

Mailing Date: APR 27 2015

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 14-0160
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-471184
	:	
YOKOHAMA ASIAN	:	
RESTAURANT LLC	:	PLCB LID - 66009
1316 WALNUT ST.	:	
PHILADELPHIA, PA 19107-5410	:	
	:	PLCB License No. R-SS-12300
	:	
	:	
PHILADELPHIA COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ANDREW R. BRITT, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 4, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Yokohama Asian Restaurant, LLC, License Number R-SS-12300 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, July 24, 2014, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Sections 491(1), 492(2), 492(3) and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2), 4-492(3) and 4-493(16), in that during the period November 1 through December 1, 2013, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2013 and had not been renewed and/or validated.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on December 4, 2013 and ended on December 30, 2013. A notice of violation letter dated January 9, 2014 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received on January 11, 2014. A citation dated February 4, 2014 was sent to the licensed premises by certified mail, return receipt requested. That mailing was returned to sender. The citation was sent by first class mail to the Licensee on February 28, 2014. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on June 6, 2014 by certified mail, return receipt requested (N.T. 14-15 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement, who at the time of hearing, had been so employed for approximately a year and half was assigned to investigate the licensed premises based on a complaint of selling alcoholic beverages after the license had expired. The officer determined that the license expired on October 31, 2013. He went to the premises as part of his investigation on December 1, 2013 at approximately 1:52 a.m. (N.T. 5-6).

3. During the time of the officer's visit to the premises, he observed no patrons at the premises, but they were open and operating. The officer took a seat at the bar and ordered a Bud light beer, which was served to him by an Asian female named Yan Zheng. The female bartender approached the cooler where the beer was stored, grabbed a Bud light beer, opened it and placed it in front of the officer and requested \$3.50 from the officer. The officer gave her \$4.00. She then approached the cash register and entered the item into the register (N.T. 6-7).

4. The officer advised the bartender that he had to step outside to make a phone call. At that time, he went to his vehicle and retrieved some paperwork to assist in his investigation. Upon his return, he approached the female that had served him and explained that the license was expired and that she was unable to serve any alcoholic beverages until a license was issued. The female indicated that she was not the owner of the premises and would contact the manager, Yan Zheng, and inform him (N.T. 7-8).

5. The officer also spoke to Yan Zheng's wife, Yan Li, who explained that she was aware that the license expired and had sent in the paperwork for it to be renewed (N.T. 8-9).

6. The officer returned on December 2, 2013 to confirm that Licensee had ceased sales of alcoholic beverages. The officer approached the premises and saw a BYOB sign, but there was no sale of alcoholic beverages. The officer then departed the premises (N.T. 9).

7. On December 4, 2013, the officer returned to the premises and saw the same BYOB sign. He entered the premises and spoke to Yan Li, the wife of the Board approved manager. There were no sales on December 4, 2013 (N.T. 10-11).

8. On December 13, 2013, the officer utilized a translation service when he spoke with Yan Lee to insure that there was a complete understanding of the situation (N.T. 11-12).

9. The officer retained the receipt that he received on the date that he had made the purchases, i.e. December 1, 2013 (N.T. 16 and Exhibit B-3).

10. The officer renewed sales records from the premises and determined that sales transactions of alcoholic beverages occurred between November 1 and December 5, 2013 (N.T. 13)

11. Certified records from the Pennsylvania Liquor Control Board indicate that the license expired on October 31, 2013 and had not been renewed as of December 5, 2013 (N.T. 16-17 and Exhibit B-4).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

During the period November 1 through December 1, 2013, Licensee, by its servants, agents or employees, sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2013 and had not been renewed and/or validated, in violation of Sections 491(1), 492(2), 492(3) and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2), 4-492(3) and 4-493(16).

PRIOR RECORD:

Licensee has been licensed since October 26, 2012, and has no record of prior violations.

DISCUSSION:

The license expired on October 31, 2013. The Licensee continued to sell alcoholic beverages between November 1 and December 1, 2013. The Licensee is warned to timely renew their license so as to avoid future enforcement action.

Yokohama Asian Restaurant, LLC
In Re: Citation No. 14-0160

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of a fine of not less than \$1,000.00 or more than \$5,000.00, or both, for violations of the type found in this case.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Yokohama Asian Restaurant, LLC, License Number R-SS-12300, pay a fine of One Thousand Dollars (\$1,000.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

Jurisdiction of this matter is retained.

Dated this 23RD day of APRIL, 2015.



Tania E. Wright, J.

NOTE: 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.

If you wish to appeal the decision of the Administrative Law Judge's Order, the appeal must be filed within 30 days of the mailing date of the Order. Please contact the Office of the Chief Counsel of the Pennsylvania Liquor Control Board at 717-783-9454.

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Yokohama Asian Restaurant, LLC
In Re: Citation No. 14-0160

Detach Here and Return Stub with Payment - Note Citation Number on Check

The fine must be paid by Treasurer's Check, Cashier's Check, Money Order or a check drawn on the business or trust account of an attorney, who must be licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless they are certified by your bank.** If you are paying by guaranteed check, please make it payable to the Commonwealth of Pennsylvania and mail, along with any required documentation, to:

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

Credit/Debit Cards may be used: visit www.lcb.state.pa.us and look under LEGAL/Office of ALJ for instructions.

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