

STATE OF NEW JERSEY
 Department of Law and Public Safety
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1477

October 10, 1962

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N.J.

LETIN 1477

October 10, 1962

APPELLATE DECISIONS - VEGOTSKY v. EWING AND CAPITAL PLAZA LIQUORS, INC.

EDNEY VEGOTSKY, T/A FRANK'S LIQUOR STORE)
)
Appellant,)
v.)
TOWNSHIP COMMITTEE OF THE TOWNSHIP OF EWING AND CAPITAL PLAZA LIQUORS, INC.,)
)
Respondents.)

ON APPEAL
CONCLUSIONS
AND ORDER

ahn, Schildkraut & Levy, Esqs., by Nathan N. Schildkraut, Esq.,
Attorneys for Appellant.

. Jerome Moore, Esq., Attorney for Respondent Township Committee.
ohn H. Grossman, Esq., Attorney for Respondent Capital Plaza
Liquors, Inc., Transferee.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the approval of an application for a person-to-person and place-to-place transfer of a plenary retail consumption license (with broad package privilege) from Pepy's Inc. to Capital Plaza Liquors, Inc., and from 1012 Pennington Road to premises to be constructed according to plans and specifications at Capital Plaza shopping center, Olden Avenue off Princeton Avenue, Township of Ewing.

"Three of the members of respondent Township Committee voted to approve the application for transfer and the other two members of the Committee voted to deny said application.

"Appellant alleges in his petition of appeal that the action of the respondent Township Committee was erroneous for the following reasons:

- a. That the proposed transfer was to a premises within a prohibited distance of an existing licensed premises, contrary to the Township Ordinance and the statute in such cases made and provided.
- b. No need or necessity.
- c. The proposed transfer was contrary to the public interest.
- d. The license proposed to be transferred was a Class "C" license, the same to be transferred to a large shopping center occupied by Korvette; that the proposed transfer was contrary to the philosophy and spirit of the statute and contrary to the rules and regulations of the Alcoholic

Beverage Commission, and in particular, R.S. 33:1-12.

e. That the license should not be transferred to the corporate entity known as Capital Plaza Liquors, Inc., since one of its owners, as a non-resident, did not qualify under R.S. 33:1-25.

f. That the transfer to the large shopping center was erroneous, as it was contrary to public welfare, safety and morals.

"Respondent Township Committee denied the allegations and contends that it 'considered the respective merits of the application and the objection thereto, and in its discretion determined that the transfer was a valid exercise of that discretion and was not against the best interests of the community.'

"At the hearing herein appellant alleged, among other things, that the place-to-place transfer of the license in question would violate the provisions of the existing ordinance which prohibits transfer of liquor licenses to premises within 1,000 feet of another licensed premises. The pertinent section of the ordinance provides as follows:

'1. No plenary retail consumption license or plenary retail distribution license shall be issued for or transferred to premises within one thousand (1,000) feet of any other premises licensed under a plenary retail consumption or plenary retail distribution license; provided, however, that nothing in this ordinance shall prevent renewal, for the premises now licensed, or person-to-person transfer of licenses existing at the time of the effective date of this ordinance; provided further, that nothing in this ordinance shall prevent the transfer of any such licensed premises or structure which may be taken for public use or destroyed to a location within one thousand (1,000) feet of its present location, provided that such new location is not prohibited by any statute of the State of New Jersey or other ordinance or regulation of the Township of Ewing.

The distance hereinabove set forth shall be measured in a normal way that a pedestrian would properly walk from the nearest entrance of the premises sought to be licensed.'

"In view of the method to be used to measure the distance between the respondent licensee's proposed premises and that of the Extension Tavern, a description of the particular area will serve a useful purpose. The Extension Tavern is located on the south side of Olden Avenue Extension (hereinafter referred to as the highway) which in the center is divided by a physical barrier into two roadways. The said barrier gradually diminished in width from a point in front of the Extension Tavern as it runs in an easterly direction to the corner where the said highway is intersected by Princeton Avenue. On the north side of the highway there is a shopping center containing various stores, some of which are completed and presently in operation whereas others are in the course of construction. The entrances to the said stores, among which is the respondent licensee's proposed premises, face a large parking area used and to be used by customers of the respective establishments. According to various surveys prepared by Albert L. Zelle, professional engineer, and placed in evidence on behalf of the appellant, there is shown a proposed walk in front of and adjacent to said premises which extend the entire distance to the 'Entrance' sign at the highway near Princeton Avenue. Using Exhibit A-18 (marked in evidence on behalf of appellant) a pedestrian would leave respondent licensee's proposed premises and

proceed on the walk in an easterly direction for a short distance and then southerly for a distance of 600 feet to the highway; thence he would walk easterly along said highway for 275 feet to the intersection of Princeton Avenue where traffic is regulated by signal lights; thence he would cross the highway in a southerly direction for a distance of 85 feet to reach the southerly side of the highway and thence proceed in a westerly direction for a distance of 460 feet to a point in front of the Extension Tavern. The total distance thus travelled is 1,420 feet.

"Appellant, in order to establish the distance between the premises in question, introduced five other surveys prepared by Engineer Kelley, showing the various routes a pedestrian might take. The methods shown on the said surveys would have a pedestrian cross the highway in front of the Extension Tavern and then proceed through the parking area or along the northerly side of the highway to the walk aforementioned, and then northerly to the respondent licensee's premises. In order to establish that pedestrians do cross the highway other than at an intersection, the appellant displayed motion pictures of the highway in front of the Extension Tavern showing this to be so. The measurement provided in the ordinance is the 'normal way that a pedestrian would properly walk from the nearest entrance of the premises sought to be licensed' (underlining mine). It is apparent that the words properly walk were inserted in the ordinance to emphasize the fact that the measurement requirement in all respects be consistent with safety. Appellant contends that, since there is no prohibition against a pedestrian crossing the highway other than at designated crosswalks or intersections, the method used by a pedestrian in crossing the highway at right-angles either in front of or in the vicinity of the Extension Tavern should be considered to be proper, and that the measurement between the premises in question with respect thereto should be adopted. Acceptance of such method of measurement would be inconsistent with and contrary to the many precedents already existing in matters of this kind. CF. Aldarelli v. Asbury Park, Bulletin 186, Item 12; Memorial Presbyterian Church v. Newark, Bulletin 191, Item 8; Ormond v. East Orange et als. and The Park Avenue Methodist Church v. East Orange et als., Bulletin 627, Item 1. Saint Paul and Saint Philips Episcopal Church et al. v. Newark et als., Bulletin 993, Item 1; Saint Luke's Methodist Church v. Long Branch, et al., Bulletin 1408, Item 2. Upon serious consideration given as to the manner of measurement to be adopted between the respondent licensee's proposed premises and that of the Extension Tavern, I am satisfied that the methods shown in Exhibit A-18, already described herein, is the normal way that a pedestrian would properly walk. Thus the measurement used in the case in question by the respondent Township Committee, showing the distance to be in excess of 1,000 feet, was correct and not in violation of the terms of the ordinance pertinent thereto.

"All of the members of respondent Township Committee testified at the instant hearing.

"Committeeman Moody testified that the transfer of the license to the proposed new site would be a better place for it than where it is located at the present time and, thus, it is his opinion that the proposed premises in the shopping center would serve a convenience for anyone who wanted to purchase alcoholic beverages.

"Committeeman Blackford testified that the transfer to the new location would be in the public interest.

"Mayor Schuster testified that 'I felt that it would serve the public interests better than the present location. The reason for that is the present location, as we know, is on a very bad intersection. It is on the corner of Pennington Road, Parkway Avenue, and it is a large intersection. The parking space in front of Pepy's Tavern is very small,

possibly three or four cars. They pull in towards the building, and in going back out they have to back out into the intersection and right at this intersection, of course, is the school crosswalk. There are beer trucks and so forth that pull into this establishment. There is a wine and liquor store two doors from Pepy's at the present time,' Mr. Schuster further stated that 'It is a hard thing to determine, need and necessity. It is a vague thing today. It is not like it used to be where you had taverns located in an area where people could readily walk to them. Today people will jump in their automobiles, and as we know, in Ewing Township the areas where there are off-street parking and where there are a multitude of people shopping, it is very convenient for them to complete all their shopping in one area in such a spot where they have adequate parking facilities.'

"Committeeman Reynolds testified that he voted against the transfer as he did not see any need or necessity for the license at the proposed location because 'There are establishments in Lawrence Township and of course within a relatively close distance in Ewing Township there are establishments. Furthermore, it is a broad C privilege which would permit the sale of liquors across the bar, and it is my considered opinion that to sell liquors across the bar in a shopping center is not a good thing. Shopping centers, by their very nature, are places of congestion, both vehicular and pedestrian, and I could envision perhaps pop taking the family to shop and not wanting to check with mom and the kids, he finds himself in the establishment drinking liquors, and I just do not think it is a good place for this kind of an establishment, in addition to the need and necessity factor.'

"Committeewoman Banchoff testified that she voted to deny the transfer because the license at the former site was there for approximately twenty-five or thirty years and has served the neighborhood very well. Furthermore, she did not see any need or necessity at the proposed location for a liquor establishment. When asked about whether a convenience would be served by placing the license at the proper location in the shopping center, Committeewoman Banchoff stated 'Well, I don't think that people usually think of buying liquor, that they go into a shopping center to buy it.'

"It has been consistently held that the number of licensed premises to be permitted in any particular area is a matter confided to the sound discretion of the local issuing authority. DiGioacchino v. Atlantic City Bulletin 1030, Item 3. In cases of the kind now under consideration, the Director's function is to determine whether reasonable cause exists for the issuing authority's opinion and, if so, to affirm its action. Curry v. Margate City, Bulletin 460, Item 9; Mulcahy et al. v. Maplewood et al., Bulletin 658, Item 4; Krogh's Restaurant, Inc. et als. v. Sparta et al., Bulletin 1258, Item 1.

"I have considered the other reasons advanced by the appellant for reversal of the respondent Committee's action but fail to find any facts which would warrant the reversal of the said action. There is absolutely no evidence presented which might indicate in any way whatsoever that any members of the said respondent issuing authority who voted in this matter were improperly motivated. I am satisfied that in all respects proper consideration was given by the members of the respondent Committee before action was taken in the case. I conclude that appellant has failed to sustain the burden of establishing that the action of respondent Committee was arbitrary, unreasonable or constituted an abuse of discretion. Rule 6 of State Regulation No. 15. I recommend, after careful examination of all of the evidence adduced herein, that the action of the respondent Committee in approving the issuance of the license to respondent licensee for the proposed premises in question be affirmed and that the appeal filed herein be dismissed."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument thereto were filed with me by the attorneys for appellant. Written answering argument was filed with me by the attorneys for the respective respondents.

After carefully considering the testimony, exhibits, Hearer's Report, exceptions thereto and written argument filed in behalf of appellant and both respondents, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. Hence I shall enter an order as recommended by the Hearer.

Accordingly, it is, on this 23rd day of August 1962,

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

WILLIAM HOWE DAVIS
DIRECTOR

APPELLATE DECISIONS - MORRIS COUNTY TAVERN OWNERS ASSOCIATION v. RANDOLPH AND SHERMAN ACRES, INC.

MORRIS COUNTY TAVERN OWNERS)
ASSOCIATION,)

Appellant,)

v.)

ON APPEAL
CONCLUSIONS
AND ORDER

TOWNSHIP COMMITTEE OF THE TOWNSHIP)
RANDOLPH AND SHERMAN ACRES, INC.,)
a PINE HILL LODGE,)

Respondents.)

James F. McGovern, Jr., Esq., Attorney for Appellant.

Lang and Sears, Esqs., by Harry L. Sears, Esq., Attorneys for Respondent Township Committee.

Ezra Newmark, Esq., Attorney for Respondent Sherman Acres, Inc.

THE DIRECTOR:

The Hearer has filed the following Report herein:

"Appellant appeals from the action of respondent Township Committee which, by resolution dated April 12, 1962, issued Plenary Retail Assumption License C-19 to Sherman Acres, Inc., t/a Pine Hill Lodge, premises located on Brookside Road, Randolph Township, Mt. Freedom, pursuant to the 'hotel' exception in R.S. 33:1-12.20, and subject to a special condition that the license shall not be transferred except to premises operated as a hotel containing at least fifty sleeping rooms.

"Appellant, in its petition of appeal, alleges that it is aggrieved by the granting and issuing of the new license for the following reasons: (a) it was issued in violation of the declared public policy of the State of New Jersey; (b) it violated the letter and spirit of the

applicable statute; (c) need and necessity in the area is adequately served and the question of additional ratables is not the criteria for the issuance of the license; (d) the sound exercise of discretion by the issuing authority would require a denial of the applicant's application.

"When the matter came on for hearing, the attorneys for the respective parties hereto summarized the events leading up to the issuance of the license in question and the clerk of respondent Committee submitted pertinent data which were received in evidence.

"It appears from the date and the records of the Division that the officer-shareholders of respondent corporation operated a hotel on Brookside Road, Randolph Township, Mt. Freedom, from 1937 to 1958 under the name of Pine Hill Lodge, Inc.; that said corporation held seasonal retail consumption licenses from 1937 to 1946 and Plenary Retail Consumption License C-16 from 1946 to 1958. In 1958, the corporate license sold its premises to another and different corporation having the same corporate name of Pine Hill Lodge, Inc. subject to a chattel mortgage held by respondent Sherman Acres, Inc., to which the seller later change its name. Thereafter, the buyer applied for a person-to-person transfer of the license held by its predecessor and the application was granted on April 8, 1958. When the new corporate licensee defaulted in its mortgage payments, respondent Sherman Acres, Inc. foreclosed the mortgage and subsequently reacquired the hotel, which has 53 sleeping rooms. Meanwhile, Robert C. Maillard applied for a person-to-person and place-to-place transfer of the license from Pine Hill Lodge, Inc. to himself, individually, and from the hotel premises to premises to be constructed on Route 10, corner of South Morris Street, Randolph Township, which the issuing authority granted on June 15, 1961. Respondent Sherman Acres, Inc., t/a Pine Hill Lodge, then applied for a new license, pursuant to R.S. 33:1-12.20, and on April 12, 1962, Plenary Retail Consumption license C-19 was issued to it, subject to a special condition that the license shall not be renewed or transferred except for or to a hotel containing at least fifty sleeping rooms. The Division's records indicate that the new license was transferred on June 7, 1962 to American Resort & Recreation Inc., t/a Pine Hill Lodge.

"Considering the above facts, I find that Plenary Retail Consumption License C-16 was originally issued prior to the enactment of the 'hotel' exception, R.S. 33:1-12.20, which became effective on May 15, 1947 (L. 1947, ch. 94); that said license was renewed from 1947 to 1958 as a regular plenary retail consumption license, not pursuant to the 'hotel' exception; and that it could be lawfully transferred to non-hotel premises even if the license had been originally issued pursuant to the 'hotel' exception in R. S. 33:1-12.20. See Haba Realty Corp. v. Long Branch and Pat Pace's, A Corporation, Bulletin 1033, Item 1.

"I further find that the State Limitation Law (R. S. 33:1-12.13 and R.S. 33:1-12.14 as amended by L. 1960, ch. 72) does not restrict the transfer of licenses, but does restrict the issuance of a new license under certain circumstances, unless the new license is issued pursuant to the 'hotel' exception in R.S. 33:1-12.20.

"In view of the aforesaid, I conclude that appellant has failed to sustain the burden imposed upon it of establishing that the action of respondent Township Committee was erroneous and I recommend that said action be affirmed and that the appeal herein be dismissed."

Having carefully considered the entire record herein and the Hearer's Report, I concur in the findings of the Hearer and adopt his recommendation.

It is appropriate to point out herein that it has been the practice of the Division for many years to make clear to the issuing author-

ties of municipalities wherein application for a new license for a hotel containing at least 50 sleeping rooms (R.S. 33:1-12.20) has been filed or is in contemplation that, in the event of a grant of the application, the granting resolution should set forth a special condition (R.S. 33:1-32) that the license shall not be transferred except to a hotel containing at least 50 sleeping rooms. The Division's letter of April 11, 1962, to the Randolph Township Committee, responsive to the Township Clerk's letter of April 6, advised to that effect. Accordingly, the Township Committee's granting resolution of April 12, 1962, authorized issuance of the new license "pursuant to the 'hotel' exception in Section of the State Limitation Law" and subject to the special condition against transfer of the license "except to premises operated as a hotel containing at least 50 sleeping rooms." The resolutions granting transfer of the license to American Resort & Recreation, Inc., and 1962-1963 license renewal to that corporation set forth the same special condition. Thus, all possibility of transfer of this license issued (unlike the original license for the hotel) as a new license pursuant to R.S. 33:1-12.20, and not otherwise lawfully issuable, to non-hotel premises has been effectively removed.

Accordingly, it is, on this 21st day of August 1962,

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

WILLIAM HOWE DAVIS
DIRECTOR

DISCIPLINARY PROCEEDINGS - SALE TO ANOTHER RETAILER - SALE BELOW FILED PRICE - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In The Matter of Disciplinary Proceedings against
EDWARD A. MEYER, JR.
t/a EDDIE'S TAVERN
200 North Fifth Street
Harrison, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-32, issued by the Town Council of the Town of Harrison.

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

BY THE DIRECTOR:

Licensee pleads non vult to the following charges:

- On April 28, 1962, you the holder of a plenary retail consumption license, without authority or special permit first obtained from the Division of Alcoholic Beverage Control, sold three one-half (1/2) barrels of Schaefer beer, an alcoholic beverage, to Ann Hibbits, t/a Hibbo's Tavern, holder of a plenary retail consumption license for premises 439 Harrison Avenue, Harrison, New Jersey; in violation of Rule 15 of State Regulation No. 20.

"2. On April 28, 1962, you sold and offered for sale, at retail, three one half (1/2) barrels of Schaefer beer, an alcoholic beverage, at less than the price thereof filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

Absent prior record, I shall suspend the license on Charge 1 for fifteen days (Re Kill, Bulletin 954, Item 6) and on Charge 2 for ten days (Re Lloyd's Liquors, Inc., Bulletin 1441, Item 9), making a total suspension of twenty-five days. Five days will be remitted for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 8th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-32, issued by the Town Council of the Town of Harrison to Edward A. Meyer, Jr., t/a Eddie's Tavern, for premises 200 North Fifth Street, Harrison, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Wednesday, August 15, 1962, and terminating at 2:00 a.m., Tuesday, September 4, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - PURCHASE FROM ANOTHER RETAILER - TRANSPORTATION IN VEHICLE WITHOUT TRANSIT INSIGNIA - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ANN HIBBITS
t/a HIBBO'S TAVERN
439 Harrison Avenue
Harrison, New Jersey

Holder of Plenary Retail Consumption License C-23, issued by the Town Council of the Town of Harrison.

CONCLUSIONS
AND ORDER

Jack L. Cohen, 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 April 28, 1962, she (1) purchased three half-barrels of beer from a retail licens in violation of Rule 15 of State Regulation No. 20, and (2) transported the beer in a vehicle bearing no transit insignia, in violation of Rule 2 of State Regulation No. 17.

Licensee has a previous record of suspension of license by the Director for five days, effective April 23, 1962 for "refilling". Re Hibbits, Bulletin 1451, Item 9.

The prior record considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Barone and Colicchio, Bulletin 1292, Item 8.

Accordingly, it is, on this 14th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-23, issued by the Town Council of the Town of Harrison to Ann Hibbits, t/a Hibbo's Tavern, for premises 439 Harrison Avenue, Harrison, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, August 21, 1962, and terminating at 2:00 a.m., Monday, September 10, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - INDECENT LANGUAGE AND CONDUCT - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CHARLES J. SUK AND FLORENCE SUK)
t/a CHIC'S TAVERN)
5519 Hudson Avenue)
West New York, New Jersey)

CONCLUSIONS
AND ORDER

holders of Plenary Retail Consumption License C-25, issued by the Board of Commissioners of the Town of West New York.)

Licensees, Pro se.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead guilty to charges alleging that (1) on July 7, 1962, at 8:05 A.M., they sold a pint bottle of whiskey for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (2) on July 20 and 27, 1962, they permitted foul, filthy and obscene language and conduct on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for fifteen days (Re The 134 Tavern, Inc., Bulletin 1461, Item 10) and on the second charge for ten days (Re Karelitz & Fishbone, Bulletin 1446, Item 6), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 14th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-25, issued by the Board of Commissioners of the Town of West New York to Charles J. Suk and Florence Suk, t/a Chic's Tavern, for premises 5519 Hudson Avenue, West New York, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 A.M. Tuesday, August 21, 1962, and terminating at 3:00 A.M. Monday, September 10, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISQUALIFICATION REMOVAL PROCEEDINGS - CONVICTION FOR ATTEMPTED ROBBERY - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application to Remove Disqualification because of a Conviction, pursuant to R.S. 33:1-31.2.

CONCLUSIONS AND ORDER

Case No. 1706

BY THE DIRECTOR:

Applicant's criminal record discloses that he has been arrested and convicted of a number of crimes, the last of which, on May 14, 1936, was a conviction of holdup and attempted robbery, as to which he was sentenced to serve one to three years in New Jersey State Prison and was paroled on March 6, 1937. Since the crime of robbery, per se, involves the element of moral turpitude (Re Case No. 1061, Bulletin 981, Item 9), the crime of attempted robbery, in my opinion, likewise involves the element of moral turpitude. The applicant was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26. It is unnecessary, therefore, to determine whether or not the previous crimes of which applicant was convicted involve that element.

At the hearing held herein, applicant (52 years old) testified that he is married and living with his wife and daughter; that for the past twenty years he has resided at his present address; that for more than ten years last past, he has been regularly employed; that he is a vice-president of a club licensee; that until recently, when informed by the municipal issuing authority, he had no knowledge that he was ineligible to hold such office.

Applicant further testified that he is asking for the removal of his disqualification to be free to hold office in a licensed club and that ever since May 14, 1936, he has not been convicted of any crime or arrested.

The applicant produced three character witnesses (a business executive, a foreman and an electronics technician) who testified that they have known the applicant for twenty-five years and, in their opinion, he is now an honest, law-abiding citizen with a good reputation.

The police department of the municipality wherein applicant resides reports that there are no complaints or investigations present pending against the applicant.

The only hesitation I have to grant the relief sought is that the applicant, although disqualified, held office in a licensed club. I am, however, favorably influenced by three factors: (a) the testimony of his character witnesses, (b) that ever since May 14, 1936, he has not been convicted of any crime or arrested, and (c) he had no knowledge of his ineligibility to become an officer of a club licensee. Knowledge of the law, moreover, is not an essential prerequisite to removal of disqualification in these proceedings. Re Case No. 1279, Bulletin 1124, Item 8.

Considering all of the aforesaid facts and circumstances, I am satisfied that the applicant has conducted himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry in this state will not be contrary to the public interest.

Accordingly, it is, on this 16th day of August, 1962,

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

WILLIAM HOWE DAVIS
DIRECTOR

7. SEIZURE - AMENDED ORDER AUTHORIZING RETURN OF MOTOR VEHICLE TO LIENOR UPON RE-APPRAISAL.

In the Matter of the Seizure on)
April 17, 1962 of numerous still)
parts, appliances, accessories,)
sixty pounds of sugar, miscellaneous)
property, and a Chevrolet pick-up)
truck at premises located on the)
south side of Flora Road, east of)
Blue Bell Road, in the Township of)
Franklin, County of Gloucester)
and State of New Jersey.)
- - - - -)

CASE NO. 10,817

AMENDED ORDER
AUTHORIZING THE
RETURN TO LIENOR
OF MOTOR VEHICLE.

BY THE DIRECTOR:

On July 18, 1962 an Order was entered in the above matter recognizing the lien claim of the General Motors Acceptance Corporation to the extent of \$831.39 on a Chevrolet pick-up truck, more particularly described in a schedule annexed thereto, bearing New Jersey Registration XES-931. The Order further directed that if the said Chevrolet pick-up truck is sold at public sale, the said lien was to be recognized out of the proceeds of such sale after first deducting the costs of seizure, storage and sale.

A reappraisal of the said motor vehicle by an appraiser authorized by this Division, satisfies me that the lien of the General Motors Acceptance Corporation exceeds the amount which may be realized upon the sale of such motor vehicle.

Accordingly, it is on this 21st day of August, 1962,

DETERMINED and ORDERED that if on or before the 4th day of September, 1962 the said lienor, General Motors Acceptance Corporation pays the costs of seizure and storage of the Chevrolet pick-up truck, said motor vehicle will be returned to it.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against ROBERT MOORE t/a OLD HOMESTEAD TAVERN 76 Kearny Avenue Jersey City 5, New Jersey

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-168, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Joseph A. D'Alessio, Esq., Attorney for Licensee. David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 15, 1962, he possessed an alcoholic beverage in one bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Although the licensee has no previous record as an individual, the license of Old Homestead Tavern, Inc. for the same premises, of which he was 40% stockholder and president, was suspended by the Director for twenty-five days, effective October 10, 1960, for sale during prohibited hours, in violation of municipal ordinance and State Regulation No. 38, and outside the licensed premises in violation of R.S. 33:1-2. Re Old Homestead Tavern, Inc., Bulletin 1362, Item 7.

The prior record considered, 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 Steinhauser's Bar, Inc., Bulletin 1461, Item 9.

Accordingly, it is, on this 28th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-168, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Robert Moore, t/a Old Homestead Tavern, for premises 76 Kearny Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 A.M. Tuesday, September 4, 1962, and terminating at 2:00 A.M. Friday, September 14, 1962.

WILLIAM HOWE DAVIS DIRECTOR

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR SIMILAR AND DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

SUNDOWN BAR & GRILL, INC.)
344 Bergen Blvd.)
Palisades Park, New Jersey)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-16, issued by the Mayor and Council of the Borough of Palisades Park.)

Licensee, by Michael Rich, President, Pro se.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 11, 1962, it possessed an alcoholic beverage in one bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license (1) by the municipal issuing authority for ten days, effective October 31, 1960, for sale to minors, and (2) by the Director for ten days, effective December 11, 1961, for possessing liquor not truly labeled. Re Sundown Bar & Grill, Inc., Bulletin 1427, Item 10.

The minimum penalty for possession of a one-bottle "refill" is suspension of license for ten days when unaggravated by previous record of suspension. Re Darrow & Dudek, Bulletin 1461, Item 5. However, the prior record of two separate suspensions for similar and dissimilar violations within the past five years considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Cf. Re Hittner & Hodes, Bulletin 1420, Item 6; Re Steinhauer's Bar, Inc., Bulletin 1461, Item 9.

Accordingly, it is, on this 22rd day of August, 1962,

ORDERED that Plenary Retail Consumption License C-16, issued by the Mayor and Council of the Borough of Palisades Park to Sundown Bar & Grill, Inc. for premises 344 Bergen Blvd., Palisades Park, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 A.M. Wednesday, August 29, 1962, and terminating at 3:00 A.M. Tuesday, September 18, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

- 10. CONTAINERS - SALE OF DRAFT BEER FOR OFF-PREMISES CONSUMPTION - PREVIOUS RULING EXTENDED TO INCLUDE PLASTIC CONTAINERS AMONG OTHERS PERMISSIBLE.

OTHER MERCANTILE BUSINESS - EXTRA CHARGE MAY NOT BE MADE FOR PLASTIC CONTAINER FURNISHED WITH DRAFT BEER SOLD FOR OFF-PREMISES CONSUMPTIO

September 24, 1962

Robert W. Wolfe, Esq.
Newark 2, New Jersey

Dear Sir:

This acknowledges your letter of September 13, 1962 in connection with the clear plastic container with press top which you submitted for approval for the sale of draft beer for off-premises consumption.

It would appear that there would be no objection to the use of such a container for that purpose. Our previous ruling (Bulletin 950, Item 9) restricting the permissible containers to pitchers, pails or paper or cardboard containers is hereby extended to include such plastic containers.

However, in order to avoid possible conflict with the "other mercantile business" provision of the Alcoholic Beverage Law, no extra charge may be made for such container and the price for the same quantity of malt alcoholic beverage must be the same for those to whom such a container is supplied as for those who bring their own containers.

Very truly yours,

William Howe Davis
Director

- 11. DISCIPLINARY PROCEEDINGS - - SALE TO NON-MEMBERS - FALSE STATEMENT IN APPLICATION FOR LICENSE - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THE ULSTER CLUB OF NEW JERSEY, INC.)
169 Bergen Avenue)
Kearny, New Jersey)

CONCLUSIONS AND ORDER

Holder of Club License CB-4, issued by the Town Council of the Town of Kearny.)

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

BY THE DIRECTOR:

Licensee pleads guilty to charges alleging that (1) on June 30, 1962, it sold drinks of alcoholic beverages to non-members, in violation of Rule 8 of State Regulation No. 7, and (2) in its application for current license, falsely denied any prior suspension of license, in violation of R.S. 33:1-25.

The previous suspension of license, the subject of the second charge, was a suspension by the municipal issuing authority for ten days effective June 16, 1958 for sale to non-members and local "hours" violation.

The previous record considered, the license will be suspended on the first charge for thirty days (Re Eighth Ward Progressive Republican Club, Bulletin 1210, Item 3) and on the second charge for ten days (Re Eisenhower's Musical Bar, Inc., Bulletin 1458, Item 4), or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 20th day of August, 1962,

ORDERED that Club License CB-4, issued by the Town Council of the Town of Kearny to The Ulster Club of New Jersey, Inc. for premises 169 Bergen Avenue, Kearny, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 A.M. Monday, August 27, 1962, and terminating at 2:00 A.M. Monday, October 1, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

12. DISCIPLINARY PROCEEDINGS - ORDER LIFTING SUSPENSION FOR ONE DAY DURING SUSPENSION AND EXTENDING SUSPENSION ONE DAY.

In the Matter of Disciplinary Proceedings against)

THE ULSTER CLUB OF NEW JERSEY, INC.)
169 Bergen Avenue)
Kearny, New Jersey)

AMENDED
ORDER

Holder of Club License CB-4, issued by the Town Council of the Town of Kearny.)

-----)
Licensee, by Thomas Adams, President Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

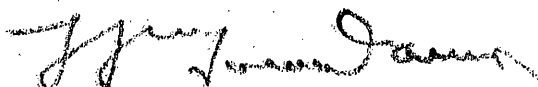
On August 20, 1962, I entered an order suspending the license herein for a period of thirty-five days commencing on August 27, 1962 and terminating on October 1, 1962. The licensee

has now filed a petition requesting that the effect of the suspension be lifted for one day, viz., September 15, 1962, to permit the conduct of a previously arranged wedding reception at which alcoholic beverages will be served on the licensed premises on that date. For good cause appearing, I shall grant the petition.

Accordingly, it is, on this 29th day of August, 1962,

ORDERED that the previous order of suspension herein be and the same is hereby amended in accordance herewith; and it is further

ORDERED that Club License CB-4, issued by the Town Council of the Town of Kearny to The Ulster Club of New Jersey, Inc. for premises 169 Bergen Avenue, Kearny, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 A.M. Monday, August 27, 1962, and terminating at 2:00 A. M. Saturday, September 15, 1962, and again commencing at 2:00 A.M. Sunday, September 16, 1962, and terminating at 2:00 A.M. Tuesday, October 2, 1962.



William Howe Davis
Director