

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1522

July 30, 1963

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1522

July 30, 1963

1. COURT DECISIONS - SEIP AND HANNA v. FRENCHTOWN, HUGHES AND
DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-196-62

LORETTA S. SEIP, EDWARD HANNA)
and JULIA HANNA,)
)
Appellants,)
)
vs.)
)
MAYOR AND BOROUGH COUNCIL OF)
THE BOROUGH OF FRENCHTOWN,)
RICHARD T. HUGHES, and DIVISION)
OF ALCOHOLIC BEVERAGE CONTROL,)
DEPARTMENT OF LAW AND PUBLIC)
SAFETY, STATE OF NEW JERSEY,)
)
Respondents.)

Argued May 20, 1963 - Decided June 25, 1963

Before Judges Price, Sullivan and Lewis.

Mr. John Dale Seip argued the cause for appellants.

Mr. Cowles W. Herr argued the cause for respondent Borough of Frenchtown (Messrs. Herr and Fisher, attorneys; Mr. Herr, of counsel).

Mr. William R. Stem argued the cause for respondent Richard T. Hughes.

Mr. Herbert S. Alterman, Deputy Attorney General, argued the cause for respondent Division of Alcoholic Beverage Control (Mr. Arthur J. Sills, Attorney General of New Jersey, attorney; Mr. Alterman of counsel).

The opinion of the court was delivered by LEWIS, J.A.D.

Prior to 1962 the Borough of Frenchtown had never issued a plenary retail distribution license. On October 5 of that year, the Division of Alcoholic Beverage Control affirmed the action of the mayor and council of said borough in granting such a license to respondent Richard T. Hughes (Seip and Hanna v. Frenchtown and Hughes, Bulletin 1485, Item 3). Appellants Loretta S. Seip (local resident, owner of the National Hotel

and the holder of a plenary retail consumption license) and Edward Hanna and Julia Hanna (local residents, owners of the Warford House and holders of a plenary retail consumption license) on their appeal to this court contend that the agency's determination should be reversed, and for the following reasons:

- (1) the provisions of N.J.S.A. 33:1-12.14 prohibit the issuance of a plenary retail distribution license by a municipality where the population of the municipality is more than 1,000 and less than 5,000;
- (2) the mayor and council of the Borough of Frenchtown improperly and mistakenly abused their discretion in granting a plenary retail distribution license; and
- (3) the ordinance establishing the plenary retail distribution license fee was not adopted in the public interest but to favor an individual.

The population of the Borough of Frenchtown according to the last federal census was 1,340. It is argued (a) under the provisions of N.J.S.A. 33:1-12.14 the borough could not issue a plenary retail license until its population reached 5,000, and (b) the exception provided in N.J.S.A. 33:1-12.15 is limited to a municipality which has a population of less than 1,000. Accordingly, it is urged there is no legislative authority for the issuance of a plenary retail distribution license by a municipality where the population is more than 1,000 and less than 5,000. We do not agree.

The legislative enactments constituting our alcoholic beverage law are statutes in pari materia and must be considered and interpreted together; conjunctively they represent a unified State policy. See generally Clifton v. Passaic County Board of Taxation, 28 N.J. 411, 421 (1958); McCaffrey, Statutory Construction, § 44, p. 83 (1953). It is apparent from a reading of N.J.S.A. 33:1-12.14, N.J.S.A. 33:1-12.15, R.S. 33:1-19 and R.S. 33:1-40 that any municipality in its sound discretion may issue one distribution license. Any other construction would be contrary to reason and would fly in the face of our numerous judicial pronouncements that statutes "will not be construed to lead to absurd results." State v. Provenzano, 34 N.J. 318, 322 (1961). See also Robson v. Rodriguez, 26 N.J. 517, 528 (1958); Union Terminal Cold Storage Co. v. Spence, 17 N.J. 162, 166 (1954).

The license under attack was issued to respondent Richard T. Hughes pursuant to a municipal ordinance adopted on April 5, 1962. Appellants challenged the ordinance in the Superior Court, Law Division, Hunterdon County, and on September 24, 1962 a judgment of that court was entered upholding its validity. Ample opportunity was afforded appellants in said proceeding to present all of their contentions addressed to the illegality of the ordinance and they are not entitled to re-litigate the same basic issue. City of Trenton v. Lenzner, 16 N.J. 465, 469 (1954), certiorari denied 348 U.S. 972, 75 S. Ct. 534, 99 L. Ed. 757 (1955); Hudson Transit Corp. v. Antonucci, 137 N.J.L. 704, 706-7 (E. & A. 1948). Moreover, the validity of a municipal

ordinance is not ordinarily challengeable by way of review before an administrative agency. See Phillipsburg v. Burnett, 125 N.J.L. 157, 161 (Sup. Ct. 1940), and Blanck v. Mayor and Borough Council of Magnolia, 73 N.J. Super. 306, 311-312 (App. Div. 1962), reversed on other grounds 38 N.J. 484 (1962).

The second and third points raised on this appeal are without factual foundation in the record.

Affirmed.

2. NEW LEGISLATION - AMENDMENT OF R.S. 33:1-2.

SENATE NO. 93 was approved by the Governor on June 13, 1963, and thereupon became Chapter 100 of the Laws of 1963. The Act, with new matter underscored amends R.S. 33:1-2 to read as follows:

- #1. "33:1-2 It shall be unlawful to manufacture, sell, possess with intent to sell, transport, warehouse, rectify, blend, treat, fortify, mix, process, bottle or distribute alcoholic beverages in this State, except pursuant to and within the terms of a license, or as otherwise expressly authorized, under this chapter; but any drink actually intended for immediate personal consumption may be mixed by any person; and alcoholic beverages intended in good faith to be used solely for personal consumption may be transported in any vehicle from a point within this State to the extent of, not exceeding 1/2 barrel, or 2 cases containing not in excess of 24 quarts in all, of beer, ale or porter, and 5 gallons of wine and 12 quarts of other alcoholic beverages within any consecutive period of 24 hours, and from a point outside this State to the extent of, not exceeding 1/4 barrel or one case containing not in excess of 12 quarts in all, of beer, ale or porter, and one gallon of wine and one gallon of other alcoholic beverages within any consecutive period of 24 hours; provided, however, that except pursuant to and within the terms of a license or permit issued by the director, no person shall transport into this State or receive from without this State into this State, alcoholic beverages where the said alcoholic beverages are transported or received from a State which prohibits the transportation into that State of alcoholic beverages purchased or otherwise obtained in the State of New Jersey. If any person or persons desire to transport alcoholic beverages intended only for personal consumption in quantities in excess of those above-mentioned, an application may be made to the commissioner who may, upon being satisfied of the good faith of the applicant, and upon payment of a fee of \$5.00 issue a special permit limited by such conditions as the commissioner may impose, authorizing such transportation of alcoholic beverages in quantities in excess of those above-mentioned.

- #2. This act shall take effect immediately."

EMERSON A. TSCHUPP
ACTING DIRECTOR

3. APPELLATE DECISIONS - OCEAN COUNTY LICENSED BEVERAGE ASSOCIATION AND LIPTAK v. POINT PLEASANT AND ABRAHAMSEN.

OCEAN COUNTY LICENSED BEVERAGE)
ASSOCIATION, and FRANCIS LIPTAK)
and AGNES LIPTAK,)

Appellants,)

v.)

MAYOR AND COUNCIL OF THE BOROUGH OF)
POINT PLEASANT, AND GUSTAVE)
ABRAHAMSEN,)

Respondents.)

ON APPEAL
CONCLUSIONS
AND ORDER

Novins and O'Connor, Esqs., by Robert J. Novins, Esq.,
Attorneys for Appellants.
Camp & Simmons, Esqs., by Roy G. Simmons, Esq., Attorneys for
Respondent Mayor and Council
Rogers, Sim, Sinn & Ward, Esqs., by Eugene D. Serpentelli,
Esq., Attorneys for Respondent Gustave Abrahamson
James F. McGovern, Jr., Esq., Attorney for New Jersey Licensed
Beverage Association, Inc., Objecter.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Mayor and Council whereby it granted an application for a plenary retail consumption license to respondent Gustave Abrahamson for premises to be constructed in accordance with plans and specifications at the northeast corner of River Road and State Highway 70, Borough of Point Pleasant.

"The Mayor and the six members of respondent Council attended two meetings when the matter was heard, and the Council voted unanimously to approve respondent Abrahamson's application, thus making it unnecessary for the Mayor to vote thereon. The instant application was considered under and by virtue of the statute authorizing the issuance of a new liquor license to a hotel containing fifty sleeping rooms. R.S. 33:1-12.20.

"Appellants contend in their petition of appeal that the action of respondent Mayor and Council was erroneous for the following reasons:

- '(a) The proposed premises for which the contemplated license is to be issued does not constitute a 'hotel' within the meaning and definition of the provisions of NJS 33:1-12.20.
- (b) The contemplated license, if issued, will be in excess of the lawful number of plenary retail alcoholic beverage consumption licenses presently permitted in said Borough.

- (c) The said license is not designed to subserve the public interest and there is no present need therefor.
- (d) The proposed license, if issued, will service a clientele not properly falling into the category of hotel guests, but will cater to a transient trade and is primarily designed to serve the patrons of an adjacent marina and boat yard.'

"The facts with reference to the location and layout of respondent Abrahamsen's proposed premises for which the liquor license is sought are not in dispute. It appears that the land, comprising four and one-eighth acres, on which a motel of fifty sleeping rooms will be situated, will have thereon a detached building for use as a restaurant and banquet hall large enough to accommodate six hundred persons, a swimming pool and a marina containing two hundred boat slips.

"Agnes Liptak (an appellant herein) testified that she lives 'right up the road from the motel' and has a restaurant and tavern. She stated that in her opinion, because of the size of the area licensed for the sale and consumption of alcoholic beverages, it would have to be constantly policed.

"H. George Buckwald, president of the appellant Licensed Beverage Association, testified that members of the Association having licensed premises in the area were of the opinion that 'there wasn't a big need for an additional license' but, after a discussion, they felt that, if the respondent licensee 'needed a license to further their business', there should be a restriction thereon to exclude the boat area and marina and to prevent the sale of 'package goods for off-premises consumption in big volume' and 'normal eating arrangements' should be afforded the guests of the motel and not be operated as a 'separate type of catering business.'

"I shall discuss the allegations in the order in which they appear in appellant's petition of appeal.

"(a) In Rynax v. Neptune, Bulletin 1462, Item 1, when considering the issuance of a liquor license to a motel pursuant to R.S. 33:1-12.20, it was stated:

'The word "hotel" has been interpreted by the Director of this Division as contemplating and including an exception in favor of 'motels' as well as 'hotels'. Bayshore Tavern Owners Association et al. v. Sea Bright, Bulletin 1378, Item 2; Cf. Schermer v. Fremar Corporation, 36 N.J. Super. 46 (1955). Mrs. Rynax has testified that her facility will contain at least fifty sleeping units before the end of May 1962. Her application may, therefore, be properly considered within the contemplation of this section.'

See also Longview Corporation v. South Hackensack et al., Bulletin 1494, Item 2.

"(b) In view of the exception (R.S. 33:1-12.20), the limitation on the number of new retail licenses to be issued in a municipality in proportion to its population as shown by the last then preceding Federal census (R.S. 33:1-12.14) has no application herein.

"(c) The testimony presented in behalf of the appellants failed to substantiate their contention that the type of license granted by respondent Mayor and Council to respondent licensee was unnecessary and did not serve the public interest. With respect to 'public convenience and necessity,' it is not amiss to repeat what was said in Longview Corporation v. South Hackensack et al., supra, as follows:

'In connection with a need for and convenience to be served by the issuance of a liquor license to a particular area in a municipality, it is interesting to note Judge Gaulkin's discussion of said terms in Fanwood v. Rocco et al., 59 N.J. Super. 306 (App.Div. 1960):

"The terms 'public necessity' and 'public convenience' are probably as confusing and misleading when used in connection with liquor cases as the term 'abuse of discretion.' It is to be noted that these terms are not found in the statute but are the unfortunate products of our case law. Judge Clapp pointed this out in the Lakewood case, supra, at 464-466 of 38 N.J. saying: 'An even more obvious question arises as to the significance of the term in connection with intoxicating liquors. Is there any public necessity for a tavern?' Cf. Barry v. O'Connell, supra. It would help clarify our thinking if the use of such sonorous expressions were avoided wherever possible, and instead there were hammered out a plain statement of the facts and the considerations leading to the decision.***"

"(d) The attorneys for appellants contend that respondent licensee violated the legislative intent of the provision of the statute pertaining to issuance of a liquor license to a hotel of fifty sleeping rooms because of the extent of the grounds encompassed, together with the large restaurant, swimming pool and marina where alcoholic beverages could be sold and served. The section of the act in question provides:

'Nothing in this act shall prevent the issuance, in a municipality, of a new license to a person who operates a hotel containing fifty sleeping rooms or who may hereafter construct and establish a new hotel containing at least fifty sleeping rooms.'

"In the aforesaid section of the statute there is no limitation regarding the size of the licensed premises or any prohibition against sale and service of alcoholic beverages to persons other than those seeking accommodations in the motel. If the Legislature intended to exact such conditions on the

type of license in question, it would have so provided. The section of the statute is clear and unambiguous. If it is deficient in any respect (and I do not so state), then the remedy lies with the Legislature which created it and enacted it into law.

"During pendency of the instant appeal respondent licensee filed a written request with the respondent Mayor and Council that the area theretofore permitted for the sale, distribution and consumption of alcoholic beverages be reduced by eliminating therefrom the marina where the boats will dock. On May 7, 1963, pursuant to said request, respondent Mayor and Council approved a resolution the pertinent part of which reads as follows:

1. That the Alcoholic Beverage Commission of the State of New Jersey reverse and set aside for nothing holden the prior action of the Governing Body of the Borough of Point Pleasant insofar as the licensed premises of Gustave Abrahamsen extend or exist north of the present bulkhead line of the licensees property as it fronts on the Manasquan River.'

"Upon receipt of a true copy of the aforesaid resolution, the appellants herein express the view that, by reason of the amendment thereto without notice or hearing thereon, they have not waived any of their legal rights. However, where a written request is made to restrict or reduce the area or premises permitted for sale and consumption of alcoholic beverages, if acceptable, the issuing authority should grant said request and direct the clerk to amend the application and endorse on the license certificate the reduced description of the licensed premises. See Re Daly, Bulletin 171, Item 3. Under the circumstances, it is unnecessary to notify anyone or to hold a hearing in the matter.

"I have considered the testimony of appellants' witnesses and the other reasons advanced by the appellants for reversal of the action of respondent Mayor and Council, but fail to find anything to warrant reversal thereof. There has been no evidence presented which might indicate in any manner whatsoever that any members of the said respondent issuing authority who voted on this matter were improperly motivated. I am satisfied that in all respects proper consideration was given by respondent Mayor and Council before action was taken in the case. I conclude that appellants have failed to sustain the burden of establishing that the action of respondent Mayor and Council was arbitrary, unreasonable or constituted an abuse of discretion. Rule 6 of State Regulation No. 15. I, therefore, recommend that the action of respondent Mayor and Council in approving the application for the issuance of the license in question to cover the proposed premises as modified by the subsequent resolution dated May 7, 1963, hereinbefore set forth, be affirmed and that the appeal herein be dismissed."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 14 of State Regulation No. 15.

After carefully considering the testimony, exhibits, the Hearer's Report and the recommendations contained therein,

I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 19th day of June 1963,

ORDERED that the action of respondent Mayor and Council of the Borough of Point Pleasant in granting the license to respondent Gustave Abrahamsen for the said premises, as reduced, be and the same is hereby affirmed, and that the appeal be and the same is hereby dismissed.

EMERSON A. TSCHUPP
ACTING DIRECTOR

4. APPELLATE DECISIONS - MANDIA v. HIGHLANDS.

FRANK J. MANDIA and ANN MANDIA, t/a MAJESTIC INVESTMENT CO.,)	
)	
Appellants,)	ON APPEAL
)	CONCLUSIONS
v.)	AND ORDER
)	
BOROUGH COUNCIL OF THE BOROUGH OF HIGHLANDS,)	
)	
Respondent.)	

 Reussille, Cornwell, Mausner & Carotenuto, Esqs., by
 Milton A. Mausner, Esq., Attorneys for Appellants.
 Roberts, Pillsbury & Carton, Esqs., by H. Allen Roberts, Esq.,
 Attorneys for Respondent.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent Borough Council as from its denial on April 2, 1963, of application for a person-to-person transfer of a plenary retail consumption license for premises located at 75 Miller Street, Highlands.

"After the filing of appellants' petition of appeal it was stipulated by counsel for both the appellants and respondent that this matter would be determined upon a statement of facts filed herein pursuant to Rule 8 of State Regulation No. 15, as follows:

'On March 20, 1963, Appellants, Frank J. Mandia and Ann Mandia, t/a Majestic Investment Co., filed an application for the transfer of Plenary Retail Consumption License No. C-21 of the Borough of Highlands, Monmouth County from Bud-Rich Club 75, Inc. - t/a Club 75 to Appellants. Notice of the Application for transfer was published in the Highlands Star on March 22 and March 29, 1963, in the manner prescribed by the Borough Clerk of said Borough of Highlands.

'Hearing on the proposed transfer was held at the regular meeting of the Mayor and Council of the

Borough of Highlands at the Borough Hall, Highlands, New Jersey. The public was given opportunity to be heard but no one came forward or sought the floor. A vote of the members of the governing body was taken with the following results:

'Two councilmen voted to permit the transfer; two councilmen abstained from voting because they held liquor licenses; the Mayor abstained from voting because of a personal interest in the property affected.

'None of the Councilmen voted against the transfer of the license. Those abstaining abstained only for reasons known to themselves and no reasons were given for the abstentions except as to the Mayor's abstention above noted. In view of the number of abstentions, there thus resulted only two affirmative votes which caused doubt on the validity of the approval granted by the Borough of Highlands. The only method, therefore, by which the license transfer can be effected without leaving in doubt the validity of the licensed transfer, is by this appeal.'

"The sole question to be determined in this appeal is whether the vote of two members of the respondent Council was sufficient to validly grant a transfer of the license.

"Neither R.S. 33:1-19 nor R.S. 33:1-26 (the latter of which provides for the transfer of licenses) states what vote is necessary to effect a transfer. Therefore it must be assumed that the common law rule with respect to voting will prevail. That rule was stated by Justice Parker speaking for the former Supreme Court in the matter of Kozusko v. Garretson, 102 N.J.L. 508:

'It may well be conceded that when in a parliamentary body a majority vote suffices for effective enactment, and some vote aye and the others remain silent, they are taken as voting in the affirmative. Such we understand to be the law. In line with this is the principle that where a quorum is present, a proposition is carried by a majority of all the votes cast, though some of the members present refuse to vote. 29 Cyc. 1690. This is, or was, the congressional rule. U.S. v. Ballin, 144 U.S. 1. In this state it has been held that the vote of a member present who declined to vote at all should be counted in the affirmative. Mount v. Parker, 32 N.J.L. 341....'

He quotes Chancellor Zabriskie in Abels v. McKeen, 18 N.J. Eq. 462, who said:

'...At such a meeting, if a vote is taken, and no one dissents, all who do not vote are considered as voting with the majority for the motion. And a vote of three ayes at a meeting of twenty, where no one dissents, is considered as the affirmative vote of all present....'

"The common law rule is applicable in liquor licensing matters, see Manno v. City of Clifton, 14 N.J. Super. 100, at p. 102, where the court stated:

'In the instant case, the municipal council was not exercising any power granted to it by the Municipal Manager Act; it was acting pursuant to the provisions of the Alcoholic Beverage Control Act, R.S. 33:1-1 et seq., from which statute a municipality derives its power as the "other issuing authority," R.S. 33:1-19. The state-wide policy of the Legislature as evidenced by the Alcoholic Beverage Control Act governs the procedure applicable to municipal bodies acting as the "other issuing authority." The act contains no provision requiring a majority vote of all members for valid action. Accordingly, the common law rule applies. Hutchinson v. Belmar, 61 N.J.L. 443, 449 (Sup.Ct. 1898), affirmed 62 N.J.L. 450 (E. & A. 1898); Housman v. Earle, 98 N.J.L. 379 (Sup.Ct. 1922); Matthews v. Asbury Park, 113 N.J.L. 205 (Sup.Ct. 1934).'

"After a careful examination of the facts as set forth in the statement of facts, the applicable law and the memorandum of law submitted by the attorney for the appellants, I recommend that the action of the respondent Council be deemed to be a grant of the application of the appellants for a transfer of the subject license, and that the said respondent be ordered to endorse the license certificate accordingly."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the stipulation or Statement of Facts and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 18th day of June, 1963,

ORDERED that the action of the respondent Borough Council of the Borough of Highlands be and the same is hereby determined to be a grant of the application by appellant for transfer of the subject license; and the said respondent be and the same is hereby ordered to endorse the license certificate accordingly.

EMERSON A. TSCHUPP
ACTING DIRECTOR

5. APPELLATE DECISIONS - LOYAL LANES, INC. v. CALDWELL.

LOYAL LANES, INC.,)
t/a LEISURE LANES,)

Appellant,)

v.)

ON APPEAL
ORDER

TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF CALDWELL,)

Respondent)

John H. Grossman, Esq., Attorney for Appellant.
Robert W. Brady, Esq., Attorney for Respondent.

BY THE ACTING DIRECTOR:

Appellant appeals from respondent's action sus-
pending its license for thirty days effective May 1, 1963.
Upon filing of the appeal I entered an order staying the
suspension pending the determination of the appeal.

Prior to the hearing on appeal, by letter of
June 18, 1963, appellant advised me that the appeal was
withdrawn. No reason appearing to the contrary,

It is, on this 20th day of June 1963,

ORDERED that the appeal herein be and the same
is hereby dismissed and the order staying the suspension
is vacated.

EMERSON A. TSCHUPP
ACTING DIRECTOR

<u>ACTIVITY REPORT FOR JUNE 1963</u>	
6.	
ARRESTS:	
Total number of persons arrested - - - - -	36
Licensees and employees - - - - - 22	
Bootleggers - - - - - 14	
SEIZURES:	
Motor vehicles - cars - - - - -	3
Stills - 50 gallons or under - - - - -	1
Distilled alcoholic beverages - gallons - - - - -	10.451
Wine - gallons - - - - -	5.250
Brewed malt alcoholic beverages - gallons - - - - -	14.439
RETAIL LICENSEES:	
Premises inspected - - - - -	915
Premises where alcoholic beverages were gauged - - - - -	576
Bottles gauged - - - - -	8,625
Premises where violations were found - - - - -	104
Violations found - - - - -	129
Unqualified employees - - - - - 28	Disposal Permit necessary - - - - - 5
Application copy not available - - - - - 28	Other mercantile business - - - - - 4
Reg. #38 sign not posted - - - - - 24	Improper beer taps - - - - - 3
Prohibited signs - - - - - 8	Other violations - - - - - 29
STATE LICENSEES:	
Premises inspected - - - - -	28
License applications investigated - - - - -	31
COMPLAINTS:	
Complaints assigned for investigation - - - - -	388
Investigations completed - - - - -	396
Investigations pending - - - - -	130
LABORATORY:	
Analyses made - - - - -	111
Refills from licensed premises - bottles - - - - -	28
Bottles from unlicensed premises - - - - -	17
IDENTIFICATION:	
Criminal fingerprint identifications made - - - - -	9
Persons fingerprinted for non-criminal purposes - - - - -	553
Identification contacts made with other enforcement agencies - - - - -	311
DISCIPLINARY PROCEEDINGS:	
Cases transmitted to municipalities - - - - -	9
Violations involved - - - - -	10
Sale during prohibited hours - - - - - 7	Failure to close premises during
Sale to minors - - - - - 2	prohibited hours - - - - - 1
Cases Instituted at Division - - - - -	27
Violations involved - - - - -	39
Sale during prohibited hours - - - - - 6	Unauthorized transportation - - - - - 2
Permitting lottery activity on prem. - - - - - 6	Aiding & abetting unlicensed sale - - - - - 1
Sale to minors - - - - - 5	Unlicensed purchase by solicitor - - - - - 1
Beverage Tax Law non-compliance - - - - - 3	Hindering investigation - - - - - 1
Permitting gambling (Black Jack & Punch Board) on premises - - - - - 3	Sale outside scope of license - - - - - 1
Permitting bookmaking on premises - - - - - 2	Soliciting house-to-house - - - - - 1
Permitting immoral activity on prem. - - - - - 2	Delivery without bona fide invoice - - - - - 1
Possessing liquor not truly labeled - - - - - 2	Unqualified employee - - - - - 1
Conducting business as a nuisance - - - - - 1	
Cases brought by municipalities on own initiative and reported to Division - - - - -	29
Violations involved - - - - -	33
Sale to minors - - - - - 25	Employee working while intoxicated - - - - - 1
Permitting brawl on premises - - - - - 5	Failure to have copy of license appl. on premises - - - - - 1
Permitting immoral activity on prem. - - - - - 1	Playing juke box during proh. hours (local) - - - - - 1
Employing bartender w/o permit (local) 1	
HEARINGS HELD AT DIVISION:	
Total number of hearings held - - - - -	25
Appeals - - - - - 2	Seizures - - - - - 1
Disciplinary proceedings - - - - - 12	Tax revocations - - - - - 3
Eligibility - - - - - 6	Applications for license - - - - - 1
STATE LICENSES AND PERMITS ISSUED:	
Total number issued - - - - -	4,375
Licenses - - - - - 3	Social affair permits - - - - - 409
Solicitors' Permits - - - - - 2,741	Miscellaneous - - - - - 160
Employment Permits - - - - - 631	Transit insignia - - - - - 300
Disposal Permits - - - - - 114	Transit certificates - - - - - 16
Wine Permits - - - - - 1	
OFFICE OF AMUSEMENT GAMES CONTROL:	
Licenses issued - - - - - 38	Number of violations found - - - - - 22
Premises inspected - - - - - 372	No municipal of State licenses - - - - - 10
Enforcement files established - - - - - 29	No employees' questionnaires on prem. 11
Premises where violations found - - - - - 19	Misleading advertising - - - - - 1

Dated: July 8, 1963

EMERSON A. TSCHUPP
Acting Director of Alcoholic Beverage Control
Acting Commissioner of Amusement Games Control

- 7. DISCIPLINARY PROCEEDINGS - INDECENT MATTER (MOTION PICTURE FILMS) - FOUL LANGUAGE - GAMBLING (WAGERING) - SALE DURING PROHIBITED HOURS - FALSE STATEMENT IN APPLICATION FOR LICENSE - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 155 DAYS; LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 SAL-RUBY CORPORATION
 3510 New York Avenue
 Union City, N. J.
 Holder of Plenary Retail Consumption License C-121, issued by the Board of Commissioners of the City of Union City.

CONCLUSIONS AND ORDER

 Capone and Gittleman, Esqs., by Melvin Gittleman, Esq., Attorneys for Licensee.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on May 2, 1963, it possessed and sold four reels of indecent motion pictures, in violation of Rule 17 of State Regulation No. 20; (2) on March 23, 1963, it permitted foul, filthy and obscene language by a patron, in violation of Rule 5 of State Regulation No. 20; (3) on April 25, 1963, it permitted the playing of a pool game for money stakes, in violation of Rule 7 of State Regulation No. 20; (4) and (5) on March 10, 23, 29, April 11 and May 2, 1963, it sold alcoholic beverages after the closing hour, in violation of local regulation; and (6) in its application for current license, it failed to disclose record of previous suspension of license of its 50% stockholder, in violation of R.S. 33:1-25.

The previous record of suspension, the subject of the sixth charge, is suspension of license of Salvatore Tennaro (50% stockholder of the corporate licensee), then in partnership with William J. Mackin, holders of license for the same premises, by the Director for twenty days, effective March 13, 1959, for sale of alcoholic beverages during prohibited hours in violation of State Regulation No. 38 and possession of an indecent wooden object in violation of Rule 17 of State Regulation No. 20. Re Tennaro & Mackin, Bulletin 1272, Item 6.

The prior record considered (cf. Re Elcor, Inc., Bulletin 1515, Item 1), the license will be suspended on the first charge for ninety days (cf. Re Whitehouse Post #284, American Legion, Bulletin 1514, Item 1), on the second charge for ten days (Re 315 Halsey, Inc., Bulletin 1495, Item 5), on the third charge for fifteen days (Re Garcia, Bulletin 1443, Item 4), on the fourth and fifth charges for thirty days (Re Centinaro, Bulletin 1468, Item 4) and on the sixth charge for ten days (Re Cappy's Hideaway, Inc., Bulletin 1504, Item 2), or a total of one hundred fifty-five days, with remission of five days for the plea entered, leaving a net suspension of one hundred fifty days.

Accordingly, it is, on this 20th day of June, 1963,

ORDERED that Plenary Retail Consumption License C-121, issued by the Board of Commissioners of the City of Union City to Sal-Ruby Corporation for premises 3510 New York Avenue, Union City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1963, commencing at 3:00 a.m. Friday, June 28, 1963; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3:00 a.m. Monday, November 25, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

8. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS, PUNCHBOARD, SWEEPSTAKES TICKETS) - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

PETER J. FERRARI AND SHIRLEY FERRARI
218 River Street
Hoboken, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)

Holders of Plenary Retail Consumption License C-76, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.

Florio, Dunn, Marciano & Lypinski, Esqs., by Joseph C. Dunn, Esq., Attorneys for Licensees.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensees plead non vult to charges alleging that on May 23, 1963, they permitted numbers activity and possessed a punchboard and sweepstakes tickets, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensees have a previous record of suspension of license by the municipal issuing authority for ten days, effective May 16, 1954, for an hours violation.

The prior record of dissimilar violation disregarded because occurring more than five years ago, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Cf. Re Bolten, Bulletin 1461, Item 4.

Accordingly, it is, on this 19th day of June, 1963,

ORDERED that Plenary Retail Consumption License C-76, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Peter J. Ferrari and Shirley Ferrari for premises 218 River Street, Hoboken, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1963, commencing at 2:00 a.m. Wednesday, June 26, 1963; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Tuesday, July 16, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

9. STATUTORY AUTOMATIC SUSPENSION - SUPPLEMENTAL ORDER LIFTING SUSPENSION.

Auto.Susp.#229)	
In the Matter of a Petition to Lift)	
the Automatic Suspension of Plenary)	
Retail Consumption License C-6,)	
issued by the Board of Commissioners)	ON PETITION
of the City of Millville to)	SUPPLEMENTAL
)	ORDER
NOLAN, INC.)	
t/a NOLAN'S)	
500 S. Second Street)	
Millville, N. J.)	

Philip L. Lipman, Esq., Attorney for Petitioner:

BY THE ACTING DIRECTOR:

On June 6, 1963, an order was entered temporarily staying statutory automatic suspension of license of petitioner pending determination of disciplinary proceedings against the licensee. Re Nolan, Inc., Bulletin 1519, Item 5.

It now appears from supplemental petition filed herein and records of this Division that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for five days commencing June 24, 1963, after the licensee's confessional plea to 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 Hillman, Bulletin 1512, Item 5.

Accordingly, it is, on this 21st day of June, 1963,

ORDERED that the statutory automatic suspension of said license C-6 be and the same is hereby lifted, effective immediately.

EMERSON A. TSCHUPP
ACTING DIRECTOR

10. STATE LICENSES - NEW APPLICATION FILED.

Dublin Distributors, Inc.
21-55 - 51st Avenue
Long Island City, New York
Application filed July 17, 1963 for Limited
Wholesale License.

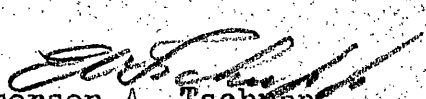
Fleming & McCaig, Inc.
1 Peerless Place
Newark, New Jersey
Application filed July 17, 1963 for place-to-place
transfer of Plenary Wholesale License W-36 from
1 Industrial Road, Wood-Ridge, New Jersey.

Federal Wine & Liquor Company
t/a Henderson-Stuart Company
315 Clendenny Avenue
Jersey City, New Jersey
Application filed July 18, 1963 for place-to-place transfer
of Plenary Wholesale License W-47 to include additional space.

Bay Distributors, Inc.
North Main and James Street
Toms River, New Jersey
Application filed July 24, 1963 for person-to-person,
place-to-place transfer of Limited Wholesale License
WL-10 from D. Joseph DeVito, Receiver for Kennedy
Distributing Co., 900' North of Cammersville Road, West
Side Highway 34, Wall Township, New Jersey.

Himmel Distillery Products, Inc.
104-112 Pennsylvania Railroad Avenue
Linden, New Jersey
Application filed July 24, 1963 for place-to-place
transfer of Rectifier and Blender License R-5 from 351
Comstock Street, New Brunswick, New Jersey.

Diamond Spring Brewery, Inc.
t/a Black Horse Brewery of Lawrence
50 Diamond Street
Lawrence, Massachusetts
Application filed July 24, 1963 for Limited Wholesale
License.


Emerson A. Tschupp
Acting Director