

Mailing Date: FEB 23 2011

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1713
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W04-404465
	:	
DPT PROPERTIES LLC	:	
T/A ECONOLOGDE	:	LID-58864
5055 WILLIAM FLYNN HWY	:	
HAMPTON TWP	:	
GIBSONIA PA 15044-8402	:	
	:	
	:	
ALLEGHENY COUNTY	:	
LICENSE NO. H-AP-SS-EHF-6116	:	

**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 August 20, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against DPT Properties, LLC, T/A Econolodge, License Number H-AP-SS-EHF-6116 (hereinafter Licensee).

The citation contains two counts.

Count one of the citation charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §§§4-491(1), 4-492(2) and 4-493(16)], in that On June 2, 2010, Licensee, by its servants, agents or employees, sold alcoholic beverages after its Hotel Liquor license expired on May 31, 2010, and had not been renewed and/or validated.

DPT PROPERTIES, LLC  
T/A ECONOLODGE

Count two of the citation charges Licensee with violation of Section 404 of the Liquor Code [47 P.S. §4-404] and Section 1.1 of the Liquor Control Board Regulations [40 Pa. Code §1.1], in that during the period September 1, 2009 through May 31, 2010, Licensee's licensed corporation was not the only one pecuniarily interested in the operation of the licensed business.

Citation No. 10-1713

The investigation which gave rise to the citation began on December 1, 2009, and was completed on July 26, 2010. The notice of violation letter was mailed to Licensee on August 3, 2010.

An evidentiary hearing was held on this matter on January 13, 2011, 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:

Counts One & Two

1. Licensee is located in Allegheny County, Pennsylvania and holds Hotel Liquor license number H-AP-SS-EHF-6116. (N.T. 4).
2. On May 31, 2010, Licensee's Hotel Liquor License expired and was not renewed. (N.T. 8-9, Exhibit C-7).
3. On June 2, 2010, at 7:50 p.m., an enforcement officer visited the licensed premises and found it open and operating with a barmaid rendering service of alcoholic beverages to four patrons. (N.T. 8).
4. The officer purchased a shot of liquor for \$3.50 and a 12-ounce bottle of beer for \$3.00. (N.T. 9)
5. The officer observed other patrons drinking liquor and malt or brewed beverages. (N.T. 9).
6. The officer departed the premises with eight patrons remaining. (N.T. 9).

CONCLUSION OF LAW:

Counts One & Two -- Sustained as charged.

DISCUSSION:

DPT PROPERTIES, LLC

T/A ECONOLODGE

At the hearing held on the matter, the enforcement officer testified in detail that he purchased alcoholic beverages at the licensed premises on June 2, 2010, after the liquor license expired on May 31, 2010, and was not renewed. The officer also testified as to a payment dispute between a contractor and the owner, with the contractor managing the premises and taking the profits as a form of repayment. (N.T. 11-13).

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

Citation No. 10-1713

Counsel for Licensee submitted a letter to the Board stating that the license was not being renewed and requested that the license be cancelled. (Exhibit C-10).

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

PRIOR RECORD:

Licensee has been licensed since October 5, 2007, and has three (3) prior violations, to wit:

Citation No. 08-0129C. Fine \$1,250.00 and R.A.M.P. training mandated.

1. Sales to a minor.  
December 19, 2007.

Citation No. 09-0558. Fine \$500.00 and 1 day suspension with thereafter conditions.

1. Failed to comply with the order of the Administrative Law Judge mandating R.A.M.P. training.  
October 24, 2008 through February 5, 2009.
2. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years.  
January 27, 2009.

Citation No. 09-2968. 7 days suspension.

1. Sales between 2:00 a.m. and 7:00 a.m.  
October 3, 2009.
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
October 3, 2009.
3. Permitted patrons to possess or remove alcoholic beverages after 2:30 a.m.  
October 3, 2009.
4. Failed to post signage required by the Clean Indoor Air Act.  
September 6, 2009.
5. Permitted smoking in a public place where smoking was prohibited.  
September 6, 2009.

DPT PROPERTIES, LLC  
T/A ECONOLODGE

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 a violation of the type found in this case.

Citation No. 10-1713

After due consideration of the circumstances giving rise to the citation and Licensee's citation history, the penalty of Revocation of License will be imposed in this case.

ORDER:

THEREFORE, IT IS HEREBY ORDERED that License Number H-AP-SS-EHF-6116 issued to DPT Properties, LLC, T/A Econolodge, be REVOKED effective at 7:00 a.m. on Monday, March 28, 2011. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is CANCELLED.

**JURISDICTION IS RETAINED UNTIL CASE IS CLOSED.**

Dated this 9<sup>TH</sup> day of February, 2011.



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.**

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

DPT PROPERTIES, LLC  
T/A ECONOLODGE

10-1713  
DPT Properties, LLC  
T/A Econolodge