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674 A.2d 334

Commonwealth Court of Pennsylvania.

PITTSBURGH STADIUM CONCESSIONS, INC.

v.

COMMONWEALTH of Pennsylvania,

PENNSYLVANIA LIQUOR

CONTROL BOARD, Appellant.

Submitted on Briefs Dec. 1, 1995.

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Decided March 19, 1996.

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Reargument Denied May 6, 1996.

Synopsis

Stadium appealed Liquor Control Board's denial of performing arts facility license to serve wine and liquor. The Common Pleas Court, Allegheny County, No. S.A. 4229 of 1994, Scheib, J., overruled Board's denial. Board appealed. The Commonwealth Court, No. 1334 C.D. 1995, Smith, J., held that: (1) stadium could not be considered theater for performing arts under Liquor Code; (2) denial was not inconsistent with prior issuance of performing arts facility licenses; and (3) Board did not act arbitrarily in permitting sale of wine and liquor in stadium's restaurant and catered areas and not general admission areas.

Common Pleas Court order reversed, Liquor Control Board order reinstated.

West Headnotes (7)

[1] **Alcoholic Beverages** ➡ Sale or Traffic in General

Alcoholic Beverages ➡ Scope, Standard, and Extent of Review

23H Alcoholic Beverages

23HII Control and Regulation

23HII(E) Particular Subjects of Control and Regulation

23HII(E)1 In General

23Hk164 Activities and Transactions Regulated or Prohibited in General

23Hk166 Sale or Traffic in General

23Hk166(1) In general

(Formerly 23Hk37, 223k111 Intoxicating

Liquors)

23H Alcoholic Beverages

23HII Control and Regulation

23HII(J) Proceedings Concerning Control and Regulation

23HII(J)6 Judicial Review

23Hk660 Scope, Standard, and Extent of Review

23Hk661 In general

(Formerly 223k130.5 Intoxicating Liquors)

Purpose of Liquor Code is not to promote sale of liquor, rather it is to regulate and restrain sale of liquor, and absent clear abuse of discretion on the findings of fact, trial court may not reverse decision of Liquor Control Board. 47 P.S. § 1-101 et seq.

5 Cases that cite this headnote

[2] **Appeal and Error** ➡ Discretion of lower court; abuse of discretion

Appeal and Error ➡ Substantial Evidence

30 Appeal and Error

30XVI Review

30XVI(D) Scope and Extent of Review

30XVI(D)9 Verdict and Findings in General

30k3414 Discretion of lower court; abuse of discretion

(Formerly 30k949)

30 Appeal and Error

30XVI Review

30XVI(D) Scope and Extent of Review

30XVI(D)10 Sufficiency of Evidence

30k3459 Substantial Evidence

30k3460 In general

(Formerly 30k1010.1(6))

Where trial court conducts its own evidentiary hearing and issues its own findings of fact, Commonwealth Court's scope of review is to determine whether there is substantial evidence to support findings of fact and whether the trial court abused its discretion or committed an error of law.

2 Cases that cite this headnote

[3] **Alcoholic Beverages** 🔑 Scope, Standard, and Extent of Review

23H Alcoholic Beverages
23HII Control and Regulation
23HII(J) Proceedings Concerning Control and Regulation
23HII(J)6 Judicial Review
23Hk660 Scope, Standard, and Extent of Review
23Hk661 In general

(Formerly 223k130.5 Intoxicating Liquors)

In liquor matters, Liquor Control Board is the finder of fact for purposes of review.

1 Cases that cite this headnote

[4] **Alcoholic Beverages** 🔑 Entertainment and Amusement

23H Alcoholic Beverages
23HII Control and Regulation
23HII(F) Licenses
23HII(F)2 Eligibility and Criteria for Issuance; Grounds, Factors, and Considerations
23Hk373 Nature and Conduct of Applicant's Operations
23Hk378 Entertainment and Amusement
23Hk378(1) In general

(Formerly 223k59(1) Intoxicating Liquors)

Stadium could not be considered theater for performing arts under Liquor Code provision as stadium was principally used for sporting events and trial court erred in reversing Liquor Control Board's denial of application for performing arts facility license for stadium. 🚩 47 P.S. §§ 4-408.3, 🚩 4-433.1.

[5] **Alcoholic Beverages** 🔑 License Proceedings in General

23H Alcoholic Beverages
23HII Control and Regulation
23HII(J) Proceedings Concerning Control and Regulation
23HII(J)6 Judicial Review
23Hk660 Scope, Standard, and Extent of Review
23Hk662 License Proceedings in General
23Hk662(1) In general

(Formerly 223k75(7) Intoxicating Liquors)

Past approvals of performing arts facility licenses that were issued administratively without a hearing before the Liquor Control Board had no precedential value before Commonwealth Court in review of denial of performing arts facility license to stadium, especially where those licenses were not before Commonwealth Court for review. 🚩 47 P.S. § 4-408.3.

2 Cases that cite this headnote

[6] **Alcoholic Beverages** 🔑 Entertainment and Amusement

23H Alcoholic Beverages
23HII Control and Regulation
23HII(F) Licenses
23HII(F)2 Eligibility and Criteria for Issuance; Grounds, Factors, and Considerations
23Hk373 Nature and Conduct of Applicant's Operations
23Hk378 Entertainment and Amusement
23Hk378(1) In general


(Formerly 223k59(1) Intoxicating Liquors)

Liquor Control Board's denial of performing arts facility license for stadium was not inconsistent with Board's prior issuance of licenses to civic arena and another center that regularly hosted all the types of musical events and events such as ice shows where stadium was used almost exclusively for sporting events. 🚩 47 P.S. §§ 4-408.3, 🚩 4-433.1.

[7] **Alcoholic Beverages** 🔑 Entertainment and Amusement

23H Alcoholic Beverages
23HII Control and Regulation
23HII(F) Licenses
23HII(F)2 Eligibility and Criteria for Issuance; Grounds, Factors, and Considerations
23Hk373 Nature and Conduct of Applicant's Operations
23Hk378 Entertainment and Amusement
23Hk378(1) In general

(Formerly 223k59(1) Intoxicating Liquors)

Liquor Control Board did not act arbitrarily in permitting sale of wine and liquor in restaurant and catered areas of stadium while not permitting such sales in general admission areas where sales in restaurant and catered area were made pursuant to stadium restaurant license.  47 P.S. § 4-408.2.

All Citations

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