

Mailing Date: MAR 28 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2263
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-414185
v.	:	
	:	LID - 49515
LA QUINTA INC	:	
4602-4604 N 5 th ST	:	
PHILADELPHIA PA 19140-1409	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-OPS-978	:	

JUDGE SHENKLE
BLCE COUNSEL: James E. Dailey, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on October 26, 2010. The citation alleges that Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on September 25, 2010, by permitting the use on the inside of the licensed premises of a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

At the hearing scheduled for February 2, 2011, 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 June 8 through September 30, 2010, and sent it written notice of the results of its investigation on October 8, 2010 (N.T. 9, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on October 26, 2010 (N.T. 9, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on December 16, 2010.
4. On September 25, 2010, a liquor enforcement officer arrived in the area of the licensed premises at about 1:20 a.m. and heard loud music coming from the establishment at distances as great as 100 feet. She entered the premises and found that the source of the music was approximately six loudspeakers being used by a disk jockey (N.T. 5-8).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since July 17, 2002, and has had prior violations as follows:

Citation No. 07-1338 & 07-2023 (consolidated). \$2,000.00 fine.

1. Sales on Sunday between 2:00 a.m. and 11:00 a.m. May 20, June 24 and July 22, 2007.
2. Failed to require patrons to vacate the premises by the required time. May 20, 2007.
3. Permitted patrons to possess or remove alcoholic beverages after 2:30 a.m. May 20, 2007.
4. Operated without a valid health permit or license. April 9, 21 and May 20, 2007.
5. Loudspeakers could be heard outside. June 24 and July 22, 2007.

Citation No. 10-1065. \$1,500.00 fine. License suspended indefinitely for nonpayment.

1. Sales to a minor. April 10 and 11, 2010.
2. Minors frequenting. April 10 and 11, 2010.
3. Failed to maintain business records for 2 years. April 11, 2010.
4. Loudspeakers could be heard outside. April 11, 2010.

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 this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, La Quinta, Inc., License No. R-AP-SS-OPS-987, shall pay a fine of three hundred dollars (\$300.00) 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. Jurisdiction is retained.

Dated this 9TH day of MARCH, 2011.



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 cashier's check, certified check or money order. Personal and business checks are not acceptable unless bank certified. 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