

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

June 20, 1962

BULLETIN 1453

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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.

June 20, 1962

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1. APPELLATE DECISIONS - GOLDBERG v. NEWARK AND HOME LIQUORS, INC.

HERMAN AND DAVID GOLDBERG,)
t/a CHESTER LIQUORS, ET ALS.,)
Appellants,)

v.)

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
NEWARK, and HOME LIQUORS, INC.,)
Respondents.)

ON APPEAL
CONCLUSIONS
AND ORDER

Joseph A. D'Alessio, Esq., Attorney for Appellants.
Vincent P. Torppey, Esq., by James E. Abrams, Esq., Attorney for
Respondent Municipal Board.
Abe W. Wasserman, Esq., Attorney for Respondent Home Liquors, Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Board which on November 1, 1961, approved by a vote of two-to-one the application of respondent Home Liquors, Inc. for a person-to-person and place-to-place transfer of plenary retail distribution license D-158 from Forest Hill Liquors and Delicatessen to Home Liquors, Inc. and from premises located at 146 Bloomfield Avenue to premises to be erected at 384-386-388 Broadway, Newark. The distance between the two premises is approximately two miles.

"Appellants in their petition of appeal allege that the action of respondent Board was unlawful, arbitrary, capricious and an abuse of its discretionary powers for the following reasons:

- (a) The applicant failed utterly to prove that the transfer would serve a public need or convenience, as required in place to place transfers. In fact, the applicant did not offer a single bit of evidence of any kind to justify its application.
- (b) The objectors produced overwhelming evidence that:
 - (1) The area is already saturated with liquor outlets, both consumption and distribution.
 - (2) The area is rapidly changing for the worst and another outlet, particularly a cut rate outlet, could not contribute to the general welfare of the area, but, in fact, would help to further deteriorate it.
 - (3) There are numerous educational, civic, welfare and religious organizations in close proximity to the proposed site.
 - (4) Representations of religious orders of diverse denominations are opposed to any further outlets in the area, particularly because of a large high school nearby and a Boys Club, almost adjacent to the proposed site.

- (5) The transfer violates the very spirit, if not the letter, of the Alcoholic Beverage Control Laws and the Rules and Regulations of the Division, since it is merely a traffic in existing licenses by a purchaser, fast acquiring a sort of monopoly to the detriment of other licensees in this area, and in other areas of the City.
- (6) There is no hardship of any kind involved in the transfer, but it is simply a speculation, in licenses, conditioned on approval by the Board. Such approval, granted by the Board, is completely inconsistent with previous denials by the said Board in "hardship cases" where denial was based on failure to prove "public need and convenience".
- (7) Appellants believe that the transfer is unlawful; that it is contrary to established law and the policies of the Division of Alcoholic Beverage Control; that it was a complete disregard of the principal of "Public Need and Convenience" by the Board.

"The hearing was held de novo and the parties hereto agreed to present the appeal upon the transcript of the proceedings before respondent Board, with additional testimony to be offered by appellants pursuant to Rules 6 and 8 of State Regulation No. 15.

"It appears from the evidence adduced at the hearing below that Broadway, a main thoroughfare in the City of Newark, is approximately two miles in length, along which are twenty-seven retail consumption licensed premises and nineteen retail distribution licensed premises; that seven of the retail distribution licensed premises are in close proximity to the proposed site of transfer; that numerous liquor outlets are located on the side streets along said thoroughfare, and that the area of the proposed site is fast becoming a rooming-house district. It further appears that the Boys Club is in the same block as the proposed site; that Rutgers College of Pharmacy is across from the Boys Club; that Mt. Pleasant Baptist Church is approximately 1,000 feet from the proposed site, and that the Essex County Catholic High School for Boys is about two and one-half blocks therefrom.

"Edwin Fischer, secretary and treasurer of respondent Home Liquors, Inc., testified that the Cromwell Corporation, whose principal stockholders are the stockholders of Home Liquors, Inc., have contracted to purchase the Broadway property and lease it to Home Liquors for a term of five years; that, subject to the granting of the transfer, certain buildings on said property will be demolished and a 50' x 40' building will be erected thereon, and that a 25' x 100' area adjacent to the building will be utilized for off-street parking.

"Respondent Home Liquors rested its case and appellants moved to dismiss the application for transfer on the ground that no proof had been offered respecting the need and convenience for another license in the area to which the license was sought to be transferred. The Chairman of the Board denied the motion.

"Four licensees who conduct their businesses on Broadway in the vicinity of the proposed premises, Reverend Brother Francis Offer, Principal of the Essex County Catholic High School for Boys, Reverend William Bleakley, Pastor of the Mt. Pleasant Baptist Church, and John Reed (one of the parishioners) appeared at the

hearing and testified as to why they were opposed to the granting of the application for transfer.

"The licensees testified as to the number and type of licensed premises on Broadway, the distances between said premises and the proximity of many of them to the proposed premises. They testified further that there is no public need for or convenience to be served by an additional license in the area which is fast becoming a rooming-house district; that Home Liquors sells its own brand of alcoholic beverages at 'cut rate' prices and is permitted to advertise its products; that such operation would seriously impair the licensee's meager livelihood and would attract the low economic residents in the neighborhood as well as transients.

"Brother Offer testified in substance that the school of which he is Principal has a day enrollment of 1,500 boys, which is expected to increase to 3,000; that adult classes are conducted in the evening; that the character of the neighborhood has changed since the school was first opened in that there are more furnished rooms in the neighborhood; that there has been an influx of people of a low economic level in the area; that he learned from people in the area and from his teachers that Home Liquors puts out its own brands of liquors under its trade name and sells them at a much lower price than the regular brands; that he has seen men in the area 'call them derelicts or stumblebums or whatever you want to do, maybe they are men with families who aren't taking care of their families;' that many of those individuals would be attracted to a store where they could buy inexpensive wines and liquors; that he is concerned about such individuals who would annoy the mothers of his pupils who attend evening social affairs and use the parking facilities of the school, and that in his opinion there are sufficient licensed premises in the area to adequately serve the needs and convenience of the public.

"Reverend Bleakley testified in substance that he is opposed to the transfer because it would interfere with the work that is conducted by the church; that the area is 'over-populated with such package stores and taverns' and that another license in the area would down-grade the community.

"John Reed testified in substance that he has been a resident of the area for forty years; that there are too many taverns and package stores in the area, and that another one would be 'very harmful to our young people of the church.'

"The testimony elicited at the hearing on appeal is a repetition of that offered by one of the licensees and by Brother Offer before respondent Board.

"The principal reasons advanced by the majority of respondent Board for granting the application for transfer are that the proposed building will enhance the beauty of the neighborhood, enhance the value of real estate of the neighborhood, and generally become a distinct asset to the neighborhood; that no objections were raised by the planning board; that the Police Department gave its approval, and that the fears and apprehensions of the objectors are completely unfounded. In their stated opinion they allude to the remarks of appellants' attorney respecting the failure of the applicant to show that there was need for an additional license in the area and discontenanced the argument on the ground that it is within the discretion of the issuing authority to determine whether or not a license should be permitted in a particular location, citing Shop-Rite of Stirling, Inc. v. Passaic, Bulletin 1408, Item 3; Blanck et als. v. Magnolia and D'Amico, Bulletin 1400, Item 1; Willner's Liquors v.

Jersey City, Bulletin 1332, Item 3; Helms v. Newark and Cardinal Wines and Liquors, Inc., Bulletin 1398, Item 3; Jacobs v. Newark and Melody Bar and Liquor, Inc., Bulletin 1398, Item 4.

"In Shop-Rite of Stirling, Inc. v. Passaic, supra, the Director affirmed the action of the issuing authority which denied an application because the transfer would move the license a considerable distance from its present location to an entirely different section of the township where there are presently existing eight liquor outlets, more than ample to serve the needs and convenience of the residents in and around the area. In Blanck et als. v. Magnolia and D'Amico, supra, the Director affirmed the action of the issuing authority which granted a retail distribution license to one of two applicants because the proposed premises of that applicant was in a commercial zone while that of the other was at the opposite end of the town and about five hundred feet from another licensed premises. In Willner's Liquors v. Jersey City, supra, the Director affirmed the action of the issuing authority which denied an application for a person-to-person and place-to-place transfer of a license on the ground that the local ordinance ran in favor of an applicant seeking only a place-to-place transfer. In Helms v. Newark and Cardinal Wines and Liquors, Inc. supra, and Jacobs v. Newark and Melody Bar and Liquor, Inc., supra, the Director affirmed the action of the issuing authority which granted transfers of licenses from one section of the city to another on the ground that the Newark Housing Authority had acquired the premises of the licensees.

"In order to warrant the issuance or transfer of a liquor license there must be some indication that the issuing authority considered whether or not a need, necessity or convenience existed. In Mevoli et al. v. Camden and Shapiro, Bulletin 933, Item 1, it was ruled that 'A decision of a local issuing authority totally disregarding the paramount issue of public necessity and convenience, such as is involved in connection with the discretionary function of transfer of a liquor license, cannot sustain the local action. Indeed, it is tantamount to a failure to discharge the responsibility which, under the provisions of the Alcoholic Beverage Law (R.S. 33:1-1 et seq.), is vested in each issuing authority in the first instance to determine within its sound discretion whether a license shall be issued or transferred. Passarella v. Board of Commissioners, 1 N.J. Super. 313 (App.Div. 1949); Haefliger v. Allamuchy, Bulletin 880, Item 2.'

"Considering the evidence adduced herein, I find that the license in question was transferred from one section of the City to an entirely different section, a distance of approximately two miles; that in the latter section there are more than ample liquor outlets to serve the conveniences of the residents in and around the area; that no need or necessity was shown to warrant an additional license in the area which is fast becoming a rooming-house district; that within the confines of said district are a church, a high school, a boys club and a college; that the residents therein have a low economic status; that the operation of the applicant's business, though legal, is such that it can advertise and sell its own brand of alcoholic beverages at a cheaper price than can the restricted licensees in the area, and that it is reasonable to infer that a business of that type will attract not only the low income residents in the area but derelicts from other sections of the city.

"In view of the aforesaid, it is my considered opinion that, while the proposed building to be erected by respondent Home Liquors might prove to be 'a thing of beauty and a joy forever', transferring another license into a low economic area presently saturated with liquor outlets will tend to further downgrade the neighborhood which civic, religious and educational

leaders are striving to improve.

"I conclude, therefore, that appellants have sustained the burden imposed upon them of establishing that the action of respondent Board was an unreasonable exercise of its discretionary power, and I recommend that said action be reversed."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument to substantiate the exceptions were filed by respondents' attorneys and written answering argument was filed by appellants' attorney.

Having carefully considered the evidence herein, the Hearer's Report, the exceptions to and the argument pro and con with respect thereto, I concur in the findings and conclusion of the Hearer and adopt his recommendation.

Accordingly, it is, on this 27th day of April 1962,

ORDERED that the action of respondent Board in granting the application of respondent Home Liquors, Inc., for a person-to-person and place-to-place transfer of plenary retail distribution license D-158, be and the same is hereby reversed.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - NUISANCE (HOMOSEXUALS) - UNQUALIFIED EMPLOYEES - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against
BRIERHURST ASSOCIATES, INC.
t/a HOTEL PENN
81 So. Clinton Avenue
Trenton 9, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-169, issued by the Board of Commissioners of the City of Trenton.

Joseph S. Bash, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The Division preferred the following charges against the defendant:

- '1. On April 19, 29, 30, May 7 and 21, 1961, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., males impersonating females, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; allowed, permitted and suffered lewdness and immoral activity and foul,

filthy and obscene language and conduct by such persons and by others in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

2. On April 21, 1961, and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of persons not bona fide residents of the State of New Jersey; contrary to and in violation of Rule 4 of State Regulation No. 13.

"When the matter came on for hearing, defendant entered a plea of not guilty to each charge. On recommendation of the Division's attorney, Charge 2 was nolle prossed.

"To substantiate Charge 1, the Division called as its witnesses the two ABC agents who participated in the investigation of defendant's licensed premises. The testimony of each agent corroborates that of the other and may be summarized as follows: On Each of the dates alleged in the charge, both agents visited defendant's licensed premises to ascertain whether or not defendant was conducting its place of business in a manner offensive to common decency and public morals. On their first visit, April 19, 1961, they arrived at 9:10 p.m. and remained until 11:00 p.m. During their stay the patronage increased from five males to 17 males and one female and they concluded from the effeminate mannerisms and speech of half of the males that they appeared to be homosexuals. On the second visit, April 29, 1961, they entered the licensed premises at about 11:20 p.m. and remained until 2:00 a.m. the following morning. During their stay on this occasion, the patronage increased from 23 males and five females to 33 males and seven females, and they concluded that 80 per cent of the males appeared to be homosexuals. On this occasion, an apparent homosexual known as 'Chuck' danced gracefully with one of the females who suggested to him that he should dance alone, to which he replied, 'Oh, I can't do that any more; last time I did I caught hell from Jimmy', referring to James Saccatelli, vice-president and resident manager of the corporate-licensee, who was seated nearby. A male patron seated near Saccatelli greeted Chuck with 'Hi ya, lover', and Chuck replied with, 'Hi ya, lover, I'm at my best behavior tonight'. Chuck purchased numerous drinks for those around him at the bar including the agents and in toasting them would say in an effeminate manner, 'Suck it up'. When Chuck was about to leave, another apparent fag told him that he would see him again and Chuck replied, 'I'm always in here. I'm one of the fixtures'. On May 7, 1961, the agents entered the licensed premises at about 12:15 a.m. and remained until 1:55 a.m. During their stay, the patronage remained at about 36 males (90 per cent of whom appeared to be homosexuals) and three females. One fag seated at the bar was heard to say to another, 'Don't you dare comb your hair any other way. You look like one of the Everly Brothers', and the other said, 'No, I'm one of the McGuire Sisters - Christine, you know the one'. Both fags giggled and were joined by a third who said, 'Oh, don't be so gay', and one of the others rejoined, 'Why not, this is the club house'. A duet and a female named Elou entertained alternately on this occasion and Elou sang double entendre songs which depicted homosexuals and the experiences of a prostitute. About closing time, one fag was heard to say to another, 'Goodnight, honey', and another fag was seen to place his hand on the privates of another who held it there momentarily and another fag was heard to say, 'Drive me home, sweetheart'.

"Before entering defendant's premises on May 21, 1961, both agents had to cross a picket line. When they entered they were met by Mrs. Saccatelli, assistant manager of the licensed premises, who was standing just inside the entrance door. A female in the picket line was heard to say, 'And they'd better get rid of the queers in there. The place ought to be closed up'. The agents and Mrs. Saccatelli proceeded into the hotel lobby and went to the desk at which James Saccatelli was stationed. Mrs. Saccatelli said to her husband, 'Did you hear what she said, she's talking about queers. She should talk'. When the agents said that the female in the picket line had a nerve, Mrs. Saccatelli said, 'Yes, she's more queer than most of them inside'. When it was suggested to her that she didn't have much trouble with the fags, she said, 'No, they're all well-behaved. They keep pretty much to themselves and don't bother anybody. We told them they could come any time they wanted, as long as they behaved themselves and didn't carry on. They are sick people and have to be pitied'. Thereafter the agents went into the barroom where, during their stay, the patronage increased from 45 males and three females to 50 males and six females. The agents concluded from their observation that 90 per cent of the males appeared to be homosexuals. Chuck, who was at the bar, joined the agents and when one of them addressed him as Charley, Chuck said, 'Don't call me that. That's a man's name and I'm a lady. Just call me Miss'. Throughout Chuck's conversation with the agents he would cup his breasts and make suggestive remarks and use expressions such as 'honey', 'baby' and 'sweetheart'. When the agents pointed out that most of the fags wore ties and asked Chuck where his tie was, he replied, 'Real ladies never wear ties'. Chuck later said, 'All these girls in here are looking for a man', and when asked if he ever uses rooms in the hotel, he said, 'I have two rooms always in reserve. Room 25 has a big, beautiful bed. I love it'. When asked if he could take care of both agents, he replied in the affirmative, telling them that he was equipped by nature to do so and when asked what his charge would be he said, 'I only charge when there is someone I don't like and I want to get rid of him; but I always love it too much to think about money'. Shortly thereafter, the agents engaged in conversation with Mr. Saccatelli and when they told him that the crowd was pretty well behaved, he said, 'Yes, we never have any trouble'. Referring to the pianist Elou, the agents remarked that the fags seemed to go for her and Saccatelli agreed. When they asked how long the fags had been coming into the premises, Saccatelli said, 'Ever since she (Elou) started here, last October, I think'. At this point, the agents identified themselves to Mr. and Mrs. Saccatelli and informed them of the violations. Mr. Saccatelli said that the apparent homosexuals had been coming into the licensed premises since last October, but that he never encouraged them to do so. Mrs. Saccatelli asked the agent, 'How can you call anybody queer? You can be sued for libel', and continued, 'We really didn't know what to do when they started coming in, but we never encouraged their business, either'. One of the agents then said to Chuck, who was standing nearby, 'Before you told us you were a gay, what do you have to say about it now?' and Chuck replied, 'Now the circumstances are different; let's not talk about it'.

"The testimony of the agents shows that on each of their visits the bartenders on duty were Robert Wartman and John Chell, Jr. It further shows that the numerous male patrons used a limp wrist action, held their cigarettes very daintily when they smoked, held their glasses delicately, swished their hips from side to side as they walked on the balls of their feet, spoke in a high-pitched, lisping tone of voice and addressed one another in endearing terms such as 'honey', 'baby', 'darling', 'beautiful' and 'mother'.

"Witnesses appearing for the defendant were Police Sergeant John Prihoda, Police Officer John T. Kennedy, James Saccatelli, Mrs. Carol Saccatelli, bartenders Robert Wartman and John Chell, Jr., Nan Wheeler and Samuel Naples.

"The testimony of Sergeant Prihoda and Detective Kennedy who work as a team investigating alcoholic beverage complaints, may be summarized as follows: On May 10, 1961 they visited defendant's licensed premises to investigate a complaint and were told by Mr. Saccatelli that he had been informed by Detective Butcher that a complaint had been received by the Chief regarding homosexuals being permitted on the licensed premises. Mr. Saccatelli said that he was unaware of any such activity in the tavern and was told what he should be on the lookout for. Mr. Saccatelli said he would cooperate and inform his bartenders 'to discontinue serving any people that were homosexuals and even call the police department if they had any trouble'. Mr. Saccatelli then showed them a copy of the letter he had sent to the city authorities and to the State Director requesting an investigation to ascertain if such activity was being permitted on the premises. The two officers visited the licensed premises on May 12, 1961 and remained from 11:45 p.m. to 12:20 a.m. the following morning, and they again visited the premises on May 26, 1961 and remained from 12:05 a.m. until 1:00 a.m., during which times 'we observed no unusual actions on the part of any patron'.

"The testimony of Mr. and Mrs. Saccatelli may be summarized as follows: On May 21, 1961, the agents told Mr. Saccatelli that it was apparent that he had a bar full of homosexuals and that he replied, 'They seem all right to me. They don't seem like homosexuals to me. They are sitting down behaving themselves, whoever they are. I don't know who they are. They are customers as far as I'm concerned and I don't know them to be homosexuals'. He said further that he knew Chuck and never saw him or any other customer act in an unusual manner; that when he asked the agents if Chuck did anything wrong at the bar, one of them said, 'No, Chuck is in the clear as far as I know. We don't want to make no trouble for anybody', and that he replied, 'Well, you're telling me I've got a bar full of homosexuals. As far as I know, I don't see anything and no unusual behavior going on. Can you go in there and point somebody out to me right now? I'll go right up and tell them to get out', and that the agent said, 'Why, no'.

"On cross-examination, both Mr. and Mrs. Saccatelli testified that prior to the agents' visits they had been informed by Detective Butcher that he had received numerous complaints about homosexuals frequenting the licensed premises. They testified further that on one occasion, Mr. Saccatelli ejected five or six men 'because they had come in and put their arms around the other fellows' shoulders when they went in there to say hello'.

"Robert Wartman testified that on May 7, 1961, after the police officer left the premises, one of the agents asked, 'What did the officer want, is there something wrong?'; that he replied, 'There isn't anything wrong', and that when the taller agent said, 'I don't know why they would want to bother the queers here because they're well-behaved', he retorted that there were no queers there, adding, 'In the State of New Jersey a tavern owner or a bartender, if they knowingly knew that they had a queer, they could not serve them'. He further testified that he had been warned previously by Mr. Saccatelli to be doubly careful because of the warning received from Detective Butcher and 'this was constantly in my mind', and that he didn't observe anyone in the place who appeared to him to be a homosexual. With respect to

Chuck, he testified that he has a masculine voice, a crew haircut, stands about six feet, walks fast and danced only with females on the premises and that he did not appear to him to be a homosexual; that when the agents told him what Chuck said about taking them to a room to engage in indecent acts he said, 'Excuse my language, he's full of ---'; that he discussed the alleged indecency with John Chell, the other bartender, who asked the agents if it were true and that the agents, in the presence of both bartenders and Chuck, said, 'There is nothing wrong'.

"John Chell, Jr., testified that on May 21, 1961, 'Bob (the other bartender) told me Chuck was talking to these two fellows there and Chuck said he could take care of them, get a room and take care of both of them. Bob told me this here and I couldn't believe it. I got mad at Bob for talking like that. I went down to Chuck and asked him what he had said to the guys, he said, "I didn't say anything". I said, "Come up here with me, I want you to talk to them". I brought him to the two fellows and said, "Come here, Bob, I want you to listen". I said to the two agents, "What did this here goof, that's what I called him, say? Did he say anything wrong?" The agents said, "He didn't say anything wrong, he was just kidding a little bit". I walked away'.

"Mrs. Wheeler testified that she is presently unemployed; that she resides at the Hotel Penn and visits the barroom frequently; that on one occasion she danced with Chuck and that she found nothing effeminate about him or the other male patrons.

"Samuel Naples testified that he has known Mr. Saccatelli for many years; that he had visited the licensed premises from April 19 through May 21 and that he had not observed any of the patrons act in an effeminate manner.

"The following exhibits were received in evidence: D-1 - a letter from Mr. Saccatelli dated May 11, 1961, addressed to the Director, in which he states that the Police Department of the City of Trenton had informed him that complaints had been received by it respecting undesirables who frequent defendant's establishment and assuring the Director that he and his personnel will be on guard to keep them out. S-1 - daily report sheet of Police Officer Joseph Fasanella, in which he states that at 1:45 a.m., Sunday, May 7, 1961, he observed through the bar entrance door of defendant's licensed premises, two unidentified white men embracing and kissing each other; that when he entered the barroom, the men proceeded to the other end of the bar and apparently left the premises; that upon further investigation he observed that the bar was loaded with "queers" who were hugging each other; that the patronage consisted of four women and 25 to 30 males, and that when he informed John Chell of the 'conditions', he was advised to see the manager who was not around at the time.

"Upon completion of the testimony, defendant's attorney, having requested leave to subpoena Officer Fasanella, the hearing was adjourned. When the matter was continued, Officer Fasanella appeared and was cross-examined at length. His testimony substantiates his report.

"The testimony herein has been set out in some detail to show that a high percentage of the males frequenting defendant's licensed premises on the dates alleged were apparently sex deviates.

"Proper liquor control dictates that licensed premises must not become a haven for homosexuals or lesbians. To permit such personages to congregate and fraternize therein is an offense against common decency and public morals which cannot be condoned.

See Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, 46 N. J. Super. 405.

"One would indeed be naive to believe that defendant's agents couldn't discern that the males in question were apparent homosexuals. The managers of the establishment had been warned to be on their guard for such personages who, they were informed, could be recognized by their conspicuous guise, demeanor, carriage and appearance. 'It is often in the plumage that we identify the bird.' Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, supra.

"As was stated by Commissioner Driscoll in Bilowith v. Passaic, Bulletin 527, Item 3, 'Licensees may not avoid their responsibility for the conduct of their premises by merely closing their eyes and ears. On the contrary, licensees must use their eyes and ears, and use them effectively, to prevent the improper use of their premises'.

"Having had the opportunity to judge the credibility of the witnesses, I find that the testimony of the agents clearly depicts the improprieties that were permitted on the licensed premises on the dates alleged, and that the testimony of defendant's witnesses, for the most part, is incredible. I conclude, therefore, that the Division has established the truth of the charge by a fair preponderance of the believable evidence and I recommend that defendant be adjudged guilty as charged, and that an order be entered suspending its license for a period of sixty days. Re Pappy's Bar, Inc., Bulletin 1418, Item 1."

Written exceptions to the Hearer's Report and written argument to substantiate the exceptions were filed with me by the licensee's attorney within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the record herein including the transcript of the testimony, the exhibits, the brief submitted by the licensee's attorney in lieu of oral argument, the Hearer's Report and the exceptions and argument with respect thereto, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 30th day of April 1962,

ORDERED that Plenary Retail Consumption License C-169, issued by the Board of Commissioners of the City of Trenton to Brierhurst Associates, Inc., t/a Hotel Penn, for premises 81 So. Clinton Avenue, Trenton, be and the same is hereby suspended for the balance of its term, commencing at 2:00 a.m. Monday, May 7, 1962; and it is further

ORDERED that any renewal of said license shall be and remain under suspension until 2:00 a.m. Friday, July 6, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MARY E. LIEBERT
t/a CHESTNUT GRILL
513 Chestnut Street
Camden, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)

Holder of Plenary Retail Consumption License C-104, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 2, 1962, she sold a pint of gin, a pint of whiskey and six cans of beer to two minors, both age 17, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Tourine, Bulletin 1338, Item 8.

Accordingly, it is, on this 4th day of April, 1962,

ORDERED that Plenary Retail Consumption License C-104, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Mary E. Liebert, t/a Chestnut Grill, for premises 513 Chestnut Street, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Monday, April 16, 1962, and terminating at 2:00 a.m. Tuesday, May 1, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISQUALIFICATION REMOVAL PROCEEDINGS - RECEIVING STOLEN GOODS - DISQUALIFICATION REMOVED.

In the Matter of an Application to Remove Disqualification because of a Conviction, Pursuant to R.S. 33:1-31.2.)	CONCLUSIONS AND ORDER
Case No. 1676)	

BY THE DIRECTOR:

On April 2, 1957, petitioner pleaded guilty to receiving stolen goods and as a result was sentenced to a fine of \$500 and placed on three years probation. Prior thereto, in 1944, 1946 and 1950, his record discloses three convictions for gambling under the Disorderly Persons Act, for which he received a fine on each occasion.

The crime of receiving stolen goods is a crime which ordinarily involves moral turpitude. Re Case No. 620, Bulletin 880, Item 10. Inasmuch as petitioner pleaded guilty, and the circumstances indicate he had knowledge of the stolen nature of the goods, there is no indication tending to free his conviction from that element. Re X---, Bulletin 17, Item 1. Hence, he was thereby rendered ineligible to be associated with the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

At the hearing herein, petitioner testified that he has been in the general contracting business for some twenty-three years. He further testified that he is a widower with three children and that he seeks relief in order that he might qualify as an officer for an organization holding a club license.

The police department of the municipality wherein petitioner resides has advised that no complaint or investigation is pending involving petitioner.

Three witnesses (a plumber, a landscape contractor and a housewife) testified that they have known the petitioner for over five years last past and he now bears a reputation for being a law-abiding person.

I am satisfied that petitioner has conducted himself in a law-abiding manner for over five years last past and conclude that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 30th day of April 1962,

ORDERED that applicant's statutory disqualification because of the conviction described herein be and the same is hereby removed in accordance with the provisions of R.S. 33:1-31.2.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - ALLEGED MITIGATION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

H. P. BAR & LIQUOR, INC.)
t/a ADAM'S BAR)
97 Woodbridge Avenue)
Highland Park, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of Highland Park.)

Licensee, by Joseph Kovacs, President, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 12, 19 and 20, 1962, and divers prior dates, it sold alcoholic beverages to three minors, one age 19 and two age 20, in violation of Rule 1 of State Regulation No. 20.

In attempted mitigation, licensee claims that the sales were made in reliance on false identification produced by the minors and states that it believes "that it was justifiable on the part of the employees of the Corporation to take at value the identification presented." As to this, it is pointed out that reliance on false identification, in the absence of obtaining requisite written representation of age as contemplated by R.S. 33:1-77, constitutes no defense and very little mitigation. At best, it bespeaks the imposition of the established minimum penalty imposed in age-similar cases, perhaps without possible increase for aggravating circumstances.

Absent prior record and considering the ages and number of minors involved and the number of occasions, the license will be suspended for twenty days (Re Freedman, Bulletin 1436, Item 4), with remission of five days for the plea entered, leaving a net suspension of fifteen days.

Accordingly, it is, on this 30th day of April 1962,

ORDERED that Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of Highland Park to H. P. Bar & Liquor, Inc., t/a Adam's Bar, for premises 97 Woodbridge Avenue, Highland Park, be and the same is hereby suspended for fifteen (15) days, commencing at 1:30 a.m. Monday, May 7, 1962, and terminating at 1:30 a.m. Tuesday, May 22, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

6. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #205)	
In the Matter of a Petition to Lift)	
the Automatic Suspension of Plenary)	
Retail Consumption License C-103,)	
issued by the Municipal Board of)	ON PETITION
Alcoholic Beverage Control of the)	SUPPLEMENTAL
City of Clifton to)	ORDER
 KENNETH SISCO)	
t/a SHADOW CLUB)	
55 Durant Avenue)	
Clifton, New J.)	

John E. Hughes, Esq., Attorney for Petitioner,

BY THE DIRECTOR:

On March 7, 1962, an order was entered temporarily staying statutory automatic suspension of license of petitioner pending institution and determination of disciplinary proceedings against the license. Bulletin 1445, Item 8.

It now appears from supplemental petition filed herein that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for twenty-five days after the licensee pleaded guilty to a charge alleging sale of alcoholic beverages to the same minor, which sale was the subject of the previous criminal conviction. The suspension is effective from April 30 to May 25, 1962.

It appearing that the suspension is adequate, I shall lift the automatic suspension simultaneously with the termination of the municipal suspension, viz., at 3:00 a.m. Friday, May 25, 1962.

Accordingly, it is, on this 3d day of May, 1962,

ORDERED that the statutory automatic suspension of said license C-103 be and the same is hereby lifted, effective 3:00 a.m. Friday, May 25, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

7. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #209)
 In the Matter of a Petition to)
 Lift the Automatic Suspension)
 of Plenary Retail Consumption)
 License C-41, issued by the)
 City Council of the City of)
 Hackensack to)

 JAMES PETER SANSONE)
 t/a PETE'S TAVERN)
 315 Hudson Street)
 Hackensack, N. J.)

ON PETITION
SUPPLEMENTAL
ORDER

George W. Weleck, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

On March 22, 1962, an order was entered temporarily staying statutory automatic suspension of license of petitioner pending institution and determination of disciplinary proceedings against the license. Bulletin 1447, Item 10.

It now appears from supplemental petition filed herein that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for seven days after the licensee was found guilty of a charge alleging sale of alcoholic beverages to the same minor, which sale was the subject of the previous criminal conviction. The suspension was effective from April 23 to April 30, 1962. It appearing that the suspension has been served, I shall lift the automatic suspension.

Accordingly, it is, on this 3d day of May, 1962,

ORDERED that the statutory automatic suspension of said license C-41 be and the same is hereby lifted, effective immediately.

WILLIAM HOWE DAVIS
DIRECTOR

8. LICENSED PREMISES - INSTALLATION OF MICROPHONE JACKS AT BAR TO PERMIT PATRONS TO USE CITIZENS BAND RADIO DISAPPROVED.

May 2, 1962

Bar "B" Inc.
Trenton 8, N. J.

This acknowledges your letter of April 26th requesting approval of installation at the bar of your licensed premises of a series of microphone jacks connected to a citizens band radio transmitter by means of which your patrons may communicate with other citizens band radio operators.

In view of the fact that any person tuned to the transmitting frequency may overhear the conversation, and particularly since some of these may be minors, perhaps of tender years, and considering the possible nature of some of the conversation, I wholly disapprove of the proposed installation.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)
)
 NEW RARITAN LIQUORS, INC.)
 t/a NEW RARITAN LIQUORS, INC.) CONCLUSIONS
 State Highway #36, corner) AND ORDER
 of Palmer Avenue)
 Raritan Township (Monmouth Co.))
 PO Keansburg, N. J.)
 Holder of Plenary Retail Distribution License D-1, issued by the Township Committee of Raritan Township, Monmouth County.)

 New Raritan Liquors, Inc., by John E. Bell, President, Pro se.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 2, 1962, it sold six quarts of beer to a 19-year-old minor, 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 Russakow, Bulletin 1197, Item 5.

Accordingly, it is, on this 23d day of April, 1962,

ORDERED that Plenary Retail Distribution License D-1, issued by the Township Committee of Raritan Township, Monmouth County, to New Raritan Liquors, Inc. for premises State Highway #36, corner of Palmer Avenue, Raritan Township, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. Monday, April 30, 1962, and terminating at 9:00 a.m. Thursday, May 10, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

10. STATE LICENSES - NEW APPLICATIONS FILED

G. Krueger Brewing Company
84 Fifth Avenue
New York, New York

Application filed June 13, 1962 for Limited Wholesale License for the 1962-1963 period. Applicant is a subsidiary of Narragansett Brewing Company and application for 1962-1963 is being made in the name of subsidiary instead of parent company.

Lloyd Beverage Company, Inc.
10 Prospect Avenue
South Brunswick Township
PO Kingston, New Jersey

Application filed June 19, 1962 for person-to-person transfer of State Beverage Distributor's License SBD-7, for 1962-1963, from Catelli, Inc.

New Jersey State Library


William Howe Davis
Director