STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
NEWARK INTERNATIONAL PLAZA
U.S. Route 1-9 (Southbound) Newark, N. J. 07114

BULLETIN 2296

September 20, 1978

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1. APPELLATE DECISIONS - GEORGE'S BAR & GRILL OF LAKEWOOD, INC. v. LAKEWOOD.

George's Bar & Grill of Lakewood, Inc., t/a George's Bar and Grill,
Appellant,
v.
Township Committee of the Township of Lakewood,
Respondent.

ON APPEAL
CONCLUSIONS and ORDER

Sharkey & Sacks, Esqs., by Richard A. Sacks, Esq., Attorneys for Appellant.
John F. Briscoe, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the reimposition of certain special conditions attached to the renewal of appellant's Plenary Retail Consumption License C-10 for premises 2 Clifton Avenue, Lakewood, by respondent Township Committee of the Township of Lakewood (Committee) for the 1977-78 licensing year.

The special conditions set forth in the Committee's Resolution of June 9, 1977 are as follows:

1. There shall be no live entertainment or musical instrumentation allowed upon the premises; and

2. There shall be no more then 20 bar stools for patrons, and table service shall not be permitted.

In its Amended Petition of Appeal, appellant contends that the special conditions are arbitrary, capricious and an unreasonable exercise of the discretion reposing in respondent Committee; and the attempt to restrict the operation of the licensed premise is an effort to relieve a police problem which is unrelated to the operation and/or management of the licensed premises.

In its Answer, the Council denies the allegations and interposes the following separate defenses:

1. Appellant operated the subject premises in such a manner as to constitute a nuisance in the community and surrounding neighborhood;

2. Repeated instances of disorderly conduct occurred in and about the premises;

3. Appellant failed to take reasonable and necessary steps to maintain the licensed premises in an orderly manner;

4. Appellant failed to prevent loud and abusive language emanating from inside the premises;

5. Appellant failed to prevent the emanation of excessive noise from inside and from patrons gathering on the street; and

6. The prior operation of the premises, without restrictions, resulted in an excessive number of police calls involving serious offenses occurring on and off the premises.

Preliminarily, I find that three of the Committee's six defenses are without merit.

There was no testimony presented by the Committee to controvert appellant's assertion that it maintained the establishment in a proper manner, and was never subjected to warning letters or disciplinary proceedings from either the local or Division of Alcoholic Beverage Control authorities. In fact, the Committee's witnesses both spoke in positive terms relative to the operation of the establishment and the manner in which its management cooperates with the police.

I, therefore, recommend dismissal, as frivilous, the separate defenses numbers 1, 3 and 4, as well as those allegations relating to the interior of the premises contained within numbers 2, 5 and 6.

An appeal de novo was held in this Division pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and cross-examine witnesses. In addition, both parties jointly submitted into evidence the transcripts of hearings held May 5, 1977 and May 31, 1977 before the local issuing authority, pursuant to Rule 8 of State Regulation No. 15.

In support of the Committee's action, Police Lieutenants Wayne LeCompte and Howard Patterson testified relative to police assistance needed to disperse loiterers on the street in the vi-

cinity of the bar. They testified, in a non-specific manner, of breaches of the peace that occurred, citing only one incident in detail, to wit, an assault with a baseball bat by one patron upon the head of another, after they stepped outside to "discuss the matter".

Both officials indicated that, at various times, in response to questions posed by them, loiterers stated that they were bar patrons.

Several police reports were presented in support of the Committee's claim that assaults and other breaches of the peace occurred on the street in front of appellant's premises. Even assuming all of them involved bar patrons, they are relatively few in number, and presumably all that occurred at this location for a period of several years.

Doris George, sole stockholder and manager of the corporate appellant, testified on its behalf.

She described the closing of many of the hotels in Lakewood in the past decade, and how, as a result, the character of the town changed. The white population in the area, where the subject license is situated, left, and was replaced by blacks and recently, some hispanics.

She testified that the bars were effected, and quite a number closed or moved from this (eastern) part of the town. This was a mixed blessing for the appellant, as it brought an influx of patrons, followed by some trouble makers who were the cause of the various incidents.

These trouble makers were "flagged" and could not enter the bar. Mrs. George, at various times, signed complaints against some of the undesirables. She sought, on four occasions, assistance from the police, which she alleged, was not forthcoming.

The special conditions were first imposed for the licensing year 1972-73, limiting the number of bar stools to ten. The following year they were reimposed, but the allowable number of bar stools increased to twenty. Since that time, the conditions remained in force, despite appellant's unsuccessful attempts to have them modified or removed. It was asserted that the effect of the imposition of these conditions has been to reduce the weekly gross from approximately $6,000.00 to $1,600-$1,800.00.

After one of Mrs. George's unsuccessful attempts to have the restrictions removed, she was informally advised that, if she bought the unoccupied building which formerly housed the Checkmate, and bought the pocket license of the Myrick, the local issuing authority would be predisposed towards granting a place-to-place and person-to-person transfer application. After the new tavern was in operation, they would consider the modification or removal

of the restrictions placed upon the subject license.

Mrs. George followed the suggestion and eventually opened the Checkmate II, several blocks from George's Bar and Grill, after the Township granted the necessary approvals. However, the township did not modify or remove the restrictions.

Whether by accident or design, 95% of the patronage of George's gravitated to the new Checkmate II, resulting in an almost empty barroom at appellant's licensed premises.

Mrs. George then actively solicited the hispanic population by handbill, word-of-mouth, employment of only bi-lingual latins as bartenders, restocking the juke box with exclusively latin recordings and, in general, making it obvious that this was now an hispanic bar where they were welcome.

The new patronage soon expressed their feeling to her that it was not comfortable because they had no tables and chairs upon which to sit and relax, listen to music or converse; nor were there sufficient stools at the bar.

It is appellant's contention that the undesireables and "flagged" individuals, who were the habitual loiterers outside of George's have largely disappeared, now that the clientele is overwhelmingly hispanic. She assumes the undesireables are lounging in the vicinity of some other bar, as they have not followed the patronage to the Checkmate II.

Mrs. George also asserted that her investigation revealed an absence of any other latin bars in the area, which has approximately 5,000 hispanics; and a genuine need exists which she was attempting to meet.

Mr. George Ramos, a hispanic resident of Lakewood for fourteen years, corroborated the prior testimony with respect to the need for a latin bar in the area. He stated that they prefer to sit and relax, listen to music and converse with friends. As the tavern is presently operated, there are no tables and chairs, and only a limited number of bar stools. He maintained that patrons find it uncomfortable to sit at the bar on a stool when accompanied by their wives or girl friends. Additionally, it is traditional to have latin music in the tavern to establish the atmosphere desired. Lastly, he described an almost uniform attitude towards hispanics of not being welcome in the other establishments in the area, until appellant changed its policy.

Jose Flores, an eight year resident of the area corroborated Ramos' testimony, adding that there were other places but they were illegal speak-easys, since closed by the A.B.C. He opined that the clientele and music in the speak-easys were too "wild" for the majority of the hispanic community. He would not take a female into a speak-easy and, in any case, preferred

a legal establishment where he would be comfortable inviting a lady to accompany him.

I

The dispositive issue in this appeal is whether the evidence herein justifies the action of the Committee in reimposing the special conditions upon renewal of appellant's license. Peter, Saul and Mary, Inc. v. Point Pleasant Beach, Bulletin 2266, Item 2. In analyzing the testimony, the burden of proof in matters which involve discretion, such as the renewal of a license, rests with appellant to show manifest error or abuse of discretion by the issuing authority. Blanck v. Mayor and Borough Council of Magnolia, 38 N.J. 484 (1962); Downie v. Somerdale, 44 N.J. Super. 84 (App. Div. 1957); Rajah Liquors v. Div. of Alcoholic Beverage Control, 33 N.J. Super. 598 (App. Div. 1955).

As early as Conte v. Princeton, Bulletin 139, Item 8, the well established principle was cited to the effect that a licensee is responsible for conditions, both inside and outside his licensed premises, caused by patrons thereof. As to the extent of such responsibility see Garcia v. Fair Haven, Bulletin 1149, Item 1.

However, an owner of a license or privilege acquires through his investment an interest which is entitled to some measure of protection. Tp. Committee of Lakewood Tp. v. Brandt, 38 N.J. Super. 462 (App. Div. 1955). This is so because the application of fairness has long been a hallmark in the activities of this Division.

> As with all administrative tribunals, the spirit of the Alcoholic Beverage Law and its administration must be read into the regulation. The law must be applied rationally and with a fair recognition of the fact that justice to the litigant is always the polestar.

Samuel Berelman, Inc. v. Camden, Bulletin 1940, Item 1. See also Barbire v. Wry, 75 N.J. Super. 327 (App. Div. 1962); Martindell v. Martindell, 21 N.J. 341, 349 (1956).

In the instant matter, the witnesses for the Committee, as well as the appellant, agreed that a loitering situation existed in the area adjacent to the subject premises. The disagreement is as to the magnitude and cause, and whether or not it ceased with the opening of Checkmate II and the transformation of George's Bar from predominantly black to hispanic in ethnic character of patronage. I have heard only limited testimony that would reasonably tie these complained of conditions to the activities of the current patrons of appellant's premises.

The operative standard is whether there is a failure of a licensee to prevent disorderly activities outside of the premises which are caused by patrons thereof. (underscore added) Moon Star, Inc. v. Jersey City, Bulletin 2130, Item 3. Plainly, it is not a licensee's responsibility to supervise or police the activities of persons who are not tavern patrons, merely because they are in close proximity to his establishment. Nor should any community disregard its obligation to adequately police an area merely because there exists one or more taverns within it. The obligation of maintaining the peace and well-being of the inhabitants within a given area does not shift from the municipality to a licensee, merely because their business is the dispensing of alcoholic beverages.

I find, as a fact, that the nuisance situation described is more attributable to the socio-economic conditions extant within the area, than the management and operation of the subject licensed premises.

I further find, as a fact, that the individuals who were the cause of the nuisance have, since the transformation of clientele, ceased to loiter in significant number in the areas adjacent to appellant's licensed premises.

II

The appellant has established the need for an ethnic latin lounge in the Lakewood area and its ability to fulfill that need. Its witnesses have further established that music and sufficient seating is necessary for full enjoyment.

The appellant has met the burden of establishing that the Committee acted erroneously, pursuant to Rule 6 of State Regulation No. 15, and I recommend that the action of the Committee be modified as hereinafter set forth.

In as much as the loitering was not caused by the present patronage of the licensee, I recommend that the prohibition against live entertainment and musicians, and any tables and chairs, be removed. I also recommend that the permitted number of bar stools be increased from twenty to thirty.

However in lifting or modifying the special conditions imposed by the Committee, I am cognizant that entertainment often brings crowds, and experience in the past has indicated that larger crowds at appellant's premises did present a valid basis for concern by the Committee. Therefore, I recommend the imposition of the following special conditions to appellant's license.

1. At all times that live entertainment or musicians are employed, there shall be a uniformed, professional security guard stationed on the outside of the

building. He shall hinder the possible congregation of loiterers, as well as prevent the removal of open beer cans, bottles and alcoholic beverages in glasses from the bar room for consumption on the sidewalks adjacent to the building. This shall be in addition to persons possibly employed to maintain order within the licensed premises.

2. There shall be provided the necessary personnel, each evening at closing, to retrieve and dispose of all bar-related litter found within 150 feet of the licensed building.

Should the relaxation of the special conditions previously imposed and the recommended conditions hereinabove set forth, fail to achieve an appropriate balance between the appellant's permissible use of its licensed business and the paramount concern of the Committee to insure the health, safety and welfare of its residents, the Committee can institute appropriate disciplinary proceedings, pursuant to N.J.S.A. 33:1-31 and State Regulation No. 16, during the license term, and reconsider the need for other special conditions upon any subsequent renewal of appellant's license.

Conclusions and Order

No Exceptions to the Hearer's Report were filed pursuant to Rule 14 of State Regulation No. 15.

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

Accordingly, it is, on this 17th day of April, 1978,

ORDERED that the action of the Township Committee of the Township of Lakewood in affixing special conditions to the renewal of appellant's plenary retail consumption license for the 1977-78 license term be and the same is hereby modified and supplemented as follows:

(a) The first special condition prohibiting any live entertainment or musical instrumentation on the licensed premises is deleted;

(b) The second special condition is amended to permit thirty (30) bar stools for patrons, rather than the twenty (20) bar stools previously set forth;

(c) At all times, when live entertainment or musicians are employed, there shall be a uniformed, professional security guard stationed on the outside of the building. He shall police the said premises to discourage congregation of loiterers, and shall prevent the removal of open beer cans, bottles and alcoholic beverages in glasses from the barroom for consumption on the sidewalks adjacent to the building. The said employment of the security guard shall be in addition to other employees who may be required, as part of their duties to maintain order within the licensed premises;

(d) There shall be provided the necessary personnel, each evening at closing, to retrieve and dispose of all bar-related litter found within 150 feet of the licensed building; and it is further

ORDERED that the said special conditions, as herein modified and supplemented, shall take effect immediately; and it is further

ORDERED that, with the special conditions as so modified and supplemented, the action of the Township Committee herein be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

Joseph H. Lerner
Director

2. SPECIAL RULING - RE APPLICATION OF RONNIE TRENT ENTERPRISES.

In the Matter of Application of: Ronnie Trent Enterprises t/a The Apartment Lounge & Bar 59 North Albany Avenue Atlantic City, New Jersey Lic. C-114 Petitioner.	SPECIAL RULING

Blatt, Blatt, Mairone & Biel, Esqs., By Martin S. Wilson, Jr., Esq., Attorneys for Petitioner.

BY THE DIRECTOR:

A Petition has been filed with the Division seeking the Director's approval for the issuance by the Board of Commissioners of Atlantic City (hereinabove Board) of a plenary retail consumption license for premises at 37 North Albany Avenue.

A rather complex factual background gives rise to this application. On or about June 15, 1973, Kenneth R. Clark, then the holder of a plenary retail consumption license for premises at 59 North Albany Avenue, Atlantic City, entered into a contract to sell to Ronald J. Teti and Betty A. Titi said license and the real property at which it was located. The Teti's formed a corporation, Ronnie Trent Enterprises, of which applied for, and obtained from the Board a person-to-person transfer of Clark's license, effective August 27, 1973. Clark's written consent to such transfer, necessary to effect it, was given in reliance upon representation of the Teti's that they had placed in escrow sufficient funds to cover the contract purchase price.

After the transfer, Clark found that there were no funds in escrow, and the Teti's failed to make requisite payment to him. Clark's request to the Teti's that they retransfer the license to him was refused. On June 30, 1974, the license expired because no renewal application had been filed by the corporate licensee. An attempt by Clark to file a renewal application in his name was rejected by the Board because he did not hold the license.

On July 30, 1974, Clark instituted suit in the New Jersey Superior Court against the Teti's, the City of Atlantic City and the Division (the corporate licensee was not made a

party), seeking, among other things, to compel the Teti's to execute a consent to transfer the license to Clark. Thereafter, several court orders were entered in this action, culminating in an order by the said Count of December 19, 1975, voiding the aforesaid contract of sale, and reverting in Clark all the "rights, title and interest that had been transferred to Ronald J. Teti and Betty A. Teti in their liquor license."

In the meantime, on September 25, 1974, Ronnie Trent Enterprises filed with the Board a "renewal" application dated September 11, 1974 for premises at 37 North Albany Avenue, Atlantic City, which application was executed by Ronald Teti as president of the corporation, with the jurat of the separate affidavit thereof executed on September 22, 1974, before a Notary Public of the State of Indiana, who also signed the attestation of Teti's signature in the place where the corporate secretary would sign the application.

At the same time, Clark forwarded to this Division, by way of the Deputy Attorney General then handling the Superior Court suit on behalf of the Division, a copy of said "renewal" application and a copy of the Complaint and Affidavit initiating such suit; and by letter, dated September 25, 1974, requested that these papers be processed "pursuant to N.J.S.A. 33:1-12.18."

From petitioner's letter of August 28, 1976, it appears that the Board never acted upon this "renewal" application, initially because it did not contain the signature of the corporate secretary, Betty Teti, and later, after this had been remedied, because the Board required a place-to-place transfer of the license as a result of a fire which occured at the original licensed premises of 59 North Albany Avenue (presumably destroying same) at the time Betty Teti's signature was obtained.

It also appears that, as of the date of Clark's application to the Director, in August 1976, for renewal of the license, the corporation, Ronnie Trent Enterprises Inc., had not filed application for either a new license, or for a renewal or transfer of an existing license. Clark, however, did attempt to renew the license in his own name in 1975, but the Board denied the application since he was not the licensee of record.

Clark's August 1976 application to the Division was denied by me, in an informal letter opinion dated September 24, 1976, in which I found that the applicant had not satisfied

the governing provisions of the Alcoholic Beverage Law. Specifically, according to the beverage laws no new plenary retail consumption license may be issued in Atlantic City, with certain exceptions not here pertinent, because the number of such licenses outstanding far exceeds the population quota established by N.J.S.A. 33:1-12.14. Renewal of existing licenses is exempted from the provisions of such law by a "grandfather clause" in N.J.S.A. 33:1-12.16. License renewals are defined by N.J.S.A. 33:1-17.13 as follows:

> "For the purposes of this act any license for a new licene term, which is issued to replace a license which expired on the last day of the license term which immediately preceded the commencement of said new license term or which is issued to replace a license which will expire on the last day of the license term which immediately precedes the commencement of said new license term, shall be deemed to be a renewal of the expired or expiring license; provided, that said license is of the same class and type as the expired or expiring license, covers the same licensed premises, is issued to the holder of the expired or expiring license and is issued pursuant to an application therefor which shall have been filed with the proper issuing authority prior to the commencement of said new license term or not later than thirty days after the commencement thereof. Licenses issued otherwise than as above herein provided shall be deemed to be new licenses." (Emphasis added.)

Hardship situations, in which a licensee fails to file a renewal application within 30 days of the commencement of a new license term (the license term commences July 1st of each year, N.J.S.A. 33:1-26), are covered by N.J.S.A. 33:1-12.18, which provides:

> "Nothing in this act shall be deemed to prevent the issuance of a new license to a person who files application therefor within sixty days following the expiration of the license renewal period if the State commissioner shall determine in writing that the applicant's failure to apply for a renewal of his license was due to circumstances beyond his control." (Emphasis added.)

Applying this law to the facts set forth in the August 1976 application, I found that, since Ronnie Trent Enterprises did not timely file a license application to renew its 1973-1974 license, i.e., by filing on or before

July 30, 1974, the Board was precluded from granting it either a renewal license or a new license, unless an application for a new license were filed with the Board by said licensee within 60 days of July 30, 1974, and an appropriate hardship determination were made by the Director under N.J.S.A. 33:1-12.18, in which event a new license could have been issued but only to the existing licensee.

However, under no circumstances could a new license have been issued to Clark under this statute since he did not hold the license when it expired June 30, 1974. For the same reason, he could not be issued a renewal license. Accordingly, I denied Clark's request that I approve the grant of his renewal application of April 21, 1976.

Also, I noted that, as to the possible issuance of a new license to Ronnie Trent Enterprises Inc., under N.J.S.A. 33:1-12.18, the application of September 25, 1974 by the corporate license was timely filed, being within 60 days of July 31, 1974. However, the application was for a renewal, rather than for a new license. Moreover, it appears that it was not completed until after this 60-day period; it sought to license different premises than were licensed under the expired license; and it was for the 1974-1975 licensing year, which had expired.

I indicated that, since the equities weighed so heavily in Clark's favor, these obstacles might be overcome if Ronnie Trent Enterprises Inc., which held the license at the relevant time, were making application pursuant to N.J.S.A. 33:1-12.18, rather than Clark, who was, and is, not the license holder, and thus lacks standing to make the application.* Thus, I denied Clark's application, without prejudice to reapply, by Verified Petition, from the corporation in the event he could obtain control of Ronnie Trent Enterprises Inc.

Thereafter, in July 1977, a Verified Petition was duly filed indicating that, on January 24, 1977, Clark had filed an amended complaint in the Superior Court, Chancery Division, Atlantic County, against the corporate entity, Ronnie Trent Enterprises, and that judgment had been entered thereon. By virtue of the Order of that Court, dated June 9, 1977, all shares of stock of Ronnie Trent Enterprises as to ownership and interest were vested in Clark. Having obtained control of Ronnie Trent Enterprises Inc., Clark has now renewed his application on its behalf, pursuant to N.J.S.A. 33:1-12.18 for issuance of a license to said corporation.

Upon consideration of all the circumstances herein, I have determined that there has been substantial compliance with the provisions of N.J.S.A. 33:1-12.18. Thus, I approve the Petition filed on behalf of Ronnie Trent Enterprises Inc. and authorize the Board to issue a new license to the Corporation for premises at 37 North Albany Avenue, Atlantic City.

The doctrine of substantial compliance has been applied to excuse the failure of a party to comply with the literal terms of a statute under circumstances where there is: (1) a lack of prejudice to the opposing party; (2) a series of steps taken to comply with the statute involved; (3) general compliance with the purpose of the statute; (4) reasonable notice of the party's claim; and (5) a reasonable explanation of why there was not strict compliance with the statute. Bernstein v. Bd. of Trust, Teachers" Pen. & Ann., 151 N. J. Super. 71, 77 (App. Div. 1977). See generally Zamel v. Port of N.Y. Auth., 56 N.J. 1 (1970); McCarthy v. Boulevard Comm'rs. of Hudson Cty., 91 N.J.L. 137, 142 (Sup. Ct. 1918), aff'd 92 N.J.L. 519 (E. & A. 1918); Travis v. Highlands, 136 N.J.L. 199, 202 (Sup. Ct. 1947).

This doctrine has been invoked primarily to excuse procedural deficiencies such as the late filing of a claim where equitable considerations favor the granting of relief and the objective of a statute is fully satisfied by the party's conduct. See, e.g., Bernstein v. Bd. of Trust, Teachers' Pen. & Ann., holding that a former teacher should not be denied retirement benefits pursuant to N.J.S.A. 18A:66-39 (b) because her claim was filed beyond the statutory time limit. See also Ex parte McCollum, 45 F.Supp. 759, 762 (D.N.J. 1942); Coe v. Davidson, 117 Cal. Rptr. 630, 633; 43 Cal. App.3d 170 (Dist.Ct.App. 1975).

Whether substantial or strict compliance is required with the terms of a statute is a matter of "legislative understanding and contemplation." Zamel v. Port of N.Y. Auth., supra, 56 N.J. at 6. While N.J.S.A. 33:1-23 mandates the "stringent and comprehensive" administration of the Alcoholic Beverage Laws, it also requires that the Director "do, perform, take and adopt all other acts procedures and methods" to insure that such administration is "fair" and "impartial." Also, N.J.S.A. 33:1-23 calls fora "liberal" construction of the beverage laws to remedy abuses inherent in liquor traffic.

Nothing in the statutory history or terminology indicates that the Legislature intended to preclude the Director from invoking the doctrime of substantial compliance, at least insofar as the licensing function of the Division is concerned. I do not believe that the 60-day filing provision of N.J.S.A. 33:1-12.18 was intended to be a stumbling block

or pitfall which must be inexorably applied to deprive even a diligent individual of his license, when due to circumstances which were not of his own making and were largely beyond his control, he did not fully comply with its literal terms. Thus, I see no just reason why the substantial compliance doctrine should not apply in appropriate instances to an application under N.J.S.A. 33:1-12.18.

Applying the criteria set forth by the Appellate Division in Bernstein v. Bd. of Trust, Teachers' Pen. & Ann., supra, I find that the circumstances herein warrant the granting of the relief sought. It appears beyond dispute that there will be no harm to any other party or to the public interest in the granting of a new license to the petitioner corporation.

Similarly, it is clear that petitioner has taken a series of steps to comply with N.J.S.A. 33:1-12.18, in that the corporate application was timely filed by Ronnie Trent Enterprises and transmitted by Clark to the Division. Also, Clark sought to protect what he believed (albeit erroneously) to be his personal interest in the license in both 1974 and 1975 by tendering to the Board renewal applications for the ensuing two years.

While for reasons previously noted these actions fell short of actual compliance with the literal terms of the Alcoholic Beverage Law, they demonstrate, on petitioner's behalf, a deligent effort to preserve the license and comply with the pertinent statutory provisions. Additionally, a judicial remedy was diligently pursued in an effort to compel the prior owners of the corporate license to complete their contractual obligations and preserve the license.

There has also been general compliance with the purpose of the statute, and reasonable notice of petitioner's claim since the corporate application was filed (though not properly) within the 60-day limit of N.J.S.A. 33:1-12.18 and was forwarded by Clark to the Division.

Finally, the absence of strict compliance was satisfactorily explained. Neither Clark, nor the corporation acting through him, can be held strictly accountable for the failure of the defaulting prior owners of the corporation to protect the license by making timely application for renewal or a new license since Clark was in an adversarial position with respect to the Teti's and had no effective control over the manner in which they conducted the corporation's affairs.

Therefore, I find that the petitioner has substantially complied with the provisions of the Alcoholic Beverage Laws, and that the failure to apply for a renewal of the license was due to circumstances beyond the control of the licensee. N.J.S.A. 33:1-12.18.

Accordingly, on this 2nd day of May, 1978, the Board of Commissioners of Atlantic City is hereby authorized to issue a new license to Ronnie Trent Enterprises Inc. for premises at 37 North Albany Avenue, Atlantic City.

JOSEPH H. LERNER
DIRECTOR