

Mailing Date: MAY 02 2013

[Appeal](#)

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

PENNSYLVANIA STATE POLICE	:	In Re Citation No. 12-1308
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident Nos.: W03-444133
v.	:	
	:	
JHC OF YORK, INC.	:	PLCB LID No. 53065
T/A JAMIE'S COURTSIDE	:	
18 S. BELMONT ST.	:	
YORK, PA 17403-1915	:	PLCB License No.: R-AP-SS-18786

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: John H. Pietrzak, Esquire

LICENSEE: Harry E. Craley, Secretary, Treasurer, Stockholder, and Manager

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on August 30, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against JHC of York, Inc. (Licensee).

The citation charges Licensee with violations of Section 404 of the Liquor Code [47 P.S. §4-404]. The charge is that Licensee, by your servants, agents, or employees, failed to adhere to the

conditions of the agreement entered into with the Board placing additional restrictions upon the subject license, on March 17, April 15, 27 and May 12, 2012.¹

I presided at an evidentiary hearing on February 27, 2013 at the Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

Therefore, I make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. The Bureau began its investigation on March 21, 2012 and completed it on May 17, 2012. (N.T. 157)
2. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested, on June 7, 2012. The notice alleged the violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 155)
3. Licensee entered into a renewal Conditional Licensing Agreement (CLA) with the Pennsylvania Liquor Control Board (PLCB), effective May 6, 2011, for the two years renewal periods ending February 28, 2010 and February 29, 2012.² (N.T. 20, Commonwealth Exhibit No. C-3)
4. On April 15, 2012, an undercover Bureau Enforcement Officer entered the premises at approximately 12:30 a.m. There were two security staff at the entrance. The Officer was able to enter without being required to show identification. The Officer was also not searched by a metal detection wand. The Officer subsequently purchased an alcoholic beverage. (N.T. 162-164)
5. The Officer conducted undercover visits on April 27 and May 12, 2012, during which the Officer purchased alcoholic beverages and was not requested to show any identification or searched by use of a metal detection wand. (N.T. 170-172)

CONCLUSIONS OF LAW:

¹ The Bureau withdrew March 17, 2012. (N.T. 156)

² Although Paragraph 2 of the CLA could have been drafted with more precision, I conclude that Paragraph manifests the parties' intention for the renewal CLA to apply to two successive renewal cycles.

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. A renewal CLA cannot extend beyond the period for which it was issued.

DISCUSSION:

This Adjudication, and its companion involving the same Licensee, (In Re Citation No.: 12-1253), follow quickly on the heels of **BLCE v. Derry Street Pub, Inc.**, In Re Citation No.: 12-1348 (URL yet to be established). Just as in Derry Street Pub, Inc., the Bureau attempts to apply a renewal CLA to dates beyond the renewal period for which the CLA was issued. Accordingly, I dismiss the citation. Because of this disposition, I need not address Licensee's argument which sounds in the attributes of equitable estoppel.

ORDER:

In Re Citation No.: 12-1308; Licensee, JHC of York, Inc.; PLCB LID No.: 53065;
PLCB License No.: R-AP-SS-18786

Dismissal

I dismiss the citation.

Dated this 25TH day of April, 2013.



Felix Thau, A.L.J.

bc

General Information

This Adjudication is a legal document. It affects your rights, privileges, and obligations. The information which follows is a general guide. Therefore, you may want to consult with an attorney.

Applying for Reconsideration

If you want the Administrative Law Judge to reconsider this Adjudication, you must submit a written application and a nonrefundable \$25.00 filing fee. Both must be received by the Office of Administrative Law Judge, (PLCB - Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661) within fifteen days of this Adjudication's mailing date. Your application must describe the reasons for reconsideration. The full requirements for reconsideration can be found in Title 1 Pa. Code §35.241.

Appeal Rights

If you wish to appeal this Adjudication, you must file an appeal within thirty days of the mailing date of this Adjudication by contacting the Office of Chief Counsel of the Pennsylvania Liquor Control Board (717-783-9454). For further information, visit www.lcb.state.pa.us. The full requirements for an appeal can be found in 47 P.S. §4-471.

