

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

BULLETIN 2310

February 5, 1979

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An appeal de novo was heard in this Division, pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and to cross-examine witnesses. In lieu thereof, the parties elected to rely upon a copy of the transcript of the proceedings held by the Board, submitted to the Division in accordance with Rule 8 of said State Regulation No. 15, and supplemented by oral argument.

The transcript before the Board reveals that George Chranewyzz testified on behalf of the Newark Housing Authority. He registered an objection to the proposed transfer because the area to which the establishment would be located was subject to a proposed urban renewal program, which may result in the taking of respondent's business within the next six months. He indicated the objection raised pertained to the additional funds, which the agency would have to expend, as a result of the transfer.

The principal owner of the corporate stock of respondent Lustig's Tavern Inc., Carl Sulzman, testified in support of the application. He intends to erect a conventional bar business in the new location, for which he intends to expend approximately thirty-five thousand dollars. He has secured a loan commitment for such amount from the Small Business Administration.

One of the corporate stockholders of appellant corporations, Samuel Sudler, testified that he vigorously objects to any tavern or bar in the immediate area of the adjacent office buildings, of which his corporations building is one. He speculated that intoxicated patrons of respondent Lustig's establishment would interfere with the employees of those offices.

Donald T. Dust, the Director of Urban Affairs of the Greater Newark Chamber of Commerce testified as an objector that, Commerce Street, Newark is a principal business area, and the inclusion of a tavern would, in itself, be detrimental to the image of commerce and business. He admitted, however, that if the proposed business were to be properly conducted, his objection would diminish.

Bertram Marech, Vice President of the appellant, 32 Commerce Street Corp., also testified in opposition to the transfer. He related that his employees went to great lengths to avoid passing a present tavern nearby because tavern patrons in the area act quite differently from the business people. Any tavern, not a restaurant, which principally dispensed liquor, would be detrimental to the business community.

Lastly, a representative of the Broad National Bank, Henry Hayman, testified in opposition to the proposed transfer. He described the business losses to the bank resulting from the deterioration of the area, and expressed belief that the granting of appellant's transfer would only serve to accelerate such decline.

At the hearing in this Division, as has been noted hereinabove, counsel presented no further witnesses, limiting their participations to oral argument and the introduction of a distance-between-premises map.

As an initial ground for reversal, appellants contend that the Board evidenced annoyance at having to rehear the subject application, and indicated, by the attitude of the Chairman, that prejudgments has been formed. The record reveals a colloquy between the Chairman and counsel for appellants concerning an alleged rejection of request for an adjournment made at the prior hearing. The Chairman denied a request for adjournment had been made and the exchange between him and counsel indicated a difference of opinion. Such differences of opinion are not indication of prejudice.

Appellants also assert that, during the hearing, one of the members of the Board arose, excused himself and departed. He had played no active part in the hearing to that point and, after departure, did not participate in the matter nor vote thereon. The remaining two members of the Board completed the hearing and voted in favor of the transfer. In not adjourning the hearing until the return of the departing member, the appellants take exception and contend that it was denied full Board participation. No authority was advanced to support this contention, and I find no basis to set aside the action of the Board on this basis.

Appellants further contend that the Board did not state reasons in order to support a finding that the transfer approval represented a "need", "necessity" or "benefit" to the area and community. It is uncontroverted that the Resolution adopted by the Board did not articulate its reasoning; better practice would have resulted in a more explicit Resolution. The Board's failure to have detailed its reasons is not ground for reversal. Downie v. Somerdale, 44 N.J. Super. 84 (App. Div. 1957).

The respondent, Lustig's Tavern, Inc., had its prior licensed premises at 118 Mulberry Street acquired under an Urban Renewal program. A transfer, resulting from a governmental taking, has exceptions as to distances in the municipal distance-between-premises ordinance. The corporate licensee, had

its premises taken, but, thereafter, its sole and principal stockholder had changed. Appellants contend that, as the principle stockholder of the corporate licensee has changed, the benefit of the Ordinance permitting such transfer should not apply. This contention is manifestly spurious since adjudications are in rem and concern the license, not the individuals who exercise the benefits of the license.

No person-to-person transfer application need be filed where there is a merely a change of ownership of the stock of a corporate licensee. See Rules 12 & 13, State Regulation No. 2.

Lastly, appellants contend that the Board abused its discretion in failing to consider the neighborhood sentiment against the transfer. Appellants maintain that the testimony of the representatives of the Newark Housing Authority Bank and the Chamber of Commerce should have been recognized and the application denied.

I find that the Board did weigh such testimony, as well as the expressions of the other objectors, as indicated in the concluding statement of one of the members of the Board who stated: "Yes, we are very concerned with the men and women who work downtown and uptown, but the thing is that all of these things we do take deeply into consideration".

The burden of establishing that the action of the municipality issuing authority is erroneous and should be reversed rests entirely upon appellant. Rule 6 of State Regulation No. 15. It is a firmly settled principle that the Director's function on appeal is not to reverse the determination of the municipal issuing authority unless he finds, as a fact, that there was a clear abuse of discretion or unwarranted findings of fact or mistake of law. Schulman v. Newark, Bulletin 1620, Item 1; Monteiro v. Newark, Bulletin 2073, Item 2, and the cases cited therein.

The ultimate test in these matters is one of reasonableness on the part of the Board, or, to put it another way, could the members of the Board as reasonable men, acting reasonably, have come to their determination based upon the evidence presented? Lyons Farms Tavern v. Newark, 55 N.J. 292, 303 (1970); Hudson-Bergen County Retail Liquor Stores Ass'n v. Hoboken, 135 N.J.L. 502 E. & A. (1947); Nordco, Inc. v. State, 43 N.J. Super. 277, 282 (App. Div. 1957).

The testimony introduced by appellant consisted mainly of speculation that the premises to which appellant would transfer would be a sore spot amid the commercial enterprises in the area. The Board properly determined that opportunity should be afforded respondent to maintain its establishment

properly and not to become a source of disrepute to the area. In short, it was reasonable for the Board to base its grant of transfer on the premise that the respondent would conduct a lawful and proper operation and be subject to prospective disciplinary proceedings, or denial of renewal of license, should the premises become a place of iniquity, as the appellant's witnesses conjectured.

The examination of the facts and the applicable principles of law lead to the conclusion that the appellants have failed to meet the burden of establishing, by a fair preponderance of the credible evidence, that the action of the Board was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

It is, accordingly, recommended that the action of the Board be affirmed, and the appeal herein be dismissed.

CONCLUSIONS AND ORDER

Written Exceptions to the Hearer's Report were filed by the appellant, and written Answers thereto were submitted by the respondent - Lustig, concurred with by respondent - Board of Alcoholic Beverage Control of the City of Newark, pursuant to N.J.A.C. 13:2-17.14 (formerly Rule 14 of State Regulation No. 15).

In its Exeeptions, the appellant generally asserts that it disagrees with the conclusions of the Hearer in specified findings, but submits no factual or legal citations in support thereof. Each of the findings were considered by the Hearer and correctly resolved in his Report. Thus, I find the Exceptions to be without merit.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's Report, the written Exceptions 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 31st day of October, 1978,

ORDERED that the action of the Board of Alcoholic Beverage Control of the City of Newark be and the same is hereby affirmed, and the appeal herein be and is hereby dismissed.

JOSEPH H. LERNER
DIRECTOR

2. APPELLATE DECISIONS - FACES, INC. v. WEST ORANGE.

Faces, Inc.)	
t/a Creations,)	
)	
Appellant,)	ON APPEAL
)	
v.)	CONCLUSIONS
)	and
Municipal Board of Alcoholic)	ORDER
Beverage Control of the Town)	
of West Orange,)	
)	
Respondent.)	

Maurer & Maurer, Esqs., by Barry D. Maurer, Esq.,
Attorneys for Appellant.
James A. Ospenson, 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 Municipal Board of Alcoholic Beverage Control of the Town of West Orange (Board) which, on June 20, 1977, denied appellant's application for renewal of its Plenary Retail Consumption License C-45, for premises 410 Eagle Rock Avenue, West Orange, following a finding that the appellant had conducted its licensed premises in such a manner as to constitute a nuisance.

Appellant contends in its Petition of Appeal, that such finding was erroneous and should be reversed.

The Board in its Answer to the petition denies any improper action and submitted a copy of its Resolution denying renewal of the license. The said resolution indicates that the Board considered the record of the appellant respecting the need for the Police of West Orange to maintain order at the licensed premises as an abuse of the privileges of license so as to constitute a nuisance.

On filing of the Petition of Appeal, the Director of this Division, by Order of June 27, 1977, extended the subject license pending the determination of this appeal.

The Board further acknowledges that its action was partially the result of its prior finding that appellant's premises had been the scene of brawls and acts of violence in 1976,

resulting in a suspension of license for forty-five days, which suspension had been affirmed by the Director of this Division. Faces, Inc., t/a Creations v. West Orange, Bulletin 2260, Item 2.

Police records indicate that, in addition to the four brawls or acts of violence which occurred during the period of February 16 through June 14 of 1976, there were six additional occurrences which took place during the licensing year, to wit, the period from July 19, 1976 through May 2, 1977. The Board considered these ten occurrences during a seventeen month period sufficient to establish that the premises were being operated as a nuisance.

Appellant contends that the total business operation being conducted by it should be considered in determining if such nuisance existed. Most of the instances related were not the result of an occurrence within the establishment, but rather, something that resulted on the outside and nearby, not within the control of the appellant.

Further, appellant challenges the reports of the police insofar as they related to incidents which did not culminate in any court proceedings at which appellant could have made inquiry concerning the alleged incident. In short, appellant maintains that, as the Board did not charge it with permitting a brawl or act of violence, which charges appellant could have defended, it should not be permitted to base its determination upon the unsubstantiated police reports.

A de novo hearing was held in this Division, with full opportunity afforded the parties to introduce evidence and to cross-examine witnesses pursuant to Rule 6 of State Regulation No. 15. Additionally, the Board introduced into evidence copies of police records upon which the Board admittedly made its determination.

Appellant introduced the testimony of its manager, James Felizzi, who described the premises as consisting of a restaurant on the ground floor over which there is a large auditorium. In this large hall, music and entertainment in a nightclub style was provided with attendance of approximately fifteen hundred patrons weekly. A maximum number of patrons in the licensed premises at one time approximated five hundred.

Felizzi further described some of the incidents which were related in the police reports and described them as spontaneous happenings which management could not have possibly foreseen, but which it asserts was properly handled by appellant's employees.

No incidents of any nature as reported by the police emanated from the restaurant section of the establishment; and Felizzi described the patronage of the restaurant as more mature

than those of the upstairs area.

The critical and decisive issue is whether the action of the Board in denying renewal of appellant's license was reasonable under the circumstances presented to it.

It is firmly established that the grant or denial of an alcoholic beverage license rests in the sound discretion of the Board in the first instance; and that in order to prevail on this appeal, appellant must show that the action of the Board was unreasonable and a clear abuse of its discretion. Rajah Liguors v. Div. of Alcoholic Beverage Control, 33 N.J. Super. 598 (App. Div. 1955); Blanck v. Mayor and Borough Council of Magnolia, 38 N.J. 484 (1962).

The burden of proof in these cases, which involve discretion, falls upon the appellant to show manifest error or abuse of discretion by the issuing authority. Downie v. Somerdale, 44 N.J. Super. 84 (App. Div. 1957); Nordco, Inc. v. State, 43 N.J. Super. 277 (App. Div. 1957).

In matters relating to the denial of renewal of licenses, the Director has unhesitatingly affirmed the action of the local issuing authority, particularly where the licensee has an extensive adjudicated record of license suspensions. Greenstein v. Elizabeth, Bulletin 2135, Item 4; The Back Street Lounge v. Newark, Bulletin 2138, Item 1. A similar result may follow where the licensee fails to correct intolerable conditions either inside or outside the premises. Delroz, Inc. v. West Orange, Bulletin 2027, Item 2; Silver Edge Corp. v. Newark, Bulletin 2083, Item 2.

On the other hand, the Director has reversed the local action where he finds inadequate proof that the premises were operated in an improper and unlawful manner, or where the licensee has made good faith efforts to operate the premises lawfully and to control the patronage. Don Patten Corp. v. Union, Bulletin 2172, Item 1; To-Jon, Inc. v. Watchung, Bulletin 1946, Item 1; Scuderi v. Paulsboro, Bulletin 2177, Item 4; Bd. of Com'rs. of Bayonne v. B & L Tavern, Inc., 42 N.J. 131 (1964).

It is proper for municipal issuing authorities to take into consideration, in passing upon applications for renewal of liquor licenses, not only the conduct of the licensee, but also, conditions not attributal to its conduct which render a continuance of a tavern at a particular location against public interest. Nordco, Inc. v. State, supra.

As the court held in Zicherman v. Driscoll, 133 N.J.L. 586, 587-88 (Sup. Ct. 1946):

The question of a forfeiture of any property right is not involved. R.S. 33:

1-26. A liquor license is a privilege. A renewal license is in the same category as an original license. There is no inherent right in a citizen to sell intoxicating liquor by retail, Crowley v. Christensen, 137 U.S. 86, and no person is entitled as a matter of law to a liquor license.

The attorney for appellant argues that, in order to properly refuse to grant appellant's application for renewal, the Board must present and prove charges specified against it. This is not so. As was expressed in Tumulty v. Dunellen, Bulletin 1487, Item 4, aff'd in an unreported opinion of the Appellate Division, Docket No. A-280-62, cited in Bulletin 1519, Item 1:

The problem before the Director was what penalty to impose for what his investigators had discovered the licensees had done in the past. The problem before Dunellen, upon the application for the renewal of the license, was whether it was in the public interest that this establishment be licensed in the future.

It is thus apparent from the entire record herein that appellant's patrons have caused the premises to become a nuisance, which the public need not tolerate. The cause of that condition is directly attributable to the kind of patronage the appellant encouraged and the failure of the appellant to control such patronage which resulted in repeated incidents requiring police's attention.

If licensed premises consisted only of the night-club area, it would be unquestionably recommended that the action of the Board be affirmed. However, the licensed premises also includes a restaurant with which the municipality, police or the Board have experienced no problems. Thus, it appears that the action of the Board in denying renewal of appellant's license and thus negatively affecting the restaurant portion of the licensed premises, was clearly unnecessarily excessive.

It is basic that the action of the Board must be reasonable in equating the rights of the licensee and the paramount rights of the public. Rajah Liquors v. Div. of Alcoholic Beverage Control, supra.

It is, therefore, recommended that the action of the Board be reversed solely so that the appellant may maintain the restaurant portion of its establishment with the privilege of the alcoholic beverage license. Hence, it is recommended that the Board be directed to renew the present license subject to a

special condition that the second floor of the building on the licensed premises no longer be used as a night-club, or a discotheque, but be solely limited to group social activities, such as weddings, banquets and the like.

CONCLUSIONS AND ORDER

Written Exceptions to the Hearer's Report were filed by the appellant, pursuant to N.J.A.C. 13:2-17.14. Additionally, I held oral argument with respect to the issues raised therein.

The principal contention advanced by the appellant in its Exceptions, and considered in the oral argument, concerns that portion of the Hearer's Report which proposes as a special condition the elimination of all other uses for the second floor of the licensed premises, except group social activities, such as weddings, banquets and the like.

Appellant asserts that this restriction is overly broad and not consistent with the problems the Board sought to eliminate. It admits that a "discotheque" connotes a specific type of operation which experience has indicated is inappropriate at this licensed premises. While appellant readily concedes to the elimination of this type of entertainment, it argues that a permissible use for the second floor should include an expansion of the first floor restaurant to include a cocktail lounge with limited dancing and adult entertainment.

Considering the record as a whole, I am satisfied that a substantial basis exists for the findings by the Board that the "discotheque" type operation was conducted as a nuisance. I am in further accord with the Hearer's finding that the operation of the first floor restaurant was not objectionable, and in consequence, a denial of renewal was excessive.

A reasonable resolution of this problem requires the molding of an appropriate order to recognize the bona fide concerns the Board has demonstrated in the record, and which it properly sought to eliminate.

There is a medium ground between "discotheque" entertainment and "group social activities." For want of a more detailed description, the term "nightclub" has been discussed, and, as hereinafter set forth, shall be included as a permissible use for the second floor.

I shall specifically preclude by special condition any "discotheque" type entertainment or operation for the second floor. This encompasses no live, recorded or amplified music primarily categorized as "rock" music or its various refinements.

I shall impose a special condition to include as an additional permissible use for the second floor, the operation of a restaurant with a cocktail lounge and limited dancing and adult "nightclub" type entertainment. This is expressly conditioned upon the operation of a bona fide restaurant on the second floor, which shall provide substantial dining accommodations to encompass at least fifty (50) percent of the usable public floor space. Entertainment shall consist of moderately amplified music and live performances geared to an adult-orientated audience. Dancing shall be incidental to the dining and entertainment.

I shall, therefore, reverse the action of the Board, expressly subject however, to the special conditions to be affixed to the appellant's license. N.J.S.A. 33:1-22; Lubliner v. Board of Alcoholic Beverage Control, Paterson, 33 N.J. 428 (1960).

The imposition of the herein designated special conditions is a fair and reasonable endeavor to ameliorate the complained of situation. Wenzler v. Hillside, Bulletin 2182, Item 3. The failure of the appellant to seize this final opportunity and insure that the licensed premises will be conducted in a law-abiding manner, may well result in disciplinary proceedings, and even subsequent denial of renewal of its license. Kaplan v. Englewood, Bulletin 1745, Item 1 (Director's decision affirmed by the Appellate Division, Docket No. A-1310-66, unpublished decision, reported in Bulletin 1790, Item 1; cert. denied 51 N.J. 464 (1968)).

Having carefully considered the entire record herein, including the transcripts of the testimony, the exhibits, the Hearer's Report, the Exceptions filed thereto and oral argument, I concur in the findings and recommendations of the Hearer, except as to the special condition recommended by the Hearer, and adopt them as my conclusions herein, subject to the special conditions set forth hereinbelow.

Accordingly, it is, on this 2nd day of November, 1978,

ORDERED that the action of the Municipal Board of Alcoholic Beverage Control of the Town of West Orange be and the same is hereby reversed; and it is further

ORDERED that the Municipal Board of Alcoholic Beverage Control of the Town of West Orange be and the same is hereby directed to renew appellant's Plenary Retail Consumption License 0722-33-017-001 for the 1977-78 license term, in accordance with the application filed therefore, expressly subject to the imposition of the following special conditions annexed thereto:

- (1) There shall be no "discotheque"

type operations permitted on any floor of the licensed premises, and

(2) The permissible uses for the second floor of the licensed premises shall only include:

- (a) Use for group social activities, such as, weddings, banquets and the like, and/or
- (b) Use as a restaurant with a cocktail lounge, limited dancing and "nightclub" type entertainment, as hereinbefore defined, which additional terms are incorporated herein by reference as if set forth at length.

JOSEPH H. LERNER
DIRECTOR

3. APPELLATE DECISIONS - SCOTT'S GOOD TIME INN v. PALISADES PARK.

Scott's Good Time Inn,)
t/a Tiffany Pub,)

Appellant,

ORDER STAYING

v.)

SPECIAL CONDITION

Mayor and Council of the
Borough of Palisades Park,

PENDING APPEAL

Respondent.)

Jeffrey L. Clutterbuck, Esq., Attorney for Appellant.
Stephen J. Moses, Esq., by Stephen P. Sinisi, Esq., Attorneys
for Respondent.

BY THE DIRECTOR:

Appellant appeals the action of the Mayor and Council of the Borough of Palisades Park, which, by amended Resolution dated July 25, 1978, renewed appellant's Plenary Retail Consumption License No. 0245-33-025-001 for the 1978-79 license term subject to three special conditions.

By Order dated July 31, 1978, an application for a stay of the special conditions pending appeal was denied. Appellant, by letters dated September 13, 1978 and October 24, 1978, requests reconsideration of the said Order, and that a stay of the first and second special conditions, which require the appellant to cease live or recorded music at specified times prior to the legal closing hour, be granted.

A de novo hearing has been held in this Division, and the Hearer indicates that a justiciable issue exists as to the propriety of the first two special conditions. While no determination has been made, the interests of justice dictate that a limited stay be granted as to the first and second special conditions only insofar as it relates to the music emanating from the juke box, pending final disposition of the appeal.

Therefore, subject to the caveat that the noise level be properly monitored and operated at a reasonable standard so as not to offend the neighbors, I shall enter an order staying the operation of the first and second special conditions as they relate to the juke box.

Accordingly, it is, on this 2nd day of November, 1978,

ORDERED that special conditions No. 1 and No. 2, imposed by the Council upon renewal of the subject license for the 1978-79 term, be and the same are hereby stayed, solely as they relate to juke box music, pending determination of the appeal.

JOSEPH H. LERNER
DIRECTOR

4. APPELLATE DECISIONS - MIRAPH ENTERPRISES, INC. v. PATERSON - SUPPLEMENTAL ORDER.

Miraph Enterprises, Inc.	:	
t/a The Cabaret,	:	
	:	
Appellant,	:	SUPPLEMENTAL
vs.	:	ORDER
	:	
Municipal Board of Alcoholic	:	
Beverage Control of the City	:	
of Paterson,	:	
	:	
Respondent.	:	
.....	:	

William F. Nesbitt, Esq., Attorney for Appellant.
 Joseph A. LaCava, Esq., Attorney for Respondent.
 Mart Vaarsi, Deputy Attorney General, Appearing for Division.

BY THE DIRECTOR:

On January 17, 1977, Conclusions and Order were entered herein, (a) affirming the action of the Municipal Board of Alcoholic Beverage Control which, by Resolution dated June 23, 1976, denied appellant's application for renewal of Plenary Retail Consumption License C-248 for the 1977-78 license term, and (b) vacating the ad interim extension of license heretofore entered. Miraph Enterprises, Inc. v. Paterson, Bulletin 2256, Item 3.

Subsequent thereto, the appellant filed a petition requesting a new hearing for the purposes of introducing "additional testimony". By my Order of January 31, 1977, I denied said request. Miraph Enterprises, Inc. v. Paterson, Bulletin 2256, Item 4.

Upon appeal filed, the Appellate Division of the Superior Court stayed the action of the Director and granted a further extension of the license, pending determination of the appeal. The Appellate Division affirmed the action of the Director by decision dated March 2, 1978, and an order consistent therewith may now be entered. (App. Div. Docket No. A-1950-76), not approved for publication but reported in Bulletin 2285, Item 2.

Accordingly, it is, on this 29th day of November, 1978

ORDERED that the action of the Municipal Board of Alcoholic Beverage Control of the City of Paterson, in denying renewal of appellant's license for the 1976-77 license term, and the action of the Director of the Division of Alcoholic Beverage Control, in affirming such determination, be and the same are hereby reaffirmed.

5. DISCIPLINARY PROCEEDINGS - LEWDNESS - HINDERING - WITNESSES UNAVAILABLE - NOLLE PROSSED.

In the Matter of Disciplinary Proceedings against
 Polish American Home, Inc.
 t/a P-H Lounge
 126 North Fourth Avenue
 Manville, N.J.

Holder of Plenary Retail Consumption Lic. No. 1811-33-020-001, issued by the Borough Council of the Borough of Manville.

CONCLUSIONS
 AND
 ORDER

Rosenhouse, Cutler & Zuckerman, Esqs., by Edward K. Zuckerman, Esq., Attorneys for Licensee.
 Mart Vaarsi, Esq., Deputy Attorney General, Appearing for the Division.

BY THE DIRECTOR:

Licensee pleaded "not guilty" to charges alleging that, on February 26 and 27, 1977, it permitted lewdness on its licensed premises and hindered an investigation by Division agents, in violation of Rules 5 and 35 of State Regulation No. 20 (now N.J.A.C. 13:2-23.6 and N.J.A.C. 13:2-23.30).

There were considerable calendar delays in the presentation of the within matter in this Division. On two separate occasions the licensee was prepared to proceed and had numerous witnesses in attendance at the Division, only to have the hearing adjourned because of the absence of Division's witnesses.

On one of the occasions seven witnesses, some of whom were subpoenaed to attend, were substantially inconvenienced by the delay. The matter had been scheduled peremptorily and the Division had advised the licensee on the day prior thereto that it was ready to proceed.

In addition thereto, a review of the evidence to be adduced indicates that the proofs to support a violation are marginal.

Having carefully reviewed this matter with the Deputy Attorney General representing this Division, I have determined that fairness and equity dictate that, in the exercise of my discretion, I shall dismiss the subject charges.

Accordingly, it is, on this 8th day of November, 1978,

ORDERED that the charges herein be and the same are hereby nolle prossed.

JOSEPH H. LERNER
 DIRECTOR

6. STATE LICENSES - NEW APPLICATION FILED.

Hub Beer Distributors, Inc.
1102 Ferry Avenue
Camden, New Jersey

Application filed January 31, 1979
for place-to-place transfer of
Limited Wholesale License
3400-25-100-001, from 1181-1195
Fairview Street, Camden, New Jersey.



Joseph H. Lerner
Director