

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RHODE ISLAND**

The Chanler, Inc. and Jon Cohen,	:	
Appellant,	:	
	:	
v.	:	DBR No.: 05-L-0266
	:	
Newport City Council,	:	
Appellee.	:	

The Chanler, Inc. and Jon Cohen,	:	
Appellants,	:	
	:	
v.	:	DBR No.: 06-L-0200
	:	
Newport City Council,	:	
Appellee.	:	

The Chanler, Inc. and Jon Cohen,	:	
Appellants,	:	
	:	
v.	:	DBR No.: 06-L-285
	:	
Newport City Council,	:	
Appellee.	:	

The Chanler, Inc. and Jon Cohen,	:	
Appellants,	:	
	:	
v.	:	DBR No.: 08-L-0272
	:	
Newport City Council,	:	
Appellee.	:	

ORDER OF DISMISSAL

Pursuant to Section 23(C) of *Central Management Regulation 2 - Rules of Procedure for Administrative Hearings*, the four (4) above-captioned matters are consolidated. These four (4) appeals all relate to the same issue so for the purpose of this dismissal, they are consolidated.

The City of Newport (“City”) renewed The Chanler Inc.’s (“Chanler”) liquor license for the years 2005-2006, 2006-2007, 2007-2008, and 2008-2009 upon the same conditions it imposed on the Chanler’s liquor license for 2004-2005 as subsequently modified by the Department of Business Regulation’s (“Department”) decision dated July 18, 2005. Both Chanler and Jon Cohen appealed the Department’s July 18, 2005 decision to Superior Court. For each of those subsequent renewal years, the parties filed an appeal with Department (see consolidated cases) and agreed to hold in abeyance each year’s appeal pending the appeal of the 2005 Department decision to Superior Court.

On or about December 23, 2009, Chanler filed a motion to dismiss these (4) consolidated appeals because of a Supreme Court decision, *Cohen v. Duncan*, 970 A.2d 550 (R.I. 2009), which Chanler represents found that Chanler’s improvements to its property did not violate any zoning provisions. Chanler argues that this decision moots the liquor appeals because that zoning issue was sole basis for the appeals of the liquor renewals. Chanler also represents that on October 28, 2009, the City renewed its liquor license for 2009-2010 without imposing the conditions which were the subject of these four (4) consolidated appeals. Based on the forgoing, Chanler argues that these four (4) appeals are now moot.

Under Section 11 of *Central Management Regulation Two (2) Rules for Procedure for Administrative Hearings* ("CMR2), parties are allowed ten (10) days to serve a written objection to the granting of a motion. It is within the hearing officer's discretion if a hearing should be held. To date, no objections were filed. Therefore, there is no dispute as to Chanler's representations regarding its 2009-2010 license renewal and the relevance of *Cohen v. Duncan*. With the renewal of the Chanler's 2009-2010 liquor license on different terms and without the filing of any appeal (the appeal period for such a filing based on the October 29, 2009 renewal date has expired), these four (4) appeals are now moot.

Therefore, as a result of the foregoing and upon due consideration thereof, it is hereby ordered as follows:

1. The above-captioned matter is dismissed with prejudice.

As recommended by:

Date: 1/13/10



Catherine R. Warren
Hearing Officer

I have read the Hearing Officer's recommendation and I hereby ADOPT/REJECT the recommendation of the Hearing Officer in the above-entitled Order of Dismissal.

Date: 01-14-2010th



A. Michael Marques
Director

Entered as an Administrative Order No.: 10-007 this 14th day of January, 2010.

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

I hereby certify on this 14th day of January, 2010 that a copy of the within Order was sent by first class mail, postage prepaid to -

Joseph R. Palumbo, Jr. Esquire
294 Valley Road
Middletown, RI 02842

Joseph J. Nicholson, Jr., Esquire
City of Newport Solicitor
43 Broadway
Newport, RI 02840

Patrick O’N. Hayes, Jr., Esquire
Matthew H. Leys, Esquire
Corcoran, Peckham, Hayes & Galvin, P.C.
31 America’s Cup Avenue
PO Box 389
Newport, RI 02840

Lauren Jones, Esquire
Jones Associates
72 South Main Street
Providence, RI 02903

and by hand-delivery to Maria D’Alessandro, Associate Director, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, RI.


