

Mailing Date: AUG 3 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2255
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-337038
v.	:	
	:	LID - 50656
5969 CL INC	:	
5969 OGONTZ AVE	:	
PHILADELPHIA PA 19141-1356	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-7432	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Erik S. Shmukler, Esq.
For Licensee: Edward A. Taraskus, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on October 4, 2006. The citation alleges that Licensee violated §102 of the Liquor Code, 47 P.S. §1-102, on July 27, 2006, on the basis that the licensed premises was not a *bona fide* restaurant because there were insufficient food items.

A hearing was held on Wednesday, June 6, 2007, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and the citation.

FINDINGS OF FACT:

Liquor Enforcement Officer Libby Hess inspected the licensed premises on July 27, 2006, at about 6:15 p.m. and found that the only food in the premises was eight rolls, ten hot dogs, eight cups of noodles and a jar of pig's feet (N.T. 6-7).

CONCLUSIONS OF LAW:

Sustained as charged.

DISCUSSION:

The photographs submitted by Licensee's officer show the presence of an amount of food and the equipment necessary to prepare and serve it which would probably meet the minimum standard to qualify as a *bona fide* restaurant. I believe these photographs accurately depict the

condition of the premises at some time after the officer's inspection. I believe that the conditions at the premises currently are similar to the conditions shown in the photographs. I do not, however, believe that these photographs accurately show the food inventory on the date of the officer's inspection.

PRIOR RECORD:

Licensee has been licensed since March 19, 2003, and has had one prior violation:

Citation No. 05-1619. \$500.00 fine and 2 points assessed.

1. Not a *bona fide* restaurant (insufficient eating utensils, dishes and seating).
June 15, 2005.
2. Operated without a valid health permit. June 15, 2005.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of the type found in this case.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 5969 CL, Inc., License No. R-AP-SS-7432, shall pay a fine of two hundred dollars (\$200.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

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 PA 17110-9661

Dated this 30th day of July, 2007.

David L. Shenkle, 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.