

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

In the Matter of:	)	
	)	
Lauriol Plaza, Inc.	)	License No.: 24814
t/a Lauriol Plaza Restaurant	)	Case No.: 13706
	)	Order No.: 2010-319
Holder of a Retailer's Class CR License	)	
at premises	)	
1835 18 <sup>th</sup> Street, N.W.	)	
Washington, D.C. 20009	)	

BEFORE: Charles Brodsky, Chairperson  
Mital M. Gandhi, Member  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member

ALSO PRESENT: Raul Sanchez, Respondent  
President, Lauriol Plaza, Inc.

Andrew J. Kline, Esq., on behalf of the Respondent

Michael Stern, Senior Assistant Attorney General  
Office of Attorney General, District of Columbia

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER**

On October 9, 2009, the Alcoholic Beverage Control Board (Board) served a Notice of Status Hearing and Show Cause Hearing (Notice), dated October 7, 2009, on Lauriol Plaza, Inc., t/a Lauriol Plaza Restaurant (Respondent), at premises 1835 18<sup>th</sup> Street, N.W., Washington, D.C., charging the Respondent with the following violations:

Charge I: The Respondent made a substantial change in operation without the approval of the Board in violation of D.C. Official Code §§ 25-

762(a), 25-762(b)(13), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1) (2009).

Charge II: The Respondent made a substantial change in operation without the approval of the Board in violation of D.C. Official Code §§ 25-762(a), 25-762(b)(13), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1).

Charge III: The Respondent made a substantial change in operation without the approval of the Board in violation of D.C. Official Code §§ 25-762(a), 25-762(b)(13), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1).

Charge IV: The Respondent made a substantial change in operation without the approval of the Board in violation of D.C. Official Code §§ 25-762(a), 25-762(b)(13), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1).

Charge V: The Respondent made a substantial change in operation without the approval of the Board in violation of D.C. Official Code §§ 25-762(a), 25-762(b)(13), for which the Board may take the proposed action pursuant to D.C. Official Code § 25-823(1).

The matter proceeded to a Show Cause Hearing where the Government and the Respondent presented evidence through the testimony of witnesses and the submission of documentary evidence. The Board, having considered the evidence, the testimony of witnesses, the arguments of counsel, and the documents comprising the Board's official file, makes the following:

### **FINDINGS OF FACT**

1. The Board issued a Notice of Status Hearing and Show Cause Hearing, dated October 7, 2009. (*See* Alcoholic Beverage Regulation Administration (ABRA) Show Cause File Number 13706). The Respondent holds a Retailer's Class CR License and is located at 1835 18<sup>th</sup> Street, N.W., Washington D.C. (*See* ABRA Licensing File No. 24814).
2. The Show Cause Hearing in this matter was held on January 20, 2010. The Notice to Show Cause, dated October 9, 2009, charges the Respondent with five violations enumerated above. (*See* ABRA Show Cause File Number 13706).
3. The Government presented its case through the testimony of one witness, ABRA Investigator Erin Mathieson. *Transcript (Tr.)*, 1/20/10 at 7-8. In addition, the Government submitted a regulatory inspection form signed by the Respondent, Alcoholic Beverage Regulation Administration (ABRA) Show Cause File Number 13706, Exhibit 1, and Case

Report 13706. (Alcoholic Beverage Regulation Administration (ABRA) Show Cause File Number 13706, Exhibit 2).

4. Investigator Mathieson testified that she conducted a regulatory inspection at Respondent's establishment on August 6, 2008, at approximately 11:32 p.m. *Tr.*, 1/20/10 at 8. Upon entering the establishment, the Investigator noticed patrons in the establishment's sidewalk café, eating food and drinking alcoholic beverages. *Tr.*, 1/20/10 at 8-9, 11. Investigator Mathieson met with ABC Manager Luis Alonso Reyes. *Tr.*, 1/20/10 at 9. She then testified that during her inspection she learned from the Respondent's license that the establishment's hours of operation and sales ended at 11:00 p.m. *Tr.*, 1/20/10 at 9. Upon concluding her investigation, Investigator Mathieson explained to Mr. Reyes that he could continue service for the rest of the evening but had to adhere to the hours on his license in the future. *Tr.*, 1/20/10 at 10

5. Investigator Mathieson noted that the Voluntary Agreement did not stipulate the hours of operation and sales for the establishment or sidewalk café. *Tr.*, 1/20/10 at 10.

6. Investigator Mathieson returned to the Respondent's establishment on August 7, 2008 between 11:10 p.m. and 11:20 p.m. *Tr.*, 1/20/10 at 11. The Investigator noted that there were still patrons sitting both inside the establishment and outside the establishment in the sidewalk café. *Tr.*, 1/20/10 at 11. She further noted that there were margaritas and beers on the tables outside. *Tr.*, 1/20/10 at 11. Investigator Mathieson noted that the establishment was supposed to be closed at 11:00 p.m. *Tr.*, 1/20/10 at 12.

7. Investigator Mathieson returned to the Respondent's establishment again on August 9, 2008, in order to monitor the establishment's hours. *Tr.*, 1/20/10 at 12. She noted that the establishment's approved hours ended at 12:00 a.m. *Tr.*, 1/20/10 at 12. At 12:45 a.m., the Investigator noted that there was a table of patrons in the establishment and a woman sitting outside the establishment with a martini glass and half a glass of margarita on her table. *Tr.*, 1/20/10 at 13.

8. Investigator Mathieson returned to the Respondent's establishment on Sunday, August 10, 2008 at 12:15 a.m. *Tr.*, 1/20/10 at 14. Investigator Mathieson observed ten tables with patrons occupying both floors of the restaurant and sitting in the establishment's sidewalk café. *Tr.*, 1/20/10 at 14. She noted that many of the patrons were eating and drinking alcohol. *Tr.*, 1/20/10 at 14.

9. The Respondent presented its case through one witness, Raul Sanchez. *Tr.*, 1/20/10 at 51. The Respondent also submitted a letter from the Respondent's attorney dated August 11, 2008, requesting the Board clarify whether its 11:00 p.m. closing time merely forbade the establishment from accepting new customers after 11:00 p.m. (ABRA Show Cause File Number 13706, Licensee Exhibit 1). Finally, the Respondent submitted a second letter from the Respondent's attorney dated August 20, 2008, which requested that the Respondent's hours be extended to 1:00 a.m. Sunday through Thursday and 2:00 a.m. on Friday and Saturdays. (ABRA Show Cause File Number 13706, Licensee Exhibit 2).

10. The Respondent stated that he believed that after 11:00 p.m. from Sunday to Thursday and after 12:00 a.m. on Friday and Saturday his establishment could not accept any new customers but he could still serve patrons that were already in the establishment before closing. *Tr.*, 1/20/10 at 54. The Respondent admitted that this was his practice. *Tr.*, 1/20/10 at 74-75. The Respondent stated that after receiving a citation from Investigator Mathieson he did not alter his business practices. *Tr.*, 1/20/10 at 92.

11. The Respondent, through his representative, stated that as of September 3, 2008, the Board approved a change in the Respondent's hours that allowed the establishment to stay open from 1:00 a.m. on Sunday through Thursday and 2:00 a.m. on Friday and Saturday. *Tr.*, 1/20/10 at 99, 103.

12. The Board takes administrative notice that during the Board meeting on September 3, 2008, the Board approved the Respondent's request to alter his hours and held that it was not a substantial change. (*See* ABRA Weekly Agenda, 9/3/08).

### CONCLUSIONS OF LAW

13. The Board has the authority to suspend or revoke the license of a licensee who violates any provision(s) of Title 25 of the D.C. Official Code pursuant to D.C. Official Code § 25-823(1)(2001). Additionally, pursuant to the specific statutes under which the Respondent was charged, the Board is authorized to levy fines. D.C. Code § 25-830 and 23 D.C.M.R. 800, *et seq.*

14. As a matter of law, the Board finds that the Government has failed to prove that the Respondent violated D.C. Official Code § 25-762(a)-(b) by failing to seek approval before making a substantial change in operations. Therefore, under § 25-762(a)-(b), the Respondent did not engage in a substantial change in operations by merely not accepting new customers after 11:00 p.m. between Sunday and Thursday and 12:00 a.m. on Friday and Saturday and not closing.

15. D.C. Official Code § 25-762 states in pertinent part, "(a) Before a licensee may make a change in the interior or exterior, or a change in format, of any licensed establishment, which would substantially change the nature of the operation of the licensed establishment as set forth in the initial application for the license, the licensee shall obtain the approval of the Board in accordance with § 25-404. (b) In determining whether the proposed changes are substantial, the Board shall consider whether they are potentially of concern to the residents of the area surrounding the establishment, including changes which would . . . extend the hours of operation." D.C. Code § 25-762(a)-(b) (2010).

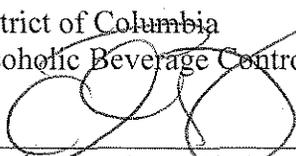
16. The Board interprets D.C. Code § 25-762 to give the Board discretion in determining what constitutes a substantial change. According to 25-762(b), the Board only has to "consider" if an extension of hours is a substantial change but is not mandated to find that an extension of hours is a substantial change.

17. On September 3, 2008, the Board previously considered whether granting an extension of hours would be a substantial change for the Respondent's establishment and determined that it was not. The Board will follow its previous decision and hold that the extension of hours does not qualify as a § 25-762 substantial change because the Board was aware of the charges filed against the Respondent at the time of the decision, as indicated in Licensee Exhibit 1, and no pertinent facts were withheld from the Board at the time Respondent applied for the extension of hours.

### ORDER

Based on the foregoing findings of fact and conclusions of law, the Board, on this 14<sup>th</sup> day of April, 2010, finds that the Respondent, Lauriol Plaza, Inc., t/a Lauriol Plaza Restaurant at premises 1835 18<sup>th</sup> Street, N.W., Washington, D.C., holder of a Retailer's Class CR License, did not violate D.C. Code § 25-762(a)-(b) (2009). The Board hereby **ORDERS** that all of the charges filed against the Respondent are **DISMISSED**.

District of Columbia  
Alcoholic Beverage Control Board



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Charles Brodsky, Chairperson



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Mital M. Gandhi



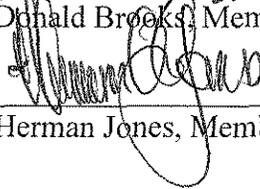
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Nick Alberti, Member



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Donald Brooks, Member



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Herman Jones, Member

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 the service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington D.C. 20001.

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 (April 2004) 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).