

Mailing Date: MAR 16 2006

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ADMINISTRATIVE LAW JUDGE
FOR THE PENNSYLVANIA LIQUOR CONTROL BOARD

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-1496
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-312795
v.	:	
	:	LID - 51195
BO & MO'S ESCAPE LOUNGE INC	:	
4691 HAWTHORNE ST	:	
PHILADELPHIA PA 19124-3338	:	
	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-6364	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: James E. Dailey, Esq.
For Licensee: Lori J. Hahn Maslin, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 27, 2005. The citation alleges that Licensee violated §493(12) of the Liquor Code, 47 P.S. §4-493(12), on June 8 and 27, 2005, by failing to keep records in the licensed premises.

A hearing was held on Tuesday, January 17, 2006 in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and the citation.

FINDINGS OF FACT:

Maurice Mapp is part owner of the licensed premises, and mainly takes care of purchases of beer and liquor. When he returns to the establishment with liquor, for example, he puts the receipt in a blue book behind the bar, in which all of the other receipts are stored. These records, covering a period of at least two years, were in the premises on June 8 and 27, 2005, although the employee on duty at the time failed to notify liquor enforcement officers of their location (N.T. 26-33, Exhibits L-1 through L-4).

CONCLUSIONS OF LAW:

The weight of the evidence does not support the proposition that that Licensee violated §493(12) of the Liquor Code, 47 P.S. §4-493(12), on June 8 and 27, 2005, by failing to keep records in the licensed premises.

DISCUSSION:

The description of the search of the premises by liquor enforcement officers leaves open in my mind the possibility that the records were present and could have been found if a diligent search had been made.

In light of the apparent completeness of the records – which I construe as corroboration of the owners' testimony – I am inclined to give Licensee the benefit of the doubt in this case.

ORDER

THEREFORE, it is hereby ORDERED that Citation No. 05-1496 is DISMISSED.

Dated this 10th day of March, 2006.

David L. Shenke, J.

jb

NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.