

Mailing Date: AUG 19 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-0275
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W04-379426
	:	
YOUNGSTOWN HOTEL OF	:	
STANBAUGH LLC	:	LID-59703
T/A YOUNGSTOWN HOTEL	:	
320 MAPLE ST	:	
NORTH UNION TWP	:	
LEMONT FURNACE PA 15456-1041	:	
	:	
FAYETTE COUNTY	:	
LICENSE NO. H-AP-SS-3201	:	

ADJUDICATION

JUDGE: ROBERT F. SKWARYK

APPEARANCES:

BUREAU COUNSEL: Emily L. Gustave, Esq.

LICENSEE COUNSEL: Ex Parte

BACKGROUND:

This proceeding arises out of a citation that was issued on February 13, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Youngstown Hotel of Stanbaugh, LLC, T/A Youngstown Hotel, License Number H-AP-SS-3201 (hereinafter Licensee).

The citation charges Licensee with violation of Section 5.32(a) of the Liquor Control Board Regulations [40 Pa. Code §5.32(a)], in that on December 19, 2008 and January 10, 2009, Licensee, by its servants, agents or employees, used, or permitted to be used on the inside of your licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

The investigation which gave rise to the citation began on August 13, 2008 and was completed on January 10, 2009. The notice of violation letter was mailed to Licensee on February 2, 2009.

An evidentiary hearing was held on this matter on July 7, 2009, in Pittsburgh, Pennsylvania.

Upon review of the transcript of the hearing and the Pre-Hearing Memorandum, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Licensee is located in Fayette County, Pennsylvania and holds Hotel Liquor License Number H-AP-SS-3201. (N.T. 4).
2. On Friday, December 19, 2008, at approximately 9:10 p.m., an enforcement officer arrived at the licensed premises and could hear amplified music emanating from the inside approximately 300 feet away. (N.T. 7-8)
3. The officer entered the licensed premises and found a bartender rendering service of alcoholic beverages to approximately thirty patrons, and the source of the music was from a disc jockey, with several speakers located throughout the establishment. (N.T. 7-8)
4. On Saturday, January 10, 2009, at 11:35 p.m., the enforcement officer returned to the licensed premises and paced off distances approximately 360 feet away, where he could clearly hear music emanating from the licensed premises. (N.T. 8-9)
5. The officer found that the source of the loud music was a Juke Box using amplified speakers. (N.T. 8-9)
6. The area surrounding the licensed premises is 100% residential.
7. The Bureau's investigation was continuous and ongoing through out the period of investigation. (N.T. 10)

CONCLUSION OF LAW:

Sustained as charged.

DISCUSSION:

At the hearing held on the matter, the enforcement officer testified in detail as to visiting the premises on two nights and hearing loud amplified music coming from a disc jockey and a juke box.

Licensee did not appear at the hearing, although duly notified of the place and time.

I find the testimony of the witness to be credible, as such the citation is sustained as charged.

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PRIOR RECORD:

Licensee has been licensed since July 1, 2008, and has no prior violations,

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.

After due consideration of the circumstances giving rise to the citation and the Licensee's status as a first time offender, a fine of \$300.00 shall be imposed as the penalty in this case.

ORDER:

THEREFORE, it is hereby ordered that Licensee, Youngstown Hotel of Stanbaugh, LLC, T/A Youngstown Hotel, pay a fine of \$300.00 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 UNTIL CASE IS CLOSED.

Dated this 6TH day of AUGUST, 2009.



Robert F. Skwaryk, J.

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.

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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 17110-966

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