

IN THE COURT OF COMMON PLEAS  
OF LYCOMING COUNTY

DORFF ASSOCIATES, LLC :  
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 :  
 vs. : NO: 10-00201  
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 PENNSYLVANIA LIQUOR CONTROL :  
 BOARD :

**OPINION**  
**Issued Pursuant to Pa.R.A.P. 1925(a)**

On April 8, 2010 this Court entered an Order affirming the Pennsylvania Liquor Control Board's decision refusing renewal of a liquor license to Dorff Associates, LLC (hereinafter "Licensee"). On April 26, 2010 Dorff Associates, appealed this Court's order to the Commonwealth Court of Pennsylvania.

The scope of review in liquor license renewal cases is limited to a determination of whether the trial court committed an error of law, abused its discretion, or made findings of fact unsupported by substantial evidence. Ball Park's Main Course, Inc. v. Pennsylvania Liquor Control Board, 641 A.2d 713, 715 (Pa.Cmmw. 1994).

On May 24, 2010 the Licensee filed its Concise Statement of Matters Complained of on Appeal. Licensee asserts that this Court erred and/or abused its discretion as follows:

1. in concluding that Licensee's citation history indicated a pattern of activity which merits nonrenewal of the license.
2. in concluding that the Licensee knew or should have known of a pattern of activity at the Licensed premises which Licensee failed to take substantial or affirmative steps to prevent.

3. in failing to consider the substantial measures taken by the Licensee to prevent criminal or illegal activity on or about the Licensed premises.
4. in concluding that the Licensee's citation history was anything more than isolated incidents which did not form a pattern of behavior demonstrating an abuse of the licensing privilege; and
5. in concluding that the incidents complained of were the result of how the bar was operated.

The matters complained of on appeal all relate to this Court's conclusions regarding the Licensee's citation history and activities occurring on the Licensed premises. Licensee asserts that this Court erred in concluding that the Licensee's citation history merited nonrenewal. The Commonwealth Court has held, however, that even one past citation or violation may be sufficient to support a decision refusing renewal. Hyland Enterprises, Inc. v. Pennsylvania Liquor Control Board, 631 A.2d 789 (1983).

In the present action, Licensee has received six adjudicated citations. The citations issued over the course of a three year time period, related to violations for sale of alcohol to minors, and visibly intoxicated patrons, after hours service, improper off-premises service and failure to become compliant with mandated RAMP training. Testimony was reviewed regarding ten (10) incidents at the Licensed Premises, which also occurred during a three year period of time. Most of the incidents involved fights which took place inside and outside the premises. Despite a pattern of fights and disturbances, few steps were taken by Licensee to curtail future incidents. Although the evidence revealed that most of the incidents occurred between the hours of 12:30 a.m. and 2:30 a.m., the Licensee testified that most nights only one female bartender was present on the premises. Although Licensee testified

she made an attempt to contact the local police for advice, she failed to follow up in any meaningful way when she was unable to reach anyone. Licensee's inability to timely file for renewal and failure to comply with orders regarding RAMP training and certification further buttressed this Court's finding that the Licensee lacked concern for the Board's rules and regulations.

The Pennsylvania Legislature has granted the Liquor Control Board broad police powers for the protection of public welfare, health, peace and the morals of Commonwealth citizens. Renewal of a liquor license is not an automatic procedure. See U.S.A. Deli, Inc. v. Pennsylvania Liquor Control Board, 909 A.2d 24 (Pa.Comm. 2006).

47 P.S. § 4-470(a.1) expressly grants the Board the authority to refuse to renew a liquor license under the following circumstances:

- (1) if the licensee, its shareholders, directors, officers, association members, servants, agents or employees have violated any of the laws of this Commonwealth or any of the regulations of the board;**
- (2) if the licensee, its shareholders, directors, officers, association members, servants, agents or employees have one or more adjudicated citations under this or any other license issued by the board or were involved in a license whose renewal was objected to by the Bureau of Licensing under this section;
- (3) if the licensed premises no longer meet the requirements of this act or the board's regulations; or
- (4) due to the manner in which this or another licensed premises was operated** while the licensee, its shareholders, directors, officers, association members, servants, agents or employees were involved with that license. When considering the manner in which this or another licensed premises was being operated, **the board may consider activity that occurred on or about the licensed premises or in areas under the licensee's control if the activity occurred when the premises was open for operation and if there was a relationship between the activity outside and the premises and the manner in which the licensed premises was operated.** The board may take

into consideration whether any substantial steps were taken to address the activity occurring on or about the premises. (Emphasis added).

In affirming the Board's Order refusing renewal, this Court properly considered all of the evidence. Evidence regarding adjudicated citations, police incidents and steps taken by the Licensee to address any issues was thoroughly reviewed and outlined. Accordingly, this Court respectfully requests affirmance of its April 8, 2010 Order.

BY THE COURT,

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Date

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Richard A. Gray, J.

cc: Scott T. Williams, Esquire

Faith S. Diehl, Esquire  
Pennsylvania Liquor Control Board  
401 Northwest Office Building  
Harrisburg, PA 17124

Gary Weber, Esquire