Ambrose

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

BULLETIN 1836

February 4, 1969

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New Jersey State Libra

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Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
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February 4, 1969

BULLETIN 1836

1. APPELLATE DECISIONS - SOUTH JERSEY RETAIL LIQUOR STORES ASSOCIATION v. HADDON and DUSTAR, INC.

South Jersey Retail Liquor Stores Association, et als., Appellants, v. Board of Commissioners of the Township of Haddon, and Dustar, Inc., Respondents.	On Appeal CONCLUSIONS and ORDER

Richman, Berry and Ferren, Esqs., by Edwin T. Ferren, III, Esq., Attorneys for Appellant South Jersey etc.
Archer, Greiner, Hunter & Read, Esqs., by Joseph H. Kenny, Esq., Attorneys for Appellant Carson Liquors, Inc.
Leon A. Wingate, Jr., Esq., Attorney for Respondent Board of Commissioners
Cahill & Wilinski, Esqs., by Robert Wilinski, Esq., Attorneys for Respondent Dustar, Inc.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Board of Commissioners of the Township of Haddon (hereinafter Commissioners) whereby on February 6, 1968 it unanimously granted the application of respondent Dustar, Inc. for a place-to-place transfer of its plenary retail distribution license from premises 609 White Horse Pike to premises 419 West Crystal Lake Avenue, Township of Haddon.

Appellants' petition of appeal alleges that the action of the Commissioners was erroneous for the following reasons:

> "(a) Said transfer of the license is in violation of the Alcoholic Beverage Control Laws of the State of New Jersey and the regulations promulgated by the Director of the Division of Alcoholic Beverage Control.
>
> (b) Said transfer of the license was arbitrary and unreasonable.
>
> (c) In approving said transfer, the respondents, Mayor and Commissioners of the Township of Haddon, were guilty of an abuse of discretion and a mistake of law and fact in granting said transfer.
>
> (d) There is no public need or necessity for the license at the premises to which the transfer was approved as the area is more than amply served by the present existing outlets."

The answers of the respondents deny the allegations set forth in the petition aforementioned.

This matter was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity for counsel to present testimony under oath and cross-examine witnesses.

Adolph Siegel, president of Dustar, Inc., called as a witness by the appellants, testified that he is executive director of the local housing authority, a county committeeman for the municipality, and also a member of the local zoning board. He further testified that he is a stockholder in Dustar, Inc., having had the stock transferred to him on October 9, 1967. He further stated that presently Dustar, Inc. is operating its business at the White Horse Pike address. Moreover, Mr. Siegel testified that at one time he was general manager of the Pennsauken News Agency (now defunct), in which agency Mayor William G. Rohrer was an officer and a major stockholder.

The appellants herein contend in effect that Siegel's association with the Mayor and also because of the various official positions which he holds in the Township, favoritism was shown him in approving the application for transfer in this matter. It appears from the testimony of Mr. Siegel that he has been a member of the zoning board for approximately ten years and also a county committeeman for at least three years. The appointment as executive director of the housing authority, which he now holds, was made by the members thereof.

I shall discuss the said reasons advanced by the appellants for reversal of the Commissioners' action prior to consideration of the merits of the transfer. At the time the stock of the respondent corporate licensee was transferred to Mr. Siegel, apparently no appeal was lodged by the appellants herein. The reasons now given by the appellants came to light at the time the application for the place-to-place transfer in question was considered.

The general principle of law respecting disqualifying interest has been set forth fully in Hudson-Bergen Package Stores Association v. Cliffside Park and Najarian, Bulletin 1767, Item 1. Therein the Director reiterated the principle that a quasi-judicial action of a local issuing authority is rendered voidable by the voting participation of a member thereof who is at the time subject to a direct or indirect private interest which is at variance with the impartial performance of his public duty. Aldom v. Borough of Roseland, 42 N.J. Super. 495. See also McNamara v. Saddle River, 64 N.J. Super. 426 (App. Div. 1960). In that case it was held that, where a member of a council has a disqualifying interest in a matter and participates therein, his action infects the action of the whole body and renders it voidable. However, there is nothing in the law or cases, nor have appellants cited any authorities, to support their contention that, by reason of the fact that a member of the official governing board by voting for an application such as that now under consideration for transfer of a liquor license to one whom he knows of many years standing, infects or taints the action of the local issuing authority. It must be assumed that members of a governing body respect their oath of office and their quasi-judicial obligation as such members in the ultimate determination of a matter before them. Mayor Rohrer has not been shown either to be related to Adolph Siegel nor in any manner obligated to him either personally or by his official position. The charge that a local issuing authority was improperly motivated must be proved by clear and convincing evidence. DeBlasio v. Trenton, Bulletin 175, Item 6. The fact that Siegel is a member of the zoning board, a county committeeman and executive director of a housing authority in my judgment fails to show that the Mayor or other Commissioners were

improperly motivated in casting their votes for the approval of the application for the place-to-place transfer of the license in question.

In Ward v. Scott, 16 N.J. 16 (1954) the Supreme Court decision of an appeal from a zoning ordinance, cited in Fanwood v. Rocco, 59 N.J. Super. 306, 322, the following general principles were stated:

> "Local officials who are thoroughly familiar with their community's characteristics and interests and are the proper representatives of its people, are undoubtedly the best equipped to pass initially on such applications.... And their determinations should not be approached with a general feeling of suspicion, for as Justice Holmes has properly admonished: 'Universal distrust creates universal incompetence.' Graham v. United States, 231 U.S. 474, 480, 34 S. Ct. 148, 151, 58 L. Ed. 319, 324 (1913)."

In the Fanwood case, supra, it was stated at p.321:

> "The Legislature has entrusted to the municipal issuing authority the right and charged it with the duty to issue licenses (R.S. 33:1-24) and place-to-place transfer thereof '[O]n application made therefor setting forth the same matters and things with reference to the premises to which a transfer of license is sought as are required to be set forth in connection with an original application for license, as to said premises.' N.J.S.A. 33:1-26. As we have seen, and as respondent admits, the action of the local board may not be reversed by the Director unless he finds 'the act of the board was clearly against the logic and effect of the presented facts.' Hudson Bergen County Retail Liquor Stores Ass'n, Inc. v. Board of Com'rs. of City of Hoboken, supra, 135 N.J.L., at page 511."

As Mr. Justice Jacobs pointed out in Fanwood v. Rocco, 33 N.J. 404, 414:

> "Although New Jersey's system of liquor control contemplates that the municipality shall have the original power to pass on an application for a tavern or package store license or the transfer thereof, the municipality's action is broadly subject to appeal to the Director of the Division of Alcoholic Beverage Control. The Director conducts a de novo hearing of the appeal and makes the necessary factual and legal determinations on the record before him .... Under his settled practice, the Director abides by the municipality's grant or denial of the application so long as its exercise of judgment and discretion was reasonable."

See Common Council of Hightstown v. Hedy's Bar, 86 N.J. Super. 561.

I am satisfied that the action of the respondent Commissioners, specifically the Mayor, in voting to approve the place-to-place transfer disclosed no fraud or interest on the part of the Commissioners. Moreover, in Larue v. East Brunswick, 68 N.J.

Super. 435, 448 (App. Div. 1961), it was held that, in the absence of showing fraud, personal interest or corruption, an authorized legislative enactment by a properly empowered municipal body is not subject to attack merely on the ground that the motive of the governing body was questionable.

As was decided in Aldom v. Borough of Roseland, supra, the question will always remain whether the circumstances could reasonably be interpreted to show such interest as would cause an official to depart from his sworn duty. There is no contention that any Commissioners gained, either directly or indirectly, from their action. Neither is there shown that the appellants have been prejudiced in any manner whatsoever.

J. Raymond Chard, a Commissioner of the Township, testified that the members of the commission sought election as nonpartisan in so far as politics is concerned. He further stated that his vote to transfer the license to the proposed premises was based on the fact that the present location was lacking in parking facilities and, furthermore, that there were no other package goods licenses within eight-tenths of a mile of the proposed premises. There is, however, Commissioner Chard stated, a plenary retail consumption license across the street from the proposed premises to be situated in a shopping center, and he has no knowledge whether or not such licensee sells package goods for off-premises consumption. Moreover, it is his belief that the consumption license located across the street is principally a restaurant and tavern, which building sets back from Crystal Lake Avenue about "50 to 75 feet." Commissioner Chard also stated that he took into consideration that there was a field used by the Little League on Crystal Lake Avenue which "sets back approximately 100, 150 feet" from the street. Also, the proposed premises located in a shopping center is "approximately 100, 125 feet back" from Crystal Lake Avenue. Commissioner Chard further stated that in his opinion there was a need and necessity for a license at the proposed location.

Florence Black (Township Clerk) testified that there are apartments located across the street from the shopping center containing approximately four hundred units.

Two other witnesses (one of whom was formerly a liquor licensee) testified that they were in favor of the transfer of the license to the proposed premises.

James B. Carson (an officer of Carson Liquors, Inc., one of the appellants herein) testified that he retained a company to make a survey of the people in the area to ascertain what their opinion was with reference to the site of the proposed transfer, and that there were more opposed to the transfer than those in favor of same. He stated that he had been granted the transfer of his license to his present premises which are about one-tenth or so of a mile from the proposed site, and he was of the opinion that at the present time there was no need for another liquor license in the area. He further stated, "I was brought in to fulfill the need and, after, I came in and fulfilled this need. I came to a store with no business, no clientele, and I am building it and trying to build it. I made my bed and I am going to sleep in it. Now they are trying to foist another store on me. It isn't economic but they have put another store in the area." And, furthermore, Mr. Carson stated this his real reason is that "I don't think I was treated fairly."

All the appellants herein, in addition to the South Jersey Retail Liquor Stores Association, are liquor licensees operating their respective businesses in the community. It is apparent that the said liquor licensees are of the opinion that their liquor establishments will be adversely affected if the Dustar, Inc. transfer to West Crystal Lake Avenue is permitted. Matters of economics are of no proper concern to issuing authorities. Great Atlantic and Pacific Tea Company v. Conover, Bulletin 153, Item 12, affirmed Conover v. Burnett (Sup. Ct. 1937), 118 N.J.L. 483. The test to be applied is the welfare of the community. Knast et al. v. Camden, et al., Bulletin 810, Item 2.

It has been consistently ruled that the discretion of the issuing authority in matters of this kind is broad and it has the power to determine in the first instance whether or not a license should be transferred. The burden of proving that the issuing authority abused its discretion falls upon the appellant and he must sustain his case by a preponderance of the evidence. Gentile v. Manalapan and Clemencich, Bulletin 1514, Item 2, and cases cited therein. Moreover, the Director's function on appeals of the type now under consideration is not to substitute his personal opinion for that of the issuing authority but, rather, to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal view. Broadley v. Clinton and Klingler, Bulletin 1245, Item 1; Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1; Larijon, Inc. v. Atlantic City, Bulletin 1306, Item 1. The action of the local board may not be reversed by the Director unless he finds "the act of the board was clearly against the logic and effect of the presented facts." Hudson-Bergen County Retail Liquor Stores Association, Inc. v. Hoboken, 135 N.J.L. 508, at 511. Cf. Fanwood v. Rocco, supra, at p. 317.

I am satisfied that the action of the Commissioners in granting the transfer sought was in their opinion for the best interest of the Township, in that there was a need for a plenary retail distribution license at the proposed site.

The brief filed herein by the attorneys for the respective appellants contains the New Jersey Supreme Court citation of Van Itallie v. Franklin Lakes, 28 N.J. 258 (1958) and states that said case "points out that it is the obligation of the reviewing body to scrutinize the record with great care and condemn anything which indicates even the likelihood of corruption or favoritism."

However, in the same paragraph, on page 269 of said case, the courts also stated:

> "Local governments would be seriously handicapped if every possible interest, no matter how remote and speculative, would serve as a disqualification of an official. If this were so, it would discourage capable men and women from holding public office.... But in doing so they must also be mindful that to abrogate a municipal action at the suggestion that some remote and nebulous interest is present, would be to unjustifiably deprive a municipality in many important instances of the services of its duly elected or appointed officials."

After a review of the evidence and arguments of counsel, I conclude that the appellants have failed to sustain the burden of proof in showing that the action of respondent Commissioners was unreasonable or constituted an abuse of discretion. Rule 6 of State Regulation No. 15. Cf. Helms v. Newark et al., Bulletin 1398, Item 3.

For the reasons aforesaid, it is recommended that an order be entered affirming the action of respondent Commissioners and dismissing the appeal.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, appellants have filed exceptions to the Hearer's report. The exceptions principally take issue with the Hearer's recommended finding that no conflict of interest existed with respect to any member of the respondent Board of Commissioners. Although this was not specifically set forth in appellants' petition of appeal as a ground for reversal of the grant of the transfer application, it was one of the issues tried at the Division hearing and may be deemed to come within the general allegations of erroneous action in said petition. It will therefore be considered at this stage of the proceeding.

In Pyatt v. Mayor and Council of Dunellen, 9 N.J. 548, 555 (1952), the New Jersey Supreme Court held:

> "The process calling for the exercise of discretion by the governing body according to the weight of conflicting public considerations is judicial in quality. Therefore, the ordinances are voidable if any one of the councilmen who participated as quasi-judges was at the time disqualified by reason of private interest at variance with the impartial performance of his public duty."

(Underscoring added - - its significance to be discussed hereinafter.)

Also:

> "The granting of a liquor license involves action judicial in nature.... The standards of disqualifying interest here controlling can be no less exacting than in the case of purely judicial action." Tp. Committee of Freehold Tp. v. Gelber, 26 N.J. Super. 388, 392 (App. Div. 1953).

In Van Itallie v. Franklin Lakes, 28 N.J. 258, 268 (1958), it was held:

> "The decision as to whether a particular interest is sufficient to disqualify is necessarily a factual one and depends upon the circumstances of the particular case.... No definitive test can be devised. The question will always be whether the circumstances could reasonably be interpreted to show that they had the likely capacity to tempt the official to depart from his sworn public duty."

Further:

> "The interest which disqualifies is not necessarily a direct pecuniary one, nor is the amount of such an interest of paramount importance. It may be indirect; it is such an interest as is covered by the moral rule: no man can serve two masters whose interest conflict. Basically the question is whether the officer, by reason of a personal interest in the matter, is placed in a situation of temptation to serve his own purposes to the prejudice of those for whom the law authorizes him to act as a public official." Aldom v. Borough of Roseland, 42 N.J. Super. 495, 502 (App.Div. 1956).
>
> * * * * *
>
> "The personal or private interest which disqualifies may be identified generally as one which is different from that which the public officer holds in common with members of the public." Ibid, at p. 507.

And, more recently, our State Supreme Court, in Griggs v. Princeton Borough, 33 N.J. 207, 219 (1960) stated:

> "The question is whether there is a potential for conflict, not whether the public servant succumbs to the temptation or is even aware of it."

And at page 220:

> "...we perceive the rule to be that the mere existence of a conflict, and not its actual effect, requires the official action to be invalidated."

Applying these principles to the instant appeal, did a conflict of interest exist in this case? The record shows that Adolph Siegel (president and forty-nine per cent. stockholder of Dustar, Inc., the corporate applicant licensee) at the time of the action appealed from was a member of the Haddon Township Board of Adjustment, Executive Director of the Haddon Township Housing Authority, and Republican County Committeeman of Camden County. Additionally it appears that Mayor Rohrer originally appointed Siegel to the Board of Adjustment about ten years before, and that Commissioner Chard (and apparently Commissioner Hardenbergh, too) voted to confirm such appointment and reappointment and also to confirm Siegel's appointment as a member of the non-salaried Housing Authority prior to his becoming Executive Director thereof (a salaried position) by the action of the Housing Authority. Also, during a prior municipal election campaign of undetermined date, Siegel managed Mayor Rohrer's campaign to the extent of receiving the funds and paying the bills thereof.

I find that these facts, standing alone, are insufficient to amount to a disqualifying conflicting interest as to either Mayor Rohrer or Commissioners Chard or Hardenbergh, the three members constituting the respondent Board of Commissioners. The "potential for conflict" is too remote. These relationships with Siegel were by and large in the past, rather than current; the "personal interests" of the respondent Board members were too tenuous to be disqualifying.

However, the record further discloses that between October 1964 and January 15, 1968 Siegel was employed as general manager of a corporation (the Pennsauken News Agency), the principal stockholder of which was Mayor Rohrer. This company at least in part operated a gift shop until it went "out of business" on January 15, 1968. During this period it is apparent that Mayor Rohrer and Siegel were in a direct employer-employee relationship through the instrumentality of this corporation. Did this relationship, together with the hereinabove stated factual background, create an impermissible conflict between the Mayor's public responsibility and his private, personal interest?

Notwithstanding a lack of detailed information in the record concerning the full scope and magnitude of the business activities carried on by the Pennsauken News Agency prior to its cessation of operation, I am compelled to conclude that the natural psychological pressures of the factual setting herein in toto placed Mayor Rohrer in a position vis-a-vis Siegel sufficiently "different from that which the public officer holds in common with members of the public" so as to preclude his participation in a proceeding so directly affecting a person who in effect was at such time the general manager of a business principally owned by the Mayor. Cf. Pyatt v. Mayor and Council of Dunellen, supra, at p.557, wherein the court stated:

> "...it is most doubtful that participation by a councilman in a municipal action of particular benefit to his employer can be proper in any case."

The next question arising is the significance of the discontinuance of the Pennsauken News Agency, and presumably the severance of the disqualifying employer-employee relationship, during the course of the several hearings held on the license transfer application and prior to the actual vote by the respondent Board. Three public hearings were held (on November 21, 1967, January 16, 1968 and February 6, 1968), on which latter date the vote was taken by the Board, all three members, including the Mayor, voting to grant the application. The municipal minutes (copies of which were admitted in the Division hearing) reflect that of the three hearings the initial hearing was the one to which most time was devoted to the application in question. The minutes do not contain any reference to the employer-employee relationship concerning the Pennsauken News Agency, although they do show that counsel for an objector asked the Commissioners to disqualify themselves by reason of Siegel's membership on the Board of Adjustment. They also show that at the meeting on January 16 (one day after the Pennsauken News Agency went out of business) the Mayor stated that he had "made a study of White Horse Pike and he cannot see how any package store can make out in the location of 609 White Horse Pike because of poor parking conditions." Additionally, testimony at the Division hearing brought out that, prior to Siegel's acquisition of his stock interest in Dustar, Inc., he intended to attempt to relocate its license and at such time discussed the proposed transfer with Mayor Rohrer.

In Pressey v. Hillsborough, Tp., 37 N.J. Super. 486, 491 (App. Div. 1955), cert. denied 20 N.J. 303 (1956), a case in which the court invalidated a resolution by the municipal governing body authorizing the purchase of a machine from a company in which the Mayor thereof was an employee on the date

such matter was originally considered, but not on the date the final vote was taken, the court stated:

> "In our view of the case it is immaterial whether Van Cleef did in fact sever his employment with Gilbert in October, because when he initiated and persisted in his efforts to have a Galion Grader purchased he occupied the dual positions of mayor of the municipality and employee of the seller of the equipment."

Similarly, in Pyatt v. Mayor and Council of Dunellen, supra, at p. 557, our Supreme Court said:

> "The infection of the concurrence of the interested person spreads, so that the action of the whole body is voidable."

See also Piggott v. Borough of Hopewell, 22 N.J. Super. 106, 112 (Law Div. 1952):

> "This is the general rule. *** It is supported by a twofold reason, viz.: First, the participation of the disqualified member in the discussion may have influenced the opinion of the other members; and, secondly, such participation may cast suspicion on the impartiality of the decision.... It being impossible to determine whether the virus of self-interest affected the result, it must needs be assumed that it dominated the body's deliberations, and that the judgment was its product." Stevens v. Haussermann, 113 N.J.L. 162, 170 (Sup. Ct. 1934).

To the same effect: Mere participation in the discussion preceding actual voting is enough to invalidate such action if there was a conflict of interest since such participation "affected or may have affected" the recommendation of the municipal body in a material respect. S & L Associates, Inc. v. Washington Twp., 61 N.J. Super. 312, 335 (App. Div. 1960), reversed on other grounds 35 N.J. 224 (1961).

Under the circumstances I find that the initial participation of Mayor Rohrer, while so disqualified, tainted the subsequent action of the respondent Board so as to vitiate it and render it voidable. Highland Tavern Owners Association v. Highlands, Bulletin 868, Item 11; Rosenfeld v. North Wildwood, Bulletin 1536, Item 2; Passaic County Retail Liquor Dealers Association v. Little Falls, Bulletin 1407, Item 1. This conclusion is consonant with the judicial mandate that this agency dispel any aura of favoritism "which might diminish the public feeling that there is strict impartial supervision and control of the liquor industry." Blanck v. Mayor and Borough Council of Magnolia, 38 N.J. 484, 494 (1962).

In so holding I do not wish to intimate any finding of actual influence on the part of Mayor Rohrer when he cast his vote below. In this connection the municipal minutes disclose that the Board of Commissioners, including the Mayor, had first sought legal advice from the municipal attorney as to whether the entire Board could disqualify itself and refer the application to this Division. But it is the mere existence of the conflict, not its actual effect, which invalidates the municipal action.

However, the action of the Board in approving the instant transfer is voidable, not void. If the transfer is voidable, shall there be a remand for reconsideration by the other two Board members, or shall there be a straight reversal? The matter will not be remanded to the Board for reconsideration by the non-disqualified members in view of the hereinabove discussed tainting effect of the disqualification of one of its members. Nor should the Board's action be reversed without the transfer application being decided on its merits after the protracted litigation herein.

I am enjoined by the Legislature "to do, perform, take and adopt all other acts, procedures and methods designed to insure the fair, impartial, stringent and comprehensive" enforcement of the Alcoholic Beverage Law. R.S. 33:1-23. In order to grant appropriate relief herein I shall, for the purpose of deciding the central issue of this appeal on its merits, mold the appeal as if it were a direct application by Dustar, Inc. before me in the nature of an original application under R.S. 33:1-20, rather than an appellate one calling for the review of the exercise of discretionary power by a municipal issuing authority. Cf. Blanck, supra, at p.495. If the evidence warrants approval of the application, the municipal action shall be affirmed; if disapproval is warranted, the municipal action shall be voided and reversed.

The basic facts involved in the place-to-place transfer application by and large are not in dispute. The proposed transfer is from a site on the edge of Haddon Township to a more central location in the Township nearer the area where most of the other plenary retail distribution licenses are located. Of the total number of seven such licenses in the Township, five presently are located in this area. Transfer of respondent's license will result in the six licenses being located on the perimeter of a rough rectangle measuring about seven-tenths of a mile by a little more than one mile.

The plenary retail distribution license closest to the proposed licensed premises is about seven-tenths of a mile distant therefrom. A licensed cocktail lounge and restaurant, which has no separate package store department, is located on the other side of Crystal Lake Avenue, a few hundred feet down from the proposed licensed premises. On the far side of such licensed premises there is a Little League baseball field, set back about one hundred or one hundred fifty feet from Crystal Lake Avenue.

Crystal Lake Avenue in the vicinity of the proposed licensed site is a main thoroughfare, with mixed commercial and residential uses. The proposed site is part of a good sized shopping center having the usual cluster of small satellite stores adjacent to a large food supermarket. The stores in the shopping center are separated from Crystal Lake Avenue by more than one hundred feet of paved parking area. A combination restaurant and milk bar adjoins the shopping center, but is separated from it by more than two hundred twenty feet of paved parking area and a buffer of trees, shrubs and fencing. The large block containing the shopping center is entirely zoned for business use, although the other blocks in the immediate neighborhood are zoned for residential use. In this connection, it is noted that the area from which the respondent licensee has applied to transfer its license is principally zoned residential, with only a shallow portion fronting on White Horse Pike being zoned for business use. Parking space is limited.

Additionally, the Haddon Hill Apartments, containing more than four hundred units and well over one thousand residents, is located near the proposed licensed premises. The record shows that few neighborhood residents, other than licensees, appeared at the hearing below in objection to the application for transfer. None appeared at the Division hearing. The surveys of local sentiment introduced in evidence are of limited weight under the circumstances.

There is also some testimony in the record concerning the possible construction of a new school on the Little League field site. However, it appears that this is just in the "talking stage." Furthermore, no communication or objection to the proposed transfer was received from the school authorities.

I have carefully considered the entire record herein. I believe that the proximity of the proposed licensed premises to the restaurant-milk bar and the Little League field presents no control problem because of the sufficient distances and buffer separations in question. The possible location of a school on the Little League field is too speculative to adversely affect this application.

I further find that the proposed transfer will not result in an undue concentration of alcoholic beverage licenses but, on the contrary, will better service the public, particularly the nearby residents, as a convenient "one stop" location situated in a modern shopping center. It is common knowledge that liquor stores as adjuncts to supermarkets in shopping centers have become very popular today. The understandable objections of competing licensees are not here persuasive with respect to the guiding criterion involved in such applications, namely, the overall public interest.

In sum, I find no substantial adverse reasons to deny the application and conclude that the transfer will be in the public interest. Consequently, I approve the application and therefore, affirm the respondent Board's action.

Accordingly, it is, on this 3rd day of January 1969,

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

JOSEPH M. KEEGAN
DIRECTOR

2.

ACTIVITY REPORT FOR DECEMBER 1968

ARRESTS:				
Total number of persons arrested				12
Licensees and employees	9			
Bootleggers	3			
SEIZURES:				
Alcohol - gallons				31
Brewed malt alcoholic beverages - gallons				201.5
RETAIL LICENSEES:				
Premises inspected				891
Premises where alcoholic beverages were gauged				713
Bottles gauged				11,457
Premises where violations were found				171
Violations found				240
No Form E-141-A on premises	110	No disposal permit	5	
Unqualified employees	53	Other violations	48	
Application copy not available	24			
STATE LICENSEES:				
Premises inspected				3
License applications investigated				6
COMPLAINTS:				
Complaints assigned for investigation				373
Investigations completed				397
Investigations pending				230
LABORATORY:				
Analyses made				118
Refills from licensed premises - bottles				94
Bottles from unlicensed premises				2
IDENTIFICATION:				
Criminal fingerprint identifications made				4
Persons fingerprinted for non-criminal purposes				285
Identification contacts made with other enforcement agencies				196
DISCIPLINARY PROCEEDINGS:				
Cases transmitted to municipalities				3
Violations involved				3
Sales to minors	3			
Cases instituted at Division				30*
Violations involved				58
Permitting immoral activity on prem.	5	Perm. lottery, bookmaking & cards on premises	1	
Sale during prohibited hours	5			
Possessing liquor not truly labeled	4	Perm. bookmaking and "50-50" club on premises	1	
Sale to minors	3			
Miscellaneous gambling on prem.	3	Fraud and front	1	
Unqualified employees	2	Purchase from improper source	1	
Fraud in application	2	Fail. to close prem. dur. proh. hrs.	1	
Perm. lottery & bookmaking on prem.	1	Rebottling by retailer	1	
Permitting lottery acty. on prem.	1	Fail. to afford view into premises during prohibited hours	1	
Permitting hostesses on premises	1			
Sale on Election Day	1	Sale to non-members by club	1	
Perm. foul language on prem.	1	Sale below filed price	1	
Cases brought by municipalities on own initiative and reported to Division				12
Violations involved				12
Sale to minors	7	Failure to close prem. dur. proh. hrs.	1	
Permitting brawl, etc. on prem.	3	Sale to intoxicated person	1	
HEARINGS HELD AT DIVISION:				
Total number of hearings held				40
Appeals	8	Eligibility	8	
Disciplinary proceedings	23	Seizures	1	
STATE LICENSES AND PERMITS:				
Total number issued				1,327
Solicitors' permits	26	Wine permits	24	
Employment permits	268	Miscellaneous permits	258	
Disposal permits	67	Transit insignia	218	
Social affair permits	390	Transit certificates	76	
OFFICE OF AMUSEMENT GAMES CONTROL:				
Licenses issued	62			

JOSEPH M. KEEGAN
Director of Alcoholic Beverage Control
Commissioner of Amusement Games Control

Dated: January 8, 1969

*Includes 4 cancellation proceedings - licenses improvidently issued by reason of conviction of licensees and officers of licensees of crimes involving moral turpitude.

3. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

BEN'S PLACE, INC.
362 Avon Avenue
Newark, New Jersey

Holder of Plenary Retail Consumption License C-852 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark

CONCLUSIONS and ORDER

- -

Skoloff & Wolfe, Esqs., by Saul A. Wolfe, Attorneys for Licensee
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on October 2, 10 and 17, 1968, it permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Although the corporate licensee has no previous record of suspension of license, the license then held for the same premises by Benjamin Hammer, 49 per cent stockholder of the licensee corporation, was suspended by the municipal issuing authority for ten days effective April 15, 1957, for sale to minors.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re John Manyk, Inc., Bulletin 1829, Item 7.

Accordingly, it is, on this 2d day of January, 1969,

ORDERED that Plenary Retail Consumption License C-852, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Ben's Place, Inc. for premises 362 Avon Avenue, Newark, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 a.m. Thursday, January 9, 1969, and terminating at 2:00 a.m. Wednesday, March 5, 1969.

JOSEPH M. KEEGAN
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - FALSE STATEMENT IN LICENSE APPLICATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

THE CHESTNUT (A CORPORATION)
t/a The Chestnut Bar
705 Chestnut Street
Camden, New Jersey

Holder of Plenary Retail Consumption License C-170 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden

CONCLUSIONS and ORDER

Donald Palese, Esq., Attorney for Licensee
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on October 4, 1968, it permitted removal from its licensed premises of an opened pint bottle of wine during prohibited hours, in violation of Rule 1 of State Regulation No. 38, and (2) in its application for current license failed to disclose its record of license suspension, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license by the municipal issuing authority for fifteen days effective May 10, 1954, for sale to minors, non-disclosure of which being the subject of the second charge.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded in admeasuring the penalty, the license will be suspended on the first charge for fifteen days (Re Fletcher, Bulletin 1707, Item 4) and on the second charge for ten days (Re Bamboo Bar Corp., Bulletin 1825, Item 8), 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 2d day of January, 1969,

ORDERED that Plenary Retail Consumption License C-170, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to The Chestnut (A Corporation), t/a The Chestnut Bar, for premises 705 Chestnut Street, Camden, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Thursday, January 9, 1969, and terminating at 2:00 a.m. Wednesday, January 29, 1969.

JOSEPH M. KEEGAN
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JOHN DZAMKO and MICHAEL DZAMKO t/a The Chateau 1787 River Avenue Camden, New Jersey

Holders of Plenary Retail Consumption License C-37 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden

CONCLUSIONS and ORDER

Joseph Wm. Cowgill, Esq., Attorney for Licensees
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on October 25, 1968, they sold twelve bottles of beer to a minor, age 17, in violation of Rule 1 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 Great Eastern Liquor Corp., Bulletin 1803, Item 2.

Accordingly, it is, on this 2d day of January, 1969,

ORDERED that Plenary Retail Consumption License C-37, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to John Dzamko and Michael Dzamko, t/a The Chateau, for premises 1787 River Avenue, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Thursday, January 9, 1969, and terminating at 2:00 a.m. Friday, January 24, 1969.

JOSEPH M. KEEGAN
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
ROBERT JOHNSON 401 - 69th Street Guttenberg, New Jersey	)	CONCLUSIONS and ORDER
Holder of Plenary Retail Consumption License C-19 issued by the Mayor and Board of Council of the Town of Guttenberg	)	

Licensee, Pro se
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on November 9, 1968, he sold drinks of alcoholic beverages to six minors, four age 18 and two age 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, 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 Bamboo Bar Corp., Bulletin 1825, Item 8; Re Brookside Bar, Inc., Bulletin 1666, Item 5.

Accordingly, it is, on this 31st day of December, 1968,

ORDERED that Plenary Retail Consumption License C-19, issued by the Mayor and Board of Council of the Town of Guttenberg to Robert Johnson for premises 401 - 69th Street, Guttenberg, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. Tuesday, January 7, 1969, and terminating at 3:00 a.m. Monday, January 27, 1969.

Joseph M. Keegan
Director