

Mailing Date: SEP 22 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-2785
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-323161
v.	:	
	:	LID - 29453
YOUR PLACE COUNTRY INNS, INC.	:	
T/A YOUR PLACE COUNTRY INN	:	
2133 LINCOLN HWY. E	:	
LANCASTER, PA 17602	:	
	:	
	:	
LANCASTER COUNTY	:	
LICENSE NO. H-AP-SS-EHF-5579	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, PA 17110

For Licensee
Richard S. Solove, Esquire
180 Good Drive
Lancaster, PA 17603-2353

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on January 12, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Your Place Country Inns, Inc., t/a Your Place Country Inn (Licensee), License Number H-AP-SS-EHF-5579.

The citation¹ charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on November 26, 2005, Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) male minor, twenty (20) years of age.

An evidentiary hearing was conducted on August 1, 2006 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, 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 and ended its investigation on November 26, 2005. (N.T. 10)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on December 14, 2005. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 8)
3. Bureau Enforcement Officers were conducting a "Minor Patrol" Detail in Lancaster County on November 26, 2005. In furtherance of that assignment, Bureau Enforcement Officers entered the subject premises at 12:55 a.m., November 26, 2005. Members of the Detail were in an undercover capacity. They spread out throughout the premises looking for youthful appearing patrons. One Officer noticed Mr. N. drinking beer. (N.T. 11-14)
4. Mr. N. arrived at the premises somewhere between 9:00 p.m. and 9:30 p.m., on November 25, 2005. He was accompanied by a friend. He was twenty years old, having been born October 17, 1985. (N.T. 39-41)
5. Mr. N. was not questioned as to age. He played pool all evening. During his stay, Mr. N. consumed about five services of beer and three shots of liquor. Mr. N.'s friend purchased the alcoholic beverages for him at the bar. (N.T. 41-43)

1. Commonwealth Exhibit No. C-2, N.T. 8.

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.

DISCUSSION:

It was Licensee's position the law regarding the strict liability standard related to sales to minors was unfair, particularly the law relating to the meaning of "permit." I advised counsel, I have no authority to disregard the current state of the law and that this issue would have to be dealt with by a higher authority.

PRIOR RECORD:

Licensee has been licensed since May 28, 1992, and has had no prior violations.

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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

I impose a \$1,000.00 fine. I also order Licensee to comply with the requirements set forth in Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management, for a period of one year.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 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

R.A.M.P. Requirements

IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1 pertaining to Responsible Alcohol Management in the following manner. Licensee is directed to initiate contact with The Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: www.lcb.state.pa.us; Email Address: LBEducation@state.pa.us), within 30 days of the mailing date of this Adjudication for assistance in the compliance process. Licensee must receive Certification within 90 days of the mailing date of this Adjudication. Licensee must remain in compliance for a period of one year from the date such Certification was issued. The Bureau of Liquor Control Enforcement is further directed to monitor compliance with this Adjudication.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 13th day of September, 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.