

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)	
)	
Shaw's Tavern, LLC)	License No.: 87014
t/a Shaw's Tavern)	Case No.: 11-CMP-00314
)	Order No.: 2011-458
)	
Application for a New)	
Retailer's Class CT License)	
at premises)	
520 Florida Avenue, N.W.)	
Washington, D.C. 20001)	

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Shaw's Tavern, LLC, t/a Shaw's Tavern, Applicant

Abbas Fathi, Managing Member, on behalf of the Applicant

Andrew Kline, on behalf of the Applicant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

Shaw's Tavern, LLC, t/a Shaw's Tavern, (Applicant) submitted an Application for a new Retailer's Class CT License (Application). On July 27, 2011, the Alcoholic Beverage Control Board (Board) reviewed Case Report 11-CMP-00314, which, in pertinent part, alleged that the Applicant violated D.C. Official Code § 25-102 and is generally unfit for licensure under D.C. Official Code § 25-301.

Pursuant to 23 DCMR § 1611 and the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 *et seq.*), the Board held a Fact Finding Hearing on August 10, 2011, to address the allegations against the Applicant and determine whether Abbas Fathi lacks fitness for the responsibilities of licensure under

D.C. Official Code § 25-301(1). During the hearing, the Board accepted evidence and sworn testimony from Investigator Vincent Parker and the Applicant.

The Board also recognizes that pursuant to D.C. Official Code § 1-309.10(d) and D.C. Official Code § 25-609, an Advisory Neighborhood Commission's (ANC) properly adopted written recommendations are entitled to great weight from the Board. See Foggy Bottom Ass'n v. District of Columbia ABC Bd., 445 A.2d 643 (D.C. 1982). Accordingly, the Board "must elaborate, with precision, its response to the ANC issues and concerns." Foggy Bottom Ass'n, 445 A.2d at 646. ANC 2C wrote in support of the Application on May 19, 2011, and August 9, 2011. Letter from Alexander M. Padro, Chair, ANC 2C to Charles Brodsky, Chairperson, Alcoholic Beverage Control Board (May 19, 2011); Letter from Alexander M. Padro, Chair, ANC 2C to Nick Alberti, Interim Chairperson, Alcoholic Beverage Control Board (Aug. 9, 2011). ANC 2C recommends that the Board approve the license, because it asserts that the violations contained in Case Report No. 11-CMP-00314 are the fault of an employee of the establishment and the Board should not impute them to Mr. Fathi. Id. ANC 2C also asserts that denying the license will harm the development of the neighborhood and deny the community a valuable amenity. Id. We will give great weight to ANC 2C's concerns in our Conclusions of Law.

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file, makes the following:

FINDINGS OF FACT

1. The Applicant has applied for a Retailer's Class CT License at premises 520 Florida Avenue, N.W., Washington, D.C., and does not currently hold an ABC-license. See Alcoholic Beverage Regulation Administration (ABRA) Fact Finding File No. 11-CMP-00314. ABRA received the Application on April 29, 2011. *Transcript (Tr.)*, August 10, 2011 at 12. Abbas Fathi owns the company that owns the Applicant. *Tr.*, 8/10/11 at 39-40, 78. Mr. Fathi designated Steven May as the establishment's designated representative. *Tr.*, 8/10/11 at 12.
2. Mr. Fathi has never owned or operated a business that served or sold alcoholic beverages. *Tr.*, 8/10/11 at 80, 90. Mr. Fathi has a degree in Interior Arts and Architecture from Texas State University and a Master's Degree in Urban Planning from Rutgers University. *Tr.*, 8/10/11 at 81. After completing his education, he worked for a design company for three years. *Tr.*, 8/10/11 at 82.
3. Mr. Fathi started a computer company in 1989 called Socrates Computer Systems. *Tr.*, 8/10/11 at 82. The business delivered computer products and provided services to corporate and government institutions. *Tr.*, 8/10/11 at 82. A public company bought Mr. Fathi's business and Mr. Fathi became Socrates Computer Systems's CEO. *Tr.*, 8/10/11 at 82. The company had sales of \$62 million dollars and 150 employees. *Tr.*, 8/10/11 at 83.

4. Mr. Fathi left Socrates Computer Systems in 1999 and began buying property. *Tr.*, 8/10/11 at 83. Mr. Fathi now buys abandoned buildings in the District of Columbia in undesirable neighborhoods and redevelops them. *Tr.*, 8/10/11 at 84, 119. Mr. Fathi owns a number of residential properties and the building that houses Shaw's Tavern. *Tr.*, 8/10/11 at 85. Currently, Mr. Fathi manages seven ongoing redevelopment projects, which exceed \$10 million dollars in value. *Tr.*, 8/10/11 at 153.

5. Mr. Fathi decided to start Shaw's Tavern in order to encourage street traffic and interest in the neighborhood surrounding the establishment. *Tr.*, 8/10/11 at 89-90. Mr. Fathi has invested over a million dollars into the establishment. *Tr.*, 8/10/11 at 146-47.

6. In November 2010, Mr. Fathi hired Mr. May, who previously served as the vice-president of Socrates Computer Systems, to manage Shaw's Tavern. *Tr.*, 8/10/11 at 91, 94. Mr. Fathi consented to Mr. May's demand that Mr. Fathi would not "micro-manage" Mr. May. *Tr.*, 8/10/11 at 92. Mr. Fathi tasked Mr. May with opening the tavern. *Tr.*, 8/10/11 at 93. Specifically, Mr. Fathi put Mr. May in charge of obtaining the proper permits and licenses from the District of Columbia, running the tavern, dealing with community groups, hiring employees, and contracting with suppliers. *Tr.*, 8/10/11 at 92-93, 96, 99.

7. Mr. Fathi only remained in charge of the construction of the establishment. *Tr.*, 8/10/11 at 96. According to Mr. Fathi, he wanted to focus his attention on other projects. *Tr.*, 8/10/11 at 96. As such, he visited the establishment only to examine the progress of construction. *Tr.*, 8/10/11 at 96.

8. The Applicant subsequently applied for a stipulated license. *Tr.*, 8/10/11 at 13. Nevertheless, at the time of the request for the stipulated license, the Applicant lacked a Certificate of Occupancy and a license issued by the Department of Consumer and Regulatory Affairs (DCRA). *Tr.*, 8/10/11 at 13. On July 13, 2011, because the Applicant submitted an incomplete Application, the Board denied the Applicant's request for a stipulated license. *Tr.*, 8/10/11 at 12-13; 23 DCMR § 200.1 (2008). Mr. Fathi admitted that he did not obtain a Certificate of Occupancy for Shaw's Tavern until August 4, 2011. *Tr.*, 8/10/11 at 123.

9. On July 19, 2011, ABRA received an anonymous complaint. *Tr.*, 8/10/11 at 13. The complaint stated that the Applicant's "establishment was operating as if [it was] licensed." *Tr.*, 8/10/11 at 13. ABRA assigned Investigator Vincent Parker to investigate the anonymous complaint. *Tr.*, 8/10/11 at 12.

10. Investigator Parker visited the Applicant's establishment on July 20, 2011. *Tr.*, 8/10/11 at 13. Investigator Parker only observed construction workers and kitchen staff during his visit to the establishment. *Tr.*, 8/10/11 at 61. Investigator Parker observed that the establishment's bar contained beer and wine. *Tr.*, 8/10/11 at 14; *ABRA Case No. 11-CMP-00314, Exhibit No. 6*. Investigator Parker also observed the Applicant's employees consuming alcoholic beverages inside the establishment's premises. *Tr.*, 8/10/11 at 14.

11. Additionally, on July 20, 2011, Investigator Parker spoke with Mr. May in front of Mr. Fathi. *Tr.*, 8/10/11 at 14, 40. Mr. May could not produce invoices or receipts for the beer and wine contained in the establishment's bar. *Tr.*, 8/10/11 at 14. Mr. May did not tell Investigator Parker who supplied the alcoholic beverages; however, Mr. May suggested that the beverages had come from a liquor store. *Tr.*, 8/10/11 at 15. In addition, during their conversation, Mr. May showed Investigator Parker a beer that Abbas Fathi, the managing member of the corporation, had begun to drink. *Tr.*, 8/10/11 at 22.

12. On July 21, 2011, Investigator Parker learned that Mr. May purchased the alcoholic beverages he observed from two ABC-licensed wholesalers. *Tr.*, 8/10/11 at 15, 17, 23-24. One of the wholesaler's invoices indicates that the wholesaler delivered alcoholic beverages to the establishment on July 15, 2011, and the wholesaler retrieved the beverages on July 19, 2011. *ABRA Case No. 11-CMP-00314, Exhibit No. 9; Tr.*, 8/10/11 at 73. Investigator Parker also received altered Notices of Public Hearing (Notices) from the wholesalers that sold alcoholic beverages to the Applicant. *Tr.*, 8/10/11 at 16. Before submitting the Notices to the wholesalers, one of the Applicant's employees altered various parts of the document. *Tr.*, 8/10/11 at 16; compare *ABRA Case No. 11-CMP-00314, Exhibit No. 7* with *ABRA Case No. 11-CMP-00314, Exhibit No. 8*; infra, at ¶ 14. Specifically, the document's heading, posting date, petition date, hearing date, and the paragraph notifying the public that the Applicant had applied for a license were deleted using correction fluid. *Tr.*, 8/10/11 at 25; *Exhibit No. 7*. Based on the altered Notices, the two wholesalers sold alcoholic beverages to the Applicant. *Tr.*, 8/10/11 at 17; *ABRA Case No. 11-CMP-00314, Exhibit No. 19*. Investigator Parker informed the wholesalers' attorney of his discovery, and the attorney subsequently advised his clients to retrieve the beverages sold to the Applicant. *Tr.*, 8/10/11 at 17, 27; *ABRA Case No. 11-CMP-00314, Exhibit No. 10*. Investigator Parker also learned that two additional wholesalers had received the altered Notices, but they did not sell alcoholic beverages to the Applicant. *Tr.*, 8/10/11 at 55, 57.

13. When Investigator Parker returned to the establishment on July 21, 2011, Mr. May continued to insist that the alcoholic beverages purchased by the Applicant came from liquor stores. *Tr.*, 8/10/11 at 18. Mr. May later submitted a receipt for one beer keg produced by an ABC-licensee holding a Retailer's Class A License to Investigator Parker. *Tr.*, 8/10/11 at 21, *ABRA Case No. 11-CMP-00314, Exhibit No. 15*. In the same email, Mr. May told Investigator Parker that he intended to forward him receipts for wine purchased by the establishment. *Exhibit No. 15; Tr.*, 8/10/11 at 31.

14. Investigator Parker received an email from Mr. May to an ABC-licensed wholesaler explaining that a bar manager was "overzealous in his orders." *ABRA Case No. 11-CMP-00314, Exhibit No. 11*. However, an earlier fax to the wholesaler demonstrates that Mr. May, not a bar manager, ordered the beverages from the wholesaler. *ABRA Case No. 11-CMP-00314, Exhibit No. 10; Tr.*, 8/10/11 at 29. Mr. Fathi fired Mr. May after Mr. Fathi's attorney showed him the altered Notices. *Tr.*, 8/10/11 at 111.

15. Mr. Fathi knew that Mr. May intended to hold events at the establishment before the establishment became licensed. *Tr.*, 8/10/11 at 101-04, 149, 164-165. First, Mr. Fathi admitted that he knew Mr. May arranged with Advisory Neighborhood Commission (ANC) 2C to end the ANC's Community Safety Walk at the establishment on June 30, 2011. *Tr.*, 8/10/11 at 101, 164-65. Mr. Fathi confirmed that Mr. May served alcohol at the event. *Tr.*, 8/10/11 at 102. In addition, Mr. Fathi even admitted that he brought wine for the Community Safety Walk from his home. *Tr.*, 8/10/11 at 103-04. Second, Mr. Fathi knew that on July 16, 2011, Mr. May intended to hold a fundraiser at the establishment for victims of domestic violence and approved of Mr. May's plan. *Tr.*, 8/10/11 at 104. According to Mr. Fathi, he did not object to Mr. May's plans, because Mr. May told him that the establishment did not require a license if it did not sell anything. *Tr.*, 8/10/11 at 149.

16. Various websites indicate that the Applicant held a number of soft openings in the establishment. *Tr.*, 8/10/11 at 19-20, 33-36, 41, 44-45. We note that Renewshaw.com advertised a Community Safety Walk for June 30, 2011, which featured "a soft opening at Shaw's Tavern at 520 Florida Ave NW." *Tr.*, 8/10/11 at 41, 44-45; *Board Exhibit No. 2*. Furthermore, the blogs "Prince of Petworth" and "Broads of the Beltway" describe events occurring at the establishment on July 16, 2011. *ABRA Case No. 11-CMP-00314, Exhibit No. 18*. Readers of the blog "Prince of Petworth" noted, in the blog's comments section, that the establishment gave away beer and wine to patrons at the event occurring on July 16, 2011. *Exhibit No. 18; Tr.*, 8/10/11 at 33-34. In addition, the blog, "Broads of the Beltway," shows photos of individuals consuming alcoholic beverages on the establishment's premises on July 16, 2011. *Tr.*, 8/10/11 at 19-20, 35, 36; *ABRA Case No. 11-CMP-00314, Exhibit Nos. 19, 21-22, 23; ABRA Case No. 11-CMP-00314, Exhibit No. 20*. Specifically, one picture shows a bartender pouring beer from one of the establishment's taps and another picture features two women consuming red wine. *ABRA Case No. 11-CMP-00314, Exhibit Nos. 22-23*. The "Broads of the Beltway" blog indicates that admission was free and noted that the establishment intended to sell individual desserts for \$3.00. *ABRA Case No. 11-CMP-00314, Exhibit No. 20*.

17. The establishment is located in ANC 2C. *Tr.*, 8/10/11 at 161. Commissioner Rachelle Nigro arranged the ANC event at the establishment on June 30, 2011. *Tr.*, 8/10/11 at 164-65. She observed the establishment serving food, wine, and beer at the event. *Tr.*, 8/10/11 at 165.

18. Mr. May hired John Cochran in April 2011 to serve as a professional chef. *Tr.*, 8/10/11 at 145, 180-81. Mr. May hired Mr. Cochran to prepare the establishment's food and design the menu. *Tr.*, 8/10/11 at 188. As testified by Mr. Cochran, the establishment is currently selling food and serving, on average, over 100 people per night. *Tr.*, 8/10/11 at 196. Mr. Cochran admitted that the establishment prepared food and served alcohol at the events occurring on June 30, 2011, and July 16, 2011. *Tr.*, 8/10/11 at 192-93. Mr. Cochran further admitted that he had concerns that the events Mr. May held at the establishment violated the District of Columbia's liquor laws. *Tr.*, 8/10/11 at 189.

19. Mr. Cochran previously operated Rupert's Restaurant from 1994 to 2002. *Tr.*, 8/10/11 at 179. Rupert's Restaurant was located in the District of Columbia. *Tr.*, 8/10/11 at 179. Mr. Fathi plans to place Mr. Cochran in charge of the establishment if the Board approves the Application, and he will give Mr. Cochran "total control" of the establishment. *Tr.*, 8/10/11 at 182.

CONCLUSIONS OF LAW

20. Pursuant to D.C. Official Code § 25-301, Abbas Fathi must demonstrate to the Board's satisfaction that he possesses good character and is fit for the responsibilities of licensure. The Board concludes that Mr. Fathi lacks fitness, because the establishment violated D.C. Code § 25-102, and because Mr. Fathi has insufficient knowledge of the District of Columbia's ABC laws. Therefore, we deny the Application for a new Retailer's Class CT License.

21. In order to issue a license to a new owner, the Board must determine that the Applicant "is of good character and generally fit for the responsibilities of licensure." D.C. Code § 25-301(1) (2001). We evaluate each applicant's character and fitness on an individual basis. Gerber v. District of Columbia Alcoholic Beverage Control Bd., 499 A.2d 1193, 1196 (D.C. 1985).

A. Section 25-102

22. First, we find Mr. Fathi unfit for licensure, because he permitted the consumption of alcohol in his tavern without a license on June 30, 2011, July 16, 2011, and July 20, 2011, in violation of § 25-102(d).

23. The Board may find that an applicant lacks good character and is unfit for the responsibilities of licensure based on evidence that the applicant engaged in illegal conduct. Haight v. District of Columbia Alcoholic Beverage Control Bd., 439 A.2d 487, 489, 493 (D.C. 1981). Section 25-102(d) states,

No person operating any premises where food, nonalcoholic beverages, or entertainment are sold or provided for compensation or where facilities are especially provided and service is rendered for the consumption of alcoholic beverages who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.

D.C. Code § 25-102(d) (Supp. 2011). We note that an exception to the licensing requirement exists for individuals holding private events, where alcoholic beverages are provided for free. 23 DCMR § 213.1 (2008). However, this exception does not apply when the operator of the premises "provides entertainment, food, or nonalcoholic beverages or rents out the facility for compensation." § 213.1.

24. The record shows that the Mr. Fathi needed a license to permit the consumption of alcohol on the premises, because Mr. Fathi operates a business that sells food and nonalcoholic beverages. The online advertisements submitted to the Board convince us

that during the establishment's soft opening on July 16, 2011, it sold food by selling desserts for \$3.00. Supra, at ¶ 16. Further, we credit Mr. Cochran's testimony that the establishment currently sells food and averages approximately 100 patrons per night, and the establishment prepared food for the events occurring on June 30, 2011, and July 16, 2011. Supra, at ¶ 19. In addition, we note that the Applicant applied for a Retailer's Class CT License for the purposes of opening a tavern, a business that "[i]s regularly used and kept open as a place where food and alcoholic beverages are served." Supra, at ¶ 1; D.C. Code § 25-101(52)(A) (Supp. 2011). A tavern, regardless of whether it has officially opened or has yet to sell food, is the type of premise envisaged by the drafters of § 25-102(d) as requiring an ABC-license to serve alcoholic beverages. Based on these facts, Mr. Fathi had to obtain an ABC-license before permitting the consumption of alcoholic beverages on his premises.

25. Nevertheless, the record demonstrates that Mr. Fathi, the establishment's employees, and the establishment's patrons consumed alcohol on the establishment's premises without an ABC-license. We note that the establishment is not licensed; yet, pictures and internet comments presented to the Board provide convincing evidence that the establishment allowed patrons to consume alcohol at the establishment. Supra, at ¶¶ 1, 16. Additionally, both Mr. Cochran and Commissioner Nigro's testimony definitively show that the establishment served alcohol on June 30, 2011, and July 16, 2011. Supra, at ¶¶ 17, 18. We also note that Mr. Fathi admitted that he provided alcohol for the Community Safety Walk. Supra, at ¶ 15. Finally, we credit Investigator Parker's testimony that he observed Mr. Fathi and his employees consuming alcohol on the establishment's premises on July 20, 2011. Supra, at ¶¶ 10-11.

26. Moreover, we find that Mr. Fathi bears direct responsibility for permitting the consumption of alcohol on the premises, because he failed to adequately supervise his employees. Specifically, Mr. Fathi knew that Mr. May, the establishment's General Manager, intended to serve alcohol at the ANC Community Safety Walk on June 30, 2011, and even provided his own wine for the event. Supra, at ¶¶ 15, 17. In addition, as we noted above, Mr. Fathi, himself, and his employees consumed alcoholic beverages at the establishment on July 20, 2011. Supra, at ¶¶ 10-11. Thus, the record demonstrates that Mr. Fathi had plenty of opportunities to ensure that his establishment complied with § 25-102(d).

27. We reject Mr. Fathi's excuse that Mr. May told him that the establishment could host free events and fundraisers without an ABC-license. Supra, at ¶ 15. This excuse has no relevance to our determination, because "ignorance of the law is no defense." See McIntosh v. Washington, 395 A.2d 744, 756 (D.C. 1978). Indeed, the Board expects all applicants for ABC-licenses, including Mr. Fathi, to have a basic understanding of the District of Columbia's alcoholic beverage control laws.

28. We further note that the exception to § 25-102(d) does not apply to this matter. First and foremost, § 213 does not apply to the events held at the establishment, because the establishment provides food and nonalcoholic beverages for compensation. Supra, at ¶ 24. Additionally, although the establishment did not charge its customers for the

alcohol on June 30, 2011, and July 16, 2011, there is no evidence that the events were closed to the public. Supra, at ¶ 16. As such, because Mr. Fathi operates an establishment that provides food and nonalcoholic beverages for compensation and the events at the establishment were open to the public, Mr. Fathi cannot take advantage of the exception to § 25-102(d).

29. Therefore, for the foregoing reasons, we find that Mr. Fathi lacks fitness for the responsibilities of licensure, because Mr. Fathi repeatedly violated § 25-102(d). The record shows definitively that Mr. Fathi operates an establishment that sells food and nonalcoholic beverages, and he bears direct responsibility for permitting his patrons and his staff to consume alcoholic beverages on the premises, as well as drinking on the premises himself, in violation of § 25-102(d) on June 30, 2011, July 16, 2011, and July 20, 2011.

B. Knowledge of the ABC laws

30. Second, we separately find Mr. Fathi unfit for the responsibilities of licensure, because he has insufficient knowledge of the ABC laws to ensure the lawful operation of the establishment. We note that evidence of good character and fitness for the responsibilities of licensure includes the applicant's knowledge of the District of Columbia's ABC laws. Gerber, 499 A.2d at 1196. Mr. Fathi admitted on the record that he has never owned or operated an establishment that served alcoholic beverages. Supra, at ¶ 2. Furthermore, he admitted that he would rely on Mr. Cochran's experience to manage and supervise the establishment. Supra, at ¶ 19. Although we do not doubt Mr. Cochran's abilities to operate the establishment, this does not correct Mr. Fathi's lack of knowledge regarding the District of Columbia's ABC laws.

C. Conclusion

31. For the foregoing reasons, we find that Mr. Fathi is unfit for licensure, because he consented and participated in violating § 25-102(d), and he has insufficient knowledge of the District of Columbia's ABC laws to properly supervise the establishment. As such, we deny the Application. 23 DCMR § 401 (2008) ("The Board may deny a license to an applicant if evidence shows that the applicant has permitted at the establishment conduct which is in violation of this title.")

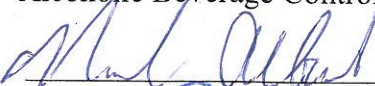
32. On a final note, we write separately to recognize ANC 2C's support of the Applicant and request to approve the Application, in spite of Mr. Fathi's violations and lack of fitness for the responsibilities of licensure. The Board understands ANC 2C's disappointment; however, the Board cannot turn a blind eye to the Applicant's violations in the name of economic development. Mr. Fathi directly participated and consented to the actions that led to violations of § 25-102(d) at the establishment. Supra, at ¶¶ 25-26. Section 25-102 is one of the most serious offenses in Title 25 of the District of Columbia Official Code. A violation of this section is a misdemeanor that bears directly on the Applicant's fitness for licensure, because it is found in Title 25. D.C. Code § 25-831(a). As such, we cannot grant Mr. Fathi an ABC-license after he violated § 25-102(d).

Indeed, if we were to grant the license, this would reduce the law's deterrent effect, as well as run counter to the intent of the Council of the District of Columbia in making fitness for licensure a part of the application process. Finally, even if we issued Mr. Fathi a license, the Board would be forbidden from renewing the license if Mr. Fathi is ever criminally convicted of violating § 25-102(d); which is not an unlikely possibility, based on our findings above. D.C. Code § 25-301(4) (Supp. 2011).

ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 2nd day of November 2011, finds that Abbas Fathi, on behalf of the Applicant, Shaw's Tavern, LLC, t/a Shaw's Tavern, is unfit for the responsibilities of licensure pursuant to D.C. Official Code § 25-301(1). As such, the Application for a new Retailer's Class CT License is **DENIED**.

District of Columbia
Alcoholic Beverage Control Board

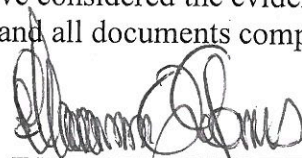


Nick Alberti, Interim Chairperson



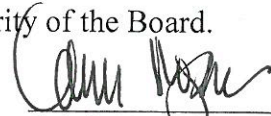
Donald Brooks, Member

I concur with the decision of the Board. I write separately to affirm that I have read the transcript in this matter. I also affirm that I have considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file related to this matter.

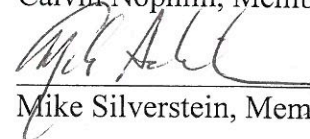


Herman Jones, Member

I dissent from the position taken by the majority of the Board.



Calvin Nophlin, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, Reeves Center, 2000 14th Street, N.W., 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (April 2004) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b).