

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

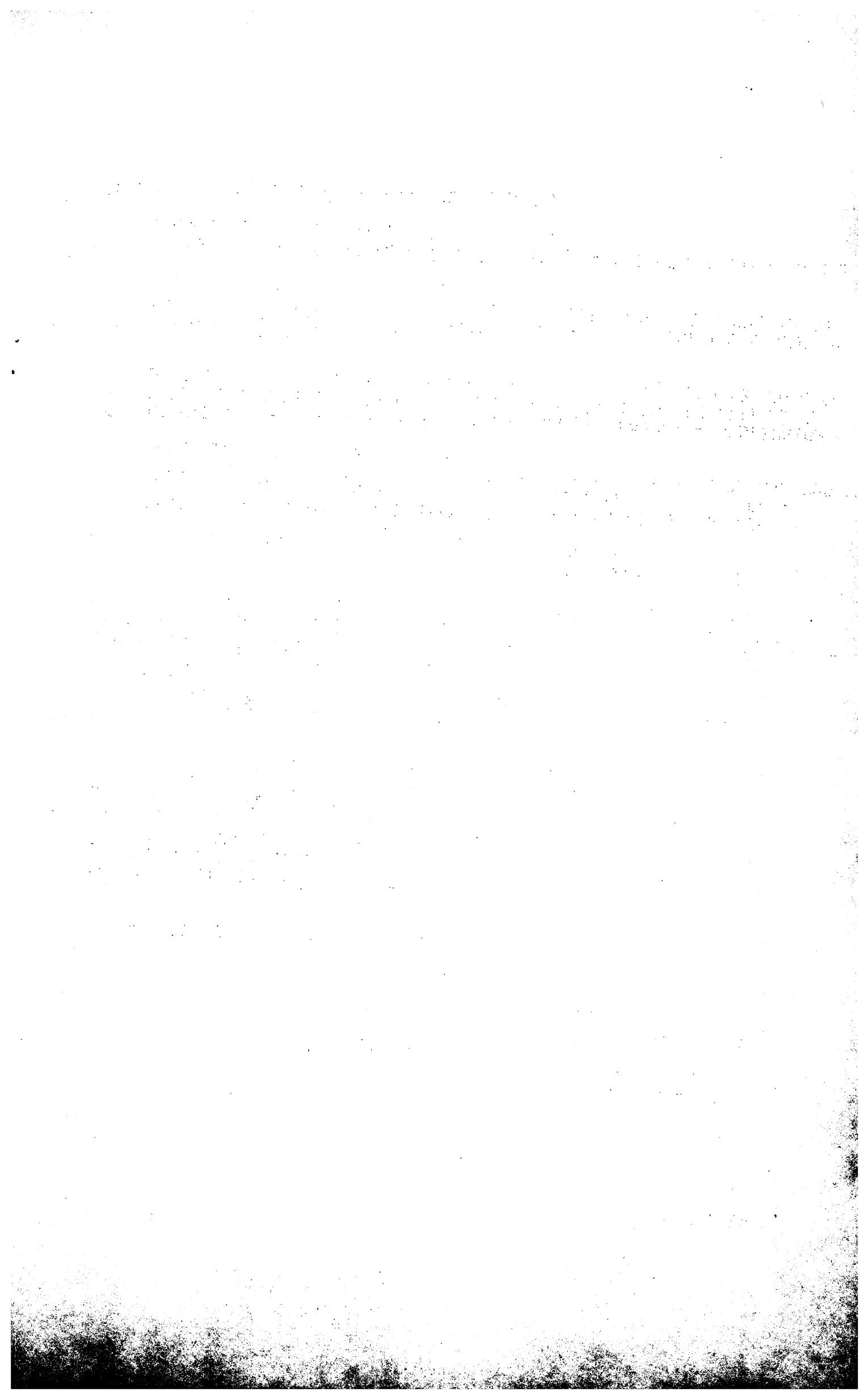
BULLETIN 917

SEPTEMBER 25, 1951.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 917

SEPTEMBER 25, 1951.

1. APPELLATE DECISIONS - FINBAR v. JERSEY CITY AND COMMUTERS BAR, INC.
MASKE ET AL. v. JERSEY CITY AND COMMUTERS
BAR, INC.
METROPOLITAN LIQUOR CORP. v. JERSEY CITY AND
COMMUTERS BAR, INC.
TUBE BAR, INC. v. JERSEY CITY AND COMMUTERS
BAR, INC.

FINBAR, a New Jersey corporation,)
Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
JERSEY CITY, and COMMUTERS BAR,)
INC.,)
Respondents.)

-----)
JOHN MASKE; JOSEPH GORMAN; GRAYS EATING)
PLACES OF N. J., a New Jersey corporation;)
ACE SHIRT SHOPS, INC., a New Jersey cor-)
poration; BERNHARD MILLER; JOHN DeDOUSIS;)
JOURNAL SQUARE BAKERY, INC., a New Jersey)
corporation; UNIVERSAL MARKETS, a New Jersey)
corporation; and THEODORE G. ANTOS,)
Appellants,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL)
OF THE CITY OF JERSEY CITY; and COMMUTERS)
BAR, INC.,)
Respondents.)

ON APPEAL

CONCLUSIONS

AND
ORDER

-----)
METROPOLITAN LIQUOR CORP., a New Jersey)
corporation, t/a TERMINAL BAR,)
Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL)
OF THE CITY OF JERSEY CITY; and COMMUTERS BAR,)
INC.,)
Respondents.)

-----)
TUBE BAR, INC., a New Jersey corporation,)
Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL)
OF THE CITY OF JERSEY CITY, and COMMUTERS)
BAR, INC.,)
Respondents.)

-----)
John J. LaFianza, Jr., Esq., Attorney for Appellant Finbar, a New)
Jersey corporation.)

Michael Halpern, Esq., Attorney for Appellants John Maske; Joseph)
Gorman; Grays Eating Places of N. J., a New Jersey corporation;)
Ace Shirt Shops, Inc., a New Jersey corporation; Bernhard Miller;)
John DeDousis; Journal Square Bakery, Inc., a New Jersey)
corporation; and Theodore G. Antos.)

Charles Hershenstein, Esq., Attorney for Appellant Universal Markets, a New Jersey corporation.
 Samuel Moskowitz, Esq., Attorney for Appellant Metropolitan Liquor Corp., a New Jersey corporation, t/a Terminal Bar.
 John Warren, Esq., Attorney for Appellant Tube Bar, Inc., a New Jersey corporation.
 John B. Graf, Esq., by Jacob J. Levey, Esq. and Louis E. Saunders, Esq., Attorney for Respondent Municipal Board of Alcoholic Beverage Control of the City of Jersey City.
 Wall, Walsh, Kelly & Whipple, Esqs., by Robert H. Wall, Esq. and Lawrence A. Whipple, Esq., and Thomas A. Tomasi, Esq., Attorneys for Respondent Commuters Bar, Inc.

BY THE DIRECTOR:

These appeals, consolidated for hearing and determination, were taken from the action of respondent Board in approving the transfer of a plenary retail consumption license, issued to Commuters Bar, Inc., from 35 Enos Place to 9B Journal Square Building, Journal Square, Jersey City.

The appellants in their petitions of appeal urge, in substance, the following grounds for reversal:

1. The granting of the transfer of such license is in direct violation of Section 4 of an ordinance to amend an ordinance entitled: "An ordinance to limit the number of Plenary Retail Consumption Licenses and Plenary Retail Distribution Licenses to sell alcoholic beverages at retail in the City of Jersey City", enacted October 5, 1937, and amended April 1, 1941.
2. The granting of the transfer of said license is socially undesirable.
3. There is no public need or necessity for the transfer of said license to the premises in question, inasmuch as this area is amply serviced by the present existing outlets.
4. The granting of the transfer of said license to this congested area, one of the busiest in the State of New Jersey, creates a hazardous condition to the public safety and general welfare of the public.
5. The granting of the transfer of said license is in violation of the Alcoholic Beverage Control Laws and Regulations of the State of New Jersey.
6. The Board of Alcoholic Beverage Control of the City of Jersey City was guilty of an abuse of discretion and a mistake of law and fact in granting the transfer of said license.
7. The granting of said transfer of license to the respondent Commuters Bar, Inc. was arbitrary and unreasonable.

Commuters Bar, Inc. has conducted a licensed place of business at 35 Enos Place since February 27, 1951. From 1937 to February 26, 1951, a license for the premises at 35 Enos Place had been held in the name of Harry F. Casey (individually or as a partner) and said Harry F. Casey is the holder of fifty percentum of the capital stock of Commuters Bar, Inc.

Effective September 1, 1948, Harry F. Casey entered into a lease agreement with the Sip-Enos Realty Corporation to occupy the premises 35 Enos Place for a period of five years. The lease was assigned to respondent corporate licensee upon transfer of the

license. The lease contains the following clause: "The landlord may terminate this lease on ninety (90) days notice to the tenant in the event that the corner space now occupied by First Savings and Loan Association becomes available or in the event that the First Savings and Loan Association removes from said premises." Samuel Silk, President of the 26 Holding Corporation, the corporation owning the building located on the southwest corner of Journal Square (Sip Avenue & Enos Place), and known as 26 Journal Square, testified that a release was executed to the First Savings and Loan Association, under date of May 25, 1951, wherein the said First Savings and Loan Association was released from its obligation under the lease upon which it occupied a store on the ground floor, effective July 1, 1951.

On May 14, 1951 respondent Board, by a two-to-one vote, approved transfer of respondent corporation's license to the premises at 9B Journal Square Building, Journal Square. As set forth in the official minutes of the meeting at which the transfer was granted, it was the Board's opinion "that...the applicant has reasonable apprehension that he will be compelled to vacate premises now occupied by him and therefore will sustain a serious hardship and loss of his license, and considering the cosmopolitan nature of the neighborhood to which he seeks transfer, an exception should be made and the transfer granted, and further, that such transfer would be in the public convenience and ought to be permitted".

Section 4 of Jersey City's ordinance adopted October 5, 1937, as amended by an ordinance adopted April 1, 1941, reads:

"Section 4. From and after the passage of this ordinance, no Plenary Retail Consumption License shall be granted for or transferred to any premises the entrance of which is within the area of a circle having a radius of seven hundred fifty (750) feet and having as its central point the entrance of an existing licensed premises covered by a Plenary Retail Consumption License, provided, however, that if any licensee holding a Plenary Retail Consumption License at the time of the passage of this ordinance shall be compelled to vacate the licensed premises for any reason that in the opinion of the Board of Commissioners of the City of Jersey City was not caused by any action on the part of the licensee, or if the landlord of said licensed premises shall consent to a vacation thereof, said licensee may, in the discretion of the Board of Commissioners of the City of Jersey City, be permitted to have such license transferred to another premises within a radius of five hundred (500) feet of the licensed premises so vacated. The provisions of this section relating to distances between licensed premises shall not apply to the issuance or transfer of any license to premises which will be operated by the licensee as a Bowling Academy. A premises shall be deemed to be operated as a Bowling Academy if it contains four or more pairs of bowling alleys."

The privilege as to transfer of a license from place to place, for which the statute provides, cannot be nullified or otherwise diminished by municipal regulation, or denied, except for good cause. "Such cause, generally speaking, is that which could be said to be necessary and proper to accomplish the objects of the Alcoholic Beverage Law and secure compliance with its provisions; e.g., that the applicant for the transfer had no enforceable right to possession of the premises to which the transfer was sought, or that the premises were unsuitable or that there were already too many licenses in the vicinity." (Cielukowski v. Jersey City, Bulletin 716, Item 6.)

It is admitted that the premises at 9B Journal Square Building are located within 750 feet of existing plenary retail consumption licensed premises. Appellants, conceding that the premises at 35 Enos Place are within 500 feet of the premises at 9B Journal Square Building, contend that respondent Board was without jurisdiction to grant the transfer of respondent corporation's license to the latter premises because such transfer is not within the proviso in herein-above quoted Section 4 of the City's ordinance.

Respondent licensee does not allege that it held a license at the time of the passage of the ordinance or that it had received the consent of the landlord to vacate. It contends, however, that Section 4 of the ordinance is unreasonable.

In Buechler v. Perth Amboy, Bulletin 339, Item 6, the late Commissioner Burnett held that a distance-between-premises ordinance containing a saving clause in favor of "existing licenses" (i.e., all licenses outstanding at the time of the ordinance's adoption) was "improperly discriminatory and unreasonable". In his decision, on appeal, the late Commissioner "set aside" the ordinance. It would now appear that an administrative invalidation of an ordinance in such circumstances may be deemed to be unduly broad -- that the sound course is one confining the administrative decision to the specific issues and parties and, where the question of applicability and reasonableness of an ordinance is raised on appeal, to confine the administrative determination on the point to the reasonableness or unreasonableness of the local regulation as applied in the particular case. (See Phillipsburg v. Burnett, 125 N.J.L. 157; Sup. Ct. 1940.)

The legitimate public purpose of a distance-between-premises ordinance is to prevent or guard against undue concentration of licensed places in particular localities. A number of New Jersey municipalities have adopted such ordinances and it has been determined in a majority of these municipalities that the primary minimal distance fixed in the ordinance might prove to be unfairly restrictive in the absence of an exception therefrom. As a practical matter a tenant-licensee might, in the absence of an exception, be unable to find any new premises within the specified distance from other licensed premises and, thus, be at the mercy of an opportunistic landlord. (See Metropolitan Liquor Corporation, t/a Bettinger's v. Jersey City, Bulletin 645, Item 1.) There are numerous other situations in which a distance-between-premises ordinance without an appropriate exception might effect a too-tight stricture, for example even a licensee owning the premises might be moved out by a new highway or housing development and find himself with no place to go. Accordingly most distance-between-premises ordinances contain an exception or proviso permitting a licensee to transfer from the place of operation to premises located not more than a designated distance therefrom. But Section 4 of the ordinance here in question excepts, in this regard, only persons licensed at the time of the adoption of the ordinance. I find the ordinance unreasonable, in this respect, as applied to respondent corporation. I find the ordinance unreasonable, as applied to respondent corporation, with respect to the provision concerning consent of the landlord. It is not contended that Commuters Bar, Inc. was guilty of any misconduct at 35 Enos Place. And, as stated in Cielukowski v. Jersey City, *supra*: "If the word 'action' in the local ordinance is construed to mean 'misconduct' on the part of the licensee, that portion of the ordinance would appear to be reasonable. Cf. Fafalak v. Bayonne, Bulletin 95, Item 5. Otherwise, that portion of the ordinance would appear to be unduly restrictive on the right to transfer and, hence, unreasonable. Furthermore, the requiring of the consent of the owner of the property from which a license is to be transferred does not carry out the objects of the Alcoholic

Beverage Law. It serves only the private interests of the owners by giving them strangle holds on their tenants whereby refusal to give consent could be made the means of exacting an exorbitant rent. Re DeYoe, Bulletin 278, Item 8. That portion of the ordinance requiring consent of the owners is clearly unreasonable and completely without relation to the purposes of distance regulations."

Thus I find that respondent Board, insofar as Section 4 of the ordinance is concerned, did not err in granting the transfer here in question.

Tsibikas and Parker Liquor Stores, Inc. v. Jersey City, Bulletin 543, Item 12 involved not Section 4 but Section 6 of the ordinance here considered. Hoffman v. Jersey City, Bulletin 677, Item 12, involved no question concerning the ordinance. In Metropolitan Liquor Corporation, t/a Bettinger's v. Jersey City, supra, the transfer was not barred by the terms of the ordinance. In Zahorbenski v. Jersey City, Bulletin 702, Item 7, Tube Bar, Inc. v. Jersey City, Bulletin 808, Item 1, and Venos v. Jersey City, Bulletin 808, Item 2, there was no evidence as to unreasonableness of Section 4 of the ordinance nor was there claim or evidence that the premises to which transfer was sought should take the benefit of any of the exceptions therein. The same is true of Hudson Bergen County Retail Liquor Stores Association v. Jersey City, Bulletin 846, Item 9, except that that appeal involved not Section 4 but Section 5 (plenary retail distribution licenses) of the ordinance here in question.

Remaining to be considered are the other grounds advanced by appellants for reversal of respondent Board's action.

The number of licensed places to be permitted in any particular area is a matter confided to the sound discretion of the issuing authority. (Santoriello v. Howell, Bulletin 252, Item 8; Sudol v. Wallington, Bulletin 267, Item 10; Pitman v. Pemberton, Bulletin 277, Item 6; Boody v. Gloucester, Bulletin 300, Item 11; Smith v. Winslow, Bulletin 334, Item 1; Alpert v. Asbury Park, Bulletin 380, Item 2; Winslow v. Pennsauken, Bulletin 401, Item 11; Bodrato et al. v. Northvale, Bulletin 433, Item 1.) The burden rests with appellant to show that such discretion was unreasonably exercised. In an effort to meet such burden appellants produced several persons conducting businesses in the Journal Square area, who testified that the needs and convenience of the people in the section of respondent licensee's proposed premises did not warrant the transfer of said license. The respondent Municipal Board of Alcoholic Beverage Control of the City of Jersey City has decided otherwise. The evidence shows that extensive improvements are being made at Journal Square, an important shopping and business center. (Cf. Metropolitan Liquor Corporation, t/a Bettinger's v. Jersey City, supra.)

My function on appeals of this type is not to substitute my personal opinion for that of the local issuing authority, but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of my personal view on the subject. (Rafalowski v. Trenton, Bulletin 155, Item 8; Northend Tavern, Inc. v. Northvale, Bulletin 493, Item 5; Petti v. Bayonne, Bulletin 564, Item 7; Mulcahy et al. v. Maplewood et al., Bulletin 658, Item 4.)

From the record before me in this appeal I do not find that respondent Board's granting of the application was arbitrary or unreasonable or otherwise in abuse of its discretionary power so as to call for a reversal of the action taken. (Cf. Jasinski v. Jersey City, Bulletin 691, Item 8, in which transfer sought was to a neighborhood different from that in the instant case and in which the appeal was not from the granting but from the denying of application.)

The license sought to be transferred expired at midnight, June 30, 1951; and, effective July 1, 1951, respondent Board granted a renewal to respondent Commuters Bar, Inc. for 1951-1952 for premises 35 Enos Place. However, my finding in the appeals does not thereby become moot, but is dispositive of identical issues in any subsequent application by respondent licensee for transfer of the renewed license to premises 9B Journal Square Building, Journal Square, Jersey City, N. J. Of course, these appeals are not dispositive of any issue or issues not raised herein.

Accordingly, it is, on this 11th day of September, 1951,

ORDERED that the present appeals be and the same are hereby dismissed.

ERWIN B. HOCK
Director.

2. APPELLATE DECISIONS - CAMDEN LEATHER WORKERS UNION, LOCAL #206 v. CAMDEN.

CAMDEN LEATHER WORKERS UNION,)
LOCAL #206,)
Appellant,)

-vs-

ON APPEAL
O R D E R

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
CAMDEN,)
Respondent.)

Alexander Feinberg, Esq., Attorney for Appellant.
Louis L. Goldman, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the denial of appellant's application for a transfer of its club license (issued for the 1950-51 licensing year) from 245 Erie Street to 317 State Street, Camden.

Prior to the hearing herein, a written stipulation was filed wherein the attorneys for the respective parties stipulated and agreed that the appeal be dismissed without prejudice and without costs to either of the parties.

No reason appearing to the contrary,

It is, on this 13th day of September, 1951,

ORDERED that the within appeal be dismissed without prejudice and without costs to either of the parties.

ERWIN B. HOCK
Director.

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(INDECENT ACTIONS AND LANGUAGE) - LICENSE SUSPENDED FOR 60 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

CLUB FAZZARI, INC.
T/a CLUB FAZZARI
91 Main Street
Lodi, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Lodi.

Samuel M. Weissman, Esq., Attorney for the Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On June 12, 1951, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that you allowed, permitted and suffered a female patron to expose the private parts of her body and engage in foul, filthy and obscene language and conduct; in violation of Rule 5 of State Regulations No. 20."

An examination of the file in the instant case discloses that on June 12, 1951 two ABC agents visited defendant's licensed premises. A short time after their arrival, a female known as Dotty paused at the entrance to the premises. The bartender called to her to come in. The female accepted the invitation and immediately walked to the section of the bar where the bartender and the ABC agents were engaged in conversation. The bartender then introduced Dotty to the agents, referring to them as his friends, and one of the agents treated her to a drink. She said to the bartender, "They are all your friends", and when the bartender laughed Dotty pulled up her dress to her waist, placed her leg on the bar, patted the private part of her body with her hand and made a suggestive remark. Following several filthy and obscene remarks Dotty again pulled up her dress to her waist, pulled down her panties and exposed the private part of her body to the patrons present. At this point the bartender requested that one of the male patrons close the front door to prevent anyone from looking into the tavern from the outside. Further foul and obscene conversation continued with reference to Dotty giving herself for the purpose of sexual intercourse with male patrons. Shortly thereafter Dotty left the premises without actually consummating any arrangements for illicit sexual intercourse.

The bartender in a verified statement admitted in substance the incidents hereinabove described, including his part in the improper conduct on the licensed premises.

There is no evidence in the instant case that any of the officers of the corporation participated or were present when this particular conduct occurred. A licensee is under a duty, however, to exercise close supervision over his licensed premises, and violations occurring there cannot be excused merely because there was no personal knowledge of them. Rule 31 of State Regulations No. 20; Stein v. Passaic, Bulletin 451, Item 5; Essex Holding Corp. v. Hock, 136 N.J.L. 28. As was said in Re Paton, Bulletin 898, Item 3, "He (a licensee) cannot hide behind his employees." I find the licensee guilty as charged.

In Re Grembowiec, Bulletin 813, Item 3, I suspended defendant's license for thirty days because a female patron was permitted to expose herself while performing a dance. Although the instant case also involves a female patron exposing herself, the violation was further aggravated by filthy and obscene language participated in by the bartender.

Under all of the circumstances, I shall suspend defendant's license for a period of sixty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty-five days.

Accordingly, it is, on this 18th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Lodi to Club Fazzari, Inc., t/a Club Fazzari, for premises 91 Main Street, Lodi, New Jersey, be and the same is hereby suspended for a period of fifty-five (55) days, commencing at 4:00 a.m. September 25, 1951, and terminating at 4:00 a.m. November 19, 1951.

ERWIN B. HOCK
Director.

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AT RETAIL AT LESS THAN PRICE LISTED IN MINIMUM RESALE PRICE LIST - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

HARRY BLOCK & ALVIN I. MEYERS
63 Pacific Street
Newark 5, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Distribution License D-150, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Leo J. Berg, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they sold an alcoholic beverage at retail at less than its listed price as listed in the Minimum Resale Price list then in effect, in violation of Rule 5 of State Regulations No. 30.

On August 16, 1951, on defendants' licensed premises, an ABC agent purchased from Harry Block, one of the partners in the defendants' licensed business, a one-gallon jug of Fior Di California Burgundy Scelto Wine for the price or sum of \$2.50. The minimum listed price for the above item, as listed in the then current "Complete List of New Jersey Minimum Resale Prices of Alcoholic Beverages" was \$2.59 per gallon jug.

Defendants have a prior adjudicated record. In 1940 a license then held by Harry Block, individually, was suspended for five days for an election day violation. Re Block, Bulletin 407, Item 13. In 1948, the license held by the partnership was suspended for five days for a similar "price" violation. Re Block et al., Bulletin 800, Item 12.

Without considering the first violation, more than five years prior hereto, I shall suspend the license for twenty days because of

the repeated violation of the "price" regulation. Remitting five days for the plea will leave a net suspension of fifteen days. Re Alevras, Bulletin 858, Item 7.

Accordingly, it is, on this 17th day of September, 1951,

ORDERED that Plenary Retail Distribution License D-150, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Harry Block & Alvin I. Meyers, 63 Pacific Street, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. September 24, 1951, and terminating at 9:00 a.m. October 9, 1951.

ERWIN B. HOCK
Director.

- 5. DISCIPLINARY PROCEEDINGS - FAILURE TO REVEAL IN APPLICATION THAT OFFICER AND STOCKHOLDER HAD BEEN CONVICTED OF CRIME NOT INVOLVING MORAL TURPITUDE - ADDITIONAL CHARGE ALLEGING THAT A SUBSEQUENT CONVICTION OF SAID PERSON WOULD HAVE PREVENTED ISSUANCE OF LICENSE DISMISSED ON FINDING THAT SUBSEQUENT CONVICTION OF CRIME DID NOT INVOLVE MORAL TURPITUDE - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEAS ENTERED.

In the Matter of Disciplinary Proceedings against)

FREDDIE'S TAVERN, INC.)
T/a FREDDIE'S TAVERN)
17-19 South Broadway)
Long Branch, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-61 (for the 1950-51)
licensing year and now holder of)
Plenary Retail Consumption License)
C-61 for the current licensing)
year), issued by the Long Branch)
Board of Commissioners.)

-----)
Solomon Tepper, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"1. In your application dated June 7, 1950, filed with the Long Branch Board of Commissioners, upon which you obtained your current plenary retail consumption license, you failed to answer Question 33, which asks: 'Have you or has any person mentioned in this application, ever been convicted of any crime?', thereby evading and suppressing the material fact that Alfred Monaco, mentioned in the application as one of your officers and directors and as a 45% stockholder, had been convicted on or about July 27, 1949 in the Long Branch Municipal Court of the crime of assault and battery contrary to R. S. 2:103-1, such evasion and suppression being in violation of R. S. 33:1-25."

Defendant has waived hearing and pleaded not guilty (solely for the purpose of questioning whether the conviction therein mentioned involved moral turpitude) to the following charge:

"2. On or about June 16, 1950, Alfred Monaco, the aforesaid officer, director and 45% stockholder, was convicted in the Monmouth County Court, Criminal Division, of the crime of abuse of children contrary to R. S. 9:6-1 and R.S. 9:6-3, a crime involving moral turpitude, such conviction being an act or happening occurring after the time of your making application for your current license which, if it had occurred before said time, would have prevented the issuance of the license since such issuance would have been contrary to R. S. 33:1-25."

The records of this Division show that Alfred F. Monaco held a plenary retail consumption license for the premises in question from 1936 until September 9, 1949, at which time the license was transferred to defendant. Alfred F. Monaco was then President of defendant corporation. See Re Freddie's Tavern, Inc., Bulletin 859, Item 10.

While the conviction referred to in Charge 1 did not involve moral turpitude, it should have been revealed in answer to Question 33 of the application.

As to Charge 2: On May 1, 1950, Alfred F. Monaco was indicted by the Monmouth County Grand Jury for habitually using profane, indecent and abusive language in hearing of his children, who were ten, eight, six and three years of age. After a hearing on June 16, 1950, before Judge John C. Giordano, without a jury, in the Monmouth County Court, he was found guilty. On June 29, 1950, Judge Giordano sentenced him to serve from one to three years in the State Prison but suspended sentence and placed him on probation for five years. It appears that both of the above mentioned convictions of Monaco resulted from domestic difficulties. A report of the Probation Department in the county in which he resides stated that Monaco's basic trouble was "drinking" and that on July 21, 1950, his probation was continued on the condition that he "voluntarily commit himself" to a State institution. It further appears that thereafter Monaco committed himself to a State institution for treatment and that, since his release, he has straightened out his domestic difficulties and again lives with his family.

Although conviction of the crime of abuse of children in many instances may well involve moral turpitude, under all the circumstances in this case I find the aforesaid conviction did not involve moral turpitude. Hence, I find defendant not guilty as to Charge 2.

The attorney for defendant has advised me that Alfred F. Monaco was an officer and stockholder of defendant corporation until June 1951, when he sold his stock and resigned.

Defendant has a prior record. On November 7, 1949, its license was suspended for a net period of five days, effective November 14, 1949, after it had pleaded non vult to charges alleging that it and its predecessor in interest, Alfred F. Monaco, had sold alcoholic beverages to minors. Re Freddie's Tavern, Inc., supra.

In the present case I shall suspend defendant's license for a period of fifteen days because of its guilt as to Charge 1 and, since no hearing was required, I shall remit five days thereof because of the pleas, as entered herein, thus leaving a net suspension of ten days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the licensing year 1951-52. See State Regulations No. 16.

Accordingly, it is, on this 14th day of September, 1951,

7. DISCIPLINARY PROCEEDINGS - BAGATELLE OR PIN-BALL MACHINES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA - SUBSEQUENT ORDER TO BE ENTERED FIXING EFFECTIVE DATE OF SUSPENSION WHEN LICENSEE RESUMES BUSINESS.

In the Matter of Disciplinary Proceedings against)

BOLO CLUB, INC.)
T/a WEST END CASINO)
701-717 Ocean Avenue)
Long Branch, N. J.,)

CONCLUSIONS AND ORDER

Holder of Seasonal Retail Consumption License CS-2 for the summer season from May 1, 1951, until November 1, 1951, issued by the Board of Commissioners of the City of Long Branch to Cedar Restaurant & Cafe Co. and transferred to defendant on May 24, 1951.)

Defendant-licensee, by Preston R. Tisch, Secretary and Treasurer. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On July 19 and 20, 1951 and theretofore, you allowed, permitted and suffered in and upon your licensed premises, two machines or devices commonly known as bagatelle or pin ball machines, viz., a 'Chicago Coin's "Thing"' and a 'Buffalo Bill'; in violation of Rule 7 of State Regulations No. 20."

On July 19, 1951, during the course of a routine inspection, an ABC agent found the two machines mentioned in the charge in the cigar store section on the first floor of the Sand and Turf Hotel. Each machine was a five-ball bumper-type bagatelle machine and was found to be in working order by the agent. The hotel premises and the entire street floor of premises known as the West End Casino constituted defendant's licensed premises.

As mitigating circumstances defendant alleges that, after it obtained the transfer of the license, Gerald and Max Tisch were granted a concession to sell cigars, cigarettes, newspapers, etc. in the cigar store section of the hotel from June 10, 1951 until September 10, 1951, and that, at the time the violation was committed, no alcoholic beverages were in fact being sold in the cigar store. Defendant admits, however, that the licensed premises had not been delimited by the local issuing authority to exclude the cigar store from the licensed premises. Under these circumstances it clearly appears that the machines were in fact located upon the licensed premises and, hence, defendant is guilty as charged. Cf. Re Max's Inc., Bulletin 853, Item 4; cf. Re Golak, Bulletin 887, Item 5.

Defendant has no prior record. Under the circumstances, its license will be suspended for the minimum period of ten days, less five days for the plea, making a net suspension of five days. Re Caldronney, Bulletin 899, Item 11.

Defendant holds a seasonal retail consumption license which will expire on November 1, 1951. I am advised that it has closed its licensed premises and will not reopen for business prior to the termination of its license. Thus, no effective penalty can be imposed at the present time. Re Solomon, Bulletin 586, Item 2.

Accordingly, it is, on this 11th day of September, 1951,

ORDERED that Seasonal Retail Consumption License CS-2, now held by Bolo Club, Inc., t/a West End Casino, 701-717 Ocean Avenue, Long Branch, or any license issued in renewal of said license, be and the same is hereby suspended for a period of five (5) days. Further order fixing the effective dates for said suspension will be entered if and when the defendant or any transferee of the license obtains a renewal of said seasonal retail consumption license for the period commencing May 1, 1952.

ERWIN B. HOCK
Director.

8. DISCIPLINARY PROCEEDINGS - SUSPENSION REIMPOSED UPON AFFIRMANCE OF DIRECTOR'S DECISION BY APPELLATE DIVISION AND DENIAL OF APPLICATION FOR CERTIFICATION BY SUPREME COURT.

In the Matter of Disciplinary Proceedings against

GREENBRIER, INC.

434 Squankum Road

New Shrewsbury Borough (formerly Shrewsbury Township)

Eatontown, R.F.D. Pine Brook, N.J.,

O R D E R

Holder of Plenary Retail Consumption License C-3 for the 1949-50, 1950-51 and 1951-52 licensing periods, issued by the Township Committee of the Township of Shrewsbury.

BY THE DIRECTOR:

The defendant's plenary retail consumption license was heretofore suspended for a period of 90 days. See Bulletin 887, Item 3. Pending the defendant's appeal to the Superior Court, Appellate Division, a stay of the suspension was granted by the court. On May 17, 1951, the order of suspension was affirmed. See 14 N. J. Super. 39.

The defendant thereupon applied for certification to the State Supreme Court which denied the application on September 10, 1951. The suspension, therefore, may now be reimposed.

Accordingly, it is, on this 17th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Shrewsbury for the 1951-52 licensing year to Greenbrier, Inc., for premises 434 Squankum Road, New Shrewsbury Borough (formerly Shrewsbury Township) be and the same is hereby suspended for a period of ninety (90) days, commencing at 7:00 a.m. September 21, 1951, and terminating at 7:00 a.m. December 20, 1951.

ERWIN B. HOCK
Director.

9. DISCIPLINARY PROCEEDINGS - PRIOR SUSPENSION LIFTED UPON CORRECTION OF ILLEGAL SITUATION EFFECTIVE AFTER SUSPENSION HAS BEEN IN EFFECT 90 DAYS.

In the Matter of Disciplinary Proceedings against)

ARTHUR F. CUMMINS, SR.)
424 - 45th Street)
Union City, N. J.,)

Holder of Plenary Retail Consumption License C-137 (for the 1950-51 licensing year) issued by the Board of Commissioners of the City of Union City; transferred during the 1950-51 licensing year to, and renewed for the 1951-52 licensing year by)

CONCLUSIONS AND ORDER

DOMINICK SINISI,)

for the same premises.)

Dominick Sinisi, Petitioner Pro Se.

BY THE DIRECTOR:

By Order dated June 14, 1951, the license then held by Arthur F. Cummins, Sr., was suspended for the balance of its term, effective at 3:00 a.m. June 19, 1951, and it was further provided that, if said license was transferred to a qualified person and thereafter renewed, such license was to remain under suspension until entry of a further order herein. The Conclusions provided that the suspension would not be lifted until at least ninety (90) days of the suspension had been served. Re Cummins, Bulletin 911, Item 6.

The verified petition of Dominick Sinisi sets forth that License C-137 was transferred (subject to existing suspension) from Arthur F. Cummins, Sr., to him by the Board of Commissioners of the City of Union City on June 28, 1951, and that petitioner's application for renewal of said license for the 1951-52 licensing year was granted (subject to existing suspension) by said Board on June 28, 1951. The petition sets forth that Arthur F. Cummins, Sr. has no interest whatsoever in the license.

It appearing that the illegal situation has been corrected, and it further appearing that the ninety-day suspension will expire at 3:00 a.m. September 17, 1951,

It is, on this 7th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-137 (for the 1951-52 licensing year), issued by the Board of Commissioners of the City of Union City to Dominick Sinisi, for premises 424 - 45th Street, Union City, be restored to full force and operation, effective at 3:00 a.m. September 17, 1951. Until then the license remains under suspension.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

STEEL'S SHIP BAR, INC.
T/a STEEL'S
943 Bay Avenue
Somers Point, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Common Council of the City of Somers Point.

Steel's Ship Bar, Inc., Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, served and delivered an alcoholic beverage to a minor at its licensed premises and permitted said minor to consume said alcoholic beverage thereon, in violation of Rule 1 of State Regulations No. 20.

On July 25, 1951, an ABC agent observed the sale and delivery to and the consumption of beer by Richard M. ---, aged 19, by one James A. Ross, a bartender employed by defendant on its licensed premises.

Defendant has no prior adjudicated record. I shall suspend the license for ten days. Re Hotel Traymore Company, Bulletin 877, Item 5. Five days will be remitted because of the plea, thus leaving a net suspension of five days.

Accordingly, it is, on this 10th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-10, issued by the Common Council of the City of Somers Point to Steel's Ship Bar, Inc., t/a Steel's, 943 Bay Avenue, Somers Point, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. September 17, 1951, and terminating at 3:00 a.m. September 22, 1951.

ERWIN B. HOCK
Director.

11. STATE LICENSES - NEW APPLICATIONS FILED.

Joseph J. Perrone

T/a Pirrone Wine Sales - Abbey Wine Co.
217 Division Ave., Garfield, N. J.
Application filed September 13, 1951 for transfer of Wine
Wholesale License from F. Pirrone & Sons, Inc., 92-94 Monroe St.,
Garfield, N. J.

South Bergen Distributing Corporation

27 New Jersey Highway #17
East Rutherford, N. J.
Application filed September 13, 1951 for Transportation License.

Eastern Air Lines, Inc.

10 Rockefeller Plaza, New York 20, New York.
Application filed September 14, 1951 for Plenary Retail Transit
License.

Jones Motor Co., Inc.

Spring City, Pa.
Application filed September 17, 1951 for Transportation License.

Old Discovery Distillers Corp.

120 West Franklin Ave., Pennington, N. J.
Application filed September 18, 1951 for transfer of Rectifier
and Blender License R-2 from Renfield Importers, Ltd.

Ernest E. Hark

Director.