

Mailing Date: SEP 21 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-2891
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-397611
v.	:	
	:	LID - 58487
TRAILSIDE INN, LLC	:	
RR3 BOX 3249 AA	:	
FACTORYVILLE, PA 18419-9301	:	
	:	
WYOMING COUNTY	:	
LICENSE NO. R-AP-SS-EHF-13406	:	
	:	
	:	
	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: Craig A. Strong, Esquire
LICENSEE: Ex-Parte

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on December 18, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Trailside Inn, LLC (Licensee), License Number R-AP-SS-EHF-13406.

The citation¹ charges Licensee with violations of Section 15.62(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §15.62(a)]. The charge is that on August 17, 18, 19, September 14, 15, 16, 17, 18, 20, 21, 22, 23 and 28, 2009, Licensee, by servants, agents or employes, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension.

An evidentiary hearing was conducted on July 20, 2010 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee did not appear personally or have any representation.

1. Commonwealth Exhibit No. C-2, N.T. 9.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. A citation hearing notice was mailed by the Office of Administrative Law Judge on May 19, 2010 to Licensee by both certified receipt-return mail and first-class mail to the licensed premises. The notice notified Licensee of the date, time and place of the hearing. The Notice, sent by certified mail, was returned as being marked: "Forward Time Expired Return To Sender."
2. The Bureau began its investigation on July 21, 2009 and completed it on October 13, 2009. (N.T. 10)
3. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on November 2, 2009. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)
4. Pursuant to Adjudication Nos. 08-1135, 08-1291 and 08-1926, Licensee was suspended on Monday, August 17, 2010 through and including September 28, 2009 for failure to pay fines. Each of the Adjudications required Licensee to serve a minimum of a one day suspension and continuing thereafter until the fines were paid, for a total of three days minimum. (N.T. 7-8)
5. A Bureau Enforcement Officer conducted a suspension check at the premises for each of the dates charged. The Officer noticed that no Suspension Placard was posted anywhere on the building. The Officer's visits lasted about five to ten minutes and varied from day to day. The premises appeared as if it were under renovation.

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.

PRIOR RECORD:

Licensee has been licensed since July 9, 2007, and has had six prior violations:

Adjudication No. 07-2830X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages.
September 26, 2007.

Adjudication No. 08-0329X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages.
October 25, December 1 and 14, 2007.

Adjudication No. 08-0563X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages.
January 28, 2008.

Adjudication No. 08-1135. Fine \$500.00. Fine not paid and license suspended 1 day and thereafter until fine paid. Fine still not paid and license revoked.

1. Used loudspeakers or devices whereby music could be heard outside.
April 27, 2008.
2. Issued worthless checks in payment for purchases of malt or brewed beverages.
March 29, 2008.

Adjudication No. 08-1291. Fine \$250.00. Fine not paid and license suspended 1 day and thereafter until fine paid. Fine still not paid and license revoked.

Your corporate member consumed alcoholic beverages while tending bar or otherwise serving alcoholic beverages.
May 4, 2008.

Adjudication No. 08-1926. Fine \$500.00. Fine not paid and license suspended 1 day and thereafter until fine paid. Fine still not paid and license revoked.

- 1 Used loudspeakers or devices whereby music could be heard outside.
July 8, 2008.
2. Engaged in unlawful discrimination in that you provided alcoholic beverages to female patrons at a reduced price while charging full price to male patrons.
July 8, 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 \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

The record demonstrates that Licensee, for all intents and purposes, has abandoned the license. Accordingly, I revoke the license.

ORDER:

Imposition of Revocation

THEREFORE, it is hereby ordered that the Restaurant Liquor license (including all permits) No. R-AP-SS-EHF-13406, issued to Trailside Inn, LLC, be **REVOKED**, effective at 7:00 a.m., on Monday, October 18, 2010. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby **CANCELLED**.

Since this license has already been revoked, there is no license to be returned. Accordingly, the Bureau of Licensing of the Pennsylvania Liquor Control Board is directed to mark their records accordingly, that this license is revoked, effective at 7:00 a.m., Monday, October 18, 2010.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 8TH day of September, 2010.



Felix Thau, A.L.J.

pm

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.