favorable services connected with the Division of Alcoholic Beverage Control, contrary to N.J.S.A. 2A:93-6, and was sent-

enced to one to two and one-half years (1-2½ years) in State Prison, the operation of which was suspended, a fine of $1,000.00 and Probation for a term of two (2) years, said conviction being an act or happening occurring after the time of your making application for a 1976-77 license which, if it had occurred before said time would have prevented issuance of your said 1976-77 license since such issuance would have been contrary to N.J.S.A. 33:1-25, violation of N.J.S.A. 33:1-31(i).

2. On or about August 31, 1976, you failed to file with the Director of the Division of Alcoholic Beverage Control and the Municipal Board of Alcoholic Beverage Control of Hillside, a notice in writing of a change in the facts as set forth in your 1976-77 application for license within 10 days viz., you failed to notify the aforesaid authorities of a change in your answer to Question 11 on your 1976-77 application to reflect a change in your answer to Question 30, on your last long form application from "No" to "Yes", indicating that you were convicted of the crime as aforesaid in Charge No 1; in violation of N.J.S.A. 33:1-34."

The licensee failed to respond, either individually, or by an attorney, whereupon, a "not guilty" plea was entered in licensee's behalf. Thereafter, due notice was furnished to the licensee setting down the matter for hearing at the Division offices on October 27, 1976 at 2:00 P.M.

Upon failure of the licensee to communicate with the Division or appear in response to the charges, or give any reason for his failure to appear, the matter was heard ex parte.

In support of the Charge 1, a certified copy of a judgement of conviction of the crime of bribery (N.J.S.A. 2A:93-6) entered against the licensee in the Union County Court on June 23, 1976 was received in evidence.

In support of Charge 2, proof was adduced that the licensee failed to notify the Division and the local issuing authority of a change in his application for license, indicating that he was convicted of a crime.

The crime of bribery involves per se the element of moral turpitude. United States ex rel Solazzo v. Esperdy, 285 F. 2nd 341, 342 (2nd Cir. 1961), cert. denied 366 U.S. 905. See also, Re Eligibility No. 723, Bulletin 1559, Item 5.

Licensee, having been convicted of a crime involving moral turpitude, is ineligible to hold an alcoholic beverage license in this state. N.J.S.A. 33:1-25 and N.J.S.A. 33:1-31(i).

Thus, I recommend that the licensee be found guilty of the aforesaid charges. I further recommend that the license issued to the licensee herein be cancelled.

Conclusions and Order

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

Having carefully considered the entire matter herein, including the transcript of the testimony, and the Hearer's report, I concur in the findings and recommendations of the Hearer, and adopt them as my conclusions herein.

Accordingly, it is, on this 2nd day of December 1976,

ORDERED that Plenary Retail Distribution License D-2, issued by the Municipal Board of Alcoholic Beverage Control of the Township of Hillside to Lawrence M. Black t/a Black's, for premises 1554 Maple Avenue, Hillside, be and the same is hereby cancelled, effective immediately.

Joseph H. Lerner
Director