

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

BULLETIN 2165

November 20, 1974

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BULLETIN 2165

November 20, 1974

1. PETITION BY CLUB FOR WAIVER OF RULES 3 and 4 OF STATE REGULATION NO. 7.

In the Matter of the Petition       )  
filed by                                       )

Commodore Club                               )  
3800 Boardwalk                               )  
Sea Isle City, N.J.,                        )

PETITION

CONCLUSIONS

and  
ORDER

Requesting the Director to                )  
Waive the Provisions of                    )  
Rules 3 and 4 of State                     )  
Regulation No. 7.                           )

-----  
Caffiero, & Balliette, Esqs., by William Marks Balliette, Jr., Esq.,  
Attorneys for Commodore Club of Sea Isle City  
Hayman & Gorelick, Esqs., by Henry Gorelick, Esqs., Attorneys for  
Northern Cape May County Tavern Owners Association

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Commodore Club, pursuant to the applicable provisions of Rule 5 of State Regulation No. 7, filed a petition with the Director for a waiver of Rules 3 and 4 of the said regulation, in August 1973.

Rule 3 provides that, except as provided in Rule 5, no license shall be issued to any club unless it has been in "active operation in New Jersey for at least three years continuously immediately prior to the submission of its application for a license."

Rule 4 provides that, except as provided in Rule 5, no license shall be issued to any club unless "it shall have been in exclusive possession and use of a clubhouse or club quarters for at least three years continuously immediately prior to the submission of its application for a license."

Rule 5, in pertinent part, reads as follows:

Nothing in Rules 3 and 4 hereof shall prevent the issuance of a club license to a bona fide club provided that special cause for such issuance is shown in writing to the Director and provided that the Director's written approval of such issuance is first obtained.

N.J.S.A. 33:1-12.5 in its relevant part, provides as follows:

Club licenses may be issued only to such corporations, associations and organizations as are operated for benevolent, charitable, fraternal, social, religious, recreational, athletic, or similar purposes, and not for private gain, and which comply with all conditions which may be imposed by the Commissioners of Alcoholic Beverage Control by rules and regulations.

Rule 1 of State Regulation No. 7 defines a "club" as "An organization, corporation or association consisting of sixty (60) or more persons operating solely for benevolent, charitable, fraternal, social, religious, recreational, athletic or similar purposes, and not for private gain."

The said rule defines a "club member":

Any individual in good standing who has been admitted to voting membership in the manner regularly prescribed by the by-laws of a club, and who maintains such membership in a bona fide manner, and whose name and address are entered on the list of members.

Rule 2 provides that club licenses shall be issued only to bona fide clubs.

Rule 6 provides that no club license shall be issued to any corporation, association or organization unless all officers and members of the governing body qualify as individual applicants in all respects except as to residence or age or citizenship.

Rule 7 provides that a list containing the names and addresses of all members of the club as of date of filing a club license application shall be submitted together with the application. The charter of articles of association of the club shall also be presented for inspection or certified copy of the same submitted with the application.

Rule 8 of State Regulation No. 7 provides that no club licensee shall sell, serve or deliver, or allow, permit or suffer the sale, service or delivery of any alcoholic beverage to any person not a bona fide member of the club or a bona fide guest of such member.

A letter opinion issued by this Division denying the application under date of August 29, 1973 contained various comments which are capsulated hereinbelow.

In its letter, the Division conceded that the documentary evidence indicated that petitioner was incorporated as a non-profit organization on April 6, 1973, to organize and maintain a club for the promotion of the physical and social welfare of its members through the ownership and operation of facilities to improve and promote the interest in sailing. (Emphasis added) Petitioner is the lessee under

under a 10-year lease commencing May 8, 1973, of 4500 square feet of space located in a condominium apartment building, known as "Spinnaker", at a yearly rental of \$15,000.00, to be used as a clubhouse and restaurant facility.

The By-Laws of the organization provide for 6 separate classes of membership; however, it is noted that each member, regardless of classification, shall be entitled to 1 vote on each matter submitted to a vote of the members (thereby assuring equal voting privileges to all members).

At the time application was made, proof was furnished that the petitioner had a membership of 153 fully paid-up members; that moneys received had been deposited in a savings escrow account; that the incorporation papers and by-laws provide that the operation and management of the organization has been placed in the control of the membership; and that the organization is precluded from operating commercially for profit, (Ref. Articles of Incorporation 10th(b))-- "The corporation shall never be operated for the purposes of carrying on a trade or business for profit."

The letter set forth that the submitted documents indicate that the petitioner meets the requirements of Rules 1, 2, 6, 7 of State Regulation No. 7.

It was then specifically noted in the letter that the above quoted statute and regulation provide that, to be eligible for a club license, the organization must be operated for benevolent, charitable, social, religious, recreational, athletic or similar purposes, and not for private gain.

It follows that the State Director, in dealing with requests for waiver of the 3 year requirements of Rules 3 and 4 of State Regulation No. 7, must be satisfied, in granting the waiver that petitioner is operating for one or more of the enumerated purposes, and is not operating merely in furtherance of or as an adjunct to a commercial enterprise.

Concern was expressed by the Division relative to the organizational set-up with respect to membership. Membership is open to anyone interested in sailing and also to "all those persons who own apartments in the Spinnaker Condominium". Since ownership of an apartment in the condominium can not logically be equated with an interest in sailing, this class of membership obviously must be classified as suspect.

There appeared to be a lack of physical facilities and equipment to improve or promote interest in sailing. The submitted documents failed to indicate any rented space wherein sailing facilities would be available to members of the petitioner organization, or, more importantly was there evidence of any intent to operate such a sailing facility. Obviously, dual membership in a nearby private Yacht Club and the petitioner organization could not be considered sufficient sailing facilities, under exclusive control and possession of the petitioner organization to satisfy the regulatory requirement.

The sizeable financial investment in restaurant and bar equipment to be utilized in the club quarters, when viewed in conjunction with the relatively small paid-up membership, as hereinabove noted, gives rise to a suspicion that the membership and their bona fide guests utilizing the club facilities will not generate sufficient income to meet its obligations. Such operation would be violative of Rule 8 of State Regulation No. 7 and N.J.S.A. 33:1-11(5).

Furthermore, the lease contained a provision (paragraph 13) requiring the club to join the Merchant's Association and to participate in its promotions. It was concluded that participation in the usual type of Merchant's Association promotional programs might result in violation of pertinent Division Rules and Regulations.

Thereafter, the petitioning club filed various proofs and documents as amendments or supplements to the original documents submitted in August 1973.

In consequence of a letter received by this Division on August 15, 1973 from Henry Gorelick, as attorney for several objectors, a hearing on the said petition was held in the Division on June 17, 1974.

At the hearing several exhibits were received in evidence and oral testimony was taken.

A membership list containing the names and, with very few exceptions, the addresses of 412 members as of April 2, 1974, was received in evidence.

The original articles of incorporation and a certificate of amendment thereto were received in evidence. The certificate of amendment set forth the objects of the club as follows:

"The corporation is a non-profit corporation organized and operated not for pecuniary profit, but exclusively to organize and maintain a club for the promotion of yachting and all forms of boating and water sports and to educate its members in nautical and maritime procedures, rules and regulations, and thereby foster, through educational and social means, a keener interest and knowledge in all forms of maritime activity."

Also received in evidence were the by-laws and the amendment thereto. The amendment reduced the multiple classes of membership to one. The number of trustees was increased from not less than 9 to not more than 20.

The lease agreement and the amendment thereto were received in evidence. The amendment eliminated the club's requirement to maintain membership in the Merchant's Association.

A letter dated March 7, 1974 sent by the president of Mainland Harbor to the Commodore Club officers offering it the use of its dockage and commercial facilities to its members and guests

was marked in evidence, as was a letter dated April 1, 1974, addressed to the Commodore Club by the Yacht Club of Sea Isle City inviting the use of its facilities. Note was made in the letter that the Yacht Club welcomed the Commodore Club series of boat races which had been under discussion.

A letter dated March 15, 1974 addressed to the Division's Deputy Director in charge of Licensing, by the Mayor of Sea Isle City indicating that he was in favor of the grant of the waiver, was also received. He expressed an opinion that the club was a non-profit organization, established to promote social, recreational, athletic and charitable endeavors.

Sidney L. Brody, a member of the Board of Directors of the club testified that there are now 20 directors on its Board. He owns an ocean racer and has competed ocean racing. He is a past commodore of the Greater Wildwood Yacht Club, and served as liaison officer of the South Jersey Yacht Racing Association.

Brody asserted that the basic purpose of the Club is to foster boating, sailing, yachting, other water sports, recreation, social and charitable activities. He estimated that the active membership now stands at approximately 500. The membership will be limited to 600. There is only one general class of membership. It is a non-profit Club. The Club facilities include a large dining room and a large combination library room wherein it intends to establish and maintain an outstanding nautical library through the efforts of its members.

The Club is now in the organizational process of setting up ocean races, as well as a function for the benefit for a nearby hospital. A contribution was made to South Jersey Yacht Racing for the purchase of radio equipment for offshore communication.

The Club intends to sponsor an annual ocean yacht race, a navigational race and 3 annual regattas for designated classes of sailing craft as part of its recreational program.

As part of its educational program, it plans to make available its nautical-marine library of books and films to all yachtsmen and boaters. It also plans to schedule classes at the library for water-oriented activities, and to set up a speakers bureau of experts who would be available to civic and water-oriented organizations at no charge. The library room area would also be made available to recognized safety and training units, such as the United States Coast Guard Auxiliary and United States Power Squadron, for meetings, educational programs and related activities.

For safety and emergency purposes, it is preparing a list of the boats of club members and to set up a ship-to-shore communication room.

The witness felt that a waiver is necessary in order to maintain a large membership which is required in order to accomplish the purposes for which the Club was formed, and to compete with other clubs which maintain as part of their social activities, dining

facilities which include the service of alcoholic beverages. If those facilities are not available, Brody feared that members would be lost because approximately eighty percent of the members of the Club reside outside of the Sea Isle City area, and would not normally patronize the taverns or dining places available in Sea Isle City.

On cross examination the witness testified that the membership was developed mainly by "word of mouth" promotion. He explained to prospective members that the Club was presently without a liquor license. That fact did deter some from joining.

The implementation of the three open regattas for classes, the navigational race and the social event to be held for the benefit of a hospital is presently proceeding and the events will be held in 1975. Long range planning is required in the sponsorship of ocean regattas in order to properly coordinate with the other clubs located in the South Jersey area.

Presently the bulk of the Club assets lie in the restaurant facilities.

Raymond J. Briscuso, who is one of the owners of Spinnaker Condominium, where the Club is located, and is a member of the Club's Board of Directors, testified that about 35 of the unit owners of the approximately 65 units sold have become members of the Club. No other member of the Club's Board of Directors (which is also known as Board of Trustees) has any financial interest in the Spinnaker building.

He has discussed this application with two local liquor licensees, and they expressed no opposition to the issuance of a club license to the applicant.

He denied that the brochure advertising Spinnaker provided an application for membership in the Commodore Club.

In behalf of the objectors, Joseph Michael Healy, testified that his legal residence (which is also his winter residence) is in Boynton Beach, Florida. For the past eleven years, he worked in the summertime in the Cape May County area.

Upon request of the Club manager with whom he was acquainted, he joined the Club in June 1973. He does not recall that "boating" was mentioned to him as a purpose of the Club.

He asserted that he received no communications other than bills. He is presently employed at Garrity's Restaurant as a waiter and, in April 1974, he was employed as a painter for Mr. Phillips at Busch's Restaurant. (Both Garrity and Phillips appeared and testified at this hearing in opposition to this petitioner). He has tended bar at the Commodore Club on two occasions when organizations obtained one-day permits in order to sponsor, on one occasion, an art sale and on another, a fashion show.

The witness asserted that although he was solicited to renew his membership, he refused to do so because he was not aware

of any activity that the Club sponsored other than providing a place to eat.

On cross examination it was disclosed that the membership list which was received in evidence contained his name but omitted his address.

William J. Garrity, Jr., the principal corporate officer of a corporation which operates a bar and restaurant in Sea Isle City, testified that he is not aware of any aquatic functions that the applicant Club has sponsored during the past year, and he is opposed to the issuance of the waiver because the grant of a club license would provide unfair competition. He noted that the fee for the club license is less than the fee he pays for his license. Finally, it was his feeling that other liquor licensees are also opposed to the granting of the waiver.

George P. Phillips, president of Busch's Restaurant and a liquor licensee operating in Sea Isle City, testified that he is not aware of any aquatic activity engaged in by the Club during the past year. He does not feel that there is any need for the relaxation of the Division rules; that the Club is, in fact, engaging in false pretenses in an attempt to obtain a liquor license.

He is secretary-treasurer of the Tavern Association. At a meeting held in April 1973, at which fourteen members were present, a motion was adopted to oppose the issuance of a club license to this petitioner.

## I

At the outset of the hearing, the attorney for the objectors opposed any reconsideration of the subject petition on the ground that a decision had been rendered; that the matter could not validly be reopened; and that the principle of res judicata applied.

I find these contentions to be without merit.

In Freudenreich v. Mayor etc., Fairview, 114 N.J.L. 290 (E. & A. 1934) the court set in focus the applicability of the doctrine of res judicata:

"The doctrine of res judicata is plain and intelligible and amounts simply to this, that a cause of action once finally determined, without appeal, between the parties, on the merits, by a competent tribunal, cannot afterwards be litigated by a new proceeding either before the same or any other tribunal." Foster v. The Richard Busteed, 100 Mass. 409.

Where the matter is res judicata, there must be a concurrence of these conditions, (1) identity in the thing sued for; (2) identity of



the cause of action; (3) identity of the quality in the persons for or against whom the claim is made. Mershon v. Williams, 63 N.J.L. 398; Hoffmeier & Sons v. Trost, 83 Id. 358; Smith v. Fischer Baking Co., 105 Id. 567; Bouv. Dict. (3d Rev.) 2910."

Plainly, this is not an adversary proceeding wherein a final judgment has been rendered thus enabling the objectors to invoke the doctrine of res judicata.

## II

In order to arrive at a determination of this matter on the merits, I have set forth the applicable rules and statute; have detailed the basis for the non-approval; and detailed the action taken by the applicant Club in furtherance of its application for the said waiver.

I find that the applicant Club has a membership in excess of the required number of sixty; that the record establishes that it was formed for charitable, social, recreational, athletic or similar purposes and not for private gain, and is, therefore, a bona fide club within the intendment of the applicable Division rules and statute.

There is one general class of membership which is open to anyone interested in aquatic sports, boating or otherwise. There is no longer a lack of physical facilities which denied to Club members the promotion of sailing and other aquatic activities. The Club does not, nor is it required to maintain membership in a merchant's association. Finally, the size of the membership obviates any inference that, in order to remain financially sound, must necessarily serve its bar liquor to anyone who is not a bona fide member of the Club or a bona fide guest of such member, such service of which would be proscribed by Rule 8 of State Regulation No. 7.

In sum, after considering the entire record herein and the applicable Law, I recommend that the petitioner be granted a waiver of the provisions of Rules 3 and 4 of State Regulation No. 7, as authorized by Rule 5 of the said regulation. In making this recommendation, it should, of course, be emphasized that the petitioner must now apply for the said club license to the local issuing authority, which may, in its discretion act thereon.

## Conclusions and Order

Written Exceptions to the Hearer's report and argument in support thereof were filed by an Objector, Northern Cape May County Tavern Owners Association. Answering argument to the Exceptions were filed by the Petitioner, Commodore Club.

The Objector argues: (1) that the Petitioner is not a bona fide club within the intendment of the Act; that it is, in fact, a commercial enterprise rather than a social club; that it has sponsored no functions in implementation of its stated objective; and that it is part and parcel of and a tie-in with a condominium promotion.

(2) That a similar application for waiver was denied by the Director on August 23, 1973, and, therefore, the doctrine of res judicata should apply.

As the Hearer correctly noted in his Report, the Petitioner is in effect, an entirely different entity than the one in the earlier application. All of the infirmities which were pointed out by the then Director, in his August 29, 1973 letter have evidently been resolved by appropriate and fundamental reorganizational changes.

As the evidence manifested, the Petitioner no longer has a tie-in with the condominium; indeed, it appears that only 35 of the 65 owners of the condominium are members of the club. Where formerly it had several classes of membership, it now has a single class of membership.

In its revised organizational set-up, the Petitioner now has a membership of over 500 (it is stated that the membership will be limited to 600) and while they have not sponsored functions for yachting and boating, which is within the purview of their objectives, the Petitioner logically explains that it has made a tremendous investment in facilities during this organizational stage, and it was not financially feasible during this period to embark upon such functions. However, the Petitioner has been gaining a solid financial foot-hold and has already made a contribution of communication equipment to the South Jersey Yacht Racing Association.

The testimony indicates that the Petitioner is basically a social club, bringing together people with similar interests, i.e., interests in yachting, boating and other water sports. Could it be held, in view of these facts, that this Club is not a social club or does not serve a usefully community purpose? I think not.

It is quite clear that the Club meets the requirements and the criteria of N.J.S.A. 33:1-12 (5) and Rule 1 of State Regulation No. 5 which defines a Club for these purposes. I, therefore, concur with the finding of the Hearer that this is a Club operated for social purposes and not for private gain.

Although this is dispositive of the matter, I shall briefly discuss the matter of res judicata, which was raised by the Objector.

The Objector's reliance on the doctrine of res judicata is misplaced. In order for this doctrine to apply, it must be related to situations where the matter in the second application is identical in all respects with the first application, and where the controlling facts and applicable rules remain unchanged.

Commissioner v. Sunnen 333 U.S. 591, 599, 600, 68 S. Ct. 715, 720 (1948); Davis, Administrative Law Treatise (Vol. 2) p. 560; Lubliner v. Board of Alcoholic Bev. Con., Paterson, 59 N.J. Super. 419, modified 33 N.J. 428.

The Hearer has detailed the measures taken and the procedures followed by the Petitioner in overcoming and eliminating the objections raised in the Director's letter of August 29, 1973.

Therefore, the contention that the res judicata doctrine should be invoked is without substance. Cf. Lubliner v. Board of Alcoholic Bev. Con., Paterson, Supra (33 N.J. 428, 440, 441 and cases cited therein.)

I have examined the other exceptions and find that they either have been correctly resolved in the Hearer's report, or are lacking in merit.

Since I find reasonable cause to exist, I will, in the exercise of my discretion, grant Petitioner's application for a waiver of the provisions of Rules 3 and 4 of State Regulation No. 7, as authorized by Rule 5 of the said Regulation.

It should be emphasized, however, that the grant of this waiver is merely a procedural step and that the issuance of a Club license rests, in the first instance, in the sound discretion of the local issuing authority. Blanck v. Magnolia, 33 N.J. 484 (1962); Zicherman v. Driscoll, 133 N.J.L. 586 (1946).

Accordingly, it is, on this 23rd day of August 1974,

ORDERED that the application of the Commodore Club for a waiver of Rules 3 and 4 of State Regulation No. 7 be and the same is hereby granted.

Leonard D. Ronco  
Director

## 2. APPELLATE DECISIONS - RIDGEWOOD BAR, INC. v. NEWARK.

Ridgewood Bar, Inc.	)	On Appeal
Appellant	)	CONCLUSIONS
v.	)	and
		ORDER
Municipal Board of Alcoholic	)	
Beverage Control of the City	)	
of Newark,	)	
Respondent.	)	

-----  
 Schechner and Targan, Esqs., by David Schechner, Esq.,  
 Attorneys for Appellant  
 Donald E. King, Esq., by John Pidgeon, Esq., Attorneys for Respondent

BY THE DIRECTOR:

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control of the City of Newark (hereinafter Board) which on June 17, 1974 adopted a resolution suspending appellant's plenary retail consumption license for twenty-five days, effective July 8, 1974, after adjudging appellant guilty of a charge alleging that on May 3, 1972, appellant permitted the unlawful possession of a controlled dangerous substance as defined by N.J.S.A. 24:21-1 within the licensed premises, in violation of Rule 4 of State Regulation No. 20.

The effective date of the suspension was stayed by the then Acting Director by Order dated July 3, 1974 pending the determination of this appeal, and the entry of a further Order herein.

Appellant contends that the evidence before the Board was insufficient to justify its finding: The Board in its answer denied this contention.

A de novo hearing was held at this Division pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and to cross-examine witnesses. Additionally, the transcript of the proceedings before the Board was introduced into evidence, pursuant to Rule 8 of State Regulation No. 15.

No witnesses were called by either party, reliance being placed upon the determination of the matter upon review of the transcript of the proceedings before the Board. Additionally, a Hearer's report was waived by stipulation of Counsel, who requested that a prompt determination of this matter be made based solely on the said transcript.

A thorough review of the aforesaid transcript reveals that the charge alleged herein is totally barren of proof. According to the testimony of James Decker, a police detective of the Police Department of Newark, he entered the licensed premises in the afternoon of May 3, 1972, pursuant to prior information received relating to alleged narcotics activity at these premises. Upon entering, he accosted a female sitting at the bar, and asked her if she possessed narcotics, when she responded in the affirmative, he requested her to accompany him to a police vehicle awaiting outside. She followed him and, in the vehicle, gave the officer a handkerchief in which was wrapped two envelopes containing narcotics. A police chemist, Ann Lanier, testified that the narcotics obtained contained 1.2191 grams of 4.5 heroin, quinine and sorbitol.

No testimony was produced which involved the licensee or its agents. There was no evidence establishing how long the female had been in the premises, or what knowledge the licensee or its agents had or should have had concerning the possession of the narcotic by the female. Further, there was no indication that the licensee or its agents were, thereafter, made aware of the apprehension of the female prior to the preferment of the charges herein.

We are dealing herewith a purely disciplinary measure and its alleged infraction. Such measure is civil in nature, and not criminal. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). Thus, the proof must be supported by a fair preponderance of the believable evidence. Butler Oaks Tavern v. Division of Alcoholic Beverage Control, 20 N.J. Sup. Ct. 373 (1956). In order for appellant to prevail in the instant matter it must appear from the record upon which the parties rely that the evidence did not preponderate in support of the determination of the Board.

The charge must be established by affirmative satisfactory evidence. A finding of guilty may not be based upon mere suspicion, no matter how reasonably inferable such suspicion may be. Re Doyle, Bulletin 469, Item 2; Vangelas v. Paterson, Bulletin 1969, Item 1.

Doubtful questions of fact must be resolved in appellant's favor. Club Zanzibar Corp. v. Paterson, Bulletin 1408, Item 1. To be in doubt is to be resolved. Such doubts must be resolved in favor of appellant. Lysaght v. Denville, Bulletin 1490, Item 1.

Upon the record at this de novo hearing, I find that there is lacking any fair preponderance of the credible evidence to establish proof of the charge. Hence, appellant has met the burden required that the action of the respondent Board was erroneous and should be reversed. Rule 6 of State Regulation No. 15.

Accordingly, it is, on this 30th day of August, 1974

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Newark be and the same is hereby reversed, and the charge herein be and the the same is hereby dismissed.

LEONARD D. RONCO  
DIRECTOR

3. APPELLATE DECISIONS - PATRYLOW v. KENILWORTH.

Katherine Patrylow and Henry )  
Patrylow, t/a Patrylow's )  
Grove and Cocktail Bar, )

Appellants, )

v. )

On Appeal

O R D E R

Borough Council of the Borough )  
of Kenilworth, )

Respondent. )

-----)  
Skoloff & Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorneys for )  
Irwin and Post, Esqs., by John N. Post, Esq., Attorneys for )  
Appellants )  
Respondent )

BY THE DIRECTOR:

This matter came on to be heard on the return date of Order to Show Cause, dated June 26, 1974, why the term of License C-10 held by appellants should not be extended for the 1974-75 license period pending the determination of this appeal from the denial by respondent of the renewal of the said license.

At the hearing herein on September 3, 1974, counsel for the respective parties hereto jointly stipulated that the hearing herein shall be adjourned for a period of ninety (90) days from the date hereof, in order to afford appellants an opportunity to secure a bona fide purchaser for said license; and, further, that the aforesaid Order extending term of the said License C-10 for premises located at 31st and Sumner Avenue, Kenilworth, for the 1974-75 license period shall be vacated forthwith.

Accordingly, it is, on this 5th day of September 1974,

ORDERED that the Order to Show Cause, heretofore entered herein on June 26, 1974 extending the term of License C-10 for the 1974-75 license period be and the same is hereby vacated; and it is further

ORDERED that the aforesaid license shall be forthwith surrendered by the appellants to the respondent Borough Council of the Borough of Kenilworth.

LEONARD D. RONCO  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - IMPROPER DISPLAY OF ALCOHOLIC BEVERAGES -  
HINDERED INVESTIGATION - ORDER - CHARGES NOLLE PROSSED.

In the Matter of Disciplinary  
Proceedings against

John Joseph Wasneski, Sr.,  
t/a Riverside Inn  
410-418 N. Pavilion Avenue  
Riverside, N.J.,

O R D E R

Holder of Plenary Retail Consumption  
License C-11, issued by the Township  
Committee of the Township of Riverside.

Dimon, Eleuteri and Gilanyi, Esqs., by John E. Dimon, Esq.,  
Attorneys for Licensee

BY THE DIRECTOR:

Licensee pleaded not guilty to the following charges:

- "1. On February 22, 1974, and prior thereto, you, the holder of a plenary retail consumption license, without the broad package privilege, displayed for sale alcoholic beverages in original containers for off-premises consumption other than in a bona fide public barroom of your licensed premises; in violation of N.J.S.A. 33:1-12.23 and Rule 1 of State Regulation No. 32.
2. From on or about March 22, 1974 to the present, you, directly failed to facilitate, hindered, delay and cause the hinderance and delay of an investigation and inspection of your licensed premises, namely; you have failed to comply with directives from Division concerning your operation of your plenary retail consumption License C-11 and have continued to display for sale alcoholic beverages in original containers for off-premises consumption other than in a bona fide public barroom in your licensed premises."

Prior to the hearing herein the licensee advised the Division that the alleged unlawful situation had been corrected. Pursuant to an agreement with the attorney for the Division, the licensee submitted interior plans for the licensed premises which were approved and endorsed ex parte by the Director, and were in compliance with the aforestated statute and regulation.

Since these revised plans were submitted on August 22, 1974 and constituted a reasonable time in which the alleged violative

situation was corrected, I have determined to dismiss the said charges.

Accordingly, it is, on this 13th day of September 1974,

ORDERED that the charges hereinabove set forth against the subject licensee be and the same are hereby nolle prossed.

*Leonard D. Ronco*

Leonard D. Ronco  
Director