

Mailing Date: NOV 13 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0846
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-348064
v.	:	
	:	LID - 34612
A LA CARTE ENTERPRISES, INC.	:	
T/A FELICITA	:	
2201 FISHING CREEK VALLEY RD.	:	
HARRISBURG, PA 17112-9623	:	
	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. H-AP-SS-3985	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, PA 17110

For Licensee
Steve C. Nicholas, Esquire
Northwood Office Center
2215 Forest Hills Drive
Suite 37
Harrisburg, PA 17112-1099

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 19, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against A La Carte Enterprises, Inc., t/a Felicita (Licensee), License Number H-AP-SS-3985.

The citation¹ charges Licensee with violations of Section 102 of the Liquor Code [47 P.S. §1-102]. The charge is that from December 26, 2006 through March 12, 2007, Licensee's licensed premises was not a bona fide hotel where the public may, for a consideration, obtain sleeping accommodations.

An evidentiary hearing was conducted on October 9, 2007 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 its investigation on February 6, 2007 and completed it on March 12, 2007. (N.T. 5)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on April 3, 2007. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. B-1, N.T. 5)
3. During the period charged, Licensee was not a bona fide hotel as no rooms were available for rental. The rooms were in fit condition but Licensee was not renting them. (N.T. 6)

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.

PRIOR RECORD:

Licensee has been licensed since July 22, 1994, and has had one prior violation:

Adjudication No. 97-1480. Fine \$100.00.
Unlawfully possessed liquor obtained from a source
other than a Pennsylvania State Store.

1. Commonwealth Exhibit No. B-2, N.T. 5.

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.

As Licensee has since modified the manner in which it operates so as to comply with the requirements of the Liquor Code, I adopt the jointly recommended penalty of a \$500.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$500.00 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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 1st day of November, 2007.

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.

Detach Here and Return Stub with Payment

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

Citation No. 07-0846