

Mailing Date: JAN 9 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1220
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-367248
v.	:	
	:	LID - 24220
YONG'S PLACE INC	:	
5937 MARKET ST	:	
PHILADELPHIA PA 19139-3119	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-SS-OPS-14561	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Erik S. Shmukler, Esq.
For Licensee: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on May 30, 2008. The citation alleges that Licensee violated §102 of the Liquor Code, 47 P.S. §1-102, on April 23 and 24, 2008, on the basis that the licensed premises was not a *bona fide* restaurant because there were insufficient food items, eating utensils or dishes.

At the hearing scheduled for November 13, 2008, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period January 3 through April 25, 2008, and sent written notice of the results of its investigation to the licensed premises by certified mail on May 12, 2008 (N.T. 11-12 , Exhibit B-1).

2. A copy of this citation was mailed to the licensed establishment by certified mail on May 30, 2008 (N.T. 11-12, Exhibit B-2).

3. A Notice of Hearing was mailed to Licensee by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on September 25, 2008.

4. Liquor Enforcement Officer David Collins inspected the licensed premises on April 23, 2008, and found that there was no food present. Neither were there any business records, so the officer made arrangements to return the next day and explained the requirements for operation of a *bona fide* restaurant to the employee present. When he returned the next day the records had been provided, but there was still no food in the premises (N.T. 2-9).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since March 20, 1991, and has had five prior violations:

Citation No. 91-2300. \$150.00 fine and 1 day suspension.

1. Not a *bona fide* restaurant (insufficient chairs at tables).

Citation No. 99-1815. \$50.00 fine.

1. Bad checks for malt or brewed beverages.

Citation No. 05-1014. \$250.00 fine and verification conditions corrected.

1. Not a *bona fide* restaurant (insufficient seating and food). April 22, 2005.

Citation No. 05-1627. \$350.00 fine and verification conditions corrected.

1. Not a *bona fide* restaurant (insufficient seating and food). July 18, 2005.

Citation No. 07-2028. \$1,200.00 fine and verification conditions corrected.

1. Sales on Sunday between 2:00 a.m. and 11:00 a.m. July 15, 2007.
2. Operated without a valid health permit. June 26, July 15, 17 and 24, 2007.

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, Yong's Place, Inc., License No. R-SS-OPS-14561, shall pay a fine of five hundred dollars (\$500.00) 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.

IT IS FURTHER ORDERED that the Sunday Sales Permit of Licensee, Yong's Place, Inc., License No. R-SS-OPS-14561 is hereby REVOKED, effective at 7:00 a.m. on Sunday, January 25, 2009. This revocation is without prejudice to the right of Licensee to apply to the Board for a new Sunday Sales Permit at any future time, subject to the statutes and rules pertaining to the issuance of such permits in the first instance.

IT IS FURTHER ORDERED that Licensee shall, within 20 days of the mailing date of this order, submit verification in the form attached hereto that the premises now maintains sufficient food, eating utensils and dishes on hand to qualify as a *bona fide* restaurant. If Licensee fails to submit the verification within the time allowed, the penalty in this case will be modified to include a suspension of license, and for that purpose jurisdiction is retained.

Dated this 2nd day of January, 2009.



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.

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

VERIFICATION

Subject to the penalties contained in 18 Pa. C. S. §4904, relating to unsworn falsification to authorities, the undersigned officer verifies that the licensed premises now has sufficient food, utensils and dishes to accommodate people.

Licensee acknowledges that sufficient food, cooking equipment, utensils, and dishes are to be maintained at all times this license is in operation.

Corporate Officer's Signature

Date

Submit this verification to:

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg PA 17110-9661