

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

BULLETIN 1671

APRIL 28, 1966

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BULLETIN 1671

APRIL 28, 1966

1. COURT DECISIONS - PASTRANA'S BAR, INC. v. BUENA - DIRECTOR
AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-934-64

PASTRANA'S BAR, INC.,

Appellant,

v.

BOROUGH COUNCIL OF THE
BOROUGH OF BUENA,

Respondent.

Argued March 28, 1966 - Decided April 12, 1966.

Before Judges Gaulkin, Labrecque and Brown.

Mr. Robert J. Halpin argued the cause for
appellant (Messrs. Halpin & Bailey, attorneys).

Mr. Lewis P. Scott argued the cause for
respondent.

PER CURIAM.

(Appeal from Director's decision in Pastrana's Bar, Inc.
v. Buena, Bulletin 1630, Item 1. Director's order affirmed
without opinion.)

2. STATE REGULATIONS - REGULATION NO. 14, RULE 8 AMENDED.

NOTICE TO ALL HOLDERS OF SOLICITOR'S PERMITS:

RULE 8 OF STATE REGULATION NO. 14 AMENDED

I have received requests from several solicitors to relax the provisions of Rule 8 of State Regulation No. 14, which prohibits any member of a municipal governing body or license issuing authority, or any person charged or entrusted with the enforcement of the laws concerning alcoholic beverages, from holding a solicitor's permit. After long and careful consideration, I have determined that solicitors, under certain conditions, should be permitted to seek municipal office without having to surrender their permits if the electorate sees fit to select them for such office.

The present Rule limits the political participation in municipal affairs of more than 3,000 solicitors, while at the same time the Alcoholic Beverage Law (R.S. 33:1-20) specifically authorizes retail licensees to be members of municipal issuing authorities, upon condition that the license is issued by the State Director of Alcoholic Beverage Control. Additionally, in municipalities which have created three-man municipal boards of alcoholic beverage control, the Alcoholic Beverage Law does not prohibit the issuance by such board of a retail license to a member of the municipal governing body who is not also a member of such board. In view of the legislative policy to permit political participation of licensees in municipal affairs, I shall amend Rule 8 to permit solicitors to be members of a municipal governing body or municipal issuing authority provided that they do not exercise the privileges of their permit in such municipality.

Accordingly, Rule 8 of State Regulation No. 14 is hereby amended, effective immediately, to read as follows:

"No Solicitor's Permit shall be issued to or held by any person charged or entrusted with the enforcement of the laws concerning alcoholic beverages in any manner whatsoever, except that nothing herein shall prohibit a member of a municipal governing body or municipal issuing authority from being issued or holding a Solicitor's Permit, provided, however, that no holder of a Solicitor's Permit shall, directly or indirectly, offer for sale or solicit any order for the purchase or sale of any alcoholic beverages in any municipality in which he is a member of the municipal governing body or municipal issuing authority."

JOSEPH P. LORDI
DIRECTOR

Promulgated Monday, April 25, 1966.

Effective Monday, April 25, 1966.

Filed with the Secretary of State (N.J.) Monday, April 25, 1966.

3. BRAWLS, DISTURBANCES AND ACTS OF VIOLENCE ON LICENSED PREMISES -
HINDERING INVESTIGATION - HEREIN OF LICENSEES' RESPONSIBILITY
TO ADVISE POLICE OF CONCEALED WEAPONS.

NOTICE TO ALL RETAIL LICENSEES:

A situation has been brought to my attention wherein it appears that a bartender failed to inform police officers investigating a tavern altercation that two of the patrons involved were carrying concealed firearms, although he apparently knew that the patrons were so armed. A shooting thereafter ensued, resulting in the death of the investigating officers.

In Re Jackson, Bulletin 1600, Item 2, I stated:

"....where, as here, a dangerous weapon such as a knife has been wielded by a participant in a fight on licensed premises, a licensee or his employee, upon becoming aware of same, should exercise proper judgment by notifying the police of such fact. Indeed, where a licensee or his employee become aware of the apparent commission of any crime in connection with the licensed business, they should notify the police. I am taking this opportunity to impress this point upon licensees in order that they, as citizens with a strong stake in proper law enforcement, may assume a leading position in cooperating with law enforcement agencies."

Likewise, where a licensee or his agent becomes aware that a patron involved in a fracas is carrying a concealed weapon, he is under a duty to disclose this fact to an investigating officer in order to alert him to the possible danger. Common sense alone dictates such action. Compliance with the State Alcoholic Beverage Law and Regulations demands it.

Rule 5 of State Regulation No. 20 prohibits any licensee from allowing, permitting or suffering any act of violence in or upon the licensed premises. A licensee "suffers" an act to occur by failing to prevent its happening notwithstanding a reasonable opportunity to do so.

Additionally, R.S. 33:1-35 of the State Alcoholic Beverage Law prohibits licensees from failing to facilitate, "as far as may be in their power so to do" any investigation of their licensed premises or licensed business by any officer or Division agent. In this connection, this Division has consistently held that:

"Licensees may not avoid their responsibility for the conduct of their premises by merely closing their eyes and ears. On the contrary, licensees must use their eyes and ears, and use them effectively, to prevent the improper use of their premises." Bilowith v. Passaic, Bulletin 527, Item 3.

Violation of either the above cited Rule or statute is cause for suspension or revocation of license. I enlist your cooperation to insure compliance therewith and I assure you that non-compliance will be dealt with by appropriate disciplinary action.

JOSEPH P. LORDI
DIRECTOR

Dated: April 25, 1966

4. APPELLATE DECISIONS - SCHAIT v. MONTCLAIR.

HAROLD P. SCHAIT,)	
Appellant,)	ON APPEAL
v.)	CONCLUSIONS
)	AND ORDER
BOARD OF COMMISSIONERS OF)	
THE TOWN OF MONTCLAIR,)	
Respondent.)	

Milton M. and Adrian M. Unger, Esqs., by Adrian M. Unger, Esq.,
Attorneys for Appellant.
Samuel Allcorn, Jr., Esq., Attorney for Respondent.
Brass & Brass, Esqs., by Leonard Brass, Esq., Attorneys for
Objector, Essex County Retail Liquor Stores Association

BY THE DIRECTOR:

The Hearer has filed the following Report herein.

Hearer's Report

Appellant appeals from the action of respondent Board of Commissioners (hereinafter respondent) whereby four of the five members thereof (one member being absent from the meeting) denied an application for place-to-place transfer of appellant's plenary retail consumption license from premises 62 Glenridge Avenue to premises 193 Bellevue Avenue, Montclair.

The resolution of respondent, adopted on October 12, 1965 after a hearing on said application, reads as follows:

"BE IT RESOLVED by the Board of Commissioners of the Town of Montclair, in the County of Essex, that the application of Harold P. Schait for the transfer of Plenary Alcoholic Retail Consumption License C-10 from premises 62 Glenridge Avenue, Montclair, to premises 193 Bellevue Avenue, Montclair, be and the same hereby is denied for the following reasons:

"The premises at 193 Bellevue Avenue to which it is proposed that the license be transferred is a retail store presently occupied as a photographic studio. It is located on the most easterly edge of the neighborhood shopping center in Upper Montclair - an area in which, to our knowledge, there has never before been an establishment for the sale of alcoholic beverages for on-premises consumption.

"Immediately to the east, the premises in question is adjoined by a three or four story residential apartment house, then the rectory of St. Cassian's Roman Catholic Church which, in turn, adjoins the Bellevue Avenue branch of the Montclair Public Library located on the north-westerly corner of Bellevue and Norwood Avenues. On the north along Norwood Avenue, the church building of St. Cassian's is adjacent to the public library, followed by the school building and the playground of St. Cassian's Parochial School - a private school of elementary grades only - which is situated on the southwesterly corner of Norwood and Lorraine Avenues. West of St. Cassian's

Parochial School on Lorraine Avenue and to the rear of the subject premises are a series of one and two family dwellings running to within a few hundred feet of Valley Road.

"East of Norwood Avenue, Mt. Hebron School, a Montclair Public School for both elementary and junior high school grades, occupies more than half of the block between Norwood Avenue and Park Street, for the full width of the block between Bellevue and Lorraine Avenues. Mt. Hebron School is adjoined by one and two family residences from its easterly line to Park Street, both on Lorraine Avenue and Bellevue Avenue.

"With the exception of the athletic field for Mt. Hebron School, which is directly across Bellevue Avenue from the school building, the southerly side of Bellevue Avenue between Park Street and Norwood Avenue is occupied by one and two family residences. Directly across from St. Cassian's rectory is another three or four story apartment house. Immediately adjacent to the apartment house on the west is a combined residence and real estate office, and adjoining it is a filling station which is located on the southeast corner of Bellevue and Northview Avenues.

"Lacordaire School, a private elementary and high school owned by The Community of the Sisters of St. Dominic is situated on the northwest corner of Lorraine Avenue and Park Street, approximately two blocks distant from the premises in question. And, one block to the west of the proposed site (on the southeast corner of Bellevue Avenue and Valley Road) there is situated St. James' Church.

"Thus, the proposed site is on the perimeter of a good residential area and is in close proximity to the three schools, which have a total grade enrollment of approximately 750 children and an enrollment of approximately 750 children of junior high school and high school ages. Moreover, from the proposed site north to Mt. Hebron and Immaculate Conception Cemeteries (which border on the Clifton boundary line), east to the Bloomfield boundary line and south to the Watchung Avenue neighborhood shopping center lie a large part of the best residential areas in Montclair - all zoned and used for single family residences with few or no exceptions.

"In our judgment, the operation of this license at the site proposed would have a seriously adverse effect upon the residential areas abutting and surrounding the proposed site, and also would not be in the best interests of the substantial number of school children of all ages who would be required to pass the premises in going to and coming from the various schools and the public library nearby. Nor does the close proximity of both St. Cassian's Roman Catholic Church and St. James' Church add to the desirability of the site as a location for the sale of alcoholic beverages for on-premises consumption.

"The licensee, by his attorney, has indicated that it is his intention to minimize the on-premises consumption feature of the operation and to maximize the sale for off-premises consumption, were the transfer to be approved.

Quite aside from any question of legality, it cannot be overlooked that the license held by the licensee is one which permits on-premises consumption, and that the premises must be operated as a bona fide establishment for the sale of alcoholic beverages for on-premises consumption - with bar, barroom and the usual and customary activities normally incidental to such an operation.

"In the light of the foregoing circumstances, it is the conclusion of the members of the Board of Commissioners that the location of an establishment for the on-premises consumption of alcoholic beverages at the premises proposed would be harmful to the Town and to its citizens. Accordingly, in the exercise of the discretion imposed upon us by law, we cannot in good conscience approve this transfer."

Appellant, in his petition of appeal, alleges that the action of respondent was erroneous and should be reversed for the following reasons:

"a) The action of respondent in denying appellant's application to transfer his license was an abuse of its discretion and unwarranted in law or fact.

"b) The grounds set forth as the basis for the refusal to transfer the license are erroneous in law and in fact.

"c) Respondent did not exercise sound discretion in denying appellant's application to transfer the license.

"d) Respondent abused the discretionary authority vested in it in denying appellant's application to transfer the license.

"e) Respondent's denial of appellant's application to transfer was discriminatory and prejudicial and in violation of appellant's legal rights."

Respondent's answer denies the allegations contained in the petition of appeal and contends that the action of respondent in denying the transfer in question was in the exercise of its discretion in that the approval thereof would not be in the best interest of the municipality.

The appeal herein was heard de novo pursuant to Rule 6 of State Regulation No. 15. The transcript of the proceedings held before respondent was received in evidence pursuant to Rule 8 of State Regulation No. 15.

Garrett C. Roorda, president of the ministers' association of Montclair and pastor of Montclair Heights Reformed Church, testified that he objected to the transfer as an individual and on behalf of the ministers' association, especially on behalf of the ministers of the five Protestant churches of Upper Montclair, the area of the proposed licensed premises. Rev. Roorda's objections, among others, were that the proposed premises were in proximity to a junior high school, a branch of the public library, two churches and a parochial school. He further stated his opinion to be that where alcoholic beverages are consumed on the licensed premises, there is a definite hazard to children and adults passing the place of business when going to and from class at the schools and the library. He further stated that he expresses the sentiments of the majority of persons, based on the number of persons who had signed petitions opposing the establishment of a liquor business at the proposed location.

On cross examination, Rev. Roorda said that although aware that an application was to be heard with reference to a previous place-to-place transfer of the license in question to premises at 590 Valley Road, he voiced no objection thereto. The reason given was: "At the time the application was made for the license in operation across the street from St. James Church at the premises you mentioned it was to have been in connection with a restaurant, a rather large restaurant, in fact. St. James Church, the rector and vestry reluctantly did not enter objection." Moreover, he said "since it was to appear at the back of the premises at the furthest point from the church and the street they decided, as I say, reluctantly not to enter an objection. But the application here made is of a different kind. It is not made in connection with a restaurant, which was part of the application or part of the plan proposed for the vacant premises." Rev. Roorda further said that he did not protest an application for transfer of the license to 636 Valley Road because he was "not in office at that time" and that he failed to enter opposition to an application for transfer of the same license to 37 North Mountain Avenue because the proposed premises were situated a great distance away from the present proposed premises.

Lucille French, a library trustee, testified that there is a branch of the free public library "three or four doors east" of the proposed premises on Bellevue Avenue, which remains open weekdays from 1:00 p.m. to 6:00 p.m. except Tuesdays and Thursdays when it is open from 1:00 p.m. to 9:00 p.m. and is also open on Saturday from 9:00 a.m. to 6:00 p.m. She stated that she communicated with the other members of the board of trustees and each expressed opposition to the transfer.

Three women, residents in the general area, testified against the transfer of the license; and petitions containing approximately two hundred and six names of persons were presented herein opposing the transfer.

Robert F. Edwards, employed as Town Planner and also secretary of the Montclair Planning Board, testified concerning the section of the town known as Upper Montclair, with reference to both business establishments and residences, and in his opinion there was no need or necessity for a liquor license for sale of alcoholic beverages for on-premises consumption in that section of the town. On cross examination Mr. Edwards stated that he did not oppose the transfer of the license in question to 590 Valley Road as the proposed premises was "primarily a high-class restaurant with incidental facilities for the serving of liquor with meals."

Appellant testified that he obtained the license "approximately two and a half years ago" for premises 62 Glenridge Avenue but had never operated at that location. However, he still retains the said premises by payment of rent therefor, in the hope of transferring the license to another premises in a different location. His initial application for place-to-place transfer was made for premises 590 Valley Road which he "intended to remodel and make into a restaurant, cocktail lounge, and bar." Although this application was approved by respondent, appellant testified he decided not to go through with the transfer because, in his opinion, there were insufficient parking facilities. Appellant said he then made application for transfer of the license to 636 Valley Road, which was denied by respondent. His next application for transfer was made for premises at 37 North Mountain Avenue approximately a mile and a half from the premises now under consideration. This application was denied by respondent. With reference to the

application made for transfer of the license to 193 Bellevue Avenue, appellant testified that he made a personal inspection of the particular area of the proposed premises and that the neighborhood consisted of both business establishments and also various residences. He identified numerous photographs of business establishments and stores located in the immediate and surrounding area where the proposed premises is situated. Moreover, appellant stated that it was his intention to comply with the law by the installation of a bar but that the emphasis was to be the sale of package goods for off-premises consumption.

In order that appellant be successful in this appeal, it is necessary for him to show that respondent has abused its discretion in denying the application for transfer. In order to meet this burden, appellant must present proof of manifest error or an abuse of the discretion on the part of respondent. Nordco v. State, 43 N.J. Super. 277 (App. Div. 1957); Rajah Liquors v. Division of Alcoholic Beverage Control, 33 N.J. Super. 598 (App. Div. 1955).

It has been consistently ruled that a transfer of a liquor license to other premises is not an inherent or automatic right. The issuing authority may grant or deny a transfer in the exercise of reasonable discretion. If denied on reasonable grounds, such action will be affirmed. Gentes v. Middletown, Bulletin 1327, Item 1; Biscamp and Hess v. Teaneck, Bulletin 821, Item 8. See also Biscamp and Hess v. Teaneck et al., 5 N.J. Super. 172 (App. Div. 1949), where, as in the present case, the issuing authority denied the transfer of a liquor license because it was of the opinion that there was no need or necessity for a liquor outlet in that particular location in the community.

Although the proposed premises is located in a mixed business and residential area, it does not necessarily follow that a transfer to said premises must be granted. Each case stands solely upon its individual merits, depending on the facts presented therein. It has long been established that whether or not a license should be permitted in a particular location is strictly within the sound discretion of the issuing authority and that the Director's function on appeal is not to substitute his opinion for that of the issuing authority but, rather, to determine whether cause exists for its opinion and, if so, to affirm. Larijon, Inc. v. Atlantic City, Bulletin 1306, Item 1; Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1.

Although appellant, in essence, contends that he had been discriminated against by the denial of this and previous applications for transfer to other premises, there is nothing in this record which indicates or even suggests that the decisions given by the respective members of respondent were inspired in any manner by improper motives. In Fanwood v. Rocco and Division of Alcoholic Beverage Control, 59 N.J. Super. 306, 323 (App. Div. 1960), aff'd 33 N.J. 404 (1960), Judge Gaulkin, among other things, stated:

"The Director may not compel a municipality to transfer licensed premises to an area in which the municipality does not want them, because there more people would be able to buy liquor more easily. Such 'convenience' may in a proper case be a reason for a municipality's granting a transfer but it is rarely, if ever, a valid basis upon which the Director may compel the municipality to do so."

Moreover, it was stated in Fanwood that "No person is entitled to [the transfer of a license] as a matter of law" and "If the motive

of the governing body is pure, its reasons, whether based on morals, economics, or aesthetics, are immaterial."

I have carefully examined the various points emphasized and the arguments presented by the respective attorneys for the appellant, the respondent and the objector. After considering all of the evidence, including the exhibits, I conclude that appellant has failed to sustain the burden of establishing that the action of respondent was arbitrary, capricious, unreasonable or constituted an abuse of its discretionary power. Rule 6 of State Regulation No. 15.

It is recommended, therefore, that an order be entered affirming respondent's action and dismissing the appeal.

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, including the transcript of testimony, the exhibits, argument of the attorneys for the respective parties and the Hearer's report, I concur in the conclusions and recommendation of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 14th day of March, 1966,

ORDERED that the action of respondent in denying transfer of appellant's license be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed.

JOSEPH P. LORDI
DIRECTOR

5. APPELLATE DECISIONS - CHATHAMS v. CLIFTON.

RUTHIE K. CHATHAMS,
t/a RUTHIE'S TAVERN,

Appellant,

v.

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF THE CITY OF
CLIFTON,

Respondent.

)
)
) ON APPEAL
) ORDER
)
)
)
)

Saltzman, Swartz & Rosenberg, Esqs., by Robert P. Swartz, Esq.,
Attorneys for Appellant.

Sam Monchak, Esq., by Frank A. Carlet, Esq., Attorney for
Respondent.

BY THE DIRECTOR:

Appellant appeals from denial on January 19, 1966, by respondent of her application for transfer of plenary retail consumption license from premises 12 Highland Avenue to premises 565 Clifton Avenue, Clifton.

Prior to the hearing the attorneys for appellant advised me by letter of March 14, 1966 that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 15th day of March 1966,

ORDERED that the appeal herein be and the same is hereby dismissed.

JOSEPH P. LORDI
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS - NO REMISSION FOR PLEA ENTERED AT HEARING.

In the Matter of Disciplinary Proceedings against)	
)	
CLAIRE SHEVITZ)	
t/a MARTINITZ TAVERN)	CONCLUSIONS
95 West End Avenue)	AND ORDER
Long Branch, N. J.)	
Holder of Plenary Retail Consumption License C-20, issued by the City Council of the City of Long Branch.)	

 Julius J. Golden, Esq., Attorney for Licensee.
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

At the hearing herein, licensee pleaded non vult to a charge alleging that on February 4, 11-12, 18 and 19, 1966, she conducted the licensed place of business as a nuisance, viz., permitting apparent male and female homosexuals on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclose that on the dates alleged, the total patronage ranged from nine to twenty-six and that all of the patrons were apparent homosexuals, principally females.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective September 28, 1964, for sale to minors.

On the basis of the facts appearing (simple congregation of a relatively large number of apparent homosexuals), the license will be suspended for sixty days (Re Charmac, Inc., Bulletin 1630, Item 2), to which will be added five days by reason of the record of suspension of license for dissimilar violation occurring within the past five years (Re Moore, Bulletin 1659, Item 4), or a total of sixty-five days, without remission for the plea untimely entered at the hearing (Re Arahill, Bulletin 1646, Item 1).

Accordingly, it is, on this 15th day of March, 1966,

ORDERED that Plenary Retail Consumption License C-20, issued by the City Council of the City of Long Branch to Claire Shevitz, t/a Martinitz Tavern, for premises 95 West End Avenue, Long Branch, be and the same is hereby suspended for sixty-five (65) days, commencing at 2:00 a.m. Monday, March 21, 1966, and terminating at 3:00 a.m. Wednesday, May 25, 1966.

JOSEPH P. LORDI
DIRECTOR

NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1965 TO MARCH 31, 1966 AS REPORTED TO THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19 (INCLUDING 57 ISSUED BY THE DIRECTOR PURSUANT TO R.S. 33:1-2)

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club	Limited Retail Distribution		Seasonal Retail Consumption		Licenses Expired	Licenses Surrendered/Revoked	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid		No. Issued	Fees Paid	No. Issued	Fees Paid				
Atlantic	484	\$ 199,810.00	74	\$ 28,075.00	30	\$ 2,620.00						588	\$ 230,505.00
Bergen	815	327,126.85	301	91,322.00	149	13,830.00	50	\$ 2,419.50	5	\$ 1,398.75	5	1315	436,097.00
Burlington	198	91,769.00	43	14,410.00	51	7,025.00	1	50.00				293	113,254.00
Camden	458	225,969.19	85	35,335.00	80	7,930.00			1	450.00	1	623	269,684.00
Cape May	138	77,000.00	13	4,700.00	17	2,200.00						168	83,900.00
Cumberland	80	41,100.00	15	4,200.00	32	4,250.00						127	49,550.00
Essex	1291	737,320.82	348	210,805.48	96	13,325.00	26	1,300.00	2	1,500.00	1	1761	964,251.00
Gloucester	109	39,460.00	15	3,845.00	22	2,020.00						146	45,325.00
Hudson	1464	663,781.24	298	122,400.00	80	9,532.28	60	2,550.00				1901	798,263.00
Hunterdon	78	28,880.00	14	8,168.00	14	1,500.00						106	38,548.00
Mercer	421	262,500.00	51	22,510.00	64	9,044.80			1	111.78	1	535	294,166.00
Middlesex	632	319,605.34	88	30,155.00	125	10,479.23	4	200.00				848	360,439.00
Monmouth	548	265,507.88	126	44,850.00	63	6,715.13	10	492.00	25	12,390.53	25	747	329,955.00
Morris	361	150,494.95	105	43,359.00	71	6,582.50	15	750.00	4	1,290.00	4	552	202,476.00
Ocean	192	105,411.46	50	22,147.00	39	4,433.36						281	131,991.00
Passaic	849	352,412.98	170	52,685.00	50	5,775.00	7	350.00				1075	411,222.00
Salem	50	22,430.00	8	1,640.00	19	1,625.00						77	25,695.00
Somerset	190	89,433.75	41	12,975.00	36	4,200.00						267	106,608.00
Sussex	162	45,587.47	20	3,995.00	14	815.00	1	50.00	1	225.00	1	197	50,672.00
Union	551	319,146.00	144	74,176.00	89	9,485.00	26	1,280.00				810	404,087.00
Warren	146	42,860.00	20	4,435.00	29	2,950.00			2	338.40	2	195	50,583.00
Total	9217	\$4,407,606.93	2029	\$836,187.48	1170	\$126,337.30	200	\$9,441.50	41	\$17,704.46	40	5	12612 \$5,397,277.00

BULLETIN 1671
 Essex Co. 1 "C" revoked
 Hudson 1 "D" revoked
 Mercer 1 "CB" cancelled
 Middl. 1 "CB" cancelled
 Warren 1 "CB" surrendered

Joseph P. Lordi
 Director

April 12, 1966.

8. DISCIPLINARY PROCEEDINGS - SALE TO INTOXICATED PERSON - LICENSE
SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary)
Proceedings against)

RAYMOND SYNAKOWSKI)
t/a WHITE HOUSE TAVERN)
349 White Horse Pike)
Mullica Township)
PO Egg Harbor City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-6, issued by the Township)
Committee of the Township of Mullica.)

Licensee, Pro se.

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

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On November 5, 1965, you sold, served and delivered and allowed and permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly to a person actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

It appears from the testimony of two ABC agents that they visited the licensed premises at 9:50 p.m. November 5, 1965 and, while there, observed a man being served and consuming whiskey and beer while in an apparent state of intoxication. The man was having difficulty drinking, spilling his drink, speaking incoherently and his clothes were disheveled. The agents were of the opinion that the man was intoxicated. One of the agents called the condition of the man to the attention of the bartender serving the alcoholic beverages and he agreed with the agent that the man in question was intoxicated, but added "it is all right. He isn't driving. He lives next door."

Licensee testified that he was not in the barroom at the time the man was being served drinks, but was called in by the bartender after the agents identified themselves. The licensee further said, "I would say he had enough, you know, the point where he has to be flagged." Moreover, the licensee stated that some time previously the man had been involved in an accident whereby he sustained severe injuries to his leg. Also that the person "is a steady drinker but not a heavy drinker." The licensee related that he spoke to the man the day after the one in question concerning the man's condition and he said, "I had 2 ginger brandies and about 8 or 10 beers."

A careful review of the testimony of the agents and that given by the licensee satisfies me that the condition of the man as described by the agents obviously showed him to be intoxicated and on several occasions while in such condition was served and permitted to consume

alcoholic beverages on the licensed premises. Therefore, I recommend that the licensee be found guilty of the charge preferred herein.

In view of the fact that the licensee has no prior record of suspension, it is further recommended that the license be suspended, because of the violation herein, for a minimum of twenty days. Re Lekas and Paroby, Bulletin 1659, Item 12.

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 transcript of the proceedings and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 16th day of March 1966,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Mullica to Raymond Synakowski, t/a White House Tavern, for premises 349 White Horse Pike, Mullica Township, be and the same is hereby suspended for twenty (20) days, commencing at 3 a.m. Wednesday, March 23, 1966, and terminating at 3 a.m. Tuesday, April 12, 1966.

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - FRONT - FALSE STATEMENTS IN LICENSE APPLICATION - LICENSE SUSPENDED FOR 20 DAYS - EFFECTIVE DATE OF SUSPENSION DEFERRED.

In the Matter of Disciplinary Proceedings against)

172 CORP.)
t/a FORT PITT CAFE)
170 South New York Avenue)
Atlantic City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Atlantic City.)

Angelo D. Malandra, Esq., Attorney for Licensee.
Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges as follows:

"1. You failed to file with the Board of Commissioners of the City of Atlantic City, within ten days after the occurrence hereinafter stated, written notice of change of facts set forth in your answer to Question No. 31 in your application dated June 11, 1963 filed with the Board of Commissioners of the City of Atlantic City, upon which you obtained your 1963-64 plenary retail consumption license, such change being that, on or about June 24, 1963, you agreed to permit Harvey Braverman to retain all the profits

derived from your licensed business after payment to you of a weekly fee; in violation of R.S. 33:1-34.

"2. You failed to file with the Board of Commissioners of the City of Atlantic City, within ten days after the occurrence hereinafter stated, written notice of change of facts set forth in your answer to Question No. 31 in your application dated June 10, 1964 filed with the Board of Commissioners of the City of Atlantic City upon which you obtained your 1964-65 plenary retail consumption license, such change being that, on or about June 27, 1964, you agreed to permit John Boyer to retail all the profits derived from your licensed business after payment to you of a weekly fee; in violation of R.S. 33:1-34.

"3. You knowingly aided and abetted the following persons, during the following periods to exercise, contrary to R.S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses: Harvey Braverman from on or about June 24, 1963 to on or about September 3, 1963, and John Boyer from on or about June 27, 1964 to on or about September 8, 1964; in violation of R.S. 33:1-52."

The facts are sufficiently set forth in the quoted charges. In addition, reports of investigation disclose that the unlawful situation has been corrected by its discontinuance with respect to the 1965-66 license.

Report of recent inspection discloses that the licensed business is not presently being conducted and that it is strictly a summer operation with the premises usually opened for business the third week in June and closed in the middle of September of each year.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective September 14, 1959, for sale to minors.

The prior record of dissimilar violation occurring more than five years ago disregarded, but the facts and circumstances as well as the plea entered considered, the license will be suspended for twenty days. Re The Sports Corner, Inc., Bulletin 1581, Item 7; Re Elvee Corporation, Bulletin 1651, Item 5.

In view of the current non-operation of the licensed business, no effective penalty can be imposed at this time. Hence, the effective dates for the suspension will be fixed by the entry of a further order herein after the operation of the licensed business has been fully resumed on a substantial basis.

Accordingly, it is, on this 17th day of March, 1966,

ORDERED that Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Atlantic City to 172 Corp., t/a Fort Pitt Cafe, for premises 170 South New York Avenue, Atlantic City, be and the same is hereby suspended for twenty (20) days, the effective dates of such suspension to be fixed by further order as aforesaid.

JOSEPH P. LORDI
DIRECTOR

10. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto.Susp. #276)
 In the Matter of a Petition to Lift)
 the Automatic Suspension of Plenary)
 Retail Consumption License C-50,) ON PETITION
 Issued by the Municipal Board of) ORDER
 Alcoholic Beverage Control of the)
 City of Camden to)

 PAVONIA HOUSE, INC.)
 t/a PAVONIA HOUSE)
 948 North 26th Street)
 Camden, N. J.)

John H. Mohrfeld, III, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on March 8, 1966, Andrew Lipenta, president of the licensee-petitioner, was fined \$50 and \$5 costs in the Camden Municipal Court after being found guilty of a charge of sale of alcoholic beverages to a minor on February 26, 1966, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that disciplinary proceedings are in contemplation but have not yet been instituted by the municipal issuing authority against the licensee because of said sale of alcoholic beverages to the minor. A supplemental petition to lift the automatic suspension may be filed with me by petitioner after such disciplinary proceedings have been concluded. In fairness to petitioner, I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Kornblau, Bulletin 1662, Item 7.

Accordingly, it is, on this 16th day of March, 1966,

ORDERED that the aforesaid automatic suspension of license C-50 be stayed pending the entry of a further order herein.

JOSEPH P. LORDI
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 BIRDLAND NITE CLUB, A CORP.,)
 t/a BIRDLAND NITE CLUB)
 168 Market Street)
 Passaic, N. J.)
 Holder of Plenary Retail Consumption License C-134, issued by the Board of Commissioners of the City of Passaic.)

CONCLUSIONS AND ORDER

Licensee, by Maria Virginia Malave, Stockholder, Pro se. Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control.

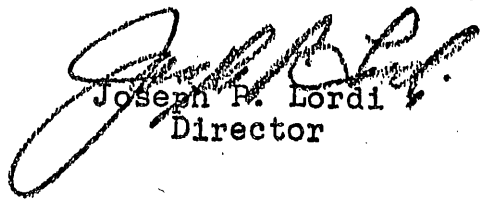
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 14, 1966 it possessed alcoholic beverages in three bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days, Re R.V.R. Inc., Bulletin 1659, Item 9.

Accordingly, it is, on this 16th day of March 1966,

ORDERED that Plenary Retail Consumption License C-134, issued by the Board of Commissioners of the City of Passaic to Birdland Nite Club, A Corp., t/a Birdland Nite Club, for premises 168 Market Street, Passaic, be and the same is hereby suspended for fifteen (15) days, commencing at 3 a.m. Wednesday, March 23, 1966, and terminating at 3 a.m. Thursday, April 7, 1966.



Joseph P. Lordi
 Director