

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

BULLETIN 1715

February 23, 1967

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STATE OF NEW JERSEY
Department of Law and Public Safety
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1. NEW LEGISLATION - ACQUISITION AND RETIREMENT OF RETAIL ALCOHOLIC BEVERAGE LICENSES BY MUNICIPALITIES IN CERTAIN CASES.

Senate, No. 286 was approved by the Governor on January 5, 1967, and thereupon became Chapter 317 of the Laws of 1966, effective immediately. It reads as follows:

"AN ACT concerning municipalities in relation to the acquisition and retirement of alcoholic beverage retail licenses in certain cases and supplementing chapter 48 of Title 40 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. In any case in which a municipality acquires by purchase or condemnation any real estate within the municipality which includes any licensed premises for the retail sale of alcoholic beverages, the governing body of the municipality, whenever it finds that a transfer of the license to, and the retirement of the license by, the municipality is in the public interest, may contract with the licensee for such transfer upon such terms and for such consideration as shall be mutually agreeable and as the governing body shall deem to be reasonable. Upon the transfer of any retail alcoholic beverage license as herein provided, such license shall thereupon be retired by the municipality and shall not thereafter be reissued to any applicant.

2. This act shall take effect immediately."

JOSEPH P. LORDI
DIRECTOR

Dated: February 17, 1967

2. APPELLATE DECISIONS - MONTCLAIR CIVIC LEAGUE v. MONTCLAIR.

MONTCLAIR CIVIC LEAGUE,)	
)	
Appellant,)	ON APPEAL
)	CONCLUSIONS
v.)	AND ORDER
)	
BOARD OF COMMISSIONERS OF)	
THE TOWN OF MONTCLAIR,)	
)	
Respondent.)	

 Louis M. Turco, Esq., and Irwin A. Horowitz, Esq., Attorneys
 for Appellant.
 Robert B. Shepard, Jr., Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant filed this appeal from an adverse determination by respondent on appellant's application for place-to-place transfer of its plenary retail consumption license from premises 56 Glenridge Avenue to premises 61 Glenridge Avenue, Montclair.

The resolution of respondent, adopted April 26, 1966, denying the application stated its reasons as follows:

"A public hearing was held on this application by the Board of Commissioners on March 15, 1966, at which time a large number of objectors consisting largely of persons resident in the neighborhood appeared by their attorney to oppose the granting of the transfer. The applicant also was present with its attorney. Following the close of the hearing, the Board of Commissioners decided to postpone action on the application to enable it to study and consider the application more extensively.

"As a result of thorough and careful consideration, it is the conclusion of the Board of Commissioners that the granting of this application would be contrary to the best interests of the Town of Montclair. It is the unanimous opinion of all of the members of said Board who were in attendance at the hearing on this application, that to permit this licensee to transfer its alcoholic beverage consumption license to the site proposed would adversely affect to a much greater extent than at present the relatively large number of persons resident in the buildings adjacent to and in the immediate area and neighborhood of the proposed new location; and would increase substantially its detrimental effect upon the welfare of the children attending classes at the various schools nearby, more particularly those children attending the Mount Carmel parochial school.

"The licensee presently operates its consumption business at 56 Glenridge Avenue, which is situated on the south side of the street, between Pine Street on the west and Bay Street on the east -- just two short blocks east of Grove Street. The south side of Glenridge Avenue in the immediate neighborhood of the present location between Bay Street and Grove Street is occupied principally by commercial and industrial concerns consisting, among others, of stores, two taverns, a liquor store, a gasoline service station, a construction company, a large coal yard, a trucking company, a live poultry store, a luncheonette, and two warehouses used by importers, formerly used for plastics manufacturing.

"There are relatively few residences on the south side of Glenridge Avenue between Grove Street and Bay Street, the number of residential dwelling units approximating 18. Moreover, the rear of the presently licensed premises and the other premises in the vicinity are adjacent to the freight yards and tracks of the Erie-Lackawanna Railroad -- all of which property is zoned for industrial use.

"The site of the proposed location for the operation of the license is on the north side of Glenridge Avenue, between Pine Street and Bay Street. The premises adjacent on both sides of the proposed site are occupied by residential buildings which, alone, contain a total of 6 residential dwelling units. Indeed, there are at least 24 residential dwelling units on the north side of Glenridge Avenue in the short block between Pine Street and Bay Street; and a total of 48 dwelling units in the three blocks between Grove Street and Bay Street.

"In the single block, between Bay Street and Baldwin Street there are an additional 43 residential dwelling units on the north side of Glenridge Avenue compared to 5 residential dwelling units on the south side.

"In comparison with the railroad yards and industrial property to the rear of the property on the south side of Glenridge Avenue, the properties to the rear of the premises on the north side of Glenridge Avenue, for the most part, are zoned and used for two family and multi-family residential dwelling use. Our Lady of Mount Carmel Roman Catholic Church is located on the west side of Pine Street just around the corner from the site of the proposed new premises; and the parochial grade school owned and operated by Mount Carmel Church is situated on the northerly side of Glenridge Avenue at its intersection with Baldwin Street.

"There was evidence at the hearing from which it fairly may be concluded that the patrons of this licensee on various occasions are not only noisy and cause disturbances both inside and outside the present license premises, but also engage in other conduct even less palatable to the residents and passersby -- loitering generally, use of profanity, use of the streets, sidewalks and private property as public toilets, and the like.

"At the hearing, testimony was adduced to the effect that, by far the greater amount of the pedestrian traffic along this portion of Glenridge Avenue was concentrated on the north side of the street -- particularly the school children and women. With most of the residences in this neighborhood being located on the north side of Glenridge Avenue and in the area north of Glenridge Avenue, with the parochial school being located on the north side of Glenridge Avenue, and with Mount Carmel Church being located on Pine Street north of Glenridge Avenue, this evidence is not surprising. And it was not controverted.

"In the light of the foregoing, the operation of this license at its present location is something less than an asset to the community and benefits the neighborhood not at all. To permit the re-location of the license at the site proposed, where the effect and results of its operation would be brought into the midst of a heavier concentration and greater number of residences and dwellings, and where the avoidance of the crude and rude conduct of its patrons by the passing resident, school child, church-goer, and casual pedestrian would be even more difficult than at present, would simply be to worsen and compound an already unhealthy situation.

"It is our conclusion, therefore, that the location of an establishment for the on-premises consumption of alcoholic beverages at the site proposed would be harmful not only to the neighborhood and its residents, but to the entire Town and its citizens. And, consequently, that we would not be fulfilling the obligations imposed upon us under the provisions of the Alcoholic Beverage Law, were we to approve the transfer requested."

Appellant contends in its petition of appeal that the action of respondent was erroneous for the following reasons:

"(A). It was based on conclusions not supported by the record of the proceedings.

(B). It was based on findings which are contrary to actual fact and find no support in the evidence presented.

(C). The action of the Respondent constituted a clear abuse of discretion.

(D). The evidence tending to establish the hardship of the denial on the Appellant was not given sufficient consideration."

Respondent's answer denies the allegations in appellant's petition of appeal and further avers that the denial of the transfer was reasonably proper and lawful and in the best interest of the town.

The appeal herein was heard de novo pursuant to Rule 6 of State Regulation No. 15. The transcript of the proceedings before respondent was received in evidence pursuant to Rule 8 of State Regulation No. 15. At the hearing herein additional witnesses testified on behalf of the parties to this appeal.

Frank Landara (president of appellant) testified that the proposed premises consist of "a new building, air conditioned,

private back yard" and that the present premises have been permitted to deteriorate; that he supervises the business after 7 p.m. and closes the place at 11 p.m. with the exception of weekends when the establishment is allowed to remain open until 11:30 p.m.; that Sebastino LaRussa (vice president of appellant) opens the premises at 9 a.m. and remains in charge until 7 p.m.; that "most of the business is done after four-thirty;" that for more than twenty years appellant has held a liquor license and was never charged with a violation of the alcoholic beverage laws; that on the side of Glenridge Avenue where the proposed new premises are located there are homes and business establishments, and to the rear of the said premises is a large brick structure used as a factory, and that the side of Glenridge Avenue where the present licensed premises are situated also has homes and business places.

On cross examination Landara testified that he only remembered the police being called on July 1, 1966 because a man was using profane language. Landara further stated that the bar at the proposed premises is "twice as large" as the one in use at the present premises and the yard to the rear of the proposed site will be available for the exclusive use of club members.

Sebastino LaRussa (vice president of appellant) testified that he opens the licensed premises at 9 a.m. and supervises the place until relieved by Landara about "6:30, a quarter to 7; depends what time he come down;" that the establishment is closed in the morning when children pass on their way to the parochial school and in the afternoon there is no business until "around 4:30, a quarter to 5, 5 o'clock;" that, when the school bus is in operation, seldom more than "twelve or thirteen" children pass the premises; that, to his (LaRussa's) knowledge, there have never been any liquor violations or have there been complaints from Our Lady of Mount Carmel Church with respect to the conduct of the business.

Maria Chiovetta (who has resided at 72 Glenridge Avenue for the past two years) testified that her two children attend Our Lady of Mount Carmel school, which is two and one-half blocks away from her home, and that they pass the present premises but the children have never experienced any trouble with anyone patronizing appellant's establishment.

Nicholas Zarra testified that he is a "trustee and part-time bartender" in appellant's premises and, although he has resided for the past twenty years a block away from the premises, his six children never had any difficulty or trouble with anyone from appellant's place of business.

At the hearing held before respondent four persons residing in the area of the licensed premises objected to the transfer of the license. Their complaints were based on noise and improper conduct of certain patrons of appellant. Mary Del Visco (employed by the municipality as a crossing guard to assist the children attending the parochial school located two and one-half blocks away) testified that the majority of the children use the north side of Glenridge Avenue where the proposed premises are located.

Robert F. Edwards (municipal town planner and executive director of the redevelopment agency, and who also acts as secretary to the Board of Adjustment) testified at the hearing herein that it is his opinion the grant of the transfer would have an adverse effect in the neighborhood. Edwards stated that "I myself just can't think in terms of moving of a bar into a

neighborhood as a means of perpetuating and advancing the welfare of the citizens of that neighborhood." He further said that "the present location is on what is referred to as the south side of Glenridge Avenue and backs up against the railroad facilities tracks and is really on the boundary, the border, of this so-called neighborhood." Edwards testified that between 3:00 and 4:00 p.m. on September 7, 1966, he made a count of the number of children passing the respective premises and observed twenty-five or thirty children pass the proposed location and only two children pass the present licensed premises. Edwards further testified that, although located in a commercial zone, he considers the site of the proposed premises as a non-conforming use.

On cross examination Edwards testified that, the day when he made the check of the children walking on Glenridge Avenue, the school bus was not in operation. Edwards also expressed the opinion that, although more families reside on the side of Glenridge Avenue where the proposed premises are located, "it is not substantial."

When asked whether the new premises would not increase property values, he replied "No. I don't follow that because if the use isn't what you intend to promote in the neighborhood then merely enlarging the use and making it more enhanced doesn't better it. It goes the opposite. It would create greater nuisances than the present location." Edwards also testified that the side of the street where the licensed premises are at present is included in the urban renewal development plan whereas the side of the street where the proposed premises are located is not.

Ellen Soda (daughter-in-law of the owner of the building where the appellant's liquor license is now located) testified that her main objection to the transfer of the license is for the children who will pass the new licensed premises.

Antoinette Rubino objects to the transfer of the license because she resides next door to the proposed premises. She states that at present the licensed premises are "bad enough."

The complaints made by objectors residing in the area are based on noise and other annoyances resulting from patrons of appellant's place of business. Some of the objectors indicated that on occasion they had called the police but there is no indication that a formal complaint was ever made against the operation of appellant's establishment. Although appellant has held a liquor license in excess of twenty years, there is no record that at any time charges of mismanagement or misconduct were instituted against it. It appears significant that, if the conditions were as bad as objectors' witnesses contend, the municipality had never preferred disciplinary proceedings against appellant. It is quite apparent, if the objections are to be accepted, that the failure to start proceedings was not due to a lack of awareness by the town officials with reference to the alleged conditions. I might add that there was no testimony given by any member of the respondent Board of Commissioners. It appears odd that, at this time when a transfer of the license, from an old building on one side of the street to a new structure immediately across the street is sought, objections charging misconduct or mismanagement by appellant should arise. If the operation of a licensed premises becomes intolerable to persons residing in the area thereof, it is the duty of the municipal authorities to take action to suppress the continuance of such conditions.

During the testimony of Robert F. Edwards (town planner) he stated that he considered that the north side of Glenridge Avenue whereon the new premises are located as a non-conforming use. However, no definite probative evidence with relation thereto was presented.

The transfer of a liquor license is not an inherent or automatic right. If denied on reasonable grounds, such action will be affirmed. Richmon, Inc. v. Trenton, Bulletin 1560, Item 4. However, where it appears that the denial was arbitrary and unreasonable, the action will be reversed. Tompkins v. Seaside Heights, Bulletin 1398, Item 1; Bomwell v. Newark, Bulletin 1639, Item 1. The instant case appears comparable to the case of Bivona v. Hock et al., 5 N.J. Super. 118. In that case the court stated as follows:

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

The court further pointed out that:

"...the Legislature has not sought to delegate unlimited 'discretion' to these agencies, but rather has spelled out a system within the principles of which the agencies shall act. Accordingly, the courts must measure the propriety of the administrative action by the authority granted, and may not merely surrender the subject matter to the agencies on the premise that theirs is a discretion exercisable on the basis of any and all factors which pertain to the political issue of prohibition."

In the instant case the premises sought for the license are located directly across the street from its present location. Thus such transfer would not result in a new liquor outlet in the area. Cf. Piccirillo v. Lyndhurst, Bulletin 1578, Item 3; affirmed Moderelli and Lyndhurst v. Piccirillo and Division of Alcoholic Beverage Control (App.Div. 1966), not officially reported, recorded in Bulletin 1662, Item 1. See also Bomwell v. Newark, supra, affirmed id nom. (App.Div. 1966), not officially reported, recorded in Bulletin 1667, Item 1; L. Kubisky, Inc. v. Paterson, Bulletin 1662, Item 2.

It is an uncontraverted fact that the license sought for transfer is in the same area and within a comparatively short distance of its present location. After careful examination of the evidence presented in this matter, I conclude that respondent's denial of the appellant's application for the place-to-place transfer of its license was unreasonable, arbitrary and an abuse of its discretion. Therefore it is recommended that respondent's action in the case sub judice be reversed, and that the application for transfer be granted conditioned upon proof of compliance with all the necessary prerequisites.

Conclusions and Order

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

After careful examination and consideration of the record herein, including the transcripts of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. I find that the denial of the transfer was unreasonable. The action of respondent will therefore be reversed.

The license originally sought to be transferred expired at midnight, June 30, 1966. Appellant, during the pendency of this appeal, obtained a renewal of its license for the current licensing year for premises 56 Glenridge Avenue, which renewal is subject to the ultimate outcome of the appeal. Rule 13 of State Regulation No. 15.

Accordingly, it is, on this 13th day of December, 1966,

ORDERED that the action of respondent be and the same is hereby reversed and respondent is directed to transfer appellant's current plenary retail consumption license to 61 Glenridge Avenue in accordance with the transfer application heretofore filed by appellant.

JOSEPH P. LORDI
DIRECTOR

3. APPELLATE DECISIONS - SOTO PRUNA v. WEST NEW YORK.

ABELARDO RAUL SOTO PRUNA,)	
t/a THE TROTTERS CLUB,)	
)	ON APPEAL
Appellant,)	ORDER
)	
v.)	
)	
BOARD OF COMMISSIONERS OF)	
THE TOWN OF WEST NEW YORK,)	
)	
Respondent.)	

Anthony P. Peduto, Esq., Attorney for Appellant.
Samuel L. Hirschberg, Esq., by Louis L. Flaum, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

Appellant appeals from respondent's action revoking his license effective October 20, 1966 for permitting acts of violence, brawls and disturbances on the licensed premises and conducting the licensed business as a nuisance. Upon filing of the appeal I entered an order staying the revocation pending the determination of the appeal.

On December 5, 1966 I revoked the license of appellant in disciplinary proceedings conducted by me for procurement for prostitution, permitting acceptance of numbers bets on the licensed premises and sale in violation of State Regulation No. 38. Re Soto Pruna, Bulletin 1713, Item 1.

Prior to the hearing of the appeal herein, by letter dated December 13, 1966 appellant advised me that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 15th day of December 1966,

ORDERED that the appeal herein be and the same is hereby dismissed and the order staying respondent's order of revocation is vacated. It is further

ORDERED that respondent's order of revocation be reinstated against Plenary Retail Consumption License C-46, issued by the Board of Commissioners of the Town of West New York to Abelardo Raul Soto Pruna, t/a The Trotters Club, for premises 5816 Hudson Avenue, West New York.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - PURCHASE FROM ANOTHER RETAILER - UNLAWFUL TRANSPORTATION - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WILLIAM L. OAKLEY)
t/a RAMA LANES)
744 Hamburg Turnpike)
Pompton Lakes, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Borough Council of the Borough of Pompton Lakes)

Licensee, Pro se.
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to charges alleging that on divers dates between September 12 and October 10, 1966, he (1) purchased alcoholic beverages from another retailer, in violation of Rule 15 of State Regulation No. 20, and (2) transported such alcoholic beverages in a vehicle not bearing transit insignia, in violation of Rule 2 of State Regulation No. 17.

Reports of investigation disclose that between the dates alleged, the licensee was listed on the Non-Delivery List pursuant to Rule 3 of State Regulation No. 39 by reason of long continued listing on the Default List, in consequence of which he obtained his requirements of alcoholic beverages from another retailer and transported his purchases to his licensed premises in an unlicensed vehicle.

Absent prior record, the license will be suspended on the first charge for twenty days (Re Hauge, Bulletin 1629, Item 3) and on the second charge for ten days (Re Fichtelberg, Bulletin 1575, Item 1), or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 6th day of December, 1966,

ORDERED that Plenary Retail Consumption License C-7, issued by the Borough Council of the Borough of Pompton Lakes to William L. Oakley, t/a Rama Lanes, for premises 744 Hamburg Turnpike, Pompton Lakes, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. Thursday, December 8, 1966, and terminating at 3:00 a.m. Monday, January 2, 1967

JOSEPH P. LORDI
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - DEFERRED EFFECTIVE DATE OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)

FRED L. TRAUTWEIN)
t/a SARATOGA BAR)
203 S. New York Ave.)
Atlantic City, New Jersey)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-204, issued by the Board of Commissioners of the City of Atlantic City.)

Samuel Epstein, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 4, 1966, he sold drinks of beer to two minors, ages 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Rainbow Room, Inc., Bulletin 1678, Item 4.

Recent report of investigation discloses that the licensed business is not presently being conducted, usually closing in early fall and reopening in the late spring or early summer. Thus, no effective penalty can be imposed at this time. Hence the effective dates for the suspension will be fixed by the entry of a further order herein after the operation of the licensed business shall have been fully resumed on a substantial basis.

Accordingly, it is, on this 12th day of December, 1966,

ORDERED that Plenary Retail Consumption License C-204, issued by the Board of Commissioners of the City of Atlantic City to Fred L. Trautwein, t/a Saratoga Bar, for premises 203 S. New York Avenue, Atlantic City, be and the same is hereby suspended for ten (10) days, the effective dates of such suspension to be fixed by further order as aforesaid.

JOSEPH P. LORDI
DIRECTOR

6.

ACTIVITY REPORT FOR DECEMBER 1966

ARRESTS:		
Total number of persons arrested - - - - -		19
Licensees and employees - - - - -	10	
Bootleggers - - - - -	9	
SEIZURES:		
Distilled alcoholic beverages - gallons - - - - -		21.96
Wine - gallons - - - - -		172.49
Brewed malt alcoholic beverages - gallons - - - - -		159.61
RETAIL LICENSEES:		
Premises inspected - - - - -		695
Premises where alcoholic beverages were gauged - - - - -		561
Bottles gauged - - - - -		8,568
Premises where violations were found - - - - -		62
Violations found - - - - -		95
Unqualified employees - - - - -	50	Disposal permit necessary - - - - - 2
Application copy not available - - - - -	13	Prohibited signs - - - - - 1
Other mercantile business - - - - -	9	Other violations - - - - - 17
Reg. #39 sign not posted - - - - -	3	
STATE LICENSEES:		
Premises inspected - - - - -		8
License applications investigated - - - - -		4
COMPLAINTS:		
Complaints assigned for investigation - - - - -		379
Investigations completed - - - - -		316
Investigations pending - - - - -		326
LABORATORY:		
Analyses made - - - - -		130
Refills from licensed premises - bottles - - - - -		87
Bottles from unlicensed premises - - - - -		12
IDENTIFICATION:		
Criminal fingerprint identifications made - - - - -		6
Persons fingerprinted for non-criminal purposes - - - - -		345
Identification contacts made with other enforcement agencies - - - - -		231
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities - - - - -		10
Violations involved - - - - -		11
Sale during prohibited hours - - - - -	6	
Sale to minors - - - - -	5	
Cases instituted at Division - - - - -		23*
Violations involved - - - - -		33
Sale during prohibited hours - - - - -	7	Sale to non-members by club - - - - - 1
Possessing liquor not truly labeled - - - - -	5	Solicitor aiding & abetting unauth. sale 1
Permitting lottery activity on prem. - - - - -	4	Possession by sol. of ill. beverages w/
Sale to minors - - - - -	3	intent to sell - - - - - 1
Sale to intoxicated persons - - - - -	2	Fraud and front - - - - - 1
Sale outside scope of license - - - - -	2	Permitting bookmaking on premises - - - - - 1
Failure to close prem. during proh. hrs. - - - - -	2	Permitting females at bar (local reg.) - 1
Fraud in application - - - - -	1	Hindering investigation - - - - - 1
Cases brought by municipalities on own initiative and reported to Division - - - - -		18
Violations involved - - - - -		25
Sale to minors - - - - -	12	Licensee working while intoxicated - - - - - 1
Permitting brawl on premises - - - - -	2	Sale to intoxicated persons - - - - - 1
Conducting business as a nuisance - - - - -	2	Hindering investigation - - - - - 1
Permitting persons of ill repute on prem. - - - - -	1	Permitting gambling on premises - - - - - 1
Permitting immoral act. on premises - - - - -	1	Fraud in application - - - - - 1
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		47
Appeals - - - - -	8	Seizures - - - - - 1
Disciplinary proceedings - - - - -	27	Tax revocations - - - - - 2
Eligibility - - - - -	8	Applications for license - - - - - 1
STATE LICENSES AND PERMITS ISSUED:		
Total number issued - - - - -		1,308
Licenses - - - - -	4	Social affair permits - - - - - 353
Solicitors' permits - - - - -	25	Wine permits - - - - - 14
Employment permits - - - - -	324	Miscellaneous permits - - - - - 258
Disposal permits - - - - -	67	Transit insignia - - - - - 252
		Transit certificates - - - - - 11
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued - - - - -	95	

Joseph P. Lordi
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: January 9, 1967

*Includes one cancellation proceeding - license improvidently issued in that licensee not bona fide club.

7. SEIZURE - FORFEITURE PROCEEDINGS - UNLAWFUL TRANSPORTATION OF ALCOHOLIC BEVERAGES - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES ORDERED FORFEITED - CLAIM OF INNOCENT LIENOR RECOGNIZED.

In the Matter of the Seizure)	
on August 29, 1966 of a)	Case No. 11,765
quantity of alcohol and a)	ON HEARING
Chevrolet sedan on the New)	CONCLUSIONS
Jersey Turnpike, 5 ⁴ Mile Post,)	AND ORDER
in the Township of Bordentown,)	
County of Burlington and State)	
of New Jersey.)	

Commercial Credit Corporation by Richard Horvath, District
Manager.

I. Edward Amada, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

This matter came on for hearing pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes of New Jersey and State Regulation No. 28 to determine whether six containers of alcoholic beverages and a Chevrolet sedan, more particularly described in an inventory annexed hereto, made part hereof, and marked Schedule "A", seized on August 29, 1966 on the New Jersey Turnpike, 5⁴ Mile Post, Bordentown Township, New Jersey constitutes unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R.S. 33:1-66, the only appearance was one entered on behalf of the Commercial Credit Corporation which sought recognition of its lien upon the said motor vehicle.

The facts as they appear from the reports of ABC agents and other documents in the file reflect the following: On Monday, August 29, 1966, at about 8:15 a.m. a New Jersey State trooper stopped the motor vehicle in question on the New Jersey Turnpike aforesaid. The said vehicle bore North Carolina license plates No. SZ786, registered in the name of Laura Lee Strong of Shelby, North Carolina, and was being operated by Johnny Lee Chapman. The trooper found six one-gallon jugs of alcohol in the car, two of which were on the floor, and four of which were in the trunk compartment. None of the jugs had affixed to them any stamps indicating payment of taxes. The trooper took possession of the said jugs of alcohol and the motor vehicle, all of which were turned over to agents of this Division.

Chapman was thereupon arrested, charged with transportation and possession of untaxed alcohol, in violation of R.S. 33:1-2, pursuant to R.S. 33:1-50, and was held in bail for arraignment in the Bordentown Township Municipal Court.

On September 14, 1966, a sample of the contents of one of the said jugs was analyzed by the Division chemist who reports that it is an alcoholic beverage, fit for beverage purposes, with an alcoholic content of 47.58%.

The alcoholic beverages seized herein are illicit because they are untaxed and were illegally transported. Thus, the said beverages and the motor vehicle in which they were transported constitute unlawful property and should be forfeited. R.S. 33:1-1(x and y); R.S. 33:1-2; R.S. 33:1-50; R.S. 33:1-66.

Richard Horvath, the District Manager of the East Orange office of the Commercial Credit Corporation testified that the account covering the sale of the seized vehicle was purchased by the Charlotte, North Carolina branch of this company, from City Chevrolet prior to which purchase it made a thorough background investigation of Laura Lee Strong and Johnny Chapman.

Its investigation disclosed that Laura Lee Strong was 69 years of age, retired, and had a bank account with the First National Bank of Shelby, North Carolina. She had also had a satisfactory credit standing with local merchants, including Sears, Roebuck and Co. In addition, the lienor checked with the Criminal Identification Division of Shelby, North Carolina police department and the County Sheriff's Department at Shelby, North Carolina and ascertained that there was no criminal record with respect to the owner of the motor vehicle.

A further check was made on the employment of Chapman and it was ascertained that he is married and has been employed for the past three years as a master machinist with a local company.

A check of his credit references revealed that he had made prompt payments to the M and J Finance Company which had previously financed his purchase of an automobile.

I am satisfied from the evidence presented that the claimant acted in good faith, and did not know or have any reason to believe that Laura Lee Strong and Johnny Chapman would be involved in the unlawful possession or transportation of the illicit alcoholic beverages for which this motor vehicle would be used. Seizure Case No. 10,975, Bulletin 1507, Item 3; Seizure Case No. 10,448, Bulletin 1383, Item 5.

I shall, therefore, recognize the lien of the Commercial Credit Corporation upon the motor vehicle in question to the extent due on its conditional sales contract of a balance of \$3,201.90. It appears that the appraised retail value of the Chevrolet motor vehicle would not exceed the amount of the lien claim and costs of seizure and storage. Therefore, such motor vehicle shall be returned to the Commercial Credit Corporation upon payment by claimant of costs of seizure and storage of the Chevrolet sedan.

Accordingly, it is DETERMINED and ORDERED that if on or before the 27th day of December, 1966, Commercial Credit Corporation, a corporation, pays the costs of the seizure and storage of the Chevrolet automobile, fully described in Schedule "A" attached hereto, such motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the alcoholic beverages seized herein constitute unlawful property, and the same be and hereby are forfeited in accordance with the provisions of R.S. 33:1-66 and that they be retained for the use of hospitals and State, county and municipal institutions or destroyed, in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Dated: December 16, 1967

JOSEPH P. LORDI
DIRECTOR

SCHEDULE "A"

- 6 - containers of alcoholic beverages
- 1 - 1966 Chevrolet 4 door Hardtop, Serial No. 166 396 A 110747, North Carolina License SZ 786.

8. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto.Susp. #297)
 In the Matter of a Petition to Lift)
 the Automatic Suspension of Plenary)
 Retail Consumption License C-220,) ON PETITION
 issued by the Board of Alcoholic) ORDER
 Beverage Control for the City of)
 Paterson to)

 Anna & Joseph Velky)
 t/a Getty Avenue Tavern)
 304 Getty Avenue)
 Paterson, N. J.)

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on October 21, 1966, Anna Velky, one of the licensees-petitioners, was fined \$200 in the Passaic County Court after pleading guilty to a charge of sale of alcoholic beverages to a minor on August 19, 1966, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioners' license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for ten days effective 3:00 a.m. January 14, 1967, and terminating at 3:00 a.m. January 24, 1967, on a charge alleging sale of alcoholic beverages to the same minor, which sale was the subject of the previous criminal conviction. Hence, I shall lift the automatic suspension in anticipation of the service of the municipal suspension. Re Zergiebel, Bulletin 1691, Item 8.

Accordingly, it is, on this 15th day of December, 1966,

ORDERED that the statutory automatic suspension of said license C-220 be and the same is hereby stayed in the meantime and is lifted effective 3:00 a.m. Tuesday, January 24, 1967.

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

A.B.J. CORPORATION)
t/a Key Bar)
202 S. 4th St.)
Camden, New Jersey)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-149, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

David Novack, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 28, 1966, it sold a drink of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Enkoch, Inc., Bulletin 1678, Item 8.

Accordingly, it is, on this 27th day of December, 1966,

ORDERED that Plenary Retail Consumption License C-149, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to A.B.J. Corporation, t/a Key Bar, for premises 202 South 4th Street, Camden, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Tuesday, January 3, 1967, and terminating at 2:00 a.m. Friday, January 13, 1967.

JOSEPH P. LORDI
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

AMALGAMATED LOCAL #731
United Automobile Workers of America
1320 Parkway Avenue
Ewing Township
PO Trenton, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)
)

Holder of Club License CB-1, issued by the Township Committee of the Township of Ewing.

Pellettieri and Rabstein, Esqs., by George L. Pellettieri, Esq.,
Attorneys for Licensee.
Philip Margulies, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 6, 1966, it possessed an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Sohanchak, Bulletin 1697, Item 10.

Accordingly, it is, on this 3rd day of January 1967,

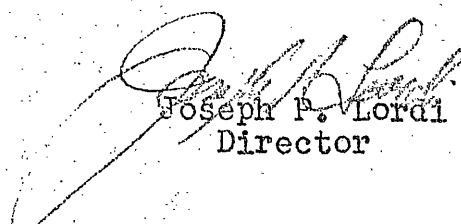
ORDERED that Club License CB-1, issued by the Township Committee of the Township of Ewing to Amalgamated Local #731, United Automobile Workers of America, for premises 1320 Parkway Avenue, Ewing Township, be and the same is hereby suspended for five (5) days, commencing at 2:30 a.m. Monday, January 9, 1967, and terminating at 2:30 a.m. Saturday, January 14, 1967.

JOSEPH P. LORDI
DIRECTOR

11. STATE LICENSES - NEW APPLICATION FILED.

Dorchester, Inc.
30 Bleeker Street
Millburn, New Jersey

Application filed February 16, 1967 for place-to-place transfer of Plenary Wholesale License W-69 from 60 Railroad Street, Hasbrouck Heights, New Jersey.


Joseph P. Lordi
Director