

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

In the Matter of:)
)
DK Corporation)
t/a Joe Caplan Liquors)
)
Application for Renewal of)
Retailer's Class A License)
)
at premises)
1913 7th Street NW)
Washington, D.C. 20001)
)

Case No. 15-PRO-00056
License No. ABRA-060351
Order No. 2015-339

DK Corporation t/a Joe Caplan Liquors (Applicant)

James Turner, Chairperson, Advisory Neighborhood Commission (ANC) 1B (Protestant)

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

ORDER GRANTING APPLICANT'S REQUEST FOR REINSTATEMENT

The Application filed by DK Corporation t/a Joe Caplan Liquors (Applicant), for renewal of its Retailer's Class A License, having been timely protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on June 15, 2015, in accordance with D.C. Official Code § 25-601 (2015).

On June 17, 2015, the Board dismissed the Application for renewal because the Applicant failed to appear at the Roll Call Hearing. *DK Corporation, Inc. t/a Joe Caplan Liquors*, Case No.: 15-PRO-00056, Board Order No. 2015-302 (D.C.A.B.C.B. June 17, 2015). The Applicant's attendance at the Roll Call Hearing is required under 23 DCMR § 1603.3.

On June 30, 2015, the Applicant requested Reinstatement. *ABRA Protest File 15-PRO-00056, Applicant's Request for Reinstatement* dated June 30, 2015. In its request, the Applicant

cited the failure to receive written notice as its reason for failing to appear at the Roll Call Hearing on June 15, 2015. *Id.*

As set forth 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, finds that the Applicant's reason for failing to attend the Roll Call Hearing constitutes good cause. The Board takes administrative notice of Alcoholic Beverage Regulation Administration (ABRA) records which indicate that the Notice of Roll Call Hearing (Notice) was mailed to the Applicant's address of record on or about June 4, 2015. *ABRA Protest File 15-PRO-00056, Roll Call Hearing Notice*. However, this Notice was returned for failure of delivery on June 13, 2015. For this reason, the Board grants the Applicant's Request for Reinstatement.

ORDER

The Board does hereby, this 8th day of July, 2015, **GRANTS** the Request for Reinstatement filed by the Applicant.

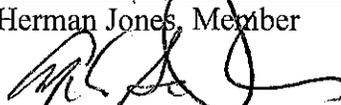
Copies of this Order shall be sent to the Applicant and ANC 1B.

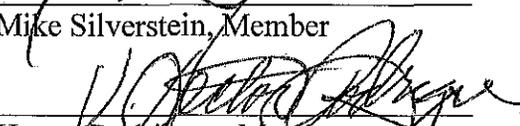
District of Columbia
Alcoholic Beverage Control Board

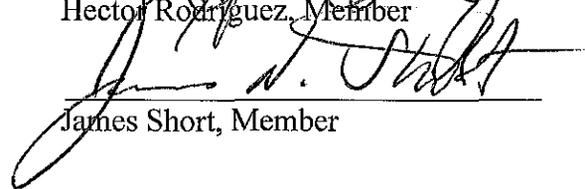

Ruthanne Miller, Chairperson


Donald Brooks, Member


Herman Jones, Member


Mike Silverstein, Member


Hector Rodriguez, Member


James Short, Member

I dissent as to the decision reached by the majority.


Nick Alberti, 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).