

Mailing Date: JUN 24 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0871
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-345157
v.	:	
	:	LID - 20195
YE OLDE ALE HOUSE, INC.	:	
5002 CARLISLE PIKE	:	
MECHANICSBURG, PA 17055-2461	:	
	:	
	:	
CUMBERLAND COUNTY	:	
LICENSE NO. R-AP-SS-19378	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire

For Licensee
Lori A. Hench, PRO SE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 26, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against YE OLDE ALE HOUSE, INC., License Number R-AP-SS-19378 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 5.41 of the Liquor Control Board Regulations [40 Pa. Code §5.41] in that from January 1 through March 14, 2007, Licensee, by its servants, agents or employes, failed to display on the licensed premises documentary evidence that the premises meets all sanitary requirements for a public eating place.

The investigation which gave rise to the citation began on December 19, 2006 and was completed on March 20, 2007; and notice of the violation was sent to Licensee by Certified Mail on April 10, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on October 3, 2007 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. The eating and drinking place license for the licensed premises expired on November 30, 2006, and was not renewed until March 15, 2007 (N.T. Exhibit C-3).
2. On March 14, 2007 an officer of the Bureau entered the licensed premises and conducted a routine inspection (N.T. 11-12).
3. During the inspection the officer discovered that the eating and drinking place license displayed on the licensed premises had expired as of December 1, 2006 (N.T. 12-13).
4. Licensee had been notified by the Department of Agriculture that their license would be renewed late because of technical difficulties. Licensee did not receive an application for renewal of its eating and drinking place license until February 28, 2007. At that time Licensee filed its application together with a check. Licensee did not receive its license from the Department of Agriculture until March 15, 2007.

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

DISCUSSION:

The record in this case establishes a technical violation. It appears that Licensee was a victim of circumstances and was technically in violation of the Regulation in question since it did not have a valid eating and drinking place license posted on the premises. However, Licensee appeared to have made every effort to comply with the law, and, for that reason, the penalty imposed will be the minimum allowed by law.

PRIOR RECORD:

Licensee has been licensed since June 30, 1970, and has had no prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge. Licensee is, therefore, entitled to be treated as a first time offender.

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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$50.00.

ORDER

THEREFORE, it is hereby ordered that Licensee YE OLDE ALE HOUSE, INC., pay a fine of \$50.00 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.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 10TH day of June, 2008.

Daniel T. Flaherty, Jr., J.

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MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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 submit stub with payment

The fine must be paid by Treasurer's Check, Cashier's Check or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make 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. 07-0871

