

STATE OF MAINE
YORK, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-04-042

Civ. - York - 2004

PORTLAND AVENUE ASSOCIATES,
Plaintiff

v.

ORDER

TOWN OF OLD ORCHARD BEACH,
Defendant

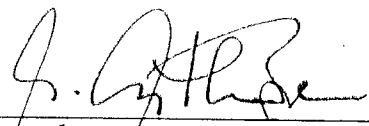
DONALD L. GIFFERSON
LAW FIRM

SEP 8 2004

Following hearing, the Plaintiff's Motion for a Temporary Restraining Order is Denied. Plaintiff has failed to establish a likelihood of success on the merits because the Rule 80B appeal of the Town's action on Plaintiff's application for a liquor license was untimely. *Woodward v. Town of Newfield*, 634 A.2d 1315 (Me. 1993). Further, the Plaintiff has failed to establish that the balance of harms tips in its favor. The Town Council had before it a substantial body of evidence suggesting that at least some aspects of Plaintiff's business related to outside sale of alcoholic beverages was disruptive to neighboring property owners. On the current state of the record, the harm to the tranquility of the neighborhood if a restraining order is granted appears to outweigh the harm to the Plaintiff's business enterprise.

Dated: June 25, 2004

Durward W. Parkinson, Esq. - PL
Patrick J. Scully, Esq. - DEF.



G. Arthur Brennan
Justice, Superior Court