

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

BULLETIN 2027

February 2, 1972

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STATE OF NEW JERSEY
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DIVISION OF ALCOHOLIC BEVERAGE CONTROL
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February 2, 1972

1. APPELLATE DECISIONS - KADEMIAN v. FORT LEE.

Charles R. Kademian,)	
Appellant,	)	On Appeal
v.	)	CONCLUSIONS
Borough Council of the Borough	)	and
of Fort Lee,	)	ORDER
Respondent.)	
-----)		
Adams, Adubato & Tafro, Esqs.,		by Leonard J. Tafro, Esq.,
		Attorneys for Appellant
Breslin and Monahan, Esqs.,		by John A. Schepisi, Esq.,
		Attorneys for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the denial of an application for a person-to-person transfer of a plenary retail consumption license from the Northview Club Corporation to appellant and further from a denial of renewal of said license, both denials stemming from a resolution of respondent Borough Council of the Borough of Fort Lee (hereinafter Borough).

The petition of appellant alleged that the action of the Borough was erroneous and arbitrary in that it denied appellant's application because it contained incongruities; that one of the owners of the land on which the licensed premises were located is disqualified from being connected with a license; and that the Borough considered such disqualification sufficient upon which to deny the application. The Borough answered that its action was reasonable and within its lawful discretion under the circumstances.

The appeal was heard de novo with full opportunity to the parties to present evidence and cross-examine witnesses, pursuant to Rule 6 of State Regulation No. 15.

The parties stipulated that the procedural requirements for filing and notice of the application had been met and that the major incongruity of the application, i.e., that the parties constituting the major stockholders of the corporate licensee had now been overcome by the disclosure of appellant that he is the sole applicant for the license and is not connected with the licensee corporation.

The resolution adopted by the Borough and here appealed from indicated as a reason for the denial in addition to the incongruities referred to:

"Pending charges against one of the principals of the corporation owning the premises which could and in all probability would result in an undesirable clientele frequenting the premises in question and further result in the premises becoming a nuisance and a detriment to the health, safety and well being of the citizens of the Borough of Fort Lee."

The appellant testified that he is thirty-nine years of age, and resides in Dumont, New Jersey; is a sixteen year resident of New Jersey. He learned that the licensed premises, consisting of a small building within a motel compound had been reconstructed following a fire, but was not in operation. Through a friend and with the intercession of his attorney, he made an offer to purchase the premises for \$30,000, of which he was to pay \$5,000 in cash, and give the remainder in notes. His wife has a business and he had been a salesman with ample income, so they planned to put down the initial payment from their savings. His father-in-law promises to lend him sufficient money to stock the establishment. He denied knowing the principal stockholders of the corporate owners of the motel and vehemently rejected the implication that anyone beside himself, would have any interest whatever in the license. The combined monthly payment on both the notes and the rent would be \$750.

From the comments of counsel made prior, during and at end of the hearing it appeared that the appellant had not appeared before the Borough to supplement his application by personal appearance. It further appeared that the Borough officials had expected him to do so, and that he, in turn, had expected an invitation to explain his intentions. In short, this communication gap resulted in a denial of the application and the resultant appeal.

The pertinent section of the regulation applicable to transfers of license require a public hearing when a written objection has been received by the municipal issuing authority following the published notice to transfer. Rule 8 of State Regulation No. 6. However, if no objection is received, no public hearing is required. Rule 10 of the said regulation. This rule further clarifies the duty of the municipal issuing authority by adding:

"...but this in no wise relieves the issuing authority from the duty of making a thorough investigation on its own initiative."

While it is not incumbent upon a municipal issuing authority, in the absence of receipt of a written objection to hold public hearing, it is required that its determination be predicated upon a thorough investigation of the application and the facts surrounding it.

In the matter sub judice it is apparent from the comments by the Borough's attorney that the Borough was not armed with sufficient information concerning the appellant and allowed the intrusion of prejudice concerning a disqualified stockholder of the corporate landlord to influence its determination. While the efforts of the Borough to keep the licensed premises from becoming a gathering of undesirable elements were unquestionably laudable, those efforts exacted an extreme penalty against the appellant.

"Proper liquor control dictates that an issuing authority should be free within the confines of sound discretion to determine whether or not a person is fit to hold a liquor license. However, the determination of unfitness must in every case be founded upon valid and substantial grounds." Cook v. Hope, Bulletin 1610, Item 3.

The pivotal issue has been most succinctly expressed in Bivona v. Hock, 5 N.J. Super. 118, 120 (App. Div. 1949):

"It seems to us that the issue is, not whether a discretionary power has been improperly exercised, but rather whether in the exercise of the power respecting transfers R.S. 33:1-26, authority existed in the local body to refuse a transfer of a license for the reason upon which the refusal was based. Cf. South Jersey Retail Liquor Dealers Association v. Burnett, 125 N.J.L. 105 (Sup. Ct. 1940)."

There was no testimony presented nor evidence offered to indicate that the appellant was unworthy or unfit to engage in the alcoholic beverage industry and there is no factual foundation in the record to support the Borough's action. To the contrary, it is obvious that the Borough caused no investigation of the appellant to be made and relied solely upon unfounded implication that appellant would not, if the transfer was granted, operate the said premises lawfully and in full compliance with the Alcoholic Beverage Law and the rules and regulations of this Division.

"As was stated in Marsillo v. Randolph, Bulletin 1367, Item 3, the appellant is at least entitled to prove that he will sincerely and conscientiously live up to the rules and regulations (both State and municipal) governing the operation of the licensed premises." Walban Inc. v. Deal, Bulletin 1894, Item 2.

Subsequent to the denial of the application for transfer with concomitant denial of renewal, the Borough did renew the license pending the appeal to this Division on its denial of transfer; hence the appeal predicated on the denial of renewal is therefore moot, and should be dismissed.

It is concluded that the appellant has sustained the burden required under Rule 6 of State Regulation No. 15 of establishing that the action of the Borough was erroneous. It is, therefore, recommended that the action of the Borough be reversed and that it be ordered to grant the transfer according to the application.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 3rd day of January 1972,

ORDERED that the action of respondent be and the same is hereby reversed, and respondent Council be and is hereby directed to grant the transfer in accordance with the application filed therefor.

Richard C. McDonough
Director

2. APPELLATE DECISIONS - DELROZ, INC. v. WEST ORANGE.

Delroz, Inc., t/a Twins Lounge,)	
Appellant,	)	On Appeal
v.)	
	)	CONCLUSIONS
Board of Alcoholic Beverage	)	and
Control of the Town of	)	ORDER
West Orange,)	
Respondent.)	

Sisselman and Nitti, Esqs., by Nathan H. Sisselman, Esq.,		
Attorneys for Appellant		
Benjamin A. Stanziale, Esq., Attorney for Respondent		

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

On June 22, 1971 respondent (hereinafter Board) unanimously denied appellant's application for renewal of its plenary retail consumption license for the 1971-72 licensing period for premises 31-33 Harrison Avenue, West Orange. The resolution states, in its preamble, that its denial was made after a public hearing resulting from its receipt of thirty-six written objections to the renewal of the said license. It grounded its denial upon the reasons which are set forth in the resolution as follows:

- "1. Said licensee has allowed, and permitted loud, abusive, indecent and obscene language and conduct by patrons in, upon and about the licensed premises.
- 2. Said licensee has allowed and permitted excessive loud and unnecessary noises to emanate from said premises so as to endanger the public health, safety and welfare, which noise has continued despite continuous complaints to local authorities.
- 3. Said licensee has allowed and permitted various violations of the Property Maintenance Code of Town of West Orange, including garbage on grounds, refuse and debris in yard, and pursuant to the report of Samuel Belfiore dated June 14, 1971, which is part of the record of this matter.

4. Said licensee has allowed and permitted patrons of said licensee to urinate on the outside of said premises causing danger to public health, safety and welfare.
5. Said licensee has allowed and permitted such indecent and obscene language and conduct in, about and around the licensed premises, so as to cause fear to residents in the area surrounding said premises.
6. Said licensee has allowed and permitted disturbances and unnecessary noise to emanate from and around the licensed premises at unreasonable hours, so as to interfere with the peace and quiet of the neighborhood and the sleep of neighbors in the area.
7. Said licensed premises have totally inadequate parking facilities, causing excessive violations of the Motor Vehicle Ordinances and Statutes, and illegal parking, thus endangering the public health, safety and welfare, and, particularly, the health, safety and welfare of residents in the area.
8. Said licensee has allowed and permitted patrons to drink alcoholic beverages on the outside of the licensed premises, and during hours at which sale of said beverages to take outside the licensed premises is not permitted.
9. Said licensee has allowed and permitted patrons, leaving said premises at late hours, to race cars and motorcycles so as to create a nuisance to the neighbors in the surrounding area.
10. Said licensee, due to absentee or faulty management, has allowed and permitted the licensed place of business to be conducted in such manner as to become a nuisance.
11. Said licensee has allowed and permitted patrons to leave the licensed premises in inebriated, drunk and staggering conditions, and openly vomiting in and about and directly outside the licensed premises, so as to endanger the public health, safety and welfare, and so as to become a nuisance.
12. Said licensee, due to the inadequate parking facilities, has allowed and permitted patrons to park in or block driveways of neighbors in the immediate vicinity of the licensed premises.
13. Said licensee has allowed and permitted the discarding of bottles, glass and debris about the licensed premises, so as to create a nuisance.
14. Said licensee has allowed and permitted inadequate sanitary facilities, deterioration of facilities, and unsanitary utensils, thus endangering the public health, safety and welfare.
15. Said licensee has allowed and permitted brawls, acts of violence and disturbance by its patrons, so as to endanger the public health, safety and welfare."

The appellant charges the Board's action as being erroneous for reasons which may be briefly summarized as follows:

1. There are no charges pending against the appellant during the preceding licensing period nor were there violations existing at the time of its application for renewal;
2. That its denial was arbitrary and an abuse of its discretion; and
3. That a member of the Board was "directly related to a number of the objectors for renewal and should not have rendered an opinion or discuss same in caucus."

The Board in its answer denied the allegations of the appellant and stated that it will rely upon the reasons for denial set forth in the aforementioned resolution. Upon the filing of the said appeal the Director entered an order extending the term of the 1970-71 license pending the determination of this appeal and the entry of a further order herein.

This is an appeal de novo with full opportunity afforded counsel to present testimony and cross-examine witnesses. Rule 6 of State Regulation No. 15.

The central issue herein is whether the evidence justifies the Board's refusal to renew the appellant's license. Nordco, Inc. v. Newark, Bulletin 1148, Item 2; Zicherman v. Driscoll, 133 N.J.L. 586. The burden of proof in cases involving discretionary matters, where renewal of license is sought, falls upon appellant to show manifest error or clear abuse of discretion by the issuing authority. Downie v. Somerdale, 44 N.J. Super. 84; Nordco, Inc. v. State, 43 N.J. Super. 277. As the court stated in Zicherman v. Driscoll, supra: (133 N.J.L. at p.587):

"The question of a forfeiture of any property right is not involved. R.S. 33:1-26. A liquor license is a privilege. A renewal license is in the same category as an original license. There is no inherent right in a citizen to sell intoxicating liquor by retail, Crowley v. Christensen, 137 U.S. 86, and no person is entitled as a matter of law to a liquor license. Bumball v. Barnett, 115 N.J.L. 254; Paul v. Gloucester, 50 Id. 585; Voight v. Board of Excise, 59 Id. 358; Meehan v. Excise Commissioners, 73 Id. 382; affirmed, 75 Id. 557. No licensee has vested right to the renewal of a license. Whether an original license should issue or a license be renewed rests in the sound discretion of the issuing authority. Unless there has been a clear abuse of discretion this court should not interfere with the actions of the constituted authorities. Allen v. City of Paterson, 98 Id. 661; Fornarotto v. Public Utility Commissioners, 105 Id. 28. We find no such abuse. The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner. The common interest of the general public should be the general guide post in the issuing and renewing of licenses."

In its consideration of this matter, the Board was guided by the principles enunciated in Tumulty v. Dunellen et al. (App. Div. 1963), not officially reported, reprinted in Bulletin 1519, Item 1, as follows:

"The problem before [the Board], upon the application for the renewal of the license, was whether it was in the public interest that this establishment be licensed in the future. Subject to law and to the Director's right of review, a municipality has the power to set its own reasonable standards for the conduct of its licensees. We hold that Dunellen had the right to say that since these licensees permitted the things recited in the Director's 'Conclusions and Order' of June 13, 1962, they were not worthy to continue to hold their license and that it was not in the public interest that the license should be renewed." (Emphasis supplied)

Thurman J. Williams, Secretary of the Board, produced the petitions filed by the objectors to the renewal. He also produced the report of the Police Department which states in part as follows:

"There have been complaints from local residents in that area for parking violations and excessive noises. During the month of May and up to and including this date [June 11, 1971] there have been continuous inspections by the Patrol Division. During this time, 68 parking summonses were issued in the area of Harrison Avenue and the general area of the Twins Lounge."

There was also introduced into evidence a report of the Municipal Property Maintenance Inspector which includes a notice of violations. In the notice of violations the licensee is directed in part, as follows:

"Garbage on ground to be cleaned and the yard to be cleaned of all refuse and debris."

Leroy Thompson presently employed as bartender and manager by the appellant stated that he has been so employed for the past three years at these premises and has never ejected anyone from the premises because of disorderly conduct. Nor has he had occasion to seek police assistance during his tenure. He does not know of any loud or excessive noise on the premises and has not witnessed any fights among the patrons.

He also stated that he could not understand why there should be any complaints about empty beer cans being strewn on the outside of the premises since no cans were served to its patrons. He stated that when patrons got into an argument or fight he would tell them to continue it on the street. He was then asked:

"Q And would you see them carrying on out on the street after you told them to leave?"

A I'm not interested in what happens in the street."

He admitted that there is a serious parking problem because parking is now no longer permitted on the side streets; and therefore "We have no parking facilities now."

With respect to the complaints about conditions on the outside of the premises he explained that this tavern caters mostly to a black patronage and that he had problems with "little white girls" that hang around there. He has complained to the police as well as to the juvenile authorities, but apparently this condition has not been corrected.

Robert S. Weinstein, the principal officer of the corporate appellant testified that, except for several violations involving sales to minors, for which this license had been suspended several years ago, there have been no violations on these premises. He has never asked anybody to leave the premises because of loud and obscene language and, in fact, after he was warned by the Council on a prior application for renewal of this license that there were complaints of loud noise emanating from these premises, he placed a sign both on the outside and the inside of the premises enjoining patrons to desist from making loud noise or congregating on the outside of the premises.

On cross examination, he explained that the appellant does have a parking problem. The local authorities "...have been threatening us with fines and other things that I won't mention...." because of illegal parking by the patrons of this tavern.

He also admitted that when the license was renewed for the 1970-71 licensing period by a vote of three to two, he was warned about complaints made by residents of the neighborhood relating to conditions that existed both inside and outside of the tavern. He admitted that he has to sweep up the debris of cans of beer and bottles of soda every morning and that he has problems with "teenagers of throwing stuff all over the street." He believes that this problem is caused in part by a package liquor store and a meat market operating on the same block.

Several patrons testified on behalf of the appellant that they never heard any loud and abusive language or saw anyone drinking on the outside of the tavern. However, they admitted that there is a problem with white juveniles who seem to loiter outside the premises.

Samuel A. Spina, Council President of West Orange and a member of the local issuing authority, gave the following account: He resides about one block from the premises and has had occasion to observe the activities at these premises. He has also received complaints from residents about its operation.

On two occasions, he stationed himself near the tavern and made written notes of the conditions. On June 20, 1970, he made his observations from the apartment of his cousin who lives directly across the street from the tavern. He noted that the door of the tavern was open and shouting of patrons could be heard. He saw a person emerge from the tavern with a bottle of whiskey, followed immediately by another person who proceeded to a vehicle which was illegally parked.

On this occasion, he also noted that a number of people would come into the tavern, stay for a short period of time and emerge with bottles of alcoholic beverages. Some of these people arrived on motorcycles which they illegally parked in front of the tavern. During all of this time, the door of the tavern was open and he could hear the jukebox playing loudly, and patrons dancing.

He had complained to the Police Department about the conditions on numerous occasions and he voted against renewal because he felt that these premises constitute a "public nuisance". He denied that he has any prejudice against the appellant; he certainly was not opposed to the proper operation to any premises which caters primarily to black persons; however, he felt that the conditions that existed both inside and outside the premises warranted denial.

Anthony C. Longo testified as follows: He has lived at his present residence located directly across the street from these premises for the past twenty years. Since the appellant took

over the operation of these premises about four years ago, he noted that the operation was characterized by noise and disturbances which was not present prior thereto. This became increasingly annoying during the past two years and in July 1969, he complained to the local police director of illegal parking and of the noise late at night, particularly at closing time. Notwithstanding his complaints to the proper authority he found that disturbances continued, caused by patrons leaving the tavern late at night; racing of cars; "...prophylactics that were thrown in the streets and all the bottles that were found the next day near the tavern"

He again complained to the police director in February 1970, and also wrote a letter to Councilman Bonnett complaining of the conditions. Because these conditions continued unabated, he obtained signatures to a petition which he presented to the Board. Finally, he made notes of incidents on specific dates from September 1970 through May 1971, when he noted persons drunk, leaving the tavern, urinating in the streets; debris strewn in the area; some empty bottles which were thrown on his property; and, of course, illegal parking of many cars and motorcycles. He also complained of large groups of persons congregating outside the tavern.

Peter Scallia, a neighbor of the premises, who lives on the first floor of a two-family house, was principally concerned about the loud noises emanating from the tavern which frequently awakened him from sleep. He pinpointed one incident where a patron of the tavern left the tavern, came to his property and urinated in front of his window. He has also seen "...lots of drunks there." He also complained of illicit activity of patrons who leave the tavern and carry on their sexual activities in front of his house, and on the sidewalk at or near the said tavern.

Theresa Longo who has lived in this neighborhood for the past eight and a half years recited an incident where a female patron of this tavern was engaged in a cursing incident about 12:30 a.m. on April 11, 1971. The girl was "...screaming very loud...he was beating her unmercifully." The police were called and dispersed them. She also bitterly complained about the loud noise, cursing, fighting and drinking of alcoholic beverages in front of her premises.

She also complained about her loss of sleep due to excessive noise from the tavern and asserted that it has had a bad effect on her work and health. Her daughter has complained to her about the conditions outside the tavern and has told her that she is afraid to walk at or near those premises. As a result thereof, she has called the police on many occasions, but the conditions continue to exist.

Gus Marafino and Joseph Longo testified substantially in corroboration of the testimony of the previous witnesses.

Marafino insisted that the noise emanating from these premises is "Affecting my health...I find it almost impossible to get to sleep or once I wake up I can't go back to sleep". These noises occur mostly between midnight and closing time. Arguments among patrons were commonplace; also patrons could frequently urinate on the outside of the premises.

Joseph Longo added that he observed "hundreds" of instances where patrons would carry whiskey out of the tavern, drink whiskey in their cars which were double parked, and throw empty bottles in the street. Also noise "screaming and yelling" occurred at all times of the day and night, "...even Sunday

mornings". Many of these patrons leaving the premises were drunk and "staggering". The other tavern on the block had ample parking space for its patrons, and it was his opinion that the patrons of that tavern were orderly; that the complaint was only with the patrons of the subject tavern.

Several other witnesses appeared in court and it was stipulated that their testimony would be in corroboration of that already given.

From my evaluation of the entire record, it is abundantly clear that the conditions existing both inside and outside the licensed premises were such as to constitute a nuisance and a trouble spot. I have had an opportunity to observe the demeanor of the witnesses as they testified at this de novo hearing and I am persuaded that the accounts given by the Board's witnesses were credible and had a greater ring of truth than that given by the witnesses for the appellant. It is inconceivable to me that appellant's manager, and the principal stockholder could not have been aware of the complaints of conditions which continued over a long period of time. It is no answer for the manager to state that he is not interested in what happens on the outside of the premises. Licensees are responsible for conditions both in and outside the licensed premises which are caused by patrons thereof. Conte v. Princeton, Bulletin 139, Item 8; D'Ambola v. North Caldwell, Bulletin 1922, Item 1. In accord, see Lyons Farms Tavern, Inc. v. Newark et al., 55 N.J. 292 (1970), reprinted in Bulletin 1905, Item 1.

As the court stated in Nordco v. State, supra. (43 N.J. Super. at p.284):

"...It seems to us entirely proper for both the local and the state agencies, when passing on such applications, to take into account not only the conduct of the licensee, but also conditions not attributable to its conduct, which render a continuance of a tavern in a particular location against the public interest."

I am persuaded that there was substantial evidence presented on the whole record to show that there was an excessive amount of noise and disturbances emanating from within the tavern; that congregating of patrons took place at all hours of the night on the outside of the premises; that female minors were permitted to hang around the premises and mingle with patrons, many of whom were drunk when they left the premises; that the patrons used the back yards and street to urinate; that some patrons carried on illicit sexual activities outside the premises; that the loud noises during the night interfered with the sleep of neighbors; that the illegal parking caused by patrons of this tavern required constant police attention; that debris strewn in front of the tavern and nearby property was a matter of almost daily occurrence; and that there were other disturbances which disturbed the peace and quiet of the immediate area. In sum, I find that the premises were operated in such manner as to constitute a nuisance. Thus the Council properly determined that this tavern was operated as a trouble spot, which was detrimental and inimical to the best interests of the community. Nordco, Inc. v. State, supra.

In the area of licensing, as distinguished from disciplinary proceedings, the determinative consideration is the public interest in the creation or continuance of the license operation, not the fault or merit of the licensee. In the matter of licensing, the responsibility of a local issuing authority is "high", its discretion "wide" and its guide "the public interest". Lubliner v. Paterson, 33 N.J. 428, 446 (1960). A renewal license is in the same category as an original license. Zicherman v. Driscoll, supra.

Thus in this matter, entirely apart from the consideration as to appellant's culpability for the deleterious conditions which surrounded this establishment, the broad question posed before the Board on the subject application for renewal, was whether, in the light of all the surrounding circumstances and conditions, it was good for West Orange and the neighborhood involved, for this tavern to continue to exist at this particular location at all. The objective judgment of the Board was that its continuance would not serve the public interest and the immediate neighborhood.

There is no persuasive evidence to indicate any improper motivation on the part of the Board in its action, and there appears to be substantial evidence to support its determination herein. Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super. 501. The Director's function on appeal is not to substitute his personal opinion for that of the issuing authority but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal view. Tumulty v. Dunellen, Bulletin 1487, Item 4; Fiory v. Ridgewood, Bulletin 1932, Item 1, and cases therein cited. Indeed, as the court stated in Lyons Farms Tavern, Inc. v. Newark et al., *supra*:

"...Our penetrating review of all the evidence was engaged in by retreating to the fundamental issue in these cases: Did the decision of local board represent a reasonable exercise of discretion on the basis of evidence presented? If it did that ends the matter of review both by the Director and by the courts...."

See Hudson-Bergen County Retail Liquor Stores Association et al. v. Hoboken et al., 135 N.J.L. 502, 511 (1947). I have considered the other contentions raised in appellant's petition and find them lacking in merit. I conclude that appellant has failed to sustain the burden of establishing that the action of the Board was erroneous and should be reversed. Rule 6 of State Regulation No. 15.

It is, therefore, recommended that the Board's action in denying appellant's application for renewal of the license be affirmed, and the appeal herein be dismissed.

Conclusions and Order

Written exceptions to the Hearer's report, with supportive argument, were filed by appellant pursuant to Rule 14 of State Regulation No. 15. No answering argument was filed by the respondent Board.

I have carefully considered the exceptions and find that they have either been answered in the Hearer's report or are lacking in merit.

Having carefully considered the entire record herein, including the transcript of testimony, the exhibits, the Hearer's report and the exceptions filed with respect thereto, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 6th day of January 1972,

ORDERED that the action of the respondent be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that my order dated June 25, 1971, extending the term of appellant's 1970-71 license pending the determination of this appeal be and the same is hereby vacated, effective immediately.

Richard C. McDonough
Director

3. DISCIPLINARY PROCEEDINGS - POSSESSION AND SALE OF CHILLED BEER BY LIMITED RETAIL DISTRIBUTION LICENSEE - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
Nicholas Calanni	)	CONCLUSIONS
t/a Northvale Ravioli	)	and
208 Livingston Street	)	ORDER
Northvale, N. J.,)	
Holder of Limited Retail Distribution License DL-2, issued by the Borough Council of the Borough of Northvale.)	

Licensee, Pro se		
Dennis M. Brew, Appearing for Division		

BY THE DIRECTOR:

Licensee pleaded non vult to the following two charges: (1) that on November 8, 1971 he, the holder of a limited retail distribution license, possessed and permitted in his licensed premises chilled malt beverages, viz., ten (10) cans of various brands, in violation of Rule 21 of State Regulation No. 20; and (2) on divers days between July 1, 1971 and November 8, 1971, sold alcoholic beverages not pursuant to the terms of his limited retail distribution license, in violation of N.J.S. 33:1-2.

Licensee has a prior record of suspension of license by the local issuing authority for five days, effective October 7, 1963 for possessing chilled beer, in violation of the terms of his license.

The prior record of suspension for similar violation occurring within the past ten years considered, the license will be suspended on the first charge herein for fifteen days (Re Bartone & Cusimano, Bulletin 1846, Item 9), and for ten days on the second charge (Re Heide's Tavern, Inc., Bulletin 1944, Item 4) with remission of five days for the plea entered, leaving a net suspension of license for twenty days.

Accordingly, it is, on this 4th day of January 1972,

ORDERED that Limited Retail Distribution License DL-2, issued by the Borough Council of the Borough of Northvale to Nicholas Calanni, t/a Northvale Ravioli for premises 208 Livingston Street, Northvale, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Wednesday, January 19, 1972 and terminating at 2:00 a.m. Tuesday, February 8, 1972.

Richard C. McDonough
Director

4. DISCIPLINARY PROCEEDINGS - GAMBLING (LIARS POKER) - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Joseph Vitkauskis)
t/a Joe's Bar & Grill)
3103 Tremley Point Road)
Linden, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-49, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Linden.)
-----)

Licensee, Pro se
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that
on October 29, 1971 he engaged in and permitted gambling,
commonly known as "Liar's Poker", on the licensed premises in
violation of Rule 7 of State Regulation No. 20.

Absent prior record, the license will be suspended
for fifteen days, with remission of five days for the plea
entered, leaving a net suspension of ten days. Re Dunromin
Corp., Bulletin 2020, Item 10.

Accordingly, it is, on this 6th day of January 1972,

ORDERED that Plenary Retail Consumption License C-49,
issued by the Municipal Board of Alcoholic Beverage Control of
the City of Linden to Joseph Vitkauskis, t/a Joe's Bar & Grill,
for premises 3103 Tremley Point Road, Linden, be and the same
is hereby suspended for ten (10) days, commencing at 2 a.m.
Monday, January 24, 1972, and terminating at 2 a.m. Thursday,
February 3, 1972.

Richard C. McDonough,
Director.

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF
STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary)	
Proceedings against)	
Margaret Butelewicz & June Bellew	)	CONCLUSIONS
t/a Peg & June	)	and
14-16 First Street	)	ORDER
Elizabeth, N.J.,)	
Holder of Plenary Retail Consumption)	
License C-194, issued by the City)	
Council of the City of Elizabeth.)	

Licensee, Pro se		
Walter H. Cleaver, Esq., Appearing for Division		

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 12, 1971, they permitted the sale of an alcoholic beverage in its original container for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Welcome Inn (A Corp.), Bulletin 2003, Item 10.

Accordingly, it is, on this 6th day of January 1972,

ORDERED that Plenary Retail Consumption License C-194, issued by the City Council of the City of Elizabeth to Margaret Butelewicz & June Bellew, t/a Peg & June, for premises 14-16 First Street, Elizabeth, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. on Friday, January 21, 1972, and terminating at 2:00 a.m. on Monday, January 31, 1972.

Richard C. McDonough
Director

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary)
Proceedings against)
Ralph Philip DeNisco, Sr.)
t/a Ray's Place)
292 Chase Avenue)
Lyndhurst, N. J.,) CONCLUSIONS
Holder of Plenary Retail Consumption) and
License C-7, issued by the Board of) ORDER
Commissioners of the Township of)
Lyndhurst.)
- - - - -)
Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 8, 1971, he sold alcoholic beverages to three minors, ages eighteen, nineteen and twenty; in violation of Rule 1 of State Regulation No. 20.

Absent prior record the license would normally be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re The Derby, Inc., Bulletin 1724, Item 5. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$600 in lieu of suspension.

Accordingly, it is, on this 7th day of January 1972,

ORDERED that the payment of a \$600 fine by the licensee is hereby accepted in lieu of a suspension of license for fifteen (15) days.

Richard C. McDonough
Director

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

In the Matter of Disciplinary)
Proceedings against)

Edward W. Parkes, Sr. & Louise Parkes)
341 - 70th Street)
Guttenberg, N. J.,)

CONCLUSIONS
and
ORDER

Holders of Plenary Retail Distribution)
License D-4, issued by the Mayor and)
Board of Council of the Town of Guttenberg.)
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Licensee, by Edward W. Parkes, Pro se
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that
on November 13, 1971 they sold alcoholic beverages to a minor,
age 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended
for ten days, with remission of five days for the plea en-
tered, leaving a net suspension of five days. Re Forpa, Inc.,
Bulletin 2015, Item 11.

Accordingly, it is, on this 10th day of January
1972,

ORDERED that Plenary Retail Distribution License
D-4, issued by the Mayor and Board of Council of the Town of
Guttenberg to Edward W. Parkes, Sr. & Louise Parkes, for
premises 341- 70th Street, Guttenberg, be and the same is
hereby suspended for five (5) days, commencing at 3 a.m.
Monday, January 24, 1972, and terminating at 3 a.m. Saturday,
January 29, 1972.


Richard C. McDonough,
Director.