

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Eduardo's Grocery
Vanessa Melendez, Permittee
Eduardo's Grocery, LLC, Backer
Permit # LGB.13398

Case No. 2007-6169
Docket No. 08-512
May 20, 2008

MEMORANDUM OF DECISION

This matter involves a grocery beer liquor permit issued to Eduardo's Grocery, 69 Greenwich Avenue, Stamford, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on March 20, 2008, at which time Vanessa Melendez, Permittee, appeared with Caesar Eduardo.

The allegations against the permit premises arose from a joint investigation conducted by the Liquor Control Division and the Stamford Police Department. It is alleged that on or about July 21, 2007, the Respondent: (1) sold or delivered alcoholic liquor to a minor in violation of Section 30-86, Connecticut General Statutes; (2) permitted the consumption of alcohol on this grocery beer premises in violation of Sec. 30-20(b), Connecticut General Statutes; and, (3) failed to record the liquor permit with the Stamford Town Clerk in violation of Sec. 30-53, Connecticut General Statutes. The Respondent denied Charge 1, admitted the presence of an open container of alcohol on the premises but denied that consumption of alcohol had taken place as alleged in Charge 2; and admitted Charge 3. The matter proceeded to a hearing.

The following facts are found based upon the evidence adduced at the hearing. On July 21, 2007, the Department of Consumer Protection's Liquor Control Division and the

Stamford Police Department conducted underage drinking compliance checks in Stamford, Connecticut, utilizing a female undercover operative whose date of birth is June 19, 1990. She was 17 years of age and a minor. She carried her valid Connecticut driver's license with her correct date of birth. At approximately 2:40 p.m., Supervising Agent Burk entered Eduardo's Grocery to observe the transaction. The undercover minor entered shortly after Supervising Agent Burk. She obtained a 12 oz. can of Coors Light beer and approached the counter. The permittee sold the beer to the undercover minor and put the beer in a bag. She did not ask the undercover operative for age identification at any time during the transaction.

Approximately two hours later, the agents returned to the premises. At that time, the agents found that the liquor permit had not been recorded with the Stamford Town Clerk. While there, the agents observed an open container of Corona beer sitting on the counter in melted ice. Mr. Eduardo denied consuming the beer, and said he was "holding" it for a friend. No one was observed consuming the beer, therefore, we must dismiss Charge 2 based upon the lack of substantial evidence. Administrative findings must be based upon substantial evidence. Nelseco Navigation Company v. Department of Liquor Control, 34 Conn. App. 352, 354, 641 A.2d 827 (1994).

The Liquor Control Act grants the Liquor Control Commission a liberal discretionary power to determine factual matters with regard to liquor permits and to suspend or revoke the permit after a hearing. Balog v. Liquor Control Commission, 150 Conn. 473, 191 A.2d 20 (1963). This power to suspend or revoke a liquor permit is exercised conservatively, but mindful that dispensing liquor is a privilege, not a right. Beckanstin v. Liquor Control Commission, 140 Conn. 185, 99 A.2d 119 (1953).

Therefore, based upon the substantial evidence presented and the admission of the Respondent, we hereby find the Respondent guilty of Charges 1 and 3. Accordingly, we hereby suspend the Respondent's grocery beer liquor permit for three days and for an additional eleven days. In lieu of the additional 11-day suspension, however, we will accept payment of a fine of \$800 in accordance with Sections 30-6-A8(i) and (k) of the Regulations of Connecticut State Agencies.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION
BY**

Elisa A. Nahas, Esq.
Presiding Officer

Gary W. Berner, Commissioner

Angelo J. Faenza, Commissioner

Parties:

Vanessa Melendez, Permittee, Eduardo's Grocery, 69 Greenwich Avenue, Stamford, CT 06902

Vanessa Melendez, 105 Forest Street, Apartment 1, Stamford, CT 06901

Non-Parties:

John Suchy, Director, Liquor Control Division

Connecticut Beverage Journal, 2508 Whitney Ave., P.O. Box 185159, Hamden, CT 06518

Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106