

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

In the Matter of:)	
)	
AKA, Inc.)	Case No. 10-PRO-00182
t/a Club AKA 555)	License No. 084241
)	Order No. 2011-126
Application to Renew a)	
Retailer's Class CN License)	
)	
at premises)	
2046 West Virginia Avenue, N.E.)	
Washington, D.C. 20001)	

AKA, Inc., t/a Club AKA 555, Applicant

Don Padou, on behalf of A Group of Five or More Individuals, Protestant

BEFORE: Charles Brodsky, Chairperson
Mital Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ORDER DENYING MOTION TO DISMISS

AKA, Inc., t/a Club AKA 555 (Applicant), at premises 2046 West Virginia Avenue, N.E., Washington, D.C., filed an Application to renew a Retailer's Class CN License (Application). The Application was timely protested by A Group of Five or More Individuals (Protestant), represented by Don Padou, and the Arboretum Neighborhood Association, represented by Bleik Pickett on December 20, 2010, and January 7, 2011, respectively. The Roll Call Hearing was held on January 18, 2011 in accordance with D.C. Code § 25-601 (2001). The Arboretum Neighborhood Association was dismissed because the association did not appear at the Roll Call Hearing. The Status Hearing is scheduled for February 23, 2011, and the Protest Hearing is scheduled for April 6, 2011.

On January 18, 2011, the Protestant filed a Motion to Place Before the Board Legal Impediments to Licensure, which the Board will treat as a Motion to Dismiss because, if granted, the Board would be forced to dismiss the Application. The Protestant argues that License No. 084241 was improperly issued in 2007 and therefore, cannot be renewed.

The Board denies the Protestant's Motion to Dismiss. The Protestant seeks to re-litigate the original granting and transfer of the Retailer's Class CN License at premises 2046 West Virginia Ave., N.E. in 2007. However, this issue was already properly decided

by the Board and is irrelevant to the current Protest proceedings. As indicated by statute, the appropriate basis for the protest of an Application to renew a Retailer's Class CN License are adverse impact on "real property values[,]. . . peace, order, and quiet[,]. . . or residential parking needs and vehicular and pedestrian safety. . . ." D.C. Code § 25-313 (2001); 23 DCMR § 400 (2008). Challenging the process by which a license was originally granted three years after the fact is not an appropriate basis for a protest.

Furthermore, as indicated previously by the Superior Court of the District of Columbia, the Protestant lacks standing to challenge the process through which the Licensee obtained its ABC license. *See Don Padou v. District of Columbia Alcoholic Beverage Control Board*, Case No. 2010 CA 002750 B, 4 (D.C. Super. July 31, 2010).

For these reasons, the Protestant's Motion to Dismiss is denied.

ORDER

The Board does hereby, this 23rd day of February 2011, **DENY** the Group of Five or More Individual's to Motion to Dismiss the Protest filed by the Group of Five or More Individuals, represented by Don Padou. Copies of this Order shall be sent to the Applicant and Don Padou.

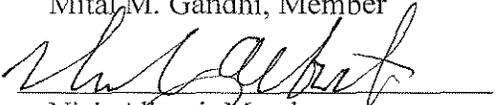
District of Columbia
Alcoholic Beverage Control Board



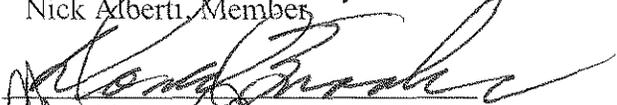
Charles Brodsky, Chairperson



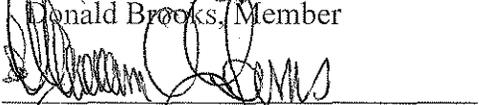
Mital M. Gandhi, Member



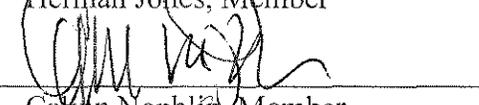
Nick Alberti, Member



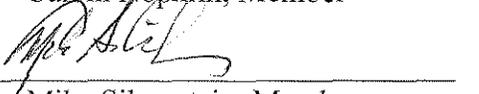
Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (2008), 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, 1250 U Street, N.W., 3rd Floor, 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 (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).