

Town of West New York Hudson County, New Jersey

Alcoholic Beverage Control Board

Minutes of Regular Meeting
(Regular Session)
February 24, 2010

Rosendo Jimenez
Rafael Martell
Michael Parkes
Board of Alcoholic Beverage Control

Attest: **Cosmo A. Cirillo**
 Board Secretary

Alcoholic Beverage Control Board
February 24, 2010
Regular Meeting

Minutes of a regular stated meeting of the ABC Board of the Town of West New York, in the County of Hudson, State of New Jersey, held in the **Municipal Court Chambers, Municipal Building, WNY, NJ** on Wednesday, February 24, 2010 at 7:00 p.m.

Present: Chairman Michael Parkes, Board Member Rafael Martell, Board Member Jimenez, Board Attorney Frank Gioia, Sgt. Michael Clement, Board Prosecutor Marlene Caride and Board Secretary Cosmo A. Cirillo

Absent: None

Meeting commenced at 7:15 p.m.

At the request of Board Attorney Frank Gioia, Chairman Parkes made the following announcement:

As presiding officer of this regularly scheduled meeting of the ABC Board of the Town of West New York, held Wednesday, February 24, 2010, at 7:00PM, I do hereby publicly announce, and I direct that this announcement shall be placed in the minutes of this meeting and that the notice requirements provided for in the "Open Public Meetings Act" have been satisfied. Notice of this meeting was properly given in Resolution dated and adopted by the ABC Board of the Town of West New York on June 25, 2009. Said Resolution was transmitted by the ABC Secretary to the Jersey Journal and the Bergen Record and publicly posted on the Municipal Bulletin Board, Town Hall and filed with the Town Clerk.

Copies are available to the public in accordance with the law.

RESOLUTION
RE: APPROVAL OF MINUTES

BE IT RESOLVED that the Board of Alcoholic Beverage Control of the Town of West New York approves the Minutes as recorded for the following meetings:

- January 27, 2010 – Regular Session

It was regularly moved by Board Member Jimenez, seconded by Vice-Chairman Martell to accept this Resolution as adopted, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez
NAYS: None
ABSENT: None

Note: Board Attorney Gioia recommended that the Board consider Resolution R-5; the Place-to-Place Transfer Application for Santa Lucia Corp trading as Jenny's Liquors. Attorney Fernando Jimenez, 6820 Bergenline Avenue, Guttenberg, NJ 07093, was present on behalf of Santa Lucia Corp. and placed his appearance on the record. Board Attorney Gioia informed the Board that there was a need for a variance at this location, and Mr. Jimenez had informed him that a variance for said use was adopted by the West New York Zoning Board at its January meeting. Another issue here is a lock-out at the site of Jenny's Liquors due to litigation that does not concern this Board. At this time, Board Attorney Gioia asked Attorney Jimenez to elaborate. Attorney Jimenez stated that there is currently litigation involving the premises that does not concern the liquor license itself. He stated his client's concern was that the license is currently sited at that address and all of the liquor from the store is still within the premise. Attorney Jimenez stated that he

Alcoholic Beverage Control Board
February 24, 2010
Regular Meeting

hopes, depending on the Board's decision, that an agreement can be reached with the landlord whereas the liquor can be removed from the current premise and placed in the new location. In addition, Attorney Jimenez brought to the Board's attention the fact that individuals were entering the premise with the liquor still inside. Board Attorney Gioia advised the Board that the documentation submitted regarding this application is complete, as well as a copy of a certificate of continued occupancy. Board Secretary Cirillo added that he received documentation from the Zoning Board Secretary attesting to the fact that at its January meeting the Zoning Board approved the use of 6108 Palisade Avenue as a liquor store. Sgt. Clement has no objection to this application. Board Attorney Gioia stated the Board could consider this matter at this time.

RESOLUTION
RE: APPROVAL OF PLACE-TO-PLACE TRANSFER APPLICATION
SANTA LUCIA CORPORATION
6108 PALISADE AVENUE, (0912-44-038-005)

WHEREAS, an application has been filed for a Place-to-Place Transfer of Plenary Retail Distribution License Number **0912-44-038-005**, issued to **Santa Lucia Corporation** for premises heretofore located at 334-61st Street, West New York, NJ; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term;

NOW, THEREFORE BE IT RESOLVED, that the Board of Alcoholic Beverage Control of the Town of West New York does hereby approve, effective this date, the place-to-place transfer of the aforesaid Plenary Retail Distribution licensed premises, from its former location at 334-61st Street, West New York, NJ to its new location at 6108 Palisade Avenue, West New York, NJ, and does hereby direct the Board Secretary to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions is hereby transferred to premises located at **6108 Palisade Avenue, West New York, NJ 07093** effective February 24, 2010."

And, the Board Secretary shall further note the Board's approval of the application by changing the last three digits of the license number from "0912-44-038-005" to "0912-44-038-006".

It was regularly moved by Vice-Chairman Martell, seconded by Board Member Jimenez to accept this Resolution as adopted, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez
NAYS: None
ABSENT: None

Note: Board Attorney Gioia recommended that the Board consider Resolution R-2; charges filed against Luna Restaurant, Inc. Attorney J. Alvaro Alonso, 6121 Kennedy Boulevard, North Bergen, NJ 07047, was present on behalf of Luna Restaurant Inc. and placed his appearance on the record. Prosecutor Caride informed the Board that there are nine charges that were filed against Luna Restaurant Inc. She stated after extensive discussion with Attorney Alonso, Luna Restaurant Inc. has agreed to plea to charges number 3, number 6 and number 9. The recommended penalty is a twenty (20) day suspension commencing March 2, 2010 and the remaining charges would be dismissed. Attorney Alonso stated that the information provided by the Prosecutor was correct. At this time, Board Attorney Gioia asked Attorney Alonso if his clients would place themselves on the record. Leo Maldonado, license owner, placed his appearance on the record. Board Attorney Gioia asked Mr. Maldonado if he has heard everything that has been

Alcoholic Beverage Control Board
February 24, 2010
Regular Meeting

stated in regard to the charges and the possible twenty (20) day suspension. Mr. Maldonado replied yes. Board Attorney Gioia asked Mr. Maldonado that he was entering this plea voluntarily and no one was forcing him to do so. Mr. Maldonado replied yes. Sgt. Clement stated that the Police Department agrees with this suspension and informed Mr. Maldonado that he would have to surrender his license by midnight on Tuesday, March 2, 2010 and remove all liquor from the premise.

RESOLUTION AND ORDER
RE: CHARGES FILED AGAINST LUNA RESTAURANT CORP.
508-512 – 55TH STREET (0912-33-025-011)

In the Matter of Disciplinary Proceedings Against:

Licensee: Luna Restaurant Corp. T/A Luna Restaurant
Address: 508-512 – 55th Street
West New York, NJ 07093
Holder of Plenary Retail Consumption License 0912-33-025-011

WHEREAS, charges have been heretofore duly served upon the above-named licensee, charging that the licensee was found in violation as follows:

CONTINUED ON NEXT PAGE

Alcoholic Beverage Control Board
February 24, 2010
Regular Meeting

<u>Charge</u>		<u>Statute/Ordinance/Regulation</u>
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without the licensee being in possession of a copy of the application for current license at premises (12 pages)	N.J.A.C. 13:2-23.13(A)2
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without books of account in the licensed premises	N.J.A.C. 13:2-23.32
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without maintaining true books or books of account in licensed premises	N.J.A.C. 13:2-23.32
08/27/09	Allowed, permitted, or suffered the unlawful operation of the licensed premises without the list of names and addresses of all employees	N.J.A.C. 13:2-23.13(A)3
08/27/09	Allowed, permitted or suffered the unlawful operation of the licensed premises by failing to display fetal alcoholic syndrome warning poster	N.J.S.A. 33:1-12A
08/27/09	Allowed, permitted, or suffered the violation of a municipal ordinance or regulations of the issuing authority or municipal governing body, viz. Town of West New York by permitting on the premises an unlicensed employee (Noemy Martinez)	Ordinance #1369/4-02
08/27/09	Allowed, permitted or suffered the unlawful transportation of alcohol without a transit insignia permit	N.J.A.C. 13:2-20
08/27/09	Allowed, permitted or suffered the unlawful operation of the licensed premises by failing to have liquor purchase invoices available on premises	N.J.A.C. 13:2-39.2
08/27/09	Allowed, permitted or suffered the unlawful operation of the licensed premises by purchasing alcohol from a prohibited source	N.J.A.C. 13:2-23.12(A)

Alcoholic Beverage Control Board
February 24, 2010
Regular Meeting

And that at a hearing duly held on: February 24, 2010

_____ by virtue of testimony/evidence adduced at hearing

 X by virtue of voluntary guilty plea by licensee

That the truth of the charges set forth below has been established to the satisfaction of all parties:

<u>Charge</u>	<u>Statute/Ordinance/Regulation</u>
08/27/09 Allowed, permitted, or suffered the unlawful operation of the licensed premises without maintaining true books or books of account in licensed premises	N.J.A.C. 13:2-23.32 <u>Suspension</u> Ten (10) Days
08/27/09 Allowed, permitted, or suffered the violation of a municipal ordinance or regulations of the issuing authority or municipal governing body, viz. Town of West New York by permitting on the premises an unlicensed employee (Noemy Martinez)	Ordinance #1369/4-02 <u>Suspension</u> Five (5) Days
08/27/09 Allowed, permitted or suffered the unlawful operation of the licensed premises by purchasing alcohol from a prohibited source	N.J.A.C. 13:2-23.12(A) <u>Suspension</u> Five (5) Days

IT IS, THEREFORE, on this 24th day of February 2010, on motion duly made and seconded,

BE IT RESOLVED AND ORDERED that the Limited Retail Distribution License, heretofore issued to the above named licensee is hereby found:

Guilty and said license shall be disciplined as follows:

Twenty (20) day suspension, store to be closed on the following dates:
March 2, 2010 – March 21, 2010.

It was regularly moved by Chairman Parkes, seconded by Vice-Chairman Martell to accept this Resolution as adopted, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez
NAYS: None
ABSENT: None

**Alcoholic Beverage Control Board
February 24, 2010
Regular Meeting**

Note: Board Attorney Gioia stated that he had nothing new to report in regard discussion items A and B; the Clam House and Coco's Cafe. As far as discussion item C, El Fonseca, the matter is currently under review by Sgt. Clement. At this time, Board Attorney Gioia asked Board Secretary Cirillo if he had any correspondence to share with the Board. Board Secretary Cirillo stated that he had received a letter on February 18, 2010 from the NJ Division of ABC regarding an investigation that took place in Pavan Liquors, located at 6509 Park Avenue. As a result of numerous violations found, the State is seeking suspension and revocation of the license. Board Secretary Cirillo stated at this point it is up to the licensee to respond directly to the State in regard to this matter.

Note: Board Attorney Gioia stated that the Board should now move on to Resolution R-3; charges filed against El Balcon Restaurant. Prosecutor Caride stated that she had spoken with their attorney, Luis Diaz, and he was able to attend tonight's meeting, therefore he asked if the Board could table this matter until its next meeting. Board Attorney Gioia stated that he would recommend that the Board carry this for one month.

**RESOLUTION AND ORDER
RE: CHARGES FILED AGAINST EL BALCON BAR AND RESTAURANT
520 – 60TH STREET (0912-33-056-002)**

In the Matter of Disciplinary Proceedings Against:

**Licensee: El Balcon Bar and Restaurant
Address: 520 – 60th Street
West New York, NJ 07093
Holder of Plenary Retail Consumption License 0912-33-056-002**

It was regularly moved by Vice-Chairman Martell, seconded by Board Member Jimenez to table this Resolution until the Board's next meeting, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez
NAYS: None
ABSENT: None

Note: Board Attorney Gioia stated that Resolution R-4 is for a one day social affairs permit for Holy Redeemer Parish. He informed the Board that the application has been reviewed by himself, Board Secretary Cirillo and the Police Director. Board Attorney Gioia recommended that the Board authorize the Board Secretary to sign off on this special permit application.

**RESOLUTION
RE: RATIFICATION OF AUTHORIZATION OF BOARD SECRETARY
TO ENDORSE APPLICATION FOR SPECIAL PERMIT FOR SOCIAL AFFAIR
(HOLY REDEEMER CHURCH – MARCH 13, 2010)**

WHEREAS, an Application for Special Permit for Social Affair has been filed by Holy Redeemer Church within the jurisdiction of the West New York Board of Alcoholic Beverage Control; and

WHEREAS, the submitted application form is complete in all respects, with the exception of the signature of the ABC Board Secretary; and

WHEREAS, the State of New Jersey Division of Alcoholic Beverage Control requires the aforementioned signature prior to processing any request for a Special Permit for Social Affair; and

Alcoholic Beverage Control Board
February 24, 2010
Regular Meeting

WHEREAS, on February 16, 2010, the Director of the West New York Police Department signed and certified that the West New York Police Department has no objection to the granting of a Special Permit to the above applicant;

NOW, THEREFORE BE IT RESOLVED on February 24, 2010 at a regular meeting of the West New York Board of Alcoholic Beverage Control that said Board does hereby authorize the Board Secretary to endorse the Application for Special Permit for Social Affair.

It was regularly moved by Chairman Parkes, seconded by Vice-Chairman Martell to accept this Resolution as adopted, which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez
NAYS: None
ABSENT: None

Note: Board Attorney Gioia stated that this concludes all the formal business for tonight's meeting. He informed the Board that the Board of Commissioner's of the Town of West New York passed a BYOB Ordinance, however this ordinance does not affect those with liquor licenses. In addition, he indicated that there were certain restrictions on establishments that could utilize this ordinance. A conversation ensued between the Board, Board Attorney Gioia and Sgt. Clement regarding the requirements under the ordinance.

Public Portion

Note: Chairman Parkes called for the Public Portion.

No one wished to be heard.

It was regularly moved by Chairman Parkes, seconded by Board Member Jimenez to close the Public Portion and adjourn the meeting at 8:05 p.m., which was carried by the following vote:

YEAS: Chairman Parkes, Vice-Chairman Martell and Board Member Jimenez
NAYS: None
ABSENT: None

Rosendo Jimenez, Member

Rafael Martell, Vice-Chairman

Michael Parkes, Chairman

Board of Alcoholic Beverage Control

Attest: _____
Cosmo A. Cirillo
Board Secretary