

Mailing Date: JUN 04 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-0074C
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-386232
v.	:	
	:	LID - 23495
BROOKSIDE DINER AND	:	
LOUNGE, INC.	:	
1360 EISENHOWER BLVD.	:	
HARRISBURG, PA 17111-2319	:	
	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. R-AP-SS-EHF-391	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Tara L. Patterson, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, PA 17110

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

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on January 22, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Brookside Diner and Lounge, Inc. (Licensee), License Number R-AP-SS-EHF-391.

The citation¹ charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on December 17, 2008, Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) female minor, nineteen (19) years of age.

An evidentiary hearing was conducted on May 5, 2009 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 December 17, 2008 and completed it on December 19, 2008. (N.T. 8)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on January 12, 2009. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 8)
3. Pursuant to the Bureau's Age Compliance Check Program, a nineteen year old (born January 5, 1989) entered the premises and purchased a six pack of twelve ounce bottles of beer on the date charged. The nineteen year old was not questioned as to age. (N.T. 6-7)

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.

1. Commonwealth Exhibit No. C-2, N.T. 8.

PRIOR RECORD:

Licensee has been licensed since August 15, 1989, and has had two prior violations (Commonwealth Exhibit No. C-3):

Adjudication No. 05-1797. Fine \$1,100.00.
Sales to a visibly intoxicated person.

Adjudication No. 08-2331. Fine \$3,500.00, 5 days suspension
and R.A.M.P. Training mandated.
Sales to a visibly intoxicated person.
June 21, 2008.

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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

That Section further provides for mandatory compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management when, as in this matter, Licensee has been found to have violated Section 493(1) as a first offense as it relates to sales to minors or sales to a visibly intoxicated patron.

I impose a \$1,250.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,250.00 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.

R.A.M.P. Requirements

IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1 pertaining to Responsible Alcohol Management in the following manner. Licensee must remain in compliance for a period of one year from the mailing date of this Adjudication.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 27th day of May, 2009.



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

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BROOKSIDE DINER AND
LOUNGE, INC.