STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
25 Commerce Drive Cranford, N.J. 07016

BULLETIN 2198 September 17, 1975

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ITEM

STATE OF NEW JERSEY
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1. COURT DECISIONS - WEST ORANGE LICENSED BEVERAGE ASSOCIATION v. WEST ORANGE ET AL.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-181-74

WEST ORANGE LICENSED BEVERAGE ASSOCIATION,

Appellant,

v.

BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE TOWN OF WEST ORANGE and RICHARD L. PLOTKIN, ESQ., RECEIVER FOR RALLO'S BAR, INC.,

Respondents.

Argued: May 5, 1975 - Decided July 18, 1975.

Before Judges Michels, Morgan and Milmed.

On appeal from the Division of Alcoholic Beverage Control.

Mr. Harry P. Durkin argued the cause for the appellant.

Mr. James A. Ospenson, Assistant Town Attorney for the Town of West Orange, argued the cause for the respondent Board of Alcoholic Beverage Control of the Town of West Orange.

Mr. Richard L. Plotkin, Receiver for Rallo's Bar, Inc., argued the cause pro se.

Mr. William F. Hyland, Attorney General of New Jersey, filed a statement in lieu of brief for the Division of Alcoholic Beverage Control (Mr. Hyland, attorney; Mr. David S. Piltzer, Deputy Attorney General, of counsel).

PER CURIAM

(Appeal from the Director's decision in Re: West Orange Licensed Beverage Association v. West Orange, et al., Bulletin 2163, Item 1. Director reversed. Matter remanded to Division for further proceedings. Opinion not approved for publication by the Court Committee on Opinions).

2. APPELLATE DECISIONS - LA PUSSYCAT, INC. v. GLOUCESTER.

La Pussycat, Inc., t/a T'S Zodiac,	)	
Appellant,	)	On Appeal
v.	)	CONCLUSIONS AND ORDER
Mayor and Common Council of the City of Gloucester,	)	
Respondent.	)	

Charles, Sturm & Segal, Esqs., by Igor Sturm, Esq., Attorneys for Appellant
William E. Hughes, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the denial by respondent Mayor and Common Council of the City of Gloucester (Council) of appellant's application for a place-to-place transfer of its plenary retail consumption license so as to include a room adjoining its present licensed premises at 425 Nicholson Road, Gloucester.

In its petition of appeal, appellant alleges that the action of the Council was erroneous in that it was "arbitrary and unreasonable, and without proper grounds".

The Council, in its answer, denied the said allegations and affirmatively alleged that appellant failed to make application for a place-to-place transfer and advertise until it had ordered appellant to cease operating the additional room prior to filing an application and advertising for a place-to-place transfer. The Council further justified its action by alleging that neighbors had complained of the manner in which appellant had conducted its business by both petition and oral complaints at two consecutive monthly meetings of the Council. The neighbors alleged that the business had been conducted as a nuisance.

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

Taylor Mills, holder of all of appellant's corporate stock, testified that the liquor license was transferred to the corporate appellant three and a half years ago. Prior thereto, the premises had been closed for approximately a year, and were in a general state of disrepair.

After completing extensive repairs and remodeling, he opened the establishment for business. In the beginning, Mills tried to attract a "show type crowd", but it didn't "work out". He then installed commercial rock bands and catered to a younger crowd. That move was successful. Thereafter, he purchased an adjoining lot for parking purposes. He then purchased the plot adjoining, known as 423 Nicholson Road, on which was situated an old building. At license renewal time, the Mayor conferred with him relative to complaints received by him concerning noisy patrons in front of his premises.

Mills then planned extensive alterations. They included closing the entrance which fronted on Nicholson Road, and placing it at the rear so that patrons exiting the premises had direct access to their cars in the parking lot at the rear thereof, thereby cutting down any street noise.

Mills also planned to completely remodel the old building on 423 Nicholson Road and convert it into a room which could be used as a dining room, meeting room and a cocktail lounge. He had hoped to thereby attract the patronage of the local service clubs to the new room which he called the Chalet Room. He proposed to cater to the "old type crowd, neighborhood type crowd". He posted a dress code on the hallway wall.

He sought to join the Chalet Room to the licensed premises then in use by constructing a room which would be used as a hallway or corridor between the two buildings.

Mills stated that he showed the drawings of the proposed alteration to the Mayor and the Zoning Board. The Mayor requested the building inspector to grant his (Mills) application for the building permit. Upon the issuance thereof, he proceeded with and completed the construction in accordance with the drawings.

Mills did not apply for a place-to-place transfer of the liquor license to include the enlarged area because he was not aware that it was necessary to do so. Upon being informed by the City Clerk that he must close down the enlarged operation, he promptly complied.

Mills further testified that the alterations to the premises did not result in appellant being able to accommodate

an increased patronage. The lot upon which 150 cars may be parked is not large enough to accommodate all of the patronage.

In order to provide for more parking, Mills entered into an agreement with Walter and Dolores Sayres to purchase a plot known as lot 7A as shown on a drawing of the area (which was admitted in evidence) for the sum of $31,000.00 conditioned upon the receipt of a variance from the planning board for a parking lot.

The Planning Board denied the application for the parking lot. Shortly thereafter, Dolores Sayres threatened Mills that, if he did not purchase the property and pay more than the $31,000.00, a petition would be circulated and she would "cause me trouble with the city". To his knowledge, she carried out her threat.

Mills then moved a house from Lot 4 which adjoins his premises to a location across the street and applied for a variance to permit parking thereon, in order to provide for more off-street parking. This application was also denied. Sayres was one of the objectors to the application. Her objection was based upon the fact that there was a denial of the variance for Lot 7A.

Relative to the operation of appellant's establishment, Mills testified that, on week-ends, he has six doormen, and a guard who works outside. Prospective patrons must display valid proof of age and be properly attired. No one is allowed to carry alcoholic beverages either in or out of the premises. The parking lot is cleaned daily. At Sayres' request he erected a fence around his parking lot.

The same neighbors who objected to on-street parking also presented a petition seeking to compel Mills to have cars parked no closer to the street than 120 feet, in conformance with a newly enacted restriction. This, in effect, would have closed off almost all of appellant's off-street parking facilities. It was ruled that the enactment could not operate retroactively to affect the present use of the parking lot.

On cross examination, the witness reiterated that the addition of the Chalet Room to the premises did not increase the total capacity of the establishment. The Chalet Room accommodates sixty patrons. There was a transfer of tables from the present club to the new proposed area.

James L. Joiner, vice-chairman of the Zoning Board of the City of Gloucester, a former chairman of its liquor license committee and a member of its City Council from 1964 to 1970, testified that, in his capacity as a member of the

Zoning Board, he was requested by the Mayor to ascertain whether or not a variance would be required in connection with the plans submitted by appellant for the Chalet Room. Joiner informed the Mayor that a variance would not be required. The Mayor then instructed the building inspector to issue the building permit based on the plans as submitted.

Joiner was present and served as acting secretary at the meeting held by the Zoning Board to consider appellant's application to permit the parking of cars on a lot adjacent to its premises from which it had moved a house. At that meeting, the same individuals who complained of parking problems in the community, also voiced their objections to creating additional off-street parking. Concerning the operation of the establishment or of the present parking lot, Joiner testified that "there were no complaints there except for beer bottles and beer cans which were cleaned up the next day according to the neighbors".

Joiner had received telephone calls from individuals who complained of parking conditions in the area where appellant had not been granted a variance permitting off-street parking.

James Wilson, employed as a patrolman by the respondent City and a resident thereof, testified that when Mills acquired the licensed business, the "bar was a shambles". In the beginning, he was very apprehensive of the large influx of patrons that this operation attracted. In 1972 or 1973, neighbors complained of persons who parked to close to the intersection, of noise from patrons leaving, and of bottles thrown in the area.

He, personally, informed Mills of the complaints and ticketed cars illegally parked. The conditions leading to the complaints have been alleviated. Signs were put up limiting parking to one side of the street. Mills has large machines sweeping up the parking lot. He has a guard stationed in the parking lot.

The following testimony was then elicited from the police officer:

"Q In your opinion as a police officer is the Zodiac operation, how does that compare with other operations in town?

A As good as any in town, probably better. As far as he can physically do he can only do so much. He can't hold the patrons hand when they leave. That's probably the problem. That's why we patrol around 2 o'clock to help as much as possible. There's a parking problem.

That's why I thought when he was going to open the parking lot they would help but they woudln't let him open the parking lot."

* * *

"Q Was there a shooting and a stabbing there?

A I believe there was, last year.

Q Have you made arrests on the parking lot?

A Yes, I have.

Q Are they frequent?

A The arrests I made?

Q Yes.

A No, I have made, I think 3 arrests in the parking lot and one was a Sunday night when the bar was not even open."

John H. Ablett, Jr., who has resided in the general area of the subject situs for his entire lifetime, testified that, after appellant acquired the liquor license, he performed some repair work for the appellant including getting the parking lot ready for use.

In sum, the witness testified that he disagreed with the neighbors who criticized the establishment as being operated as a nuisance.

Howard E. Ellis, who resides diagonally across the street from the appellant's premises testified that he has been in the appellant's premises on three occasions and has spoken with Mills occasionally, because his son has done odd jobs for him. His testimony was mainly corroborrative of the testimony elicited from the previous witness.

In behalf of the Council, Ella DeVoe, who resides approximately two blocks distant from appellant's premises, testified that she spends much of her time at her father's house which is bounded on two sides by appellant's parking lot.

DeVoe and her sister circulated a petition among the neighbors against the appellant's establishment. She complained of noise, beer and whiskey bottles strewn around the parking lot and on her father's property. The conditions were particularly bad on Friday and Saturday nights. A shooting and a stabbing has occurred thereat. The trash overflows the trash container. She has seen rats scurrying about.

Patrons urinate against a stone wall on her father's property. Cars have parked on her father's property.

At first, no complaint was made to Mills. However, when the patronage kept growing, they confronted Mills relative to conditions. Mills stated that he wanted his establishment to become a night club.

DeVoe appeared at the Council meeting when the petition was presented to it. She, too, was one of the individuals who articulated objections against the operation of the establishment claiming that it was operated as a nuisance. She asserted that she was acting as spokesman for a group of persons who, likewise, objected to operation of the establishment.

The witness asserted that she stays at her father's house on Friday and Saturday nights and that

> "...whatever Mr. Mills says, this summer when this started when the young folks went in they had their wrists stamped so they could go in and out and positively did bring packages in and out with them because we watched them."

Additionally, the witness has voiced her complaints to the Council, the Mayor and to the police. She has seen intoxicated patrons and patrons swarming and fighting on the grounds. She has seen patrons ejected, fighting, from appellant's premises.

It appears from the testimony of this witness that the Mayor, who had instructed the building inspector to issue the building permit to appellant was succeeded in office by another individual. The new Mayor was in office at the time that appellant commenced operating the Chalet Room to which it now seeks to transfer its license in order to operate an enlarged liquor licensed premises.

The crucial issue to be determined is whether the Council acted reasonably and in the best interests of the community.

Preliminarily, I observe that it is a firmly established principle that a transfer of a liquor license to other premises is not an inherent or automatic right. The issuing authority may grant or deny a transfer in the exercise of reasonable discretion. If denied on reasonable grounds, such action will be affirmed. Richmon, Inc. v. Trenton, Bulletin 1560, Item 4; Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946). As the court said in Fanwood v. Rocco, 59 N.J. Super. 306, 320 (App. Div. 1960), affd. 33 N.J. 404 (1960): "No person is entitled to the transfer of a license as a matter of law" and "If the motive of the governing body is

pure, its reasons, whether based on morals, economics, or aesthetics, are immaterial."

In Fanwood, the court further articulated the principle that the Legislature has entrusted to municipal issuing authorities the initial authority in these matters and charged them with the duty to approve or disapprove place-to-place transfers. The action of the Council in either approving or denying an application for such transfer may not be reversed by the Director unless he finds "the act of the Board was clearly against the logic and effect of the presented facts". See also Hudson Bergen County Retail Liquor Stores Ass'n v. Hoboken, 135 N.J.L. 502 (E. & A. 1947).

As was stated in Ward v. Scott, 16 N.J. 16, 23 (1954):

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

In the recent case of Lyons Farms Tavern, Inc. v. Newark, 55 N.J. 292, 303 (1970), the court stated:

> "The conclusion is inescapable that if the legislative purpose is to be effectuated the Director and the courts must place much reliance upon local action. Once the municipal board has decided to grant or withold approval of a premises-enlargement application of the type involved here, its exercise of discretion ought to be accepted on review in the absence of a clear abuse or unreasonable or arbitrary exercise of its discretion. Although the Director conducts a de novo hearing in the event of an appeal, the rule has long been established that he will not and should not substitute his judgment for that of the local board or reverse the ruling if reasonable support for it can be found in the record."

Appellant alleges that the Council's action was arbitrary and unreasonable, and that appellant should be permitted to expand its premises in order to better accommodate the public.

I find that the Council was guided in its determination by the views of the residents who objected to the manner in which the establishment was conducted, specifically the increased patronage with the concomitant increased noise, parking problems, increased traffic and the other conditions hereinabove related. It is apparent that the Council weighed the equities between a licensee who sought to enlarge its premises and provide better accommodations for its patronage on the one hand, and on the other hand, the objections of the residents directed against the operation thereof. In weighing those equities, the Council determined in favor of the objectors. I find no abuse of discretion and no reason, therefore, justifying the Director to substitute his judgment for that of the Council.

Appellant has expressed a desire to cultivate the patronage of the service clubs as well as the patronage of a group older than that which he now attracts to its premises. If it should be successful, it will overcome the objections hereinabove set forth and the governing body of the municipality may favorably consider a future application for premises enlargement.

In any event the controlling principle has been stated in Fanwood, wherein the Appellate Division further articulated (at p. 323):

> "The Director may not compel a municipality to transfer licensed premises to an area in which the municipality does not want them, because more people would be able to buy liquor more easily. Such 'convenience' may in a proper case be a reason for a municipality's granting a transfer but it is rarely, if ever, a valid basis upon which the Director may compel the municipality to do so." (Emphasis added.)

In conclusion, I observe that, in matters involving transfers of liquor licenses, the responsibility of the municipal issuing authority is "high", its discretion "wide" and its guide "the public interest". Lubliner v. Paterson, 33 N.J. 428 (1960). As noted hereinabove, the Director, in these matters, is governed by the principle that where reasonable men, acting reasonably, have arrived at a determination in the issuance or transfer of a license, such determination should be sustained by the Director unless he finds that it was clearly against the logic and effect of the presented facts. Hudson Bergen County Retail Liquor Stores Ass'n v. Hoboken, supra; cf. Fanwood v. Rocco, supra; Lyons Farms Tavern v. Newark, supra.

The Council has, in my opinion, understood its full responsibility, has acted circumspectly and in the

reasonable exercise of its discretion in denying said transfer.

Absent improper motivation, not established in this matter, the action of the Council based upon such bona fide use of its discretion, must be affirmed.

Therefore, upon consideration of all of the credible evidence herein, I conclude that appellant has failed to sustain the burden of establishing that the action of the Council was erroneous and should be reversed. (Rule 6 of State Regulation No. 15.) Hence, I recommend that an order be entered affirming the action of the Council and dismissing the appeal.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's report and argument in support thereof have been filed by the appellant. No answering argument to the said exceptions were filed on behalf of the respondent. Additionally, oral argument was had before me at which the parties were represented.

The Hearer's report recommends a finding that the action of the Council be affirmed and the appeal be dismissed. In reaching that conclusion, the Hearer essentially relied upon the principles expressed in Fanwood v. Rocco, supra, and Lyons Farms Tavern, Inc. v Newark, supra, both of which were cited in the Hearer's report.

I have carefully examined the entire record herein as well as the cases cited by the Hearer in support of his recommended findings, and, as a result, I am unable to agree with the Hearer's determination and recommendations. I believe that the Hearer has misapplied both Fanwood and Lyons Farms Tavern to the factual context in the matter sub judice.

In Lyons Farms which involved an extension of premises transfer application (as here), the applicant intended to increase the capacity of its establishment by extending its premises to include a 750 square foot addition to the present building. In upholding the action of the local issuing authority, the Supreme Court held that the local Board did not act arbitrarily in denying the application; its denial was based in part on objections by persons in the locality that the enlargement of the premises would attract more business to that locality where there are private residences, a hospital and a school. In light of the incidents of crime in that locality of the City of Newark, the court there pointed out that the transfer would result in "a substantial enlargement" of the existing premises which would accommodate increased business. Noting the special situation with respect to the City of Newark, the court stated (on p. 304):

"We are living in a parlous period and applications such as this must be reviewed in the ambience of the times. It would not do to apply the same test in populous Newark as would be utilized in a rural or suburban community. Time, place and circumstances make such an approach unrealistic."

Fanwood involved an application for a place-to-place transfer of a liquor license from one area of the city to the business center of Fanwood, about a mile and a half away. This area never had a tavern or package store, and the local board desired to keep this area free of taverns and package stores. The court held that a municipal governing body may reasonably honor local sentiment by declining to license taverns or package stores in designated areas within a municipality.

In the matter sub judica there is no contention that the effect of this transfer would be to increase the patronage. The testimony indicates to the contrary, that, in fact, it will not accommodate a larger patronage. Significantly, all of the alterations that were made, were made in a spirit of cooperation with the approval of the Mayor and Council and the Zoning Board, who received the proposal of the appellant with favor, and advised the appellant that a building permit would be issued to move the entrance to the rear of the premises, and construct a new dining meeting room. The appellant proceeded with the alterations in accordance with the plans only after receiving the approval.

Nor was there community sentiment against the said transfer expressed by substantial numbers of persons in the locality, which was present in Lyons Farms (on p.306). In fact, objection was voiced by only one resident who testified, a Mrs. Ella Devoe. She complained about certain "objectionable" conditions on the outside of the premises. In addition, the apprehension was voiced, during oral argument before me, that a younger crowd would be attracted to these premises if the transfer were granted, which may result in a disorderly operation. This presumably was a primary factor which motivated the Council in its determination to deny the said application.

It is crystal clear that the factual complexes in Fanwood and Lyons Farms are inapplicable to this matter. Here, the testimony is clear and uncontroverted that the alterations to the premises would not result in the accommodation of an increased patronage as was the case in Lyons Farms. Also, unlike Fanwood which was an application for a transfer to another part of the community, this application did not involve the introduction of a new license into the area.

While the apprehension of the Council with respect to the potential for future violations is understandable, it must be assumed that the appellant will conduct the licensed business in a lawful manner and in compliance with the Alcoholic Beverage Law and the Rules and Regulations of this Division. A licensee is required to maintain order and is responsible for conditions both on the outside and inside of the premises which are caused by patrons thereof. Conti v. Princeton, Bulletin 139, Item 8.

R.B.& W. Corp. v. North Caldwell, Bulletin 1921, Item 1; Galasso v. Bloomfield, Bulletin 1387, Item 1; The Caje, Inc. v. Passaic, Bulletin 2063, Item 2; in accord, Lyons Farms Tavern, Inc. v. Newark, supra.

Thus, the appellant is pointedly advised that, in the event the licensed business is not conducted in a lawful manner, it would be subject to disciplinary proceedings and, of course, to the denial by the Council of renewal of its license for the subsequent licensing period.

Under the facts and circumstances in this case, I find that the reasons upon which the denial of this transfer were grounded are an impermissible and invalid basis for denial of the place-to-place transfer. Thus, I find that the action of the Council in denying the said application was unreasonable and an abuse of its discretion. I sustain the appellant's exception to the Hearer's recommendation that the said action be affirmed.

Therefore, upon careful consideration of the entire record herein, I conclude that the appellant has sustained its burden of establishing that the action of the Council was erroneous and should be reversed. Rule 6 of State Regulation No. 15. Hence, I shall enter an order reversing the action of the Council.

Accordingly, it is, on this 21st day of July 1975,

ORDERED that the action of the Council herein is hereby reversed; and it is further

ORDERED that the Council is hereby directed to grant appellant's application for a place-to-place transfer of its plenary retail consumption license in accordance with the application filed therefor.

Leonard D. Ronco
Director

3. STATE LICENSES - OBJECTIONS TO TRANSFER OF STATE BEVERAGE . TRANSFER APPROVED.

In the Matter of Objections to the Transfer of State Distribution License SBD-47 from)

Peter G. Tobia t/a Toby's Beverage Service 218 Port Monmouth Road Keansburg, N.J.)

to)

Lincolt Distributors, Inc. Building #7, Brookdale Shopping Center Newman Springs Road Middletown Township, P.O. Lincroft, N.J.)

CONCLUSIONS AND ORDER

Peter W. Sachs, Esq., Attorney for Applicant
Norton & Karlac, Esqs., by Peter P. Karlac, Esq., Attorneys for Lincroft Liquors, Inc., Objector

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

On April 24, 1975, Lincolt Distributors, Inc. filed an application for person-to-person and place-to-place transfer of SBD License No. 47 from Peter G. Tobia, t/a Toby's Beer and Soda to applicant, and from premises 218 Portsmouth Avenue, West Keansburg to premises, Building #7, Brookdale Shopping Center, Newman Springs Road, Lincroft, Middletown Township.

Written objections to the granting of the application for said transfer were filed and a hearing was duly held thereon.

The objections may be summarized as follows:

(a) The local ordinance prohibits transfers of plenary retail licenses to any situs within 2,000 feet of an existing licensee, and the subject transfer is within that proscribed distance; and

(b) The proposed transfer would create additional competition which would have an adverse effect on the business of the present licensees, and would compete for customers presently served by the objector.

At the hearing herein, Thomas Quattrochi, vice-president of the applicant corporation, testified that the transfer was sought to a suitable location from which its delivery trucks could service its customers. He described the new location as a store at the end of a dead-end alley which few, it any, retail customers would patronize. The business to be conducted was to continue as a delivery service of warm beer and soda, sold, in quantity, to its customers.

Joseph N. DePierro, president of Lincroft Liquors, Inc., the objector, testified that its liquor store is located in a shopping area, about six hundred feet from applicant's proposed location. He feared additional competition, and believed the ordinance limiting transfers to places beyond 2,000 feet from existing premises should be applicable to this proposed transfer.

After considering all of the testimony, I am persuaded that the objections to the approval of this application for transfer of this license have not been adequately proven; that they contain unsubstantial basis to warrant denial of the application; and I find that a sufficient need exists for the granting of the said application.

The objector's main objection to said transfer is that it might lose some business if the applicant is permitted to operate at the proposed location. This is not a valid ground for unfavorable action. In any event, I believe this fear is more fanciful than real. Cf. Re Anders, Bulletin 1548, Item 5.

The privileges conferred by a State Beverage Distributor's license are contained in N.J.S.A. 33:1-11(2)c. In essence, this license allows its holder to maintain licensed premises and warehouse at and from which he may sell and deliver only unchilled beer and ale in original containers and in quantities of not less than 144 fluid ounces, i.e., not less than a half-case containing twelve 12-ounce cans or bottles. A State Beverage Distributor licensee may sell and deliver this unchilled beer and ale both to licensed retailers and to consumers, with consumer sales and deliveries required to be made at prices which are not lower than the minimum prices filed in this office or listed in the current Minimum Consumer Resale Price Pamphlet. There may, of course, be no sale or delivery of alcoholic beverages for consumption upon the licensed premises.

Since the privileges of a State Beverage Distributor's license are State-wide, the question of public necessity and convenience cannot be determined on the narrow basis of a single municipality in which the prospective licensee would have his principal office or warehouse. Re Beer Depot, Bulletin 1312, Item 8; Re Variety Beers & Soda Distributors, Inc., Bulletin 1000, Item 6; Re Watchung Spring Water Co., Inc., Bulletin 1581, Item 6.

There is no convincing evidence to the effect that the transfer to the proposed new premises will materially increase competition. State Beverage Distributor licensees may deliver throughout the State and, as a rule, do not conduct on-premises retail business of any substance. Re Kalb, Bulletin 1457, Item 5.

I thus conclude that the objections are without merit.

Accordingly, it is recommended that the subject application be granted.

Conclusions and Order

No exceptions to the Hearer's report were filed with me.

Having carefully considered the facts and circumstances herein, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 17th day of July 1975,

ORDERED that the application for transfer of the license herein be and the same is hereby granted.

Leonard D. Ronco
Director

4. STATE LICENSES - NEW APPLICATION FILED.

Ceritano Wines, Inc.
1540 Packer Avenue
Philadelphia, Pennsylvania
Application filed September 15, 1975
for limited wholesale license.

Leonard D. Ronco
Director