

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

|                                   |   |                           |
|-----------------------------------|---|---------------------------|
| In the Matter of:                 | ) |                           |
|                                   | ) |                           |
| NHV Corporation, Inc.             | ) | License Number: 024663    |
| t/a Haydee's Restaurant           | ) | Case Number: 10-PRO-00012 |
|                                   | ) | Order Number: 2010-483    |
| Petition to                       | ) |                           |
| Terminate a Voluntary Agreement   | ) |                           |
| for a Retailer's Class CR License | ) |                           |
|                                   | ) |                           |
| at premises                       | ) |                           |
| 3102 Mount Pleasant Street, N.W.  | ) |                           |
| Washington, D.C. 20010            | ) |                           |

NHV Corporation, Inc., t/a Haydee's Restaurant, represented by Robert P. Waldeck, Esq.,  
Applicant

Sam Broeksmit, on behalf of the Mount Pleasant Neighborhood Alliance (MPNA),  
Protestant

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

**AMENDED ORDER  
DENYING MOTIONS TO DISMISS AND MOTION TO STRIKE**

The Petition to Terminate a Voluntary Agreement for a Retailer's Class CR License filed by NHV Corporation, Inc., t/a Haydee's Restaurant (Applicant), which has been protested by the MPNA (Protestant) came before the Alcoholic Beverage Regulation Administration (ABRA) for a Roll Call Hearing on August 16, 2010, in accordance with D.C. Official Code § 25-601 (2001). The Status Hearing is scheduled for September 22, 2010, and the Protest Hearing is scheduled for November 17, 2010.

On September 15, 2010, by Board Order No. 2010-467, the Alcoholic Beverage Control Board (Board) denied the Motions to Dismiss filed by the Protestant and the Motion to Strike MPNA's Motion to Dismiss filed by the Applicant. However, Board Order No. 2010-467 did not address the Protestant's argument that, under D.C. Code § 25-338 (2001), "[t]he applicant's request to terminate [its] VA. . . is within the 5 year period during which a second application for the same request may not be made." *ABRA Protest File 10-PRO-00113, August 16, 2010 Request to Dismiss Haydee's Restaurant's Request to Terminate their VA with MPNA.*

Under § 25-338, it is clear that the Protestant misreads the statute. Section 25-338(a) states that “each subsequent application for the *same class of license* for the same person or persons shall not be considered within 5 years of a denial.” § 25-338(a) (emphasis added). Under the plain language of § 25-338(a), that section only applies to successive applications for an ABC License and nothing more. A petition to terminate a voluntary agreement is not included within the statutory prohibition against successive applications because it is not an application for an ABC License.

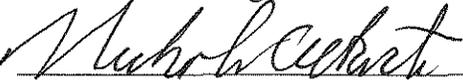
Therefore, the Board reaffirms its decision in Board Order No. 2010-467.

### ORDER

Accordingly, it is this 22nd day of September 2010, **ORDERED** that:

1. Board Order No. 2010-467 is **AMENDED** to clarify that the Board rejects MPNA’s argument that NHV Corporation, Inc., t/a Haydee’s Restaurant, cannot file a Petition to Terminate a Voluntary Agreement for a Retailer’s Class CR License under D.C. Code § 25-338 (2001).
2. All other terms and conditions of Order No. 2010-467 shall remain in full force and effect; and
3. Copies of this Order shall be sent to the Applicant and to the Protestant.

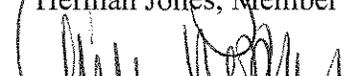
District of Columbia  
Alcoholic Beverage Control Board

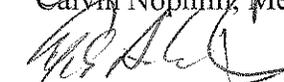
  
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Nick Alberti, Acting Chairperson

  
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Mital M. Gandhi, Member

  
\_\_\_\_\_  
Donald Brooks, Member

  
\_\_\_\_\_  
Herman Jones, Member

  
\_\_\_\_\_  
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, 1250 U Street, N.W., Third Floor, Washington, DC 20009.