

Mailing Date: JUN 20 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-1718
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W05-304644
v.	:	
	:	LID - 48888
THE CASTLE PUB, INC.	:	
T/A THE CASTLE PUB	:	
122 N. CENTER ST.	:	
EBENSBURG, PA 15931-1622	:	
	:	
	:	
CAMBRIA COUNTY	:	
LICENSE NO. R-AP-SS-EHF-6101	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Nadia L. Vargo, Esquire
Pennsylvania State Police
313 Mt. Nebo Road
Pittsburgh, PA 15237-1305

For Licensee
Theodore J. Krol, Esquire
312 Union Avenue
Altoona, PA 16602

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 23, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against The Castle Pub, Inc., t/a The Castle Pub (Licensee), License Number R-AP-SS-EHF-6101.

The citation¹ charges Licensee with violations of Section 5.32(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §5.32(a)]. The charge is that on February 20, March 5, 12, 17, April 16 and May 14, 2005, Licensee, by servants, agents or employes, used, or permitted to be used on the inside of its licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

An evidentiary hearing was conducted on May 10, 2006 at the Hampton Inn, 180 Charlotte Drive, Altoona, Pennsylvania.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on January 23, 2005 and completed it on July 21, 2005. (N.T. 12)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested. The notice alleged violations as charged in the citation.
3. On the dates charged, Licensee permitted amplified music to escape its premises. (N.T. 12-20)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

1. Commonwealth Exhibit No. C-2 (05-1718), N.T. 9.

DISCUSSION:

Licensee presented a defense which had no teeth to it. The gist of the argument is that Licensee was being picked on. Licensee claims the difficulties began in 2003 when an article appeared in a local newspaper. Subsequently, patronage at the licensed premises decreased. It seems Licensee was a “cop bar.”

Licensee never filed formal complaints against the individuals whom Licensee claims “had it in” for Licensee. Moreover, Licensee refused to release the names of two individuals who, Licensee claims, confirmed that Licensee is being targeted. If it were true that local government authorities were out to get Licensee, they certainly could have done a better job than what was presented at this hearing.

PRIOR RECORD:

Licensee has been licensed since March 7, 2002, and has had two prior violations:

- Adjudication No. 03-2086. Fine \$500.00.
Committed simple assault, harassment, engaged in disorderly conduct and recklessly endangered another person.
July 31, 2003.
- Adjudication No. 05-0193. Fine \$200.00.
1. Noisy and/or disorderly operation.
November 14, 21 and December 31, 2004.
 2. Used loudspeakers or devices whereby music could be heard outside.
November 14, 21 and December 31, 2004.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

Licensee claims it is not a “problem bar.” Of course, that is rather subjective. Licensee has since placed the business up for sale and is not operating. Accordingly, I impose a \$300.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$300.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee’s license shall be suspended or revoked.

The fine must be paid by Treasurer’s Check, Cashier’s Check, Certified Check or Money Order. **Personal checks, which include business-use personal checks, are not acceptable.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, Pennsylvania 17110-9661

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 12th day of June, 2006.

Felix Thau, A.L.J.

pm

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.