

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

BULLETIN 1474

October 1, 1962

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DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
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BULLETIN 1474

October 1, 1962

I. APPELLATE DECISIONS - (ROLLING GREENS CIVIC ASSN. v.  
(CINNAMINSON AND DINERMAN  
(RICHARDS v. CINNAMINSON AND DINERMAN

ROLLING GREENS CIVIC ASSN., )

Appellant, )

v. )

TOWNSHIP COMMITTEE OF THE )  
TOWNSHIP OF CINNAMINSON, and )  
MYER DINERMAN, t/a MERION )  
TAVERN, )

Respondents. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

----- )  
EDWIN S. S. RICHARDS, t/a )  
RICHARDS RESTAURANT, )

Appellant, )

v. )

TOWNSHIP COMMITTEE OF THE )  
TOWNSHIP OF CINNAMINSON, and )  
MYER DINERMAN, t/a MERION )  
TAVERN, )

Respondents. )

-----  
Arthur E. Ballen, Esq., Attorney for Appellant Rolling Greens  
Civic Assn.

Miller, Myers, Matteo & Davis, Esqs., by Michael D. Matteo, Esq.,  
Attorneys for Appellant Edwin S. S. Richards, etc.

Powell and Davis, Esqs., by Robert E. Dietz, Esq., Attorneys  
for Respondent Township Committee.

Evoy and Feinberg, Esqs., by Alexander Feinberg, Esq., Attorneys  
for Respondent Myer Dinerman, etc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The above appeals were heard at the same time and,  
because of the circumstances hereinafter set forth, both will be  
decided in a single opinion.

"It appears from the evidence that on May 24, 1961, the  
prior Township Committee of the Township of Cinnaminson (hereafter  
Committee), in conformity with P.L. 1960, c. 72 (amending the  
state limitation law) adopted an amendment to the Township's  
liquor license limitation ordinance which increased by one the  
number of plenary retail consumption licenses to be issued; that  
on said date the then Mayor set November 30, 1961, to interview  
applicants for said license and the Committee voted to issue the  
license on December 5, 1961. Several applicants, including

respondent Myer Dinerman (hereafter Dinerman) and appellant Edwin S. S. Richards (hereafter Richards) appeared before the Committee on the date set and each was given an opportunity to show why his application should be granted. Dinerman sought the license for premises to be constructed on the northerly side of U.S. Highway 130 and Wynwood Drive in a commercial zone, and Richards sought the license for existing premises #901 on Route #130. Both premises are in the Township of Cinnaminson. No action was taken on the pending applications at that hearing. Notwithstanding the fact that Dinerman had filed plans and specifications with his application, it was evident that his public Notices of Application were defective in that there was not set forth therein that plans and specifications of the proposed premises had been filed with the Township Clerk as required by Rule 1 of State Regulation No. 2. Dinerman caused to have correct Notices of Application published on December 7 and 14, 1961. At the public hearing scheduled for December 5, 1961, the Committee, having considered general written objections to the granting of the license in question, adopted the following resolution:

'BE IT RESOLVED that the application of Myer Dinerman t/a Merion Tavern for a Plenary Retail Consumption License for premises to be constructed in accordance with the plans and specifications submitted with the application at U.S. Highway #130 (Northerly Side) and Wynwood Drive in this Township of Cinnaminson be granted and the Township Committee be authorized to issue Plenary Retail Consumption License C-4 therefor for the License year expiring June 30, 1962, SUBJECT HOWEVER to the following two special conditions:

1. The said license shall not be issued unless and until two (2) whole days shall have elapsed after the second publication of Notice of said application, not counting the day on which such second publication may be made, and if within such period written objection to issuance of the license is filed, the license shall not be issued pending the further determination of the issuing authority; and
2. In no event shall said license be issued by the Clerk until the licensed premises shall have been completed in accordance with the plans and specifications submitted with the application.'

"In view of the fact that eleven individual letters and petitions signed by 372 persons had been filed with the Clerk objecting to the grant of Dinerman's application, a public hearing was scheduled for December 22, 1961. At that hearing twelve persons appeared and voiced their disapproval of the grant, and ten appeared and voiced their approval. Having considered the evidence adduced before it, the Committee by a vote of three-to-two adopted the following resolution:

'BE IT RESOLVED by the Township Committee of the Township of Cinnaminson in the County of Burlington and State of New Jersey that the application of Myer Dinerman, trading as MERION TAVERN for a Plenary Retail Consumption License for premises to be constructed according to plans and specifications submitted with the application, and located at U.S. Highway #130 (Northerly side) and Wynwood Drive in the Township of Cinnaminson, Burlington County, be approved and be it FURTHER RESOLVED that the Township Clerk be authorized to issue PLENARY RETAIL CONSUMPTION LICENSE C-4 therefore for the license year expiring June 30, 1962;

"SUBJECT, however to the special conditions that said license shall not be issued until the said premises have been completed in accordance with the plans and specifications submitted with said application."

"Appellant Rolling Greens Civic Assn. (hereafter Association) seeks to have the Committee's action reversed or remanded for further hearing, alleging that it was arbitrary and discriminatory and contrary to law and the rules and regulations of the Division, and that the Committee failed to investigate Dinerman.

"Richards seeks to have the Committee's action reversed and to have the license issued to him, alleging that said action was arbitrary, capricious and unreasonable and against the weight of the evidence; that the Committee failed to consider public need and convenience and the sentiments of numerous objectors; that Dinerman did not file detailed specifications of his proposed premises with the Clerk; and that the action of the Committee was predetermined.

"Dinerman denies appellants' allegations and respondent Committee contends that, since the license in question was issued by a prior Committee, 'the present Committee now believes it to be in the best interests of the Township to have the matter remanded for public hearing or hearings as to whether or not the licensee is appropriate person to hold said license and, further, whether the proposed location be a proper location for said license.'

"Those who appeared at the hearing on appeal were six members of the Association, Richards, Mr. Karakashian (a former Committeeman and presently Mayor of the Township), two cemetery lot owners, twenty home owners in the Rolling Greens section of the municipality, Mr. Criscuolo (the former Township Solicitor), Committeemen Avena, Batlas and Barr, who voted to issue the license to Dinerman, and the licensee himself.

"The members of the Association testified, in substance, that they reside in the Rolling Greens section of the Township which is residential; that Dinerman's location is approximately 2,000 feet from the nearest residence and about two-fifths of a mile from a public school now under construction, and that a tavern in their neighborhood would decrease the value of their homes (which range from \$20,000 to \$35,000) and create a serious traffic hazard.

"Richards testified, in substance, that he has operated a restaurant in the Township for seven years and for about ten years prior thereto had worked as a bartender; that his location is the more logical place for a liquor license; that it can accommodate one hundred seventy-five to two hundred cars; that the nearest point from his property to a public school is 554 feet, and that there is a package goods store about five hundred yards from his premises. He further testified that, if the license were granted to him, he would have a very small cocktail lounge with a service bar and serve drinks at tables with meals, and that he desires the liquor license for survival mainly because 'a place that is a duplicate of mine that is brand new a half-mile above me, it could put me out of business.'

"Mr. Karakashian testified, in substance, that no specific objections were filed against Richards' application; that

at the meeting of November 30, 1961, the Committee discussed the merits of all the applicants and their locations; that he voted against granting Dinerman's application because he felt that 'Mr. Richards was the better applicant rather than I did Mr. Dinerman;' that ratables seem to be the primary interest of the majority of the Committee; that he was not concerned with ratables; rather, he felt that the Dinerman location would be hazardous to children who would attend the high school now under construction and because it would require added police protection. He further testified on cross-examination that the Dinerman location is almost directly opposite the Main Line Shopping Center; that the high school is approximately one-half mile from the Dinerman location, and that Richards' Restaurant is approximately 300 to 400 feet from the Friends Church and School.

"The cemetery lot owners testified that the cemetery is adjacent to the shopping center and across from the Dinerman location, and they presented a resolution which had been adopted by thirty-four members of the Lakeview Lot Owners, Inc. on February 26, 1962, objecting to the issuance of the license to Dinerman. Seventeen of the property owners in the Rolling Green section of the municipality testified that a license at the Dinerman location would create a traffic hazard and that the license should be issued to Richards whose property does not abut on a residential area. The other three property owners in that section testified that their properties are nearest to the Dinerman location and that they have no objection whatsoever to licensed premises in that vicinity.

"Mr. Criscuolo testified that he was present at all of the hearings respecting the license in question and that the primary consideration of the Committee when granting the license was 'that there was only the one license available and it must be spent wisely, that it must be issued wisely. They did not feel that the issuance of a license to a barroom that would be only a barroom would serve the best interests of the Town. There was no crying need for that. They felt -- and that automatically eliminated one or two applications which were just for the "come in off the street and stand at the bar and get a drink" type of place with no other facility. They felt that the need of the Town was for a reasonably high grade eating place where one might get a cocktail with dinner, with a separate cocktail lounge and some type of facilities that generally go along with the better type eating establishment.'

"Committeemen Avena, Batlas and Barr testified, in substance, that they considered the Dinerman location to be the least hazardous trafficwise; that it is the most desirable location for a liquor outlet; that there is a dire need for an establishment such as is proposed by Dinerman where civic functions can be held and that the Richards location could be characterized as 'motel row' and is too close to the Friends Church and School.

"Dinerman testified that a colored rendering of the plans of his proposed building, together with an outline of the specifications, were filed with his license application and that on December 11, 1961, when he applied for and received his 'zoning permit', he substituted white-and-black drawings for the colored rendering. The testimony of the Township Clerk confirms the fact that the plans and specifications were on file with her at all times pending the issuance of the license.

"Considering all of the evidence adduced in this case, I find that the procedure adopted by the Committee in considering

the license applications is in conformity with state regulations.

"I find further that the weight to be accorded petitions for or against the granting of a retail liquor license is a matter properly within the discretion of the municipal authority (Bilancio v. Trenton, Bulletin 1221, Item 5, and cases cited therein) and that, while a petition serves as a mass character representation, it cannot outweigh the considered determination of the issuing authority. Lackowitz v. Waterford, Bulletin 125, Item 12. As was said in Re Powell, Bulletin 59, Item 15:

'There is no objection to any person or group presenting a petition. It serves as a convenient medium for presenting to the governing body the views of the group, but the weight to be accorded it, after proper discount for self-interest and the irresponsible way in which petitions are often signed as friendly accommodation without any considered thought of contents or effect or the argument on the other side, depends on what the petition states, who signs it, and how it accords with the policy and common sense of the officials responsible for the administration of the law and whose duty and privilege it is to hear both sides.'

"I further find that the plans and specifications filed by Dinerman sufficiently comply with the aforesaid regulations, since the requirement of filing plans and specifications is to enable the issuing authority and other interested persons to determine if the proposed building will be sufficient and satisfactory. In the instant case no suggestion is made that the premises to be erected by Dinerman will not be entirely satisfactory as a building in which a liquor licensed business may be conducted. See Passarella v. Atlantic City et al., Bulletin 818, Item 1; Passarella v. Board of Commissioners of Atlantic City et al., 1. N.J. Super. 313 (App.Div. 1949).

"I further find that the determination as to which of several applications shall be granted is a matter within the sound discretion of the issuing authority and that the doctrine of 'first come, first served' has no application to the issuance of a liquor license.

"I further find no convincing evidence of the likelihood of an increased traffic hazard at the Dinerman location. On the contrary, it appears from the evidence that, because of the 'jug handle' entrance to the Dinerman location, no traffic hazard is likely to occur.

"I further find not a scintilla of evidence to establish that Dinerman is not a proper person to hold a liquor license and that there is no evidence to establish that the majority members of the Committee predetermined their action.

"I further find no evidence of improper motivation on the part of the majority members of the Committee. Improper motivation on the part of public officials may not be presumed. Such motivation must be established by direct proof or proof of circumstances from which it may reasonably be inferred. There is no such proof here.

"The contention that the matter herein should be remanded for further hearing has no merit. The issuing authority as constituted at the time the licenses were considered decided in

its sound discretion to issue the licenses in question and, since there is no proof of bad faith against any member of that authority, its decision must be considered reasonable and conclusive. Cf. Hearty et als. v. Liberty and Jamison, Bulletin 671, Item 5.

"It has long been established that the question of whether or not a license shall be permitted in a particular area or in a particular location is a matter within the 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 if reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal views. Baker v. Newark et al., Bulletin 1018, Item 1.

"In view of the aforesaid, I conclude that the action of the Committee in issuing the license to Dinerman was a reasonable exercise of its discretionary powers, and that appellants have not sustained the burden imposed upon them of establishing that such action was erroneous. Rule 6 of State Regulation No. 15. I recommend, therefore, that the action of the Committee be affirmed, and that the appeals herein be dismissed."

Written exceptions to the Hearer's Report and written arguments in substantiation of the exceptions were filed with me by the attorneys for appellant Edwin S. S. Richards, and by the attorneys for respondent Township Committee, and written answering argument was filed by the attorneys for respondent Myer Dinerman within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the record herein, including the transcript of the testimony, the exhibits, the Hearer's Report, the written exceptions and the arguments pro and con, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

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

ORDERED that the action of the Township Committee of the Township of Cinnaminson be and the same is hereby affirmed and that the appeals herein be and the same are hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR



2. DISCIPLINARY PROCEEDINGS - NUISANCE (HOMOSEXUALS) - FAILURE TO HAVE CLOSED AND CONSUMPTION DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 55 DAYS.

In the Matter of Disciplinary  
Proceedings against

CLARENCE HOOVER  
t/a HOOVER'S TAVERN  
500 Feet south of Maple Avenue  
Parsippany-Troy Hills  
PO Morris Plains RFD, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-12, issued by the Township  
Committee of the Township of  
Parsippany-Troy Hills.

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McGovern and Roseman, Esqs., by William J. McGovern, Esq.,  
Attorneys for licensee.

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Licensee pleaded not guilty to the following charges:

- '1. On December 8, 9, 16, 29 and 30, 1961, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g. males impersonating females, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.
- '2. On Saturday, December 16, 1961, between 3:00 a.m. and 3:15 a.m., you permitted the consumption of alcoholic beverages on your licensed premises; in violation of Article 3.11 of Revised Ordinances of the Township of Parsippany-Troy Hills, New Jersey, 1953, adopted November 10, 1953.'

"To substantiate the charges the Division produced the ABC agents who participated in the investigation of the licensee's business. They will be referred to as Agents S and G.

"With respect to Charge 1 Agent S testified at length respecting the visits made by him and Agent G to the licensee's premises on the dates alleged and, upon completion of his cross examination, it was stipulated by the attorneys for the parties hereto that, if Agent G were interrogated, his testimony on direct examination respecting Charge 1 would corroborate that of Agent S.



"Succinctly stated, the testimony of Agent S shows that on their first visit they entered the licensed premises shortly after 10 p.m. and remained there until 2 a.m. the following morning; that during their stay he noted that the patronage increased from two couples and six males to six couples and 21 males; that Joseph Passalacqua (hereafter Joe) was tending bar; James Renna (hereafter Jim) was entertaining at a piano on a platform behind the bar, and Clarence Hoover (hereafter licensee) was in and about the premises; that he observed that most of the 21 males entered the barroom in pairs and congregated on the left side of the bar; that, although they were attired as males, the effeminate talk and demeanor of 14 of them categorized them as apparent homosexuals. Agent S further testified that on their second visit they entered the licensed premises at about 12:30 a.m.; that the licensee was tending bar and Jim was entertaining at the piano; that four couples were seated on the left side of the bar and 15 males congregated on the right side; that, observing the males, he noted that, when they moved about, they swished their hips and walked on the balls of their feet; that their actions were in all respects effeminate and that they appeared to him to be homosexuals. Agent S further testified that on their third visit they entered the licensed premises shortly after 10 p.m.; that Joe was tending bar and Jim was entertaining at the piano and the licensee was at the bar conversing with a female; that during his stay the patronage increased to 18 males who stayed in one group at the bar; that he observed that 17 of them were effeminate in their mannerisms in that they conversed in lispy tones of voice, swayed their hips when they walked, looked into each other's eyes, used limp wrist movements and flicked their cigarette ashes in a dainty manner; that two of them danced together, and that the 17 males appeared to him to be homosexuals. He further testified that he directed Jim's attention to the group and asked, 'Did you ever take any of those fags out?' and that Jim replied, 'I go for a change, a little variety once in a while is good', and that Jim further stated that 'these queers come in every Friday night, they're good spenders and good for the till when the business is quiet, that they don't bother anyone, they behave themselves'; that Agent G then asked Jim, 'Can I get fixed up with any of these fags?' and that he replied, 'Sir, why not? There's plenty of them around. There's plenty of them here'; that later on Agent G asked Joe, 'Can I get fixed up with any of these fags?' and, when Joe told him that he could, Agent G asked, 'You mean all of them over there are queer?', and Joe replied, 'Yes, all of them over there in that section.'

"Agent S further testified that he and Agent G identified themselves to the licensee and, when he pointed out to him the group of males and asked him what was the situation with all the fags in here, the licensee replied, 'You call them fags and I call them fags. You know what they are and I know what they are. They don't bother anyone. They don't solicit anyone. I control them. They come in here on Friday nights. They don't bother anyone. In fact, I caught a couple of them fooling around in the parking lot in a car and I chased them. I control them well. I don't let them bother anyone.'

"Agent S further testified that he then summoned Joe and asked him, 'How long have these fags been coming in here, Joe?' and that Joe replied, 'They were coming in here about ----' and was cut short by the licensee; that, when Jim was asked 'Do you remember the conversation that we had about the queers before',

he said, 'Yes' and was told by the licensee not to talk.

"With respect to Charge 2, Agent G testified that on the date alleged he and several patrons who had been served drinks before the official closing hour of 3 a.m. remained at the bar and consumed their beverages until fifteen minutes past that hour when the licensee ordered them to leave.

"During the cross examination of Agent S several photographs taken after the dates alleged in the charge were marked for identification and were later received in evidence. They show persons alleged to have been on the licensed premises in the group of males who were characterized by the agents as apparent homosexuals. Both agents identified Jim and the licensee as the only persons in the photographs whom they observed on the licensed premises during their investigation. It was also brought out on the cross examination of both agents that on one occasion when Jim 'took a break' they observed him simulate an act of sodomy with Joe, the bartender.

"Those who testified for the licensee were Jim, Joe and the licensee himself.

"Jim testified in substance that he entertained at the piano on the dates alleged; that the first conversation he had with Agent S was with respect to the 'Damn Yankees' show and that he remarked, 'What a gorgeous hunk of femininity Julie Newmar was'; that on the last visit the agents asked him if he was married and that he said, 'Yes, 22 years' and, when he was asked if he goes for boys, he said, 'I get no message whatsoever'; and that Agent G said, 'I don't mind. I go for a little change once in a while.' Jim further testified that he sings 30 songs about girls; that one of the songs (Cup Cakes) is considered a suggestive ditty; that he never observed any males on the licensed premises who had the characteristics attributed to them by the agents, and he denied simulating any indecent act with the bartender. Shown the photographs, he pointed out those persons who he said were in the groups of male patrons referred to by the agents as apparent homosexuals.

"Joe testified in substance that the only remarks the agents made to him were compliments respecting his efficiency; that none of the patrons on the licensed premises during his tours of duty had homosexual characteristics; that Jim did not simulate any indecent act with him and that, after the licensee summoned him and he was asked by Agent S how long he had been serving the queers, he said, 'I don't know what you are talking about.' Shown the photographs, he identified 11 males who he said were in the licensed premises on the dates alleged, none of whom, he said, was effeminate.

"The licensee testified in substance that he has operated the licensed premises for sixteen and one-half years; that on December 29, 1961, he went behind the bar at 10:30 p.m.; that Joe was also tending bar and Jim was at the piano; that at about 12 Midnight 'they started coming in and it got quite busy and people were standing'; that none of his patrons appeared to have the characteristics of a homosexual; that no male danced with another male; that, when Agent S identified himself and asked, 'How long have these homosexuals been hanging out here?' he said, 'You point out the homosexuals to me and I will tell you how long they have been hanging out here;' that Agent S said, 'Well, your bartender knows' and that he said, 'We will call the bartender;' that, when the bartender responded, he was asked

the same question and he (the licensee) stated, 'Now wait a minute, Joe, you can't answer that because if you answer that you're only guessing.' Shown the photographs, he identified the persons thereon by name or occupation and stated that they were in the group of males whom the agents characterized as homosexuals and that he said, 'To me, I wouldn't say they were effeminate.'

"Respecting Charge 2, the licensee testified that the clock in his establishment was always fifteen minutes fast and that, when the agents and the patrons left, it was exactly 3 a.m.

"Having had the opportunity to judge the credibility of the witnesses, and recognizing the sharp dispute of facts, I find that the testimony of the agents presents a true version of what they observed, heard and did during their investigation, and that it remained unshaken notwithstanding the exhaustive cross examination to which the agents were subjected. On the contrary, I find that the testimony of the licensee, the bartender and the entertainer is for the most part incredible.

"The object manifestly inherent in the rule with which we are here concerned [likewise Rule 5] is primarily to discourage and prevent not only lewdness, fornication, prostitution, but all forms of licentious practices and immoral indecency on the licensed premises. The primary intent of the regulation is to suppress the inception of any immoral activity, not to withhold disciplinary action until the actual consummation of the apprehended evil.' Vide In re Schneider, 12 N. J. Super. 449 (App. Div. 1951).

"Proper liquor control dictates that licensed premises are not to become a haven for lesbians or homosexuals. Where they congregate they constitute a threat to the safety and morals of the public. Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, 46 N.J. Super. 405; Re Thorn, Bulletin 1242, Item 3; Re Freddie's Blue Room, Inc., Bulletin 1403, Item 3.

"It is not necessary to establish by evidence beyond doubt that specific patrons in and upon licensed premises are actually homosexuals. Evidence presented with reference to the unnatural mannerisms of such persons meets the required proof that they are apparent homosexuals. As Judge Jayne said in Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, supra:

'If the evidence here failed adequately to prove that the described patrons were in fact homosexuals, it certainly proved that they had the conspicuous guise, demeanor, carriage, and appearance of such personalities. It is often in the plumage that we identify the bird. The psychiatrist constructs his deductive conclusions largely upon the ostensible personality behavior and unnatural mannerisms of the patient.'

"Considering the facts related by the agents and the legal principles applicable thereto, I conclude that the Division has established the truth of both charges by the necessary preponderance of the believable evidence, and I recommend that the

licensee herein be adjudged guilty as charged.

"The licensee has a prior adjudicated record. Effective January 12, 1955, his license was suspended for five days by the local issuing authority for sale to minors. Since that violation is dissimilar to those charged herein and occurred more than five years ago, it should not be considered in fixing the penalty to be imposed herein. I, therefore, further recommend that an order be entered suspending the license for a period of forty days on Charge 1 (Re 32 Club, Inc., Bulletin 1444, Item 3) and for an additional fifteen days on Charge 2 (Re Canova, Bulletin 1411, Item 4), making a total suspension of fifty-five days."

Written exceptions to the Hearer's Report and written argument in substantiation of the exceptions were filed with me pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's Report and the written exceptions and argument with respect thereto, I concur in the findings and conclusion of the Hearer and adopt his recommendations.

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

ORDERED that Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Parsippany-Troy Hills to Clarence Hoover, t/a Hoover's Tavern, for premises W/S of Tabor Road about 500 feet south of Maple Avenue, Parsippany-Troy Hills, be and the same is hereby suspended for fifty-five (55) days, commencing at 3:00 a.m., Wednesday, August 1, 1962, and terminating at 3:00 a.m., Tuesday, September 25, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

3. APPELLATE DECISIONS - MALEK v. CAMDEN.

FRANK J. MALEK and ANNA MALEK,	)	
Appellants,	)	
v.	)	ON APPEAL
	)	ORDER
MUNICIPAL BOARD OF ALCOHOLIC	)	
BEVERAGE CONTROL OF THE CITY	)	
OF CAMDEN,	)	
Respondent.	)	

-----  
Frank E. Vittori, Esq., Attorney for Appellants.  
George E. Stransky, Jr., Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellants appeal from denial by respondent on January 22, 1962, of their application for place-to-place transfer of plenary retail consumption license from premises 505 Main Street, Camden, to 32 Market Street, Camden.

Prior to the hearing on appeal appellants' attorney advised me that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 2nd day of August 1962,

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

WILLIAM HOWE DAVIS  
DIRECTOR

4. DISQUALIFICATION REMOVAL PROCEEDINGS -- CONVICTION FOR CARRYING CONCEALED WEAPON - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application	)	
to Remove Disqualification because	)	CONCLUSIONS
of a Conviction, pursuant to	)	AND ORDER
R.S. 33:1-31.2.	)	
Case No. 1698	)	

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BY THE DIRECTOR:

Applicant's criminal record discloses that on March 11, 1953, following a conviction in the Bergen County Court of carrying a concealed weapon, he was given a suspended sentence; that on August 10, 1953 and August 25, 1953, he was fined \$25 and \$10, respectively, by a local magistrate for violating a city ordinance.

The convictions for violating a city ordinance do not constitute convictions of crime. Re Case No. 1385, Bulletin 1203, Item 8. The crime of carrying a concealed weapon may or may not involve moral turpitude. When the crime stands alone, unattended by other crimes or intent to commit other crimes, it does not ordinarily involve moral turpitude. Re Case No. 614, Bulletin 870, Item 2. In view of applicant's testimony (hereinbelow set forth) that he intended to use the knife, if necessary, in the commission of a crime, it is my opinion that his conviction on March 11, 1953 involved the element of moral turpitude.

At the hearing held herein applicant (32 years of age) testified that for the past twenty-six years he has lived at his present address; that he has been regularly employed for more than ten years last past; that his conviction on March 11, 1953 resulted from possessing a knife with a seven inch blade; that he had been threatened with bodily harm; that he was carrying the knife to defend himself if attacked; and that, if necessary, he would use it against his assailant.

Applicant 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 August 25, 1953, he has not been convicted of any crime or arrested (except in 1956 when two complaints against him for creating disturbance were dismissed in a local Magistrate's Court).

The applicant produced three character witnesses (a calibrator, an assembler of motor vehicles and a mail carrier) who testified that they have known applicant from seven to fifteen years and that, in their opinion, he is now an honest, law-abiding citizen with a good reputation.

The police department of the municipality wherein applicant

resides has advised that no complaint or investigation is pending involving the applicant.

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

Accordingly, it is, on this 31st day of July, 1962,

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

WILLIAM HOWE DAVIS  
DIRECTOR

5. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #215	)	
In the Matter of a Petition to	)	
Lift the Automatic Suspension	)	
of Plenary Retail Consumption	)	
License C-6, issued by the Common	)	ON PETITION
Council of the Borough of Alpha to	)	ORDER
JOSEPH MIHURSKY	)	
t/a Hi-Way Inn	)	
s/w cor. of Third Avenue and	)	
Linden Street	)	
Alpha, New Jersey	)	

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Petitioner, Pro se.

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on July 24, 1962, petitioner herein was fined \$50 plus \$5 costs in the Belvidere District Court after plea of guilty to a charge of sale of alcoholic beverages to a minor in violation of R.S. 33:1-77 on June 22, 1962. The conviction resulted in the automatic suspension of his 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 suspended the license of petitioner for ten days commencing August 6, 1962 after confessional plea to charges in disciplinary proceedings alleging the same sale to the minor. Consequently, I shall lift the automatic suspension in anticipation of the service of the municipal suspension.

Accordingly, it is, on this 2d day of August, 1962,

ORDERED that the statutory automatic suspension of said license C-6 be and the same is hereby lifted, effective immediately.

WILLIAM HOWE DAVIS  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ORDER TERMINATING SUSPENSION FOR  
BALANCE OF TERM UPON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against

SKYLINE VIEW INN, INC.  
13 - 68th Street  
Guttenberg, N. J.

ORDER

Holder of Plenary Retail Consumption  
License C-35, issued by the Board of  
Council of the Town of Guttenberg.

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Herbert Winokur, Esq., Attorney for licensee.

BY THE DIRECTOR:

By order dated July 3, 1962, I suspended the above license for the balance of its term effective 3 a.m. Tuesday, July 10, 1962, after the licensee pleaded non vult to farming out its license and that it failed to notify the issuing authority of changes in facts set forth in its application for the 1961-62 licensing term. Leave was given to apply to me for an order lifting said suspension if the illegal situation was corrected; provided, however, that the suspension would not be lifted until the expiration of twenty days from the effective date thereof.

A verified statement has been filed by the instant licensee wherein it appears that the capital stock of said corporation has been duly transferred to Frank Haynes, President; Arthur Galley, Vice President, and Rita Haynes, Secretary-Treasurer. It further appears that the former stockholders of said corporate licensee have no further interest whatsoever in the corporation or in the management thereof.

It thus appearing to my satisfaction that the unlawful situation has been corrected and that the suspension will have been in effect for twenty days at 3 a.m. Monday, July 30, 1962,

It is, on this 27th day of July 1962,

ORDERED that the suspension heretofore imposed be lifted and that License C-35 be restored to full force and operation at 3 a.m. Monday, July 30, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR



7. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - ALLEGED MITIGATION - REQUEST THAT PENALTY BE APPLICABLE ONLY TO PORTION OF LICENSED PREMISES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

BEACON MANOR HOTEL, INC.

1622-1624 Ocean Avenue

Point Pleasant Beach, N. J.

Holder of Plenary Retail Consumption  
License C-17, issued by the Mayor  
and Council of the Borough of  
Point Pleasant Beach.

CONCLUSIONS  
AND ORDER

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Van Riper & Belmont, Esqs., 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 June 29-30, 1962, it sold drinks of alcoholic beverages to four minors, two age 19 and two age 20, in violation of Rule 1 of State Regulation No. 20.

In attempted mitigation, licensee points out that it employs uniformed private guards whose duties are to check all individuals for the purpose of determining whether or not they are of legal age, "which check is made by inspection of drivers licenses, birth certificates, social security cards, etc." and that the minors involved herein in fact displayed false identification, in reliance upon which the sales were made. As to this, it is pointed out that reliance on false identification, in the absence of obtaining requisite written representation of age as contemplated by R.S. 33:1-77, constitutes no defense and very little mitigation. At best, it bespeaks the imposition of the established minimum penalty imposed in age-similar cases, perhaps without possible increase for aggravating circumstances. Re Paulin, Bulletin 1459, Item 5.

In addition, licensee requests that any penalty that may be imposed be made applicable only to the Ship Bottom Lounge of the licensed premises, a portion separate and distinct from its main barroom, for the reason that the sales were made in the Lounge. As to this, it is pointed out that under the Alcoholic Beverage Law, the license must be suspended in its totality rather than in its application to a particular portion of the licensed premises.

Consequently, 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. Cf. Re H. P. Bar & Liquor, Inc., Bulletin 1453, Item 5.

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

ORDERED that Plenary Retail Consumption License C-17, issued by the Mayor and Council of the Borough of Point Pleasant Beach to Beacon Manor Hotel, Inc. for premises 1622-1624 Ocean Avenue, Point Pleasant Beach, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Tuesday, September 4, 1962, and terminating at 2:00 a.m. Wednesday, September 19, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

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

In the Matter of Disciplinary  
 Proceedings against

FRANK VATUNA & VERONICA VATUNA  
 t/a "VATUNA'S INN"  
 160 East Main Street  
 Rockaway, N. J.

CONCLUSIONS  
 AND ORDER

Holders of Plenary Retail Consumption  
 License C-8, issued by the Mayor and  
 Council of the Borough of Rockaway.

Robert W. Wolfe, Esq., Attorney for Licensees.  
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic  
 Beverage Control.

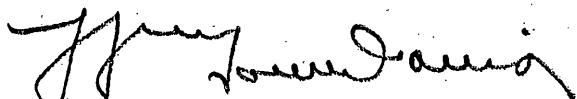
BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on  
 June 28, 1962, they 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 Frankie Burns, Inc.,  
 Bulletin 1461, Item 7.

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

ORDERED that Plenary Retail Consumption License C-8,  
 issued by the Mayor and Council of the Borough of Rockaway to  
 Frank Vatuna and Veronica Vatuna, t/a "Vatuna's Inn", for premises  
 160 East Main Street, Rockaway be and the same is hereby suspended  
 for fifteen (15) days, commencing at 2:00 a.m. Tuesday, September  
 4, 1962, and terminating at 2:00 a.m. Wednesday, September  
 19, 1962.

  
 William Howe Davis  
 Director