

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

In the Matter of:)	
)	
S&A Deli, Inc.)	Case No.: 14-PRO-00074
t/a Good Hope Deli & Market)	License No: ABRA-93974
)	Order No: 2015-116
)	
Application for a Substantial Change to)	
Retailer's Class B License)	
)	
at premises)	
1736 Good Hope Road, SE)	
Washington, D.C. 20020)	

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

ALSO PRESENT: S&A Deli, Inc., t/a Good Hope Deli & Market, Applicant

Kevin Lee, Esq., on behalf of the Applicant

Barbara Clark, Advisory Neighborhood Commission (ANC) 8A,
Protestants

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**ORDER DENYING APPLICANT'S MOTION FOR RECONSIDERATION OF BOARD
ORDER 2015-062**

This matter comes before the Alcoholic Beverage Control Board (Board) on the Application for a Substantial Change to a Retailer's Class B license filed by S & A Deli, Inc. t/a Good Hope Deli & Market (Petitioner).

Procedural Background

The Notice of Public Hearing advertising Good Hope Deli & Market's Application was posted on August 15, 2014, and informed the public that objections to the Application could be filed on or before September 29, 2014. *ABRA Protest File No. 14-PRO-00074*, Notice of Public Hearing [*Notice of Public Hearing*]. The Alcoholic Beverage Regulation Administration (ABRA) received a timely filed protest letter from the ANC 8A. *ABRA Protest File No. 14-PRO-00074*, Roll Call Hearing Results.

The parties came before the Board's Agent for a Roll Call Hearing on October 14, 2014, where the above-mentioned objectors were granted standing to protest the Application. On November 5, 2014, the parties came before the Board for a Protest Status Hearing. The Protest Hearing in this matter occurred on December 10, 2014.

As a result of the Protest Hearing, the Board issued Board Order No. 2015-062 in which it denied the Application on the basis that it was inappropriate for the neighborhood. *S & A Deli, Inc. t/a Good Hope Deli & Market*, Case No. 14-Pro-00074, Board Order No. 2015-062, 2 (D.C.A.B.C.B. March 4, 2015). Further, in its Order, the Board concluded that due to the unacceptable level of crime, disorder, and other antisocial behavior occurring in the community, additional alcohol privileges for this establishment would be inappropriate. *Id.*

On March 13, 2015, the Applicant timely filed a Motion for Reconsideration in response to Board Order No. 2015-062. *ABRA Protest File 14-PRO-00074, Motion for Reconsideration*, dated March 13, 2015 [*Motion*]. In its Motion the Applicant argues that fair credit should be given to the Applicant's undisputable testimony about its successful operation as a Class B license without any history of violations. *Id.* at 1. Further, the Applicant highlights that the Applicant and ANC have entered a Settlement Agreement which resolves the outstanding matters related to the renewal of the Applicant's Class B license whose terms would apply to the Applicant's Class A license if the class change is granted. *Id.* at 2.

On March 20, 2015, the ANC filed an Opposition to the Applicant's Motion for Reconsideration. *ABRA Protest File 14-PRO-00074, Opposition to Applicant's Motion for Reconsideration*, dated March 20, 2015 [*Opposition*]. The ANC's Opposition requests that the Board affirm its prior decision in Board Order 2015-062 due to the apparent adverse conditions in the community which would be exacerbated by adding another Class A license to the neighborhood. *Id.*

Discussion

In consideration of the Applicant's Motion for Reconsideration and the ANC's Opposition to the Applicant's Motion for Reconsideration, the Board denies the Motion and affirms its prior Order. The Board is unpersuaded by the Applicant's argument that the Applicant's successful operation as a Retailer's Class B establishment warrants a change to a Retailer's Class A.

As previously articulated in Board Order No. 2015-062, this particular Application was denied on the basis of the existing crime and disorder in the neighborhood that an additional liquor license would exacerbate, not on the Applicant's record as a Retailer's Class B licensee. It is well established that in reviewing a Substantial Change Application, the Board must consider whether the proposed establishment will have an adverse impact on the neighborhood in which the establishment is located. D.C. Official Code §§ 25-104, 25-313(b); 23 DCMR §§ 1607.2; 1607 (b) (West Supp. 2014).

In this particular case, the Board expressed a grave concern regarding the "character of the neighborhood" which included the presence of Anacostia High School, an elementary school, a library, and various social services that ensures the regular presence of children and people seeking assistance from social services. *S & A Deli, Inc. t/a Good Hope Deli & Market*, Case No. 14-PRO-00074, Board Order No. 2015-062, 7 (D.C.A.B.C.B. March 4, 2015). The Board determined on the basis of the record that an additional liquor license was not warranted given the additional crime, loitering and public drinking that would likely ensue. *Id.* The Applicant has provided no evidence or argument in its motion to show otherwise.

While the Board acknowledges the Applicant's efforts to operate in a manner that is responsible and cooperative with the ANC, the Board does not find these efforts substantial enough to justify granting an additional Class A license to a neighborhood with issues of this magnitude.

It must be further noted that the Board finds that the Applicant's Motion fails to conform to the requirements of a petition for reconsideration. Under 23 DCMR 1719.3, a petition for reconsideration shall state briefly the matters of record alleged to have been erroneously decided, the grounds relied upon, and the relief sought. 23 DCMR § 1719.3. Here, the Applicant fails to argue that the Board's Conclusions of Law or Findings of Fact were contrary to the evidence provided on the record.

Therefore, for the foregoing reasons, the Board denies the Applicant's Motion for Reconsideration.

ORDER

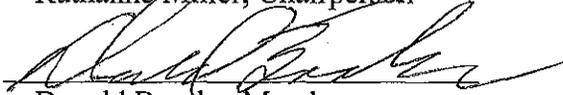
Therefore, the Board, on this 1st day of April 2015, hereby **DENIES** the Motion for Reconsideration filed by S&A Deli, Inc. t/a Good Hope Deli & Market.

The ABRA shall deliver a copy of this order to the Applicant and ANC 8A.

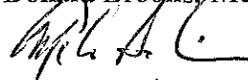
District of Columbia
Alcoholic Beverage Control Board



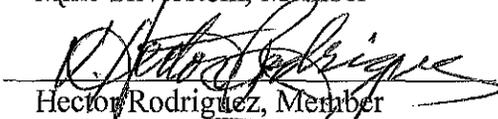
Ruthanne Miller, Chairperson



Donald Brooks, Member



Mike Silverstein, Member



Hector Rodriguez, Member



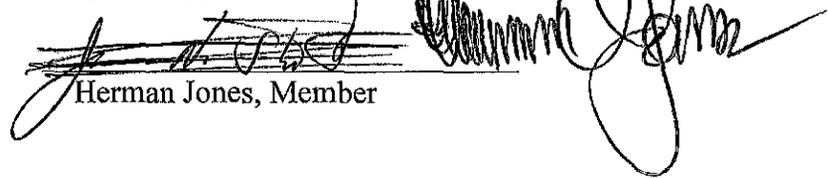
James Short, Member

I abstain from the decision reached by the majority.



Nick Alberti, Member

I dissent from the decision of the majority to deny the Applicant's Motion.



Herman Jones, Member

Pursuant to 23 DCMR § 1719.1, 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, NW, 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, 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 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).