

Mailing Date: SEP 12 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2199
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-358746
v.	:	
	:	LID - 7569
VILLA SENA, INC.	:	
RD 2, BOX 76-A	:	
TOWANDA, PA 18848-9606	:	
	:	
	:	
	:	
BRADFORD COUNTY	:	
LICENSE NO. H-5183	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire

For Licensee
Michael Sena, PRO SE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 20, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against VILLA SENA, INC., License Number H-5183 (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 102 and 461(c) of the Liquor Code [47 P.S. §§1-102 and 4-461(c)] in that on August 6, 2007, the licensed premises was not a bona fide hotel in that there were insufficient bedrooms available for the use of guests and the bedrooms maintained for the accommodation of guests are insufficient in number and/or inadequately equipped.

The investigation which gave rise to the citation began on August 1, 2007 and was completed on August 19, 2007; and notice of the violation was sent to Licensee by Certified Mail on August 27, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 24, 2007 in the PA Department of Agriculture, 2130 County Farms Road, Montoursville, 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. As of August 6, 2007, Licensee was required to have 12 rooms available for the use of guests.
2. On August 6, 2007 an officer of the Bureau went to the licensed premises to perform a routine inspection. The officer found the licensed premises open and operating (N.T. 11).
3. The officer identified herself and began a routine inspection. During the inspection she was able to inspect the hotel portion of the premises (N.T. 11-12).
4. The officer observed that there were 12 rooms in the hotel portion of the licensed premises. There was one room downstairs and 11 rooms upstairs (N.T. 14). Upon inspection of the aforementioned rooms the officer found that five rooms were set up and ready for renting. She found one room where the bed wasn't set up, but the room could have been ready within one half hour to forty five minutes (N.T. 15).
5. The officer found that the seventh room on the second floor was found to have been utilized by Licensee who informed the officer that he was staying in this room while he was renovating his house. The room had some personal items including his gun cabinet with guns. There was also clothing and other items of that nature in the room (N.T. 15-16).
6. The officer found that the eighth room located on the second floor had been made into an office. It had a couch, desk, a computer and other things found in an office. There was no bed in the room (N.T. 16).
7. The officer found that the three remaining rooms upstairs were being used for storage. They had various items in them including boxes, clothing, a drum set and other items of that nature. These rooms were not set up as bedrooms (N.T. 16).

CONCLUSION OF LAW:

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

DISCUSSION:

The record discloses that Licensee did not have the required twelve rooms available for rental as required. Consequently, the charge in the citation is sustained.

PRIOR RECORD:

Licensee has been licensed since November 5, 1984, and has had one prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Citation No. 07-0505. Fine \$200.00 and one day suspension and thereafter until conditions corrected.

1. Not a bona fide hotel in that bedrooms maintained for the accommodation of guests are insufficient in number and/or inadequately equipped. February 6, 2007.

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 has represented that as of the date of this hearing he had all twelve rooms available to be rented to the public. Therefore, it will not be necessary to suspend Licensee's hotel liquor license until the premises has been brought into compliance with the Liquor Code.

Under the circumstances of this case, the penalty imposed shall be a fine of \$350.00.

ORDER

THEREFORE, it is hereby ordered that Licensee VILLA SENA, INC., pay a fine of \$350.00 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 14th day of August, 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. 07-2199
Villa Sena, Inc.