

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

In the Matter of:)

Micherie, LLC)
t/a Cheerz)

Application for Substantial Change)
(Change of Hours and Entertainment Endorsement))
to a Retailer's Class CR License)

at premises)
7303 Georgia Avenue, N.W.)
Washington, D.C. 20012)

Case No. 14-PRO-00097
License No. ABRA-095178
Order No. 2015-030

Micherie, LLC, t/a Cheerz (Applicant)

Ronald Austin, Chairperson, Advisory Neighborhood Commission (ANC) 4B (Protestant)

Stephen A. Whatley, Chairperson, Advisory Neighborhood Commission (ANC) 4A

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

ORDER DENYING ANC 4A'S REQUEST FOR REINSTATEMENT

The Application filed by Micherie, LLC, t/a Cheerz, for a Substantial Change to change its hours of operation and sales and to include an Entertainment Endorsement, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on December 22, 2014, in accordance with D.C. Official Code § 25-601 (2001).

On December 22, 2014, the Board dismissed the Protest of ANC 4A, because ANC 4A failed to appear at the Roll Call Hearing. See Board Order No. 2015-002.

On January 14, 2015, ANC 4A submitted a Request for Reinstatement indicating that on the morning of December 22, 2014, Commissioner Dwayne Tolliver checked the

Alcoholic Beverage Regulation Administration's (ABRA) website to confirm that the Roll Call Hearing was still scheduled for December 22, 2014, but the information was not available on ABRA's website. Commissioner Tolliver then telephonically contacted ABRA and ABRA staff informed him that the Roll Call Hearing was cancelled. Later, Commissioner Tolliver discovered that the information provided by ABRA staff concerned the Protest Status Hearing and not the Roll Call Hearing.

ABRA records shows that ABRA staff properly notified ANC 4A of the Roll Call Hearing date. On December 15, 2014, ABRA staff mailed a copy of the notice of the Roll Call Hearing to ANC 4A at its address of record, and no return mail was received by ABRA. No notice of cancellation of the Roll Call Hearing was sent by ABRA staff to the parties.

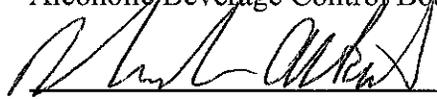
Based upon the above, the Board finds that ANC 4A was properly notified of the Roll Call Hearing. The Board does not find good cause to reinstate the Protest of ANC 4A because ANC 4A did not demonstrate an effort to attend the Roll Call Hearing. Further, the ANC 4A's explanation does not constitute good cause under 23 DCMR § 1602.3.

ORDER

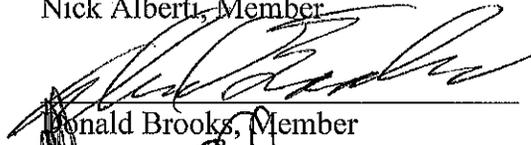
The Board does hereby, this 21st day of January, 2015, **DENY** the reinstatement of the ANC 4A as a protestant of the Application filed by Micherie, LLC, t/a Cheerz, for a Substantial Change to change its hours of operation and sales and to include an Entertainment Endorsement.

Copies of this Order shall be sent to the Applicant, ANC 4B, and ANC 4A.

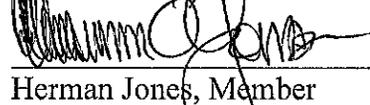
District of Columbia
Alcoholic Beverage Control Board



Nick Alberti, Member

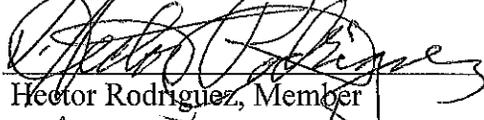


Donald Brooks, Member

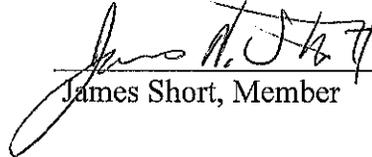


Herman Jones, Member

Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

I dissent from the Board's decision.



Ruthanne Miller, Chairperson

Pursuant to D.C. Official Code § 25-433, 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, 2000 14th Street, N.W., Suite 400S, Washington, DC 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, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) 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) (2004).