

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

BULLETIN 2210

December 29, 1975

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1. APPELLATE DECISIONS - MILROB CORP. v. ASBURY PARK.

Milrob Corp.,)	
t/a Smitty's Bar & Package)	On Appeal
Goods,)	CONCLUSIONS
)	and
Appellant,)	ORDER
)	
v.)	
)	
City Council of the City of)	
Asbury Park,)	
)	
Respondent.)	

Silverman & Silverman, Esqs., by Ruben D. Silverman, Esq.,
Attorneys for Appellant
Norman H. Mesnikoff, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the City Council of the City of Asbury Park (hereinafter Council) which, on July 16, 1975, denied appellant's application for renewal of its Plenary Retail Consumption License C-40 for premises 708 Main Street, Asbury Park.

The Resolution adopted by the Council denying the aforesaid renewal was silent as to the reasons for its action. However, appellant's petition of appeal admitted the reason therefor was the belief by the Council that appellant's premises had become a public nuisance. That admission was uncontroverted by respondent.

The appeal was heard in this Division pursuant to Rule 6 of State Regulation No. 15, with full opportunity provided all of the parties to introduce evidence and to cross-examine witnesses. Additionally, transcripts of the proceedings before the Council were admitted into evidence pursuant to Rule 8 of State Regulation No. 15.

The transcript of the testimony taken before the Council reveals that from July 5, 1974, through the middle of February 1975, there were a series of incidents described by various police officers of the City of Asbury Park. A known narcotic user was arrested within the premises, and on the following day, a young man was arrested for being drunk and disorderly, after having been in the premises.

Three months later, two young women began a fight in the premises, which continued into a business establishment next door and then, onto the sidewalk in front of appellant's premises. The result of that fight was that the two women were hospitalized and treated for knife cuts. A few weeks thereafter, a known drug user was arrested in the premises; and appellant was fined one-hundred dollars, presumably for selling alcoholic beverages to a minor.

In November, 1974 an investigation of appellant's premises by agents of this Division led to a charge that appellant permitted the solicitation for prostitution to occur within the premises. In consequence of a guilty finding to that charge, the license was suspended for sixty days.

In December, there were two further incidents, both involving females arrested for disorderly conduct upon emerging from appellant's premises. In one instance, the police were summoned by appellant's bartender.

Finally, in January 1975, the owner of the corporate stock of appellant corporation, Mildred Beideman, was the victim of an altercation with her former bartender, against whom she signed an assault and battery complaint. The following month, her associate in the licensed premises was arrested and charged with carrying a concealed weapon.

Following the account of the incidents and occurrences which took place in or near appellant's premises, the following motion was made and adopted by the Council:

Mr. Harris: "I move that the renewal of this license be denied on the grounds that the premises constitute a public nuisance and it is detrimental to the general welfare."

That motion led to the adoption of the Resolution denying the application for renewal of the subject license.

At the hearing in this Division, counsel for appellant announced that the business associate of the principal of appellant corporation had been reduced to the status of employee only, and presently holds no stock or office in the corporation.

Testifying on behalf of appellant, Sergeant Harry Bolger of the Asbury Park Police Department admitted that, from July 1974 to February 1975 appellant's facility was unquestionably a public nuisance. Thereafter, a change in the character and operation of the premises became noticeable, and the prior "nuisance" conditions became abated.

Three regular patrons of appellant's establishment, testified that, in the fall of 1974 certain prostitutes who roamed freely in the area frequented appellant's premises, but since the beginning of this year, changes of personnel resulted in the removal of disorderly persons from the patronage, and the prohibition of prostitutes from patronizing this tavern. Since that time, the premises have been adequately and properly managed.

Mildred Beideman, the owner of the corporate stock of appellant corporation, testified that, following the charge generated by the ABC investigation, the disclosure to her that prostitutes patronized her establishment gave rise to a total change in its management procedures. She then determined from conversations with some of her regular and trusted patrons, who the undesirables and prostitutes were, and thereupon, she forthwith forbade the entry of such persons. Thereafter, there was no further difficulty with the police or incidents which required police aid.

I

"Governmental power extensively to supervise conduct of liquor business and to confine conduct of such business to reputable licensees who will manage it in a reputable manner has uniformly been accorded broad judicial support." In re 17 Club, Inc., 26 N.J. Super. 43 (App. Div. 1953).

The good character of those who are engaged in the liquor industry is a hallmark of the liquor business. As was pointed out in Zicherman v. Driscoll, 133 N.J.L. 586 (1946):

"...The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner...."

A liquor license is a privilege. Mazza v. Cavicchia, 15 N.J. 498 (1954). The privilege of selling alcoholic beverages at retail, which is granted to the few and denied to the many, must be exercised in the public interest. Paul v. Gloucester County, 50 N.J.L. 585.

It is basic that the action of the issuing authority must be reasonable in equating the rights of the licensee with the paramount rights of the public. Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App. Div. 1955).

"It has been the long established policy of this Division to equate a refusal to renew an annual license with revocation proceedings and to necessitate timely action by

the local issuing authority. Common fairness to the licensee has been the basis for this policy. If undesirable conditions develop...the local authorities always have the power to institute disciplinary proceedings even before the renewed license period has expired...." Stratford Inn, Inc. v. Avon-by-the-Sea, Bulletin 1775, Item 2.

Note has been taken that no disciplinary proceedings against appellant had been instituted by the Council. "...It is understandable that local issuing authorities, at times, withhold the institution of disciplinary charges with expectation that, where warranted, licensees will make efforts to improve the conditions in the operation of the licensed premises." Cf. R.B. & W. Corporation v. North Caldwell, Bulletin 1921, Item 1.

Police Chief Thomas G. Smith advised the Council that there were no incidents involving police action occurring with appellant's premises subsequent to February 1975. Police Sgt. Bolger confirmed that the police records are barren of calls pertaining to appellant's establishment subsequent to February 1975. The owner of appellant's corporate stock testified that following the drastic changes in management, which she described, there have been no problems of operation.

This allegation is uncontradicted by police records or by any evidence offered by Council.

It is, thus, apparent that appellant has made good faith efforts to improve the conditions in the operation of the licensed premises; and such efforts were not considered by the Council in determining the merit of its renewal application.

In matters relating to the denial of renewal of licenses, the Director has unhesitatingly affirmed the denial of renewal by the local issuing authority particularly in situations where the licensees have an extensive record of suspensions of license, (Starschock Inc. v. Pennsauken, Bulletin 2131, Item 1) or where the licensee failed to correct intolerable situations outside the licensed premises. (Delroz, Inc. v. West Orange, Bulletin 2027, Item 2.)

The following doctrine was laid down by the court in Tp. Committee of Tp. of Lakewood v. Brandt, 38 N.J. Super. 462 (App. Div. 1955) wherein the court stated: "An owner of a license or privilege acquires through his investment therein, an interest which is entitled to some measure of protection...."

During the last four months of the 1974-75 licensing period, the appellant has managed its establishment in a proper creditable fashion and apparently has controlled those conditions which had brought grief to both the licensee and the municipality.

The sole owner of the stock of the corporate appellant, Mildred Beideman, whose total savings and investment are in appellant corporation, has obviously made valiant efforts to correct the evils associated with the licensed premises which resulted in a lengthy suspension of license. The result of her efforts has been reflected in the acknowledgment by the police officials that the premises are no longer a police problem.

Certainly the efforts of Beideman should not be disregarded by a denial of renewal of license, which denial is tantamount to revocation of license. The appellant is put on notice that the Council may, in the event of recurrence of the complaint of conditions institute immediate disciplinary action, leading to the suspension or revocation of the license privilege.

It is, therefore, concluded that appellant has sustained the burden of establishing that the action of respondent Council was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

Accordingly, it is recommended that the action of the Council be reversed and that it be directed to renew appellant's plenary retail consumption license for the 1975-76 licensing year, in accordance with the application filed therefor.

Conclusions and Order

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

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

Although the Hearer has correctly recommended the renewal of appellant's license in view of the apparent improvement in the management of this facility, the licensee is pointedly warned that any retrogression in the conduct of the licensed premises may well lead to an action in disciplinary proceedings to suspend or revoke the license, or a denial of renewal by the Council for the following licensing period.

Accordingly, it is, on this 9th day of October 1975,

ORDERED that the action of the respondent Council herein be and the same is hereby reversed; and it is further

ORDERED that the said Council is hereby directed to renew the plenary retail consumption license for premises 708 Main Street, Asbury Park, for the current licensing year, in accordance with the application filed therefor.

LEONARD D. RONCO
DIRECTOR

2. OBJECTIONS TO APPLICATION FOR PLENARY TRANSIT LICENSE - APPLICATION DENIED.

In the Matter of Objections)
to the Application of)

CONCLUSIONS
and
ORDER

Greenwood Lake Steamboat Co. Inc.)
for a Plenary Retail Transit License.)

- - - - -)
Francis B. Rusch, Esq., Attorney for Applicant
Wallisch & Wallisch, Esqs., by Louis Wallisch, Jr., Esq.,
Attorneys for Township of West Milford

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Greenwood Lake Steamboat Co., Inc., filed an application for a plenary retail transit license for use on a vessel known as "M/V Sterling" which would be docked at Hewitt, New Jersey, and operated on Greenwood Lake.

Written objections to the granting of the application for the said transit license were received, and a hearing was duly held thereon.

Henry W. Dobson, Jr. the secretary-treasurer of the corporate applicant testified in support of the application and gave the following account: The corporate applicant was organized for the purpose of operating this twenty-six ton steel passenger vessel in the excursion trade, carrying a capacity of one hundred-thirty passengers, for hire, on Greenwood Lake, which is located in both New Jersey and New York.

As of the date of the hearing on May 23, 1975 the vessel had not yet been fully constructed; the applicant anticipated delivery by the end of June. (As of the date of this report, the vessel has not yet been delivered to its dock at Hewitt).

The applicant intends to conduct daily sight-seeing trips between New Jersey and New York and "concert cruises" on Friday and Saturday evenings. In addition, it will lease the vessel for charter cruises on other evenings of the week. On these cruises, the vessel will have a band and a bar for the sale of alcoholic beverages. During the day, it intends to sell beer only, but will also serve all alcoholic beverages during the night time, and on charter cruises.

When the applicant first made application with the Township Council of West Milford for the operation of the vessel it indicated that it did not intend to apply for a liquor license. However, sometime after the conference with the Mayor and Township Council of West Milford Township, it decided to file this application. Its intention is now to apply only for a New Jersey license, and not to apply for a New York liquor license.

The liquor will be served only while the boat is in transit, and in New Jersey waters. Sales of liquor will terminate if and when the boat enters the New York waters. Further, the applicant intends that the service of alcoholic beverages will be terminated one-half hour before the vessel is docked in Hewitt. Finally, he explained that the usual evening trips in this boat will take place from 7:30 p.m. until 11:00 p.m.

Six witnesses testified in opposition to this application. Robert E. Reilly, a member of the Township Council, testified that he has been authorized to speak on behalf of all of the members of the Council. He gave the following account: He has been a resident of West Milford for fifty-four years, and is thoroughly familiar with the activities on Greenwood Lake. Greenwood Lake is nine and one-half miles long, less than four miles of which is in New Jersey. The Lake is utilized primarily by residents who live in the immediate area; and they use the Lake for swimming and boating. West Milford is a "seasonal township" with a summer population that is "tripled" as compared to its winter population.

West Milford has thirty-five plenary retail consumption licenses, which is in excess of the present statutory limitation, and adequately serves the needs of the Township. West Milford does not have any plenary retail distribution or club licenses, and has, in fact, denied applications for such licenses, because it felt that there was no need for them.

In his opinion, and in the opinion of the Council, there is no need or convenience to be served by the grant of this application. The present liquor licensed facilities around the Lake area adequately serve the needs of the area and that, in fact, it would be contrary to the public interest to permit this applicant to operate under a transit license.

He explained that, when the applicant's representatives had conference with the Council they clearly indicated that they did not intend to serve any liquor on the vessel, and that there would be no application made for a liquor license.

He further explained that this large boat would be a disturbing factor to the other users on the Lake. The music

emanating from the boat particularly at night, would also disturb the residents in the area. There could be no proper enforcement of the liquor laws with respect to the possible sales to minors. Finally, the sale of liquor on the boat would create many enforcement problems for the community and the general area.

Testimony to the same effect was given by Terrence James Coleman, a local proprietor of a tavern, restaurant and hotel. He noted that there are thirty-five liquor licenses in the area and, in his opinion, there are adequate facilities to meet the needs of the residents of the area.

Mrs. Estelle Anderson, who owns a home directly adjacent to the Lake, voiced similar objections heretofore noted and presented petitions containing over one thousand names of residents in West Milford and the adjacent area, who expressed an objection to the grant of this application. She corroborated the objections set forth in the letter attached to the petitions, which in summary, set forth the objections as follows:

- (1) Large amounts of liquor could be consumed by the persons on the boat who, upon disembarking would present serious traffic and enforcement problems in the community;
- (2) That there are adequate liquor facilities in the area to serve the needs of the community; and
- (3) "Experiences are that this would contribute to rowdiness, noise, undesirables in the area, litter in the lake and on our roads."

John F. Cronen, a resident of this area since 1912, corroborated the testimony of the prior witnesses, and added that the Lake is overcrowded now. The grant of a liquor license would simply exasperate the present condition. He was particularly apprehensive that the community would have to deal with "...People that are half drunk on the boat, like that at nighttime."

Jacob Hall, a person who had considerable experience with cargo carriers, testified that it was unrealistic to assume that, based on the time that the applicant intends to serve liquor, that it could be done while the boat is within the territorial limits of New Jersey.

In addition to the aforesaid testimony, there was introduced into evidence a resolution adopted by the Mayor and Township Council of the Township of West Milford expressing its opposition to the issuance of the said license to the applicant. The resolution states that at the time the applicant gave notice to the Township Council of its plan to operate a boat "it represented that no license would be required for the sale and service of alcoholic beverages on the boat." The resolution further expressed the opinion that the sale and service of alcoholic beverages would not be in the best interests of the Township.

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In considering this application, as in applications for liquor licenses of all kinds, the basic operative principle is that no one has the automatic or inherent right to the issuance of a license to sell alcoholic beverages. Cf. Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946); Biscamp v. Teaneck, 5 N.J. Super. 172 (App. Div. 1949). The decision as to whether or not this transit license should be issued rests within the sound discretion of the Director. The test is whether the issuance of this license will serve the public interest. Cf. Lakewood v. Brandt, 38 N.J. Super. 462 (App. Div. 1956); Blanck v. Magnolia, 38 N.J. 484 (1962).

My evaluation of the record herein persuades me that the approval of this application would not serve the best interests of the community. I feel that the enforcement of the Alcoholic Beverage Law would be practically impossible on this boat, particularly with respect to the possible sale to minors. Furthermore, the applicant has clearly stated that it does not intend to apply for a liquor license in New York; yet the boat will surely be traveling in New York waters because a larger part of the Lake is situated in New York than in New Jersey. It is likely that we would be aiding in the possible violation of the laws of New York with respect to the sale and consumption of alcoholic beverages.

Finally, it is clear that the residents in the area are clearly opposed to the grant of such license. They feel that their peace and quiet will be disturbed, and there are adequate facilities presently available to serve the needs of the residents. This is manifested by the fact that over a thousand persons signed the petition objecting to the application, and the governing body of West Milford has passed a resolution expressing its objection thereto.

As the court recently stated in Lyons Farms Tavern v. Newark, (Sup. Ct. A-83, decided July 10, 1975) (which involved an appeal from the grant of a person-to-person transfer):

"Community interest is best served by 'an attentive and sympathetic attitude toward the sentiments of substantial numbers of persons in the locality.' See Lyons Farms Tavern, Inc. v. Municipal Bd. of A.B.C. Newark, 55 N.J. 292 (1970)."

While I am mindful that this is an application for a transit license, its base of operation is in Hewitt and its primary activities will have its genesis there. Thus, the community sentiment must be given proper and thoughtful consideration. Therefore, I conclude that the grant of this application would be a disservice and inimical to the public interest.

Under these circumstances it is recommended that the application for a transit license be denied. Cf. Saxon Distributing Co., Bulletin 1237, Item 7; Re Jiannantino, Bulletin 1246, Item 9.

Conclusions and Order

Written Exceptions to the Hearer's report were filed on behalf of the applicant and written answers to the said Exceptions were filed on behalf of the objectors.

I have examined and evaluated the said Exceptions and find that they have either been fully considered and correctly resolved in the Hearer's report, or are lacking in merit.

Thus, having carefully considered the entire record herein, including the transcript of testimony, the exhibits, the Hearer's report, the Exceptions filed thereto and the Answers to the said Exceptions, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 8th day of October 1975,

ORDERED that the application for a plenary retail transit license herein, be and the same is hereby denied.

Leonard D. Ronco
Director

3. DISCIPLINARY PROCEEDINGS - FAILURE TO KEEP TRUE BOOKS OF ACCOUNT - PAYMENT OF FINE PERMITTED IN LIEU OF SUSPENSION OF TEN DAYS IMPOSED.

In the Matter of Disciplinary
Proceedings against

White Oaks Liquor Shoppe, A Corp.
418 Union Avenue
Belleville, N.J.,

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution
License D-10, issued by the Board of
Commissioners of the Town of Belleville.

Gaccione & Pomaco, Esqs., by Frank Pomaco, Esq., Attorneys for
Licensee
Carl A. Wyhopen, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer 's Report

Licensee pleaded not guilty to a charge alleging that from on or about March 1, 1972 to about February 28, 1973, it failed to keep true books of account in connection with its licensed premises, in violation of Rule 36 of State Regulation No. 20. The charge was later amended to embrace the period from March 1, 1972 to the date of hearing, June 24, 1975.

Rule 36 of State Regulation No. 20 (N.J.A.C. 13.2-21.36, a, b) provides that:

"All licensees shall have and keep a true book or books of account wherein there shall be entered a record of all monies received and a record of the source of all monies received other than the ordinary course of business and wherein shall there also be entered a record of all monies expended from such receipts and the name of the person receiving such monies and the purpose for which such expenditures were made...."

This rule further provides that such "...books and records ... shall be available for inspection by ... agents ..." of this Division.

Russell Long, employed as a Division accountant, testified that, in the course of his duties, he examined the books and records supplied to him for examination by the licensee.

Such examination revealed discrepancies and that the books were not in true balance.

At a recess taken during the hearing in this Division, additional books and records were made available for his examination and, upon resumption of testimony, Long admitted potential reconciliation of figures, and a more complete explanation of such figures had now been afforded to him.

Long admitted that, although the records and books of the licensee had been produced, such books failed to reveal therein the existence of certain loans made to the licensee, as required by Rule 36 of State Regulation No. 20.

The licensee's accountant, Richard C. Knox, testified that the record of such loans was not included in the ledger accounts of the business because his understanding of proper accounting practice is that such loan accounts would be separate from the cash flow accounts of the business. These loans, three in number, were made by two banks and an individual. He admitted, on cross examination, that Rule 36 of State Regulation No. 20 had not been viewed in the same light as the Division considered it; otherwise such loan accounts could have been readily included in the usual business ledger.

From the earliest days of this Division, it has been repeatedly held that alcoholic beverage licensees are required to observe the regulations pertinent to the conduct of their business.

"It is a cardinal and necessary principle that liquor licensees are strictly accountable to obey all liquor regulations, which are actually on the books." Re Martin, Bulletin 411, Item 3.

The rule requiring licensees to keep proper books of account (Rule 36 of State Regulation No. 20) is prophylactic in nature. The rule does not prescribe the formality or mechanics of such book-keeping; merely that they be "true books of account", complete and accurate.

The aforesaid rule further requires the inclusion of "a record of the source of all monies received other than in the ordinary course of business...." (emphasis added). The obvious purpose of such inclusion is to enable the Director or his agents to determine what interest other than a licensee may have in the licensed business. The intrusions of outside capital may, and often does, give rise to what is called a "front" situation, where the licensee is merely the nominal holder of the license for the benefit of others unnamed on the license or in the application therefor. This is one of the reasons for the rule.

In the instant matter, the ledger sheets prepared for the licensee did not reveal three loans made to it. Such loans, admittedly, were normal and legitimate business transactions

and the existence of independent records concerning them (the loans were recorded in the stub portion of the checkbook used by the licensee in the conduct of its business), which were in themselves accurate, confirm the licensee's contention that records were fully kept and without intention to avoid the rule. Ignorance of that rule was asserted by the licensee as a defense to the charge.

"It is axiomatic that ignorance of the law or regulations presents no defense." Re Luhrs, Bulletin 506, Item 1.

The licensee further defends that the situation has been fully corrected, to wit; the ledger sheets have now or will be collated so that loan advancements and payments are or will be an integral part of the records.

"The correction of the situation is not a defense but goes only to mitigation of any penalty to be imposed." Re Casagrande, Bulletin 396, Item 11.

It is apparent that the difficulties in which the licensee found itself, resulting in the charge preferred, arose from the adoption of certain bookkeeping practices that did not lend themselves to strict adherence with the requirements as contained in the aforesaid rule. Although no intent to hide or deceive was present, the absence of the appropriate ledger sheets relative to the loans, offered the agents of the Division no opportunity to finalize their examination. I find that there was sufficient evidence to support the charge.

Absent prior record, the license would normally be suspended for twenty days, in accordance with Division precedent. However, in view of the mitigating facts and circumstances herein, its apparent lack of intent to deceive I recommend that the license be suspended for ten days.

Conclusions and Order

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

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

Upon receipt and consideration of the Hearer's report, the appellant, although filing no Exceptions, notified the Division

that should the recommendations of the Hearer be adopted by the Director, the appellant desired to make application for the imposition of a fine in lieu of suspension, in accordance with the provisions of Chapter 9 of the Laws of 1971.

I have favorably considered the application in question and have determined to accept an offer in compromise by the licensee to pay a fine of \$600.00 in lieu of suspension of license for ten days.

Accordingly, it is, on this 6th day of October 1975,

ORDERED that the payment of a \$600.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten (10) days.

Leonard D. Ronco
Director

4. APPELLATE DECISIONS - MARTIN MAZIE ENTERPRISES, INC. v. WESTVILLE.-
SUPPLEMENTAL ORDER.

Martin Mazie Enterprises, Inc. .

Appellant, .

v. .

Borough Council of the Borough .
of Westville, .

Respondent. .

Klein, Melletz & Klein, Esqs., by Paul R. Melletz, Esq., Attorneys
for Appellant

Hannold, Caulfield & Zamal, Esqs., by Harold W. Hannold, Esq.,
Attorneys for Respondent

BY THE DIRECTOR:

On February 20, 1975, Conclusions and Order were entered herein affirming the action of the respondent Borough Council of the Borough of Westville, which, on June 27, 1974 denied appellant's application for renewal of its Plenary Retail Consumption License C-7, for premises 500 Gateway Boulevard, Westville, for the 1974-75 licensing period.

Thereafter, the appellant appealed the Director's Order with the Appellate Division of the Superior Court. During the pendency of the said appeal, the respondent reconsidered its prior action based upon its consideration of the fact that no

complaints or charges were filed against the appellant since June of 1974 and that the said appellant has apparently conducted its operation in a lawful manner since the adoption of the aforementioned resolution.

Accordingly, the respondent did, on June 26, 1975, adopt a resolution modifying its original resolution of June 27, 1974 whereby it renewed the said license for the 1974-75 licensing period nunc pro tunc and renewed the license for the current license period.

In consideration therefor, the appellant agreed to and has withdrawn its appeal by the filing of a stipulation of dismissal thereof in the Appellate Division of the Superior Court, dated September 15, 1975 (Docket #A-1734-74).

Respondent's resolution sets forth the further condition that the appellant agrees to accept a thirty day suspension of the said license, the dates of which to be fixed by the Director of the Division of Alcoholic Beverage Control. This condition was expressly confirmed in this Division by a letter addressed to this Division by the attorney for the appellant.

Good cause appearing, I have determined to enter a Supplemental Order modifying my order dated February 20, 1975 in accordance with the terms of the resolution set forth hereinabove.

Accordingly, it is, on this 9th day of October 1975,

ORDERED that my order dated February 20, 1975 be and the same is hereby amended, as follows:

ORDERED that the action of the respondent Borough Council of the Borough of Westville be and the same is hereby reversed; and it is hereby directed to renew the subject license for the 1974-75 license period nunc pro tunc and the license for 1975-76 license period in accordance with the application filed therefor; and it is further

ORDERED that Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Westville to Martin Mazie Enterprises, Inc., a Corp. of N.J., t/a Westville Liquor Mart and Gateway Lounge, for premises 500 Gateway Boulevard, Westville, be and the same is hereby suspended for thirty (30) days commencing 2:00 a.m. on Monday, October 20, 1975 and terminating at 2:00 a.m. on Wednesday, November 19, 1975

Leonard D. Ronco

Leonard D. Ronco
Director