

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

In the Matter of:)

Jimmy & Jimmy, Inc.,)
t/a J & D Market)

Application for Renewal of a)
Retailer's Class B License)

at premises)
2201 Minnesota Avenue, S.E.)
Washington, D.C. 20020)

Case No.: 14-PRO-00085
License No.: ABRA-093991
Order No.: 2015-032

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

ORDER DENYING PROTESTANT'S REQUEST FOR REINSTATEMENT

The Application filed by Jimmy & Jimmy, Inc. t/a J & D Market, for renewal of its Retailer's Class B License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on December 1, 2014, in accordance with the D.C. Official Code § 25-601 (2001).

On December 1, 2014, the Board dismissed the Protest of Advisory Neighborhood Commission (ANC) 8A, because the ANC failed to appear at the Roll Call Hearing. *See Jimmy & Jimmy, Inc. t/a J & D Market*, Case No.: 14-PRO-00085, Board Order No. 2014-496 (D.C.A.B.C.B. December 3, 2014). The ANC timely filed a Request for Reinstatement on December 13, 2014.

In the ANC's Request for Reinstatement, the ANC alleges that the ANC failed to appear due to the death of the late Honorable Marion Barry. *ABRA Protest File 14-PRO-00085, ANC 8A's Request for Reinstatement* dated December 13, 2014. Further, the ANC alleges that it did

not have time to request a continuance of the Roll Call Hearing. *Id.* Accordingly, the ANC requested that the Board provide a new date for the Roll Call Hearing. *Id.*

Discussion

As outlined in 23 DCMR § 1602.3, the failure to appear in person or through a designated representative at the Roll Call Hearing may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown. 23 DCMR § 1602.3. Under 23 DCMR § 1601.7, the Board shall consider whether, in its discretion, the party has shown good cause for his or her failure to appear at Board hearings. 23 DCMR § 1601.7. Examples of good cause for failure to appear include, but are not limited to: sudden, severe illness or accident; death or sudden illness in the immediate family such as spouse, partner children, parents, siblings; incarceration; or severe inclement weather. 23 DCMR § 1601.6.

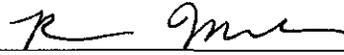
In this matter, the Board, in its discretion, does not find that the ANC's reason for failing to attend the Roll Call constitutes good cause. Marion Barry died on November 23, 2014 and the Roll Call Hearing was held on December 1, 2014. Furthermore, while the Board recognizes that emergencies arise, not having time to request a continuance does not meet the standard of showing good cause as defined in 23 DCMR § 1601.6. If pressed for time, the ANC could have requested a continuance via electronic mail without having to submit a formal motion. Therefore, the Board denies the ANC's Request for Reinstatement.

ORDER

Therefore, based on the foregoing, the Board, on this 28th day of January 2015, **DENIES** the Request for Reinstatement filed by the ANC.

ABRA shall deliver copies of this Order to the Applicant and the Protestant.

District of Columbia
Alcoholic Beverage Control Board



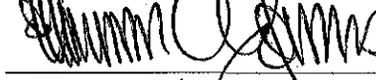
Ruthanne Miller, Chairperson



Nick Alberti, Member



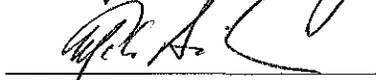
Donald Brook, Member



Herman Jones, Member



Hector Rodriguez, Member



Mike Silverstein, Member



James Short, 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, 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 (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).