

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

June 2, 1964

BULLETIN 1561

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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.

June 2, 1964

BULLETIN 1561

1. COURT DECISIONS - BAYONNE v. B & L TAVERN, INC. and DIVISION
OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPREME COURT OF NEW JERSEY
A-95 September Term 1963

BOARD OF COMMISSIONERS OF THE)
CITY OF BAYONNE,)
)
Plaintiff-Appellant,)
)
v.)
)
B & L TAVERN, INC., and DIVISION)
OF ALCOHOLIC BEVERAGE CONTROL,)
STATE OF NEW JERSEY,)
)
Defendants-Respondents.

Argued March 16, 1964 - Decided April 20, 1964

Mr. William Rubin argued the cause for
plaintiff-appellant (Mr. Nathan Zinader,
attorney).

Mr. Raphael G. Jacobs argued the cause for
defendant-respondent B & L Tavern, Inc.
(Mr. Harold H. Fisher, of counsel).

Mr. Samuel B. Helfand, Deputy Attorney General
of New Jersey, argued the cause for defendant-
respondent Division of Alcoholic Beverage
Control (Mr. Arthur J. Sills, Attorney General
of New Jersey, attorney).

The opinion of the Court was delivered

PER CURIAM.

Since 1958 B & L Tavern, Inc. has operated a tavern at 477 Avenue C, Bayonne, New Jersey. Max Baer, its president, holds 80% of the stock, his wife and sister the remaining 20%. Baer individually owns the two story building, the first floor of which is rented to the tavern. For some years prior to January 29, 1961 the second floor was rented to the Midtown Social and Athletic Club. The nature of this club's activities is rather obscure. The B & L Tavern, Inc. held a plenary retail consumption alcoholic beverage license from 1950 on. It was renewed annually as of July 1 of each year down to June 30, 1961 when the present renewal application was made. During the intervening years the license was continued regularly without objection from neighbors or local authorities. And no disciplinary proceedings of any kind were ever instituted against the tavern.

On January 29, 1961 the building burned down and when Baer began to rebuild, a petition of opposition to the tavern was filed with the Bayonne City Clerk by a number of residents

of the neighborhood. When application was made for the July 1, 1961 renewal of the license, a group of such residents objected. Public hearings were conducted by the governing body of the city at the conclusion of which renewal was denied on the very general ground that the tavern "is the scene of constant disorder and noise and *** a renewal of the plenary consumption license *** is not in the interests of the City of Bayonne and this Board is further of the opinion that the same cannot be conducted without being a nuisance in the neighborhood." No specific factual findings were recited in support of the conclusion.

Appeal was taken to the Division of Alcoholic Beverage Control where, under the pertinent regulation, a de novo hearing was held. Some witnesses who did not testify in the original proceeding were produced and some who had appeared earlier did not return on this occasion. It is plain from the record, also, that although Baer's new building had been completed, the tavern was not then in operation.

Considerable testimony on both sides of the controversy was adduced before the Division's Hearer. Most of the criticism had to do with conditions said to exist outside the tavern itself, on the public sidewalk in the immediate area and along the side of, and in the rear of, the old building. It was alleged that men standing outside of and near the tavern made suggestive remarks to passing women, that so-called "winos" congregated around the tavern, sitting on a ledge which ran along the side of the old building, that people were seen parked in automobiles nearby and drinking out of bottles and that immoral conduct had been engaged in in and around the premises. Testimony was offered also to show that empty bottles and other debris were thrown or dropped in the rear yard of the place and that loud noises and cursing could be heard from the open windows in the warm weather.

There was considerable conflict in the testimony as to the extent to which the alleged conditions outside of the building and in the vicinity could be charged to operation of the tavern. Some of the objectors' statements were clearly exaggerated and others were incredible. Moreover, there were other taverns and liquor stores in the area and that they contributed to whatever conditions in fact existed was a reasonable inference.

Baer's testimony disclosed that erection of the new building removed the ledge on which the "winos" sat, and the remainder of the premises is walled in so as to eliminate the unsightly conditions in the rear yard. He said also that the tavern is now air-conditioned thus preventing, in large measure, noise emanating from the windows.

The Director obviously was impressed with the fact that over the considerable number of years B & L Tavern, Inc. had held the license, no formal complaint had ever been filed or disciplinary action urged or taken. In addition, he recognized the weakness in the proof to connect the tavern with many of the unfavorable conditions

existing outside the premises on the public street. And, finally, he was influenced plainly by the change for the better caused by the new building and other physical improvements. As a result, he found lack of justification for the local Board's refusal to renew the license and reversed the order. In the course of doing so, he suggested that the local supervision in the area might be more exacting, and also that the tavern operator could "show the sincerity of his intentions to live at peace with his neighbors" by refraining from renting the second floor of the new building to the social club. However, such condition was not imposed by his order of reversal. (B & L Tavern, Inc. v. Bayonne, Bulletin 1459, Item 1).

The Board of Commissioners then sought a review in the Appellate Division which, after an exhaustive study of the evidence, sustained the Director by majority vote. (Bayonne v. B & L Tavern, Inc. and Division of Alcoholic Beverage Control, not officially reported, reprinted in Bulletin 1509, Item 1). The affirmance was made subject to the condition that Baer does not rent the second floor for use as a social club. The dissent in the Appellate Division resulted in this further appeal to us. R.R. 1:2-1(b).

Our examination of the record reveals substantial evidence in support of the Director's conclusion, as well as that of the majority of the Appellate Division. Although it cannot be denied that certain unfavorable conditions were an incident of the operation of the tavern both inside and outside, we are satisfied the findings below were not unwarranted. Of considerable influence in that connection is the marked improvement in the physical condition of the premises. Moreover, during oral argument our inquiry revealed that although the tavern has been in operation in the new building for over a year and a half, not a single complaint has been registered against it.

The judgment of the Appellate Division is affirmed subject to the condition imposed thereby with respect to rental of the second floor of the tavern building.

2. APPELLATE DECISIONS - HEDY'S BAR (A CORPORATION) v. HIGHTSTOWN.

Hedy's Bar (A Corporation),)
t/a Hedy's Bar,)

Appellant,)

On Appeal

v.)

Common Council of the Borough)
of Hightstown,)

CONCLUSIONS and ORDER

Respondent.)

Jamieson, Walsh and McCardell, Esqs.; by Thomas C. Jamieson, Jr.,
Esq., Attorneys for Appellant.
Turp, Coates and Essl, Esqs.; by Henry G. P. Coates, Esq.,
Attorneys for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report.

This is an appeal from the action of respondent which, by resolution dated June 25, 1963, denied appellant's application for place-to-place transfer of Plenary Retail Consumption License C-6 from premises 122 Railroad Avenue to premises known as Lot #21, Block #60 Mercer Street in the Borough of Hightstown.

Appellant, in its petition of appeal, contends that its application was denied for the following stated reasons:

- 1 "Proposed site would create a 'dangerous traffic condition';
- 2 "The proposed bar would 'detract aesthetically from the approach to the community';
- 3 "The activities of the Jersey Central Power and Light Company 'would be hindered by increased traffic at the site';
- 4 "'The proposed site lies at or near the proposed terminal point' of a road that may be constructed to a proposed new school and it would therefore 'not be in the interest of good planning to grant the application';
- 5 "No plan or survey was provided by the Applicant and therefore 'no appropriate consultation has been proposed' with the East Windsor Township Planning Board;
- 6 "There is no necessity for a bar at the proposed location because a bar already exists nearby in the adjoining Township;
- 7 "The proposed site lies partly in the adjoining Township and Applicant has made no approach to said Township for a proposal to divide the license fee;
- 8 "'The use would be non-conforming at the proposed site';
- 9 "The proposed site is located in an industrial zone and the Planning Board has recommended that said zone be limited to industrial use;
- 10 "The Applicants indicate they may acquire additional lands and that such 'after-acquired lands would not be improved by the construction of ratables thereon';
- 11 "'There is overwhelming public opposition to the transfer' as evidenced by letters from organizations and individuals;
- 12 "The record of police calls for the Applicant has been large and transferring the license to a more remote location 'would impose greater burdens on the police department';
- 13 "Granting of the application 'would not be in the best interest of the inhabitants of Hightstown'";

and appellant alleges that the action of respondent was erroneous in that:

"It was based upon facts not in evidence:

"The findings and reasons were not supported by the facts;

"The findings and reasons with reference to the zoning laws of the Borough of Hightstown were erroneous in both law and fact;

"The action of the Borough of Hightstown in denying the application for transfer was arbitrary and capricious;

"The denial of the application for transfer was discriminatory;

"The denial of the application for transfer was in violation of the applicable State and Local laws and Ordinances;

"The denial of the application for transfer was in violation of the Federal Statutes applying to funds approved under Housing and Home Finance Agency programs;

"The denial of the application for transfer is a violation of the due process and equal protection of the laws provisions of the New Jersey and United States Constitutions."

In its answer, respondent denies appellant's allegations, contending that its action was taken in the valid exercise of its discretion which was neither arbitrary nor capricious. Attached to the answer is a copy of the resolution setting forth the reasons for its action.

Succinctly stated, the undisputed facts adduced by appellant are as follows. Appellant, holding a long-term lease, had operated its licensed business for three years without any adjudicated record at 122 Railroad Avenue, Hightstown. Late in 1962, when it became known that the Hightstown Housing Authority was about to institute condemnation proceedings to acquire the licensed building, appellant diligently sought a suitable location to which its license could be transferred. Ascertaining that the only site in the Borough which would meet the requirements of the local ordinances was a 16,000 sq. ft. tract of land on Mercer Street in an industrial zone permitting commercial uses (400 sq. ft. of which is in East Windsor Township), appellant executed an option agreement in February 1963 to purchase the tract. Thereafter, on April 18, 1963, appellant filed an application, together with plans and specifications, for a place-to-place transfer of its license to one of two stores in a 5,000 sq. ft. modern building to be constructed on said tract entirely in Hightstown at a cost of \$30,000. Respondent, having questioned the sufficiency of the specifications filed by appellant, took no immediate action on the application for transfer.

On May 17, 1963, appellant filed acceptable specifications and also an application for renewal of its license for the 1963-64 license year. On May 23, 1963, the Hightstown Planning

Board recommended to respondent that wherever the industrial zone exists, it be limited to industrial use only. A hearing on appellant's applications was held on June 4 and continued over to June 25, 1963, on which later date respondent granted the renewal application and denied the application for transfer for the aforesaid stated reasons.

Shortly thereafter, in June 1963, appellant submitted the same plans and specifications to the Hightstown Building Inspector and applied for a permit to construct the building on the aforesaid tract. On July 2, 1963, respondent introduced an ordinance to amend the Zoning Ordinance as recommended; and after appellant made some suggested minor changes in the plans, a permit was issued on July 9, 1963. Appellant thereafter had a sub-standard dwelling on the tract demolished and commenced the construction of its building, the foundation of which was almost completed prior to the hearing herein. The Housing Authority took possession of the Railroad Avenue premises on August 1, 1963, on which date appellant ceased operation of its licensed business. The Zoning Ordinance, as amended, was adopted by respondent on August 6, 1963.

Councilmen Birdsall, Wham, Spencer and Turp testified that in denying the transfer, they were influenced primarily by the opinions expressed by civic and business organizations in letters to the Council and by private citizens who appeared before that body. Representatives of those organizations and other witnesses appeared at the hearing herein and testified respecting their objections, which may be summarized as follows:

Mr. Milson, President of the Chamber of Commerce -- The proposed site of transfer is part of the limited area zoned for industrial uses and more taxes would be derived from an industrial establishment there.

Mr. Stouffer, superintendent of the Jersey Central Power and Light Company, whose plant is across the street from the proposed site of transfer -- The company's parking lot would become an additional parking lot for the proposed tavern and any type of commercial establishment across from its plant would create a traffic hazard.

Mrs. Hernwall, President of the Friday Club -- Transfer of the license would not be in conformity with the present zoning law and would be against the best interest of Hightstown.

Mrs. Hancock, President of the Hightstown Women's Club -- If the transfer were denied, applicant's licensed business would terminate. The Women's Club supported a movement to close all the bars in the Borough.

Mr. Burch, chairman of the Citizens Advisory Committee -- The proposed site is choice industrial land where good ratables should be placed. A commercial establishment on the site would detract from the present industrial properties.

Mr. Fuchs, representing the Greater Hightstown Jaycees, the Hightstown Housing Authority and the First Methodist Church -- Hightstown has a relatively small

portion of its land available for expansion of new industry and new business in the community and is concerned with the maximum utilization of land to benefit the citizens of the community. The Church is concerned with the general influence on the community if appellant's license were continued and, if transferred, the corrupting effect it would have on the students of the proposed high school to be erected about three-quarters of a mile from appellant's site. The official position of the Jaycees and the Church is that they would like to see the license die.

Miss Taylor, representing her mother who owns five acres of land in the Borough -- A tavern at the proposed site would create a traffic hazard and lower the value of her mother's property. There is no need for a bar at the proposed site since there is one nearby in East Windsor and a couple in the Borough.

Reverend Muyskens -- No one would be hurt if there were one less license. If the license were transferred, the tavern would in time become the same eyesore as the one appellant operated on Railroad Avenue. Would object to transferring the license anywhere in the community.

Police Captain Deley, who expressed no opinion at the hearing below, testified herein that Mercer Street, known as Route 33, runs north and south through the Borough; that it is a heavily traveled highway and that a tavern at the proposed site would create a traffic hazard. He further testified that sixteen police calls were received from appellant's former premises between July 1, 1962 and April 12, 1963.

The transfer of a liquor license is not an inherent or automatic right. The issuing authority may grant or deny the transfer in the exercise of reasonable discretion. Biscamp v. Twp. Council of the Twp. of Teaneck, 5 N.J. Super. 172 (App. Div. 1949). If the transfer is denied on reasonable grounds, such action will be affirmed by the Director. The Director's function on appeal is not to substitute his opinion for that of the issuing authority but, rather, to determine whether valid cause exists for the municipal authority's opinion and, if so, to affirm. The applicant has the burden of showing that the issuing authority abused its discretion in denying the transfer. Fanwood v. Rocco, 33 N.J. 404, 414 (1960).

The question to be determined herein is whether or not respondent abused its discretion in denying the transfer for the reasons stated. Considering those reasons in the same numerical order, and with the above principles as a guide, I find the following:

(1) and (3) No concrete evidence was adduced by respondent to indicate that a tavern located at the proposed site would create more of a traffic hazard than would an industrial establishment or any other commercial business. The only figures pertaining to the flow of traffic were submitted by a sergeant of the Princeton Police Department who qualified as an expert. He testified that on Thursday, September 5, and Saturday, September 7, 1963, between the hours of 4 p.m. and midnight, using a mechanical counter he made a traffic survey of the cars entering and leaving Hightstown on Route 33, and entering and leaving the New Jersey Central Power and Light Company; that on Thursday he clocked 2,692 cars going east and west on Route 33, and that the heaviest traffic on the

highway was between the hours of 4 and 5 p.m.; that on Saturday the total number of vehicles which passed the proposed site was 2,883, the heaviest traffic being between 5 and 8 p.m.; that on Thursday and Saturday the pedestrian traffic was 18 and 19 people, respectively, during the eight-hour period; that on Thursday 19 cars entered and 29 left the New Jersey Central plant during the eight-hour period, the peak of traffic being between 4 and 5 p.m., during which time 22 cars left and 15 trucks and cars entered; that on Saturday no cars entered or left the plant, and he concluded that no traffic hazard would result if a tavern were located at appellant's proposed site.

(2) Viewing the photograph marked Exhibit R-1 in evidence (which shows the area of the proposed site and the foundation of appellant's proposed building), it is apparent that a modern building would enhance rather than detract from the approach to the municipality.

(4) Joseph S. Stults, secretary of the Board of Education of Hightstown and East Windsor Township, produced by appellant, testified that the Board of Education has no plans to extend a road from the proposed high school site to Mercer Street.

(5) and (7) It was not appellant's responsibility to provide the East Windsor Planning Board with a survey or to recommend how the fee should be divided. Division of the license fee is not required in this case since no part of the proposed licensed premises is in East Windsor Township. See R.S. 33:1-1(j), (k) and (s). See also R.S. 33:1-16 as amended.

(6) The allegation respecting traffic has been discussed above. The tavern in East Windsor Township is 1,500 feet or more from the proposed location, and the distance standard established by the Borough's liquor ordinance, as amended in 1962, respecting licensed premises is 1,000 feet.

(8) A licensee cannot operate without complying with the law. However, the obtaining of a variance is not a condition precedent to the granting of a transfer. See Lubliner v. Bd. of Alcoholic Bev. Con., Paterson, 59 N.J. Super. 419 (App. Div. 1960), reprinted in Bulletin 1325, Item 1; affd id. nom 33 N.J. 428, reprinted in Bulletin 1365, Item 1.

(9) Commercial uses were permitted in the industrial zone as of the time appellant's application for transfer was filed, and the zoning ordinance, as amended, was adopted after the application was denied. Although respondent and its witnesses were especially concerned with the preservation of the area for industrial uses, the tract will be used for commercial purposes under a building permit duly issued to appellant for a "store", construction of which has commenced.

(10) Plans for appellant's building include parking facilities for 22 cars. The acquisition of other Borough lands for parking purposes is purely speculative.

(11) The reasons testified to by those opposed to the granting of the transfer have been set forth hereinabove and, excepting the conviction expressed by many that the license be allowed to die, they are set forth in the resolution.

(12) There is an obligation and a duty to afford police service to all sections of the Borough.

(13) It is a conclusion unsupported by any substantial evidence.

I further find that no question was raised respecting the character of any of appellant's officers or stockholders; that the application for transfer was made necessary by the Housing Authority's condemnation of the building housing appellant's license; that the only location in the Borough to which the license could be transferred is the tract of land acquired by appellant and that appellant's officers and stockholders stand to lose a substantial investment if the action of respondent is affirmed. It is my considered opinion that the transfer was denied in order to reduce the number of licenses in the community and I so find.

In Tp. Committee of Lakewood Tp. v. Brandt, 38 N.J. Super. 462 (App. Div. 1955), Clapp, S.J.A.D., said:

"The desire of these committeemen to reduce the number of licenses, because too many were outstanding, is commendable. But this they should have attempted through some less arbitrary means than through destroying the transferability of outstanding licenses...An owner of a license or privilege acquires through his investment therein, an interest which is entitled to some measure of protection in connection with a transfer."

In view of all the facts and circumstances appearing in this case, I conclude that appellant has sustained the burden imposed upon it of establishing that the action of respondent was erroneous, and I recommend that an order be entered reversing respondent's action and directing respondent to grant appellant's application for transfer of the license.

Conclusions and Order.

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument in support thereof were filed with me by the attorneys for the respondent. Answers to the exceptions and written argument in support thereof were thereupon filed with me by the attorneys for the appellant.

After careful consideration of the record herein, including the transcript of the testimony, the exhibits, the memoranda submitted in behalf of the respective parties, the Hearer's Report, the written exceptions and argument thereto, and the answers to said exceptions and argument thereto, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 2nd day of April 1964,

ORDERED that the action of the respondent in denying the application for transfer be and the same is hereby reversed, and the respondent is directed to transfer the license pursuant to the conclusions herein.

JOSEPH P. LORDI,
DIRECTOR

3. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1963 TO MARCH 31, 1964 AS REPORTED TO THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19, (INCLUDING 56 ISSUED BY THE DIRECTOR PURSUANT TO R.S. 33:1-20)

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Licen- ses Surren- dered		Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	*Expired	*Revoked		
Atlantic	487	\$ 208,410.00	73	\$ 27,525.00	28	\$ 2,473.15							588	\$ 238,408.15
Bergen	816	321,753.82	301	90,615.80	141	13,138.44	49	\$ 2,311.50	5	\$ 1,398.75	5		1307	429,218.31
Burlington	196	89,170.00	41	13,206.58	49	6,782.26	1	50.00			2		285	109,208.84
Camden	454	223,528.12	85	36,274.16	81	7,960.41			1	450.00	1		620	268,212.69
Cape May	137	78,083.56	17	5,050.00	13	1,650.00							167	84,783.56
Cumberland	80	40,623.97	15	4,200.00	32	4,182.50							127	49,006.47
Essex	1324	752,657.35	350	211,100.00	97	13,475.00	26	1,300.00	2	1,500.00	1	3	1795	980,032.34
Gloucester	109	39,460.00	15	3,845.00	23	2,070.00							147	45,375.00
Hudson	1488	675,555.41	298	122,400.00	81	9,600.00	61	2,600.00			1		1927	810,155.41
Hunterdon	79	28,400.00	12	5,810.00	10	1,100.00							101	35,310.00
Mercer	422	262,311.51	51	22,510.00	55	8,100.00			1	121.50	1		528	293,043.01
Middlesex	632	316,395.00	86	28,795.00	114	9,860.00	4	200.00					836	355,250.00
Monmouth	553	291,976.37	126	44,739.18	61	6,614.07	10	435.00	23	11,214.33	23		750	354,978.97
Morris	355	140,535.00	105	41,166.66	65	6,060.58	15	750.00	4	1,200.00	4		540	189,712.24
Ocean	194	105,382.28	49	21,622.00	35	4,135.22							278	131,139.50
Passaic	853	354,286.35	170	52,700.00	48	5,625.00	7	350.00					1078	412,961.34
Salem	50	19,630.00	8	1,640.00	19	1,625.00							77	22,895.00
Somerset	187	87,255.00	41	12,925.00	33	3,900.00							261	104,080.00
Sussex	166	47,005.00	21	4,260.00	11	645.00	1	50.00	1	225.00	1		199	52,185.00
Union	549	315,146.00	144	71,652.00	81	8,825.00	29	1,425.00					803	397,048.00
Warren	146	43,960.00	20	5,120.00	30	3,250.00			2	342.45	2		196	52,672.45
Total	9277	\$4,441,524.74	2028	\$827,156.38	1107	\$121,071.63	203	\$9,471.50	39	\$16,452.03	38	6	12610	\$5,415,676.28

*38 Seasonals expired - 2 CB Rev. - Burl
2 C surr - 1 C rev. - Essex
1 CB surr. - Hudson

Joseph P. Lordi
Director

May 1, 1964

4. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION AFTER
DENIAL OF STAY ON APPEAL.

In the Matter of Disciplinary)
Proceedings against)

Peppermint Twist, A Corp.)
103 Jackson Street)
Newark, N. J.)

SUPPLEMENTAL

Holder of Plenary Retail Consumption)
License C-494, issued by the Municipi-)
pal Board of Alcoholic Beverage)
Control of the City of Newark.)

ORDER

Louis M. Turco, Esq., Attorney for Licensee
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

On March 9, 1964, Conclusions and Order were entered herein suspending the license for the balance of its term, with leave to apply for the lifting of the suspension after fifty-five days, because of an undisclosed interest in the license, employment of a criminally disqualified person on the licensed premises, and hindering investigation. Re Peppermint Twist, Bulletin 1558, Item 4.

Upon appeal to the Appellate Division of the Superior Court, temporary stay was granted until March 23, 1964, on which date further stay was denied by the court. Copy of the order denying stay, filed March 25, 1964, having been received today, the suspension may now be reimposed.

Accordingly, it is, on this 1st day of April, 1964,

ORDERED that the suspension for the balance of the term, heretofore imposed and temporarily stayed during the pendency of proceedings on appeal, be reinstated against Plenary Retail Consumption License C-494, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Peppermint Twist, A Corp., for premises 103 Jackson Street, Newark, commencing at 2:00 a.m. Friday, April 3, 1964, with leave to the licensee or any bona fide transferee of the license to file verified petition establishing correction of the unlawful situation for lifting of the suspension on or after 2:00 a.m., Thursday, May 28, 1964.

JOSEPH P. LORDI
DIRECTOR

5. DISQUALIFICATION REMOVAL PROCEEDINGS - FALSE SWEARING -
ORDER REMOVING DISQUALIFICATION - DEFERRED EFFECTIVE
DATE OF ORDER.

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

Case No. 1809

Sido L. Ridolfi, Esq., by Andrew A. Valeriani, Jr., Esq.,
Attorney for Petitioner

BY THE DIRECTOR:

Petitioner's criminal record discloses that on February 9, 1940, he was convicted in the Mercer County Court on two charges of false swearing and was sentenced to serve one year in the county workhouse. On March 8, 1940, the sentence was reduced to six months, to run from the date of his commitment on February 9, 1940. Since the crime of false swearing involves the element of moral turpitude (Re Elig. Case No. 655, Bulletin 1029, Item 7), petitioner was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

The records of this Division disclose that on February 8, 1941, following a hearing to determine petitioner's eligibility, he was notified by the Division that he was ineligible for employment by a licensee because his aforesaid conviction involved the element of moral turpitude.

At the hearing held herein, petitioner (55 years old) testified that for the past thirty-five years he has lived at his present address; that ever since 1945 or 1946 he has been working as a bartender in licensed premises operated by his wife; that he believed that after a lapse of five years his disqualification was automatically lifted; that a former local license inspector had advised him that he was permitted to tend bar provided he had no other involvement with the law since his aforesaid conviction, and that on her visits to the premises the inspector observed him working therein.

Petitioner further testified that he is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State and that ever since his release from the county workhouse he has not been convicted of any crime or arrested.

Petitioner produced three character witnesses (a clerk, a retired businessman and a State employee) who testified that they have known the petitioner for more than five years last past and, in their opinion, he is now an honest, law-abiding person with a good reputation.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against the petitioner.

I hesitate to grant the relief sought herein for the reason that for the past eighteen years petitioner worked in a licensed premises in this State despite the aforesaid notice advising him he was ineligible for such employment. I am, however, favorably influenced (1) by the testimony of his character witnesses, (2) his sworn testimony that he believed that after a lapse of five years his disqualification was automatically lifted and that he had relied upon the advice of the aforesaid inspector that he was eligible to accept aforesaid employment, (3) by the fact that his criminal record shows only one conviction which took place twenty-four years ago, and (4) by his present attitude.

Considering all of the aforesaid facts and circumstances, I shall grant his application but shall withhold relief until three months after February 5, 1964 (the date upon which he filed the within application). Cf. Re Case No. 1723, Bulletin 1486, Item 5; Re Case No. 1701, Bulletin 1470, Item 7.

Accordingly, it is, on this 1st day of April, 1964,

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2, effective May 5, 1964; provided, however, that the petitioner shall not in the interim be associated with the alcoholic beverage industry in this State in any manner whatsoever.

JOSEPH P. LORDI
DIRECTOR

6. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #246)	
In the Matter of a Petition to Lift)	
the Automatic Suspension of Plenary)	
Retail Consumption License C-5,)	
Issued by the Borough Council of)	On Petition
the Borough of Hasbrouck Heights to)	
)	O R D E R
Ernest Monahan)	
t/a Lujo Tavern)	
163-165 Boulevard)	
Hasbrouck Heights, N. J.)	

Edward Picchota, Esq., Attorney for Petitioner

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on March 12, 1964, licensee-petitioner was fined \$25 and \$5 costs in the Hasbrouck Heights Municipal Court after pleading guilty to a charge of sale of alcoholic beverages to a minor on January 13, 1964, in violation of R. S. 33:1-77. The conviction resulted in the automatic suspension of the license for the balance of its term. R. S. 33:1-31.1. The suspension has not been effectuated because of the pendency of this proceeding.

It further appears that the municipal issuing authority has suspended the license for three days effective March 27,

1964, after the licensee's confessional plea to a charge in disciplinary proceedings alleging the same sale to the minor. It appearing that the suspension has been served, I shall lift the automatic suspension. Re Vigliano, Bulletin 1546, Item 9.

Accordingly, it is, on this 30th day of March 1964,

ORDERED that the statutory automatic suspension of said license C-5 be and the same is hereby lifted, effective immediately.

JOSEPH P. LORDI
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)	
Proceedings against)	
Brunswick Grove, Inc.)	
t/a Brunswick Grove, Inc.)	
327 Milltown Road)	
East Brunswick, N. J.)	CONCLUSIONS
)	AND ORDER
Holder of Plenary Retail Consumption)	
License C-6, issued by the Township)	
Committee of the Township of East)	
Brunswick.)	
-----)	
Busch & Busch, Esqs., by Henry Busch, Esq., Attorneys)	
for Licensee)	
Edward F. Ambrose, Esq., Appearing for the Division of)	
Alcoholic Beverage Control)	

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 27, 1964, it sold a drink of beer, two 6-packs of beer and a pint of vodka to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for fifteen days effective February 6, 1955, for sale in violation of State Regulation No. 38.

The prior record of dissimilar violation disregarded because occurring more than five years ago, 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 Graber, Bulletin 1550, Item 10.

Accordingly, it is, on this 2d day of April 1964,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of East Brunswick to Brunswick Grove, Inc. for premises 327 Milltown Road, East Brunswick, be and the same is hereby

suspended for ten (10) days, commencing at 2:00 a.m., Monday, April 6, 1964, and terminating at 2:00 a.m., Thursday, April 16, 1964.

JOSEPH P. LORDI
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE
REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS
5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Anna Maria)
t/a Anthony's Bar)
589 Communipaw Ave.)
Jersey City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-126, issued by the Municipi-)
pal Board of Alcoholic Beverage)
Control of the City of Jersey City.)

Licensee, Pro se

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

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on March 18, 1964, she sold six cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Stein, Bulletin 1547, Item 12.

Accordingly, it is, on this 13th day of April, 1964,

ORDERED that Plenary Retail Consumption License C-126, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Anna Maria, t/a Anthony's Bar, for premises 589 Communipaw Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, April 20, 1964, and terminating at 2:00 a.m., Thursday, April 30, 1964.

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) -
 LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

Fred Solimando and Mary Bonanni)
 t/a Freddie's Bar and Grill)
 762 Roebling Avenue)
 Trenton 10, N. J.)

CONCLUSIONS
 AND ORDER

Holders of Plenary Retail Consumption)
 License C-165, issued by the City)
 Council of the City of Trenton.)

 Andrew A. Valeriani, Jr., Esq., Attorney for Licensees
 Edward F. Ambrose, Esq., Appearing for the Division of
 Alcoholic Beverage Control

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging
 that on January 2 and 7, 1964, they permitted the
 acceptance of numbers bets on the licensed premises, in
 violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, the license will be sus-
 pended for twenty-five days, with remission of five days
 for the plea entered, leaving a net suspension of
 twenty days. Re Cahill, Bulletin 1550, Item 12.

Accordingly, it is, on this 8th day of April 1964,

ORDERED that Plenary Retail Consumption License
 C-165, issued by the City Council of the City of Trenton
 to Fred Solimando and Mary Bonanni, t/a Freddie's Bar and
 Grill, for premises 762 Roebling Avenue, Trenton, be and
 the same is hereby suspended for twenty (20) days,
 commencing at 2:00 a.m., Wednesday, April 15, 1964, and
 terminating at 2:00 a.m. Tuesday, May 5, 1964.

Joseph P. Lordi
 Director

10. STATE LICENSES - NEW APPLICATION FILED

Hammonton Distributing Co., Inc.
 96 South White Horse Pike
 Hammonton, New Jersey

Application filed May 27, 1964 for person-to-person
 transfer of the 1964-1965 State Beverage Distributor's
 License SBD-105 from Alfred Renzi, t/a Hammonton
 Distributing Co.


 Joseph P. Lordi
 Director