

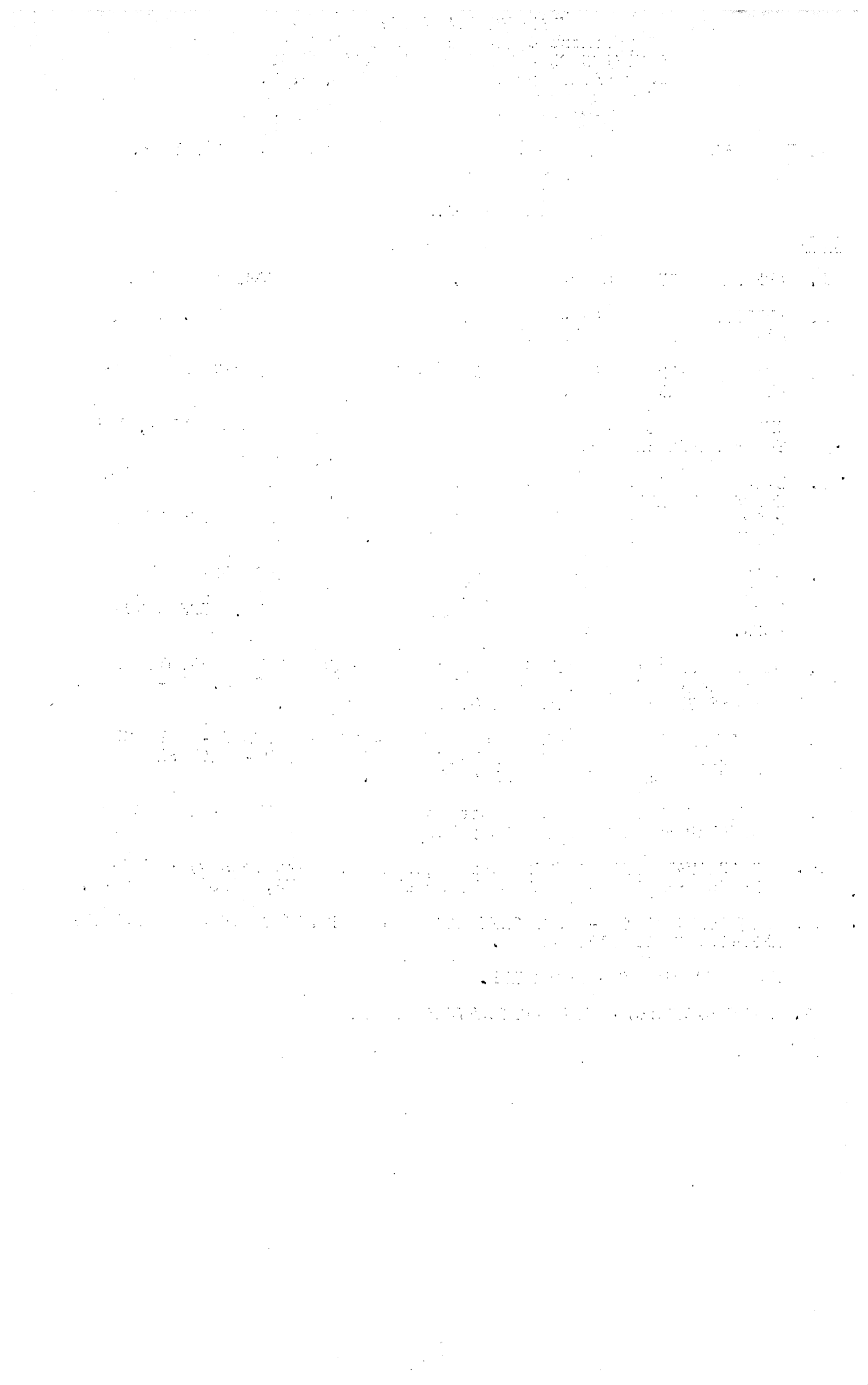
STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 954

JANUARY 26, 1953.

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BULLETIN 954

JANUARY 26, 1953.

1. APPELLATE DECISIONS - BOWENS v. MAYWOOD (CASES NOS. 1 AND 2).

Case #1-
CORNELIUS and IDA BOWENS,
t/a HOLLAND HOUSE,

Appellants,

-vs-

MAYOR AND COUNCIL OF THE BOROUGH
OF MAYWOOD,

Respondent.

ON APPEAL

CONCLUSIONS AND ORDER

Case #2-
CORNELIUS and IDA BOWENS,
t/a HOLLAND HOUSE,

Appellants,

-vs-

MAYOR AND COUNCIL OF THE
BOROUGH OF MAYWOOD,

Respondent.

Leo J. Berg, Esq., Attorney for Appellants.
Betsch & Fitzpatrick, Esqs., by Raymond G. Betsch, Esq.,
Attorneys for Respondent.

BY THE DIRECTOR:

In Case #1 appellants appealed from the action of respondent taken on June 17, 1952, whereby respondent denied their application for a transfer of the plenary retail consumption license they then held from 105 Grove Avenue to 219-221-223 Maywood Avenue, Maywood.

While the above appeal was pending and undetermined, appellants renewed their license for the present licensing year for the premises at 105 Grove Avenue, and thereafter applied to respondent for a transfer of their renewed license from said premises to 219-221-223 Maywood Avenue. On September 2, 1952, respondent denied said application. Thereafter appellants appealed from the denial in Case #2 herein.

Appellants allege that the action of respondent in each case constituted an abuse of its discretionary power and was against public interest.

At a hearing held on September 15, 1952, it was stipulated that the testimony taken at that time should apply to both of the above cases.

The resolution denying the original application on June 17, 1952 sets forth that the application was denied, among other reasons, because in substance: (a) there is a hazard of a high speed railroad in the immediate vicinity of the proposed premises; (b) Maywood Avenue is a narrow street which in itself constitutes a traffic hazard; (c) there is no demand whatsoever that has come to respondent's attention for such an establishment in that neighborhood; and (d) there is great opposition to the proposed transfer by citizens

who have signed petitions, written letters, and appeared at the hearing.

It was stipulated that the decision and reasons for decision as given by respondent at its meeting on September 2, 1952, shall be considered to be identically the same as the decision and reasons given by it at its meeting on June 17, 1952.

The evidence adduced at the hearing before the Division discloses that the premises to which appellants seek to transfer their license (approximately one-half mile from the premises at 105 Grove Avenue and in a different section of the Borough) consist of a store at 219 Maywood Avenue and the cellars (to be used for storage purposes) under adjoining stores at 221 and 223 Maywood Avenue. These stores are part of a row of stores located in a small business zone on the westerly side of Maywood Avenue between the Maywood railroad station and Hunter Avenue. The railroad has installed automatic gates at the Maywood Avenue railroad crossing. There is a package liquor store on Maywood Avenue near the railroad station, but the nearest premises for which a plenary retail consumption license has been issued are located six or seven blocks from this section of the Borough. Maywood Avenue, a heavily-traveled thoroughfare, has a width of thirty feet. Hunter Avenue is a dead-end street. The Peerless Fire Engine Company is located on Hunter Avenue and, hence, in responding to an alarm its apparatus must come to Maywood Avenue and turn either right or left. The surrounding area is residential in character except that there are three large factories located between three hundred feet and five hundred feet from the premises in question.

At the hearing Councilman Becker, who has served for twenty-four years and is now President of the Council, testified that the transfer was denied on June 17, 1952, substantially for the reasons set forth in the resolution and for additional reasons (inadequate parking facilities and children passing the premises).

Councilman Rellihen testified that his reasons for denying the transfer were substantially the same, but he emphasized particularly the danger of interference with the fire apparatus.

Councilman Bratt testified that he was unable to attend either meeting mentioned herein but that, if he had been present, he would have voted to deny the transfer for the same reasons given by Councilman Becker.

Five persons resident in the neighborhood of the proposed premises testified at the hearing, in opposition to the license transfer, that there is no public need for a license at the location sought. Eight other persons who reside in the neighborhood appeared at the hearing, in similar opposition, and had their names recorded for purposes of such opposition. One of the eight is the owner of a plenary retail distribution license located near appellants' proposed premises. Moreover, it appears that petitions and letters objecting to the transfer were considered by respondent at its meeting on June 17. The letters included one from the Maywood Chemical Works, which is one of the large factories located nearby.

On behalf of appellant, only Cornelius Bowens (one of the licensees), Joseph Dunkerley (owner of the premises in question) and his father-in-law testified that there is need for a licensed place, where meals will be served, at the Maywood Avenue premises.

It is fundamental that the transfer of a license is not a right inherent in the license. It is, rather, a privilege which the issuing authority may grant or deny in the exercise of its sound

discretion. See Biscamp v. Teaneck, 5 N. J. Super. 172. If a place-to-place transfer is denied on reasonable grounds the action will be affirmed. VanSchoick v. Howell, Bulletin 120, Item 6.

The mere fact that premises are located on a street containing other stores and zoned for business does not require the issuing authority to grant a transfer thereto. See Burack v. Livingston, Bulletin 330, Item 1. An issuing authority may properly consider the character of the neighborhood and the public sentiment of the residents therein. Norton v. Camden, Bulletin 97, Item 9. The question as to the possible creation of a traffic hazard may properly be considered, Freed v. Wayne, Bulletin 892, Item 7, as may also the question of possible interference with fire apparatus, Basil v. Ramsey, Bulletin 770, Item 12.

After considering all the evidence I conclude that appellants have failed to sustain the burden of proof to establish that the action of the issuing authority in either case was erroneous. Rule 6 of State Regulations No. 15.

Accordingly, it is, on this 7th day of January, 1953,

ORDERED that the action of respondent in both cases be and the same is hereby affirmed, and the appeals herein be and the same are hereby dismissed.

DOMINIC A. CAVICCHIA
Director.

2. APPELLATE DECISIONS - OCEAN COUNTY TAVERN ASSOCIATION v. BEACH HAVEN AND BEACH HAVEN YACHT CLUB.

OCEAN COUNTY TAVERN ASSOCIATION,)
a corporation of the State of)
New Jersey,)
Appellant,)

-vs-

BOROUGH COUNCIL OF THE BOROUGH)
OF BEACH HAVEN, and BEACH HAVEN)
YACHT CLUB,)
Respondents.)

ON APPEAL
CONCLUSIONS AND ORDER

Robert J. Novins, Esq., Attorney for Appellant.
Berry, Whitson & Berry, Esqs., by Franklin H. Berry, Esq.,
Attorneys for Respondent Borough Council.
William B. Knight, Esq., Attorney for Respondent Beach Haven
Yacht Club.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Borough Council in granting a club license to respondent Beach Haven Yacht Club,

Appellant advances as reasons for the reversal of the respondent Borough Council's action that:

- "(A) The original Beach Haven Yacht Club, organized in 1886, conveyed by its members their entire interest in the Yacht Club to the present owners in 1952. It is alleged that the present owners of the Yacht Club are operating and will operate the same as a commercial enterprise for pecuniary profit and benefit and not in the true meaning of an association not for pecuniary profit and would, therefore, not be entitled to hold a Club License.

- "(B) There are sufficient taverns within the immediate vicinity of the Respondent's premises to adequately care for the needs of the community.
- "(C) It would be against the best interests of the public for another license of any type to be granted where there are sufficient licenses available to more than take care of all of the needs of the public.
- "(D) The method of purchase, the surrounding commercial enterprise engaged in by the present owners indicate that the premises may be operated as a public tavern, which would be in violation of the rules and regulations governing the issuance of a Club License for such premises."

In its answer respondent Borough Council alleges that respondent Beach Haven Yacht Club is a club and is not a commercial enterprise; that the Club has been in existence and in exclusive possession of its premises for more than three years immediately prior to the filing of its application, and that the issuance of the license was not contrary to the public interest.

Two members of the respondent Borough Council voted in favor of granting the license to respondent Beach Haven Yacht Club. The third member thereof, by reason of being the holder of a liquor license in the Borough, disqualified himself from participating in any manner whatsoever in the proceedings.

The respondent Beach Haven Yacht Club, hereinafter referred to as the Club, was incorporated in 1884. The objects for which the Club was formed, according to the certificate of incorporation, were "... the mental and physical improvement of their members by the maintenance (sic) of boat houses, wharfs, boats and yachts and the encouragement and promotion of the science of seamanship and navigation and such other objects appropriate to the purpose for which they are organized."

Appellant contends, among other things, that the respondent Club is now operated for commercial gain and, therefore, ceased to operate as a Club not for pecuniary profit. Appellant produced one Gustave Tueckmantel, Jr. as a witness to substantiate its contention. Gustave Tueckmantel, Jr. and George Tueckmantel are holders of a plenary retail consumption license issued by the respondent Borough Council for the front part of the building wherein the Club has its quarters. Gustave Tueckmantel, Jr. testified that he and Herman Fred Grunninger (to whom he referred as "Mr. Herman") conferred on divers occasions over a period of time with reference to extending the Tueckmantel license to cover the Club premises. Nothing, however, was accomplished as a result of the conferences which took place. He further testified that during these conferences Herman Fred Grunninger indicated to him that he was the president of the Club, and, in addition thereto, the owner thereof. He was cross-examined at length by the attorney for the respondent Club concerning the purposes for which the Yacht Club was formed; whether he knew the names of the officers of the Club or the present members and whether he had knowledge of the purpose for which the Club was formed. The witness admitted that he knew nothing whatsoever concerning the officers, members, or the affairs of the Club. He further testified that Herman Fred Grunninger was the only person who spoke to him relative to the Club plans.

Charles E. Moffett, Jr. testified that he is the secretary of the Beach Haven Yacht Club and has held that office during the past four years; that some time ago the building where the Club quarters are located was sold by the Club to the J. & H. Construction Company, a corporation; that the money received from the sale of the property

was distributed to the holders of certificates of indebtedness when surrendered by them; that the second floor and one room on the first floor was leased by the new owner to the Club; that the said Club maintains a bank account in its name where monies received by the Club are deposited and checks are drawn thereon for payment of various Club bills and expenses; that the Club holds regular and special meetings of the board of trustees and that the secretary keeps official minutes of all business transacted; that persons proposed for membership are passed upon by a membership committee; that the officers, in addition to the members of the board of trustees and the secretary, are a commodore, a vice-commodore, and a treasurer. Charles E. Moffett, Jr. further testified that Herman Fred Grunninger holds no office but is the steward of the Club which has a membership of 166 persons, 60 of whom own private boats.

It appears from the undisputed testimony that Herman Fred Grunninger is the secretary of the J. & H. Construction Company, the owner of the Club premises, as well as the steward of the Club. For acting in the latter capacity, Herman Fred Grunninger receives a specified salary from the Club. It further appears from the undisputed evidence presented herein that the Tueckmantel liquor license has received the approval of the respondent Borough Council for a place-to-place transfer to premises on the opposite corner of the street from where it is now located, when said premises, now under construction, are completed.

There is testimony to the effect that, in addition to the Tueckmantel license, there are two other taverns within two blocks of the Club premises.

The testimony of Gustave Tueckmantel, Jr. carries little weight, the greater part thereof being pure hearsay. The operation of the Club, as described by Charles E. Moffett, Jr., called as a witness for both the appellant and the respondent Club, appears to be regular and legal in all respects. The fact, standing alone, that the steward of the Club is an officer of the corporation which owns the building wherein the Club is located is insufficient to warrant the conclusion that the Club is acting as a front for the J. & H. Construction Company. As the late Commissioner Burnett stated in Sobocienski et al. v. Newark et al., Bulletin 309, Item 2:

"While recognizing that considerable latitude should be given to appellants in seeking to support their charge of a 'front' situation, which here is essentially one of fraud, I can sustain that charge only on the basis of clear, cogent and convincing evidence. Summerill v. Summerill, 83 N. J. Eq. 3 (Ch. 1914), aff'd Id. 350 (E. & A. 1914); Firemen's Fund Ins. Co. v. Nicholson, 103 N. J. Eq. 32 (Ch. 1928), aff'd Id. 375 (E. & A. 1928); Newark Live Poultry Co. v. Fauer, 118 N. J. L. 556 (Sup. Ct. 1937), aff'd 120 N. J. L. 187 (E. & A. 1938)."

A careful examination of the transcript of the instant proceedings indicates that no such evidence appears.

The contention that there are sufficient outlets in the neighborhood adequately to supply the needs of the people living in the immediate vicinity would carry weight if the application were for a consumption or distribution license. The object of a club license, however, is not to supply the needs of the neighborhood. The holder of such a license cannot lawfully sell alcoholic beverages to the general public but must confine such sales to bona fide members and their bona fide guests. The stated objection carries no weight so far as a club license is concerned. Re Irish American Association of Kearny, N. J. v. Kearny, Bulletin 293, Item 11; Re Branch 13, American Federation of Hosiery Workers, Bulletin 523, Item 5; Re Indian Lake Community Club, Inc., Bulletin 845, Item 8.

There is no evidence that any member of the local issuing authority was improperly motivated.

Upon the evidence adduced herein, I conclude that appellant has failed to sustain the burden of proof to show that respondent Borough Council abused its discretionary power in granting the within club license. Hence, the action of the respondent Borough Council will be affirmed.

Accordingly, it is, on this 14th day of January, 1953,

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

DOMINIC A. CAVICCHIA
Director.

3. NOTICE - HEREIN OF APPLICATION FORMS FOR RETAIL LICENSES FOR THE LICENSE YEAR 1953-54.

N O T I C E

TO ALL MUNICIPAL ISSUING AUTHORITIES:

No changes are contemplated in the application forms for retail licenses for the next fiscal year beginning July 1, 1953.

The form of application for municipal retail licenses and for Club licenses may be found in Bulletin 893, Items 2 and 3 respectively. The license certificate forms as prescribed in Items 4, 5, 6, 7 and 8 in Bulletin 833 will continue in effect except, of course, for the necessary changes in expiration date.

At this time I again wish to point out to all license issuing authorities the extreme importance in requiring that applicants answer all questions fully and completely. Under no circumstances should an application be passed upon unless each question is answered fully and completely.

I urge that all license issuing authorities take immediate steps to obtain a sufficient supply of application forms and license certificates at the earliest possible moment so that they will be available when the time comes for the renewal of licenses for the next fiscal year. When ordering your supply of application forms bear in mind, with respect to the quantity necessary, that retail licensees must be furnished with an additional copy in order to comply with Rule 16 of Regulations No. 20 which requires that a photostatic or true copy of the application be kept on the licensed premises available for inspection.

DOMINIC A. CAVICCHIA
Director.

Dated: January 14, 1953.

4. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1952 TO DECEMBER 31, 1952

	1st Quarter		2d Quarter		Total
	July, Aug., Sept.	Oct., Nov., Dec.	Oct., Nov., Dec.	July, Aug., Sept.	
ARRESTS:					
Total number of persons arrested	77	55			132
Licensees and employees	30	25			55
Bootleggers	45	32			77
ABC agent impersonators	2	0			2
SEIZURES:					
Motor vehicles - cars	8	5			13
- trucks	2	1			3
Still - over 50 gallons	4	2			6
- 50 gallons or under	16	10			26
Alcohol	0	485.00			485.00
Mash - gallons	37,528.10	47,343.00			84,871.10
Distilled alcoholic beverages - gallons	137.23	89.69			226.92
Wine - gallons	27.53	207.57			235.10
Brewed malt alcoholic beverages - gallons	89.61	50.65			140.26
RETAIL LICENSEES:					
Premises inspected	2,597	2,896			5,493
Premises where alcoholic beverages were gauged	2,248	2,662			4,910
Bottles gauged	39,753	47,158			86,911
Premises where violations were found	283	271			551
Violations found	377	363			740
Type of violations found:					
Unqualified employees	164	131			295
Disposal permit necessary	28	24			52
Reg. #38 sign not posted	6	26			32
Other mercantile business	17	3			20
Prohibited signs	3	16			19
Probable fronts	3	6			9
Gambling devices	1	5			6
Other violations	155	148			303
Mislabeled beer taps	0	4			4
STATE LICENSEES:					
Premises inspected	46	69			115
License applications investigated	31	22			53
COMPLAINTS:					
Complaints assigned for investigation	1,349	1,156			2,505
Investigations completed	1,231	1,163			2,394
Investigations pending	(163)	93			93
LABORATORY:					
Analyses made	364	271			635
Refills (from licensed premises) - bottles	9	2			11
Bottles from unlicensed premises	69	54			123
IDENTIFICATION BUREAU:					
Criminal fingerprint identifications made	84	59			143
Persons fingerprinted for non-criminal purposes	918	604			1,522
Identification contacts made w/other enforcement agencies	760	510			1,270
Motor vehicle identifications via N.J.State Police teletype	23	9			32
DISCIPLINARY PROCEEDINGS:					
Cases transmitted to municipalities	52	35			87
Violations involved:					
Sale to minors	20	17			37
Sale during prohibited hours	19	10			29
Permitting females at the bar	6	1			7
Sale to non-members by clubs	3	1			4
Permitting lottery activity (raffle, 50-50 club) on premises	2	2			4
Permitting immoral activity on premises	2	0			2
Permitting gambling (wagers, cards) on premises	1	1			2
Failure to afford view into premises during prohibited hours	1	1			2
Permitting females to tend bar	1	0			1
Sale on credit by retail licensee	1	1			2
Possessing chilled beer (DL licensee)	0	1			1
Sale of less than 72 fluid oz. of beer (DL licensee)	0	2			2
Permitting brawls on premises	0	1			1
Permitting bookmaking on premises	0	1			1
Permitting hostesses on premises	0	1			1
Sale to intoxicated persons	0	1			1
Permitting minor to tend bar	0	1			1
Bartender working while drunk	0	1			1

DISCIPLINARY PROCEEDINGS (Cont'd)

	1st Quarter	2d Quarter	Total
	July, Aug., Sept.	Oct., Nov., Dec.	
Cases instituted at Division	46*	44	90
Violations involved:			
Sale to minors	20	10	30
Sale during prohibited hours	7	8	15
Permitting immoral activity on premises	6	7	13
Fraud and front	2	5	7
Possessing illicit liquor	4	2	6
Hindering investigation	4	2	6
Sale beyond scope of license	2	2	4
Sale to intoxicated persons	1	3	4
Mislabeling beer taps	0	4	4
Unauthorized transportation	2	1	3
Permitting hostesses on premises	2	1	3
Permitting prostitutes on premises	0	3	3
Permitting foul language on premises	0	3	3
Sale below minimum resale price	2	0	2
Failure to afford view into premises during prohibited hours	2	0	2
Employing unqualified persons	1	1	2
Possessing contraceptives on premises	1	1	2
Permitting lottery activity on premises	1	1	2
Permitting slot machines on premises	0	2	2
Permitting bookmaking on premises	0	2	2
Purchase from improper source	0	2	2
Sale on election day	0	2	2
Licensee working while drunk	1	0	1
Aiding and abetting sale during prohibited hours	1	0	1
Delivery without bona fide invoice	1	0	1
Retailer soliciting house-to-house	1	0	1
Permitting pinball machines on premises	1	0	1
Permitting females at bar	1	0	1
Conducting business as a nuisance	1	0	1
Wholesaler accepting ordinary checks from retailer in default	1	0	1
Permitting gambling (dice) on premises	0	1	1

*Includes one cancellation proceeding for conduct of other mercantile business on consumption licensed premises

Cases brought by municipalities on own initiative and reported	14	47	61
Violations involved:			
Sale to minors	6	23	29
Sale during prohibited hours	6	6	12
Permitting brawls on premises	0	11	11
Permitting bookmaking on premises	2	4	6
Permitting lottery activity on premises	0	2	2
Sale to intoxicated persons	2	0	2
Fraud and front	0	1	1
Employing unqualified persons	0	1	1
Permitting persons of illi repute on premises	0	1	1
Conducting business as a nuisance	0	1	1
Permitting gambling (cards) on premises	0	1	1
Permitting immoral activity on premises	0	1	1
HEARINGS HELD AT DIVISION:			
Total number of hearings held	88	101	189
Appeals	9	9	18
Disciplinary proceedings	46	41	87
Eligibility	22	25	47
Seizures	6	20	26
Applications for license	5	0	5
Tax revocations	0	6	6
PERMITS ISSUED:			
Total number of permits issued	7,439	3,827	11,266
Employment	2,378	484	2,862
Solicitors	2,980	178	3,158
Disposal of alcoholic beverages	225	346	571
Social affairs	1,102	1,029	2,131
Special wine	175	1,275	1,450
Miscellaneous	579	515	1,094

DOMINIC A. CAVICCHIA
Director.

Dated: January 12, 1953.

5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS AND FAILING TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MICHAEL FEDORCIK)
341 Johnston Avenue)
Jersey City 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-448, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Michael Fedorcik, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) he conducted his licensed business before 1:00 p.m. on Sunday and (2) suffered and permitted persons other than himself and his actual employees and agents in and upon his licensed premises during prohibited hours, both in violation of local regulations.

The file discloses that, at approximately 10:30 a.m., on Sunday, November 2, 1952, two ABC agents arrived in the vicinity of defendant's licensed premises and placed the premises under observation. They observed a number of people enter and leave through a side door of the building in which the licensed premises are located. At approximately 11:45 a.m., one of the agents entered this door which leads into a hallway, from whence he entered the barroom of the licensed premises through a door connecting the barroom with the hallway. The second agent also entered the barroom via the same route. There were approximately sixteen male patrons at the bar drinking beer or whiskey. Each of the agents ordered and was served a glass of beer, for which he paid ten cents to the bartender who, from time to time, received orders from the licensee who was standing in the rear of the barroom. When the agents identified themselves to the licensee he declined to make a written statement but orally admitted that the licensed premises were open and that he had been selling alcoholic beverages during prohibited hours on that morning.

The defendant has no prior adjudicated record. I shall suspend his license for fifteen days. Re Lei Club, A Corp., Bulletin 946, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 29th day of December, 1952,

ORDERED that Plenary Retail Consumption License C-448, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Michael Fedorcik, 341 Johnston Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m., January 5, 1953, and terminating at 2:00 a.m. January 15, 1953.

DOMINIC A. CAVICCHIA
Director.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY RETAILER TO ANOTHER RETAILER IN VIOLATION OF RULE 15 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JACOB H. KILL)
T/a MOUNTAIN INN)
Greenwood Lake Road)
Ringwood, P.O. Wanaque, RFD, N.J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Ringwood.)

-----)
Jacob H. Kill, Pro Se.)
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.)

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold alcoholic beverages to another retailer, in violation of Rule 15 of State Regulations No. 20.

The file discloses that, on the night of Monday, October 13, 1952, a bartender employed by another retailer informed defendant that the supply of beer at his employer's tavern had been exhausted and asked defendant for the "loan" of a half barrel of beer. When defendant assented to this arrangement the aforementioned bartender took a half barrel of beer from defendant's licensed premises and transported it to the licensed premises of his employer. Defendant accepted \$12.75 in payment for the beer. Both defendant and the bartender gave written statements admitting the sale, which constitutes a violation of Rule 15 of State Regulations No. 20.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Reynolds, Bulletin 877, Item 4.

Accordingly, it is, on this 29th day of December, 1952,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Ringwood to Jacob H. Kill, t/a Mountain Inn, for premises on Greenwood Lake Road, Ringwood, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. January 5, 1953, and terminating at 3:00 a.m. January 15, 1953.

DOMINIC A. CAVICCHIA
Director.

7. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HARRY KAISER)
T/a KAISER'S BAR)
321 VanHorne Street)
Jersey City 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-43, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Harry Kaiser, Defendant-licensee, Pro Se.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, after 10:00 p.m., on a weekday, a 1-pint bottle of whiskey in its original container for consumption off the licensed premises, in violation of Rule 1 of State Regulations No. 38.

The file discloses that two ABC agents visited the licensed premises at approximately 11:30 p.m. on Saturday, December 13, 1952. Between 11:45 p.m. and 11:55 p.m., they observed the licensee make three separate sales of beer and whiskey in original containers for off-premises consumption. At approximately 11:55 p.m., one of the agents ordered from the licensee a pint bottle of Calvert Reserve Blended whiskey "to take home". The licensee put a pint bottle of that brand of whiskey in a paper bag and placed it on the bar in front of the agent who paid the licensee \$3.00 therefor. The agent picked up the bag containing the whiskey and, with his companion, went to the door of the licensed premises as though leaving. However, both agents immediately returned to the bar and identified themselves to the licensee who verbally admitted making the sale but refused to give a written statement.

Defendant has no prior adjudicated record. I shall impose the minimum penalty for violations of this type -- fifteen days. Re Cohen, Bulletin 945, Item 14. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 5th day of January, 1953,

ORDERED that Plenary Retail Consumption License C-43, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Harry Kaiser, t/a Kaiser's Bar, 321 VanHorne Street, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. January 12, 1953, and terminating at 2:00 a.m. January 22, 1953.

DOMINIC A. CAVICCHIA
Director.

8. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MAPLEWOOD COUNTRY CLUB)
28 Baker Street)
Maplewood, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-58, issued by the Director of the Division of Alcoholic Beverage Control.)

-----)
Stanley L. Gedney, Jr., Esq., Attorney for Defendant-licensee.)
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.)

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On or about November 12, 1952 and prior thereto you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages for consumption off your licensed premises; in violation of Rule 9 of State Regulations No. 7."

Rule 9 of State Regulations No. 7 provides:

"No club licensee shall sell, serve or deliver, or allow, permit or suffer the sale, service or delivery of any alcoholic beverage except for consumption on the licensed premises."

The file herein discloses that, during the course of an investigation by ABC agents, James Heath, a bartender employed by defendant, admitted to the agents that "some time after the past Election Day" he sold a case of fifths of Park and Tilford Private Stock Blend of Straight Whiskies to a member of the club for off-premises consumption. Maurice Mark, General Manager of defendant club, stated to the agents that it was not a general practice to sell liquor to members for consumption off the licensed premises, but that it had been done about a dozen times in the past year-and-a-half. It further appears from the file that the Board of Governors of Maplewood Country Club has recently instructed the proper officers of the club to give orders to the manager that hereafter liquor is to be sold to members for consumption on the licensed premises only.

Defendant has no prior adjudicated record. Under all the circumstances, I shall suspend defendant's license for a period of fifteen days. Re Tadeusz Kosciuzko Polish American Democratic Club, Bulletin 827, Item 14. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 6th day of January, 1953,

ORDERED that Club License CB-58, issued by the Director of the Division of Alcoholic Beverage Control to Maplewood Country Club, for premises 28 Baker Street, Maplewood, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. January 12, 1953, and terminating at 2:00 a.m. January 22, 1953.

DOMINIC A. CAVICCHIA
Director.

9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN J. WATTERS)
1 Lincoln Street)
Paterson 2, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-68, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

Vincent A. Perneti, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On Wednesday, November 5, 1952, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of an alcoholic beverage, directly or indirectly, at your licensed premises to George ---, a person under the age of twenty-one (21) years; in violation of Rule 1 of State Regulations No. 20."

The file herein discloses that, during the course of an investigation, George ---, 18 years of age, gave to ABC agents a statement wherein he said that he entered defendant's licensed premises on Wednesday, November 5, 1952, at about 8:00 p.m., and purchased from defendant a bottle of wine for the sum of 85¢. Subsequently the agents accompanied the minor to defendant's premises, and the minor identified the licensee as the person who had sold the wine to him. The licensee admitted to the agents that he had been tending bar on the evening of November 5, but stated that he did not recall seeing the minor in his place of business.

Defendant has no prior record. In attempted mitigation defendant alleges that the minor appears to be over the age of twenty-one years. His contention is not supported by the report of the ABC agents. In any event, it does not appear that the minor falsely represented in writing that he was twenty-one years of age or over and, hence, defendant has not established a valid defense to the charge herein under the provisions of R. S. 33:1-77. I shall suspend defendant's license for a period of ten days, which is the minimum period of suspension imposed in a case of this kind. Re Rosenblit, Bulletin 950, Item 7. Five days will be remitted for the plea, leaving a net suspension of five days.

Accordingly, it is, on this 29th day of December, 1952,

ORDERED that Plenary Retail Consumption License C-68, issued by the Board of Alcoholic Beverage Control for the City of Paterson to John J. Watters, for premises 1 Lincoln Street, Paterson, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. January 5, 1953, and terminating at 3:00 a.m. January 10, 1953.

DOMINIC A. CAVICCHIA
Director.

10. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - LICENSE
SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

CHARLES A. GRAHAM)
T/a BARNEGAT TAVERN)
State Highway Route #4)
Union Township (Ocean County))
P.O. Barnegat, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-4, issued by the)
Township Committee of the Township)
of Union (Ocean County).)

Charles A. Graham, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he pos-
sessed a mislabeled beer tap on his licensed premises, in violation
of Rule 26 of State Regulations No. 20.

During the course of a routine inspection of defendant's
licensed premises on November 18, 1952, an agent of the State Divi-
sion of Alcoholic Beverage Control found a beer tap labeled
"Ballantine" connected with a barrel of Schmidt's beer.

Defendant has no prior adjudicated record. I shall suspend the
license for three days (the minimum period heretofore imposed in such
cases). One day will be remitted for the plea entered herein, leav-
ing a net suspension of two days. Re Czaplicki, Bulletin 922,
Item 7.

Accordingly, it is, on this 29th day of December, 1952,

ORDERED that Plenary Retail Consumption License C-4, issued by
the Township Committee of the Township of Union (Ocean County) to
Charles A. Graham, t/a Barnegat Tavern, State Highway Route #4,
Union Township (Ocean County), be and the same is hereby suspended
for a period of two (2) days, commencing at 2:00 a.m. January 5,
1953, and terminating at 2:00 a.m. January 7, 1953.

DOMINIC A. CAVICCHIA
Director.

11. DISQUALIFICATION - APPLICANT HAS NO REGARD FOR TRUTH OR VERACITY - APPLICATION TO LIFT DENIED.

MORAL TURPITUDE - BLACKMAIL.

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

CONCLUSIONS
AND ORDER

Case No. 1016.)
- - - - -)

BY THE DIRECTOR:

Petitioner has filed a petition to remove any disqualification that may exist because of his criminal record. R. S. 33:1-31.2.

Petitioner, an alien, set forth in his application for an employment permit that, as a result of a conviction for nonsupport, he was sentenced to serve six months in a penal institution. Upon the facts set forth in his application, an employment permit was issued to him. Petitioner's criminal records received at this Division disclose that, in addition to the conviction for nonsupport, petitioner's convictions include the following: (1) September 21, 1921, assault and battery -- fine \$10.00; (2) September 22, 1921, assault and battery -- fine \$5.00; (3) November 1, 1921, larceny -- fine \$25.00; (4) November 3, 1921, larceny -- fine \$50.00; (5) January 22, 1945 -- statutory blackmail -- deferred sentence -- six months' probation. Furthermore, the record shows that on January 28, 1948, petitioner was apprehended by the United States Immigration and Naturalization Service for deportation. There appears to be no final disposition of this matter to date. On November 12, 1952, petitioner's employment permit was cancelled because of the false answer in his application. Thereafter petitioner filed his pending application for relief.

An examination of the reports received at this Division pertaining to the charge of statutory blackmail, to which petitioner pleaded nolo contendere on January 22, 1945, indicates that he endeavored to extort money from a clergyman. Petitioner, an editor and publisher of a weekly newspaper, threatened to publish an article in said newspaper accusing the clergyman of a crime unless he was paid a stated sum of money. The crime of blackmail is a crime involving moral turpitude. Re Bulletin 2, Item 8. It is unnecessary at this time to determine whether the other crimes of which petitioner was convicted involve that element.

Petitioner was interrogated at the within hearing concerning his criminal convictions with especial emphasis on the blackmail charge and he asserted that he was innocent of any wrongdoing. In view of his confessional plea in the criminal proceedings, his guilt or innocence cannot be redetermined herein. Re Case No. 236, Bulletin 279, Item 2; Re Case No. 587, Bulletin 733, Item 2.

When asked at the within hearing why he failed to set forth all of his criminal convictions in the application for an employment permit, he stated, "I was afraid that it would incriminate me."

Petitioner fails to show sincere repentance for his misdeeds. It is apparent that petitioner has no regard for truth or veracity.

There is no doubt that petitioner has been convicted, in the opinion of the Director, of at least one crime involving moral turpitude. Therefore, he is ineligible to be employed on licensed premises within the purview of R. S. 33:1-25, 26.

While it is true that petitioner has not been convicted of any crime since January 22, 1945, federal proceedings to deport him are now pending. Irrespective of the outcome of the deportation

proceedings, I cannot find on the record before me that his association with the alcoholic beverage industry would not be contrary to the public interest. Failing so to find, I must deny the relief requested. R. S. 33:1-31.2.

Accordingly, it is, on this 30th day of December, 1952,

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

DOMINIC A. CAVICCHIA
Director.

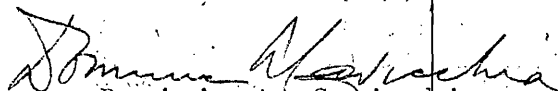
12. STATE LICENSES - NEW APPLICATIONS FILED.

Edward Gaglione
394 Harrison Ave.
Lodi, N. J.

Application filed December 17, 1952 for transfer of State Beverage Distributor's License SBD-85 from Joseph Tesei, t/a Volor Beverage Co., 278 Main St., New Milford, N. J.

Anna C. Clark, John M. Totaro, Abe Donsky, Leon J. Gerner,
Edwin Bitter & Felix Bitter, t/a James J. Clark & Co.
104-110 Harrison Ave.
Jersey City, N. J.

Application filed January 6, 1953 for transfer of Plenary Wholesale License W-42 from John M. Totaro, Abe Donsky, Leon J. Gerner, Edwin Bitter, Felix Bitter, and James J. Clark, deceased, t/a James J. Clark & Co.


Dominic A. Cavicchia
Director.