

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

PENNSYLVANIA STATE	:	In re: Citation No. 12-0759
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W09-441487
	:	
v.	:	PLCB LID No. 32066
	:	
ROMAN’S LOUNGE AND CATERING INC	:	PLCB License No. R-AP-SS-16295 101-103 S
BROAD MOUNTAIN AVE	:	
FRACKVILLE PA 17931	:	

JUDGE SHENKLE
 BLCE COUNSEL: Roy Harkavy, Esq.
 LICENSEE COUNSEL: James G. Conville, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on May 14, 2012. The citation alleges that Licensee violated §493(34) of the Liquor Code, 47 P.S. §4-493(34), on February 18, March 2 and March 30, 2012, 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 beyond licensee’s property line.

A hearing was held on Thursday, May 2, 2013, in Allentown, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On February 17, 2012, a liquor enforcement officer entered the licensed premises at 11:15 p.m. A disk jockey was providing entertainment, using loudspeakers. When the officer left at 12:05 a.m. she continued to hear the loudspeakers outside, at a distance of 60 feet (N.T. 23-24).
2. On March 2, 2012, the officer entered the licensed premises at 10:45 p.m. A disk jockey was providing entertainment, using loudspeakers. When the officer left the premises at 11:00 p.m. she continued to hear the loudspeakers outside, at distances as great as 180 feet (N.T. 25).
3. On March 30, 2012, the officer entered the licensed premises at 10:30 p.m. A disk jockey was providing entertainment, using loudspeakers. When the officer left the premises at 11:10 p.m. she continued to hear the loudspeakers outside, at a distance of 60 feet (N.T. 26-27).

CONCLUSIONS OF LAW:

PRIOR RECORD:

Licensee has been licensed since February 11, 1994, and has had prior violations as follows:

In re Citation No. 95-1172 - \$200.00 fine.

1. Failed to require patrons to vacate the premises by the required time.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m.

In re Citation No. 96-0491. \$250.00 fine.

1. Failed to require patrons to vacate the premises by the required time.

In re Citation No. 99-0213. 2 days suspension.

1. Loudspeakers could be heard outside. December 20, 1998.

In re Citation No. 02-0289. \$500.00 fine and 5 days suspension.

1. Loudspeakers could be heard outside. December 24, 2001.
2. Failed to require patrons to vacate by the required time. December 24, 2001.
3. Permitted patrons to possess alcoholic beverages after 2:30 a.m. December 24, 2001.

In re Citation No. 02-1876. 2 days suspension.

1. Possessed contaminated liquor. August 16, 2002.

In re Citation No. 04-1385. \$300.00 fine.

1. Failed to require patrons to vacate the premises by the required time. July 31, 2004.
2. Permitted patrons to possess alcoholic beverages after 2:30 a.m. July 31, 2004.

In re Citation No. 05-0782. \$300.00 fine.

1. Loudspeakers could be heard outside. March 26, 2005.
2. Noisy and/or disorderly operation. March 26, 2005.

In re Citation No. 07-2782. \$500.00 fine.

1. Loudspeakers. 55 dates November 12, 2006 – August 31, 2007.
2. Noisy and/or disorderly operation. 52 dates November 12, 2006 – August 31, 2007.

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.

Licensee presented evidence contesting the Bureau's estimate of the percentage of surrounding properties which were residential. The weight of the evidence supports a conclusion that there were fewer people potentially disturbed by Licensee's loudspeakers than the Bureau's evidence suggests, but this violation does not require proof that anyone was disturbed.

Of more consequence in terms of mitigation is the evidence that Licensee has changed its premises and its operations so as to better contain the sound, emphasizing the dining aspect of the business more strongly than was done at the time of these violations.

Roman's Lounge and Catering, Inc.
In re Citation No. 12-0759

Page 3

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Roman's Lounge and Catering, Inc., License No. R-AP-SS-16295, shall pay a fine of five hundred dollars (\$500.00) 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 14TH day of JUNE, 2013.



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.

WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.

THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.

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

In re Citation No. 12-0759
Roman's Lounge and Catering, Inc.