

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

In the Matter of:)	
)	
Ahmed Ouihman Enterprises, LLC t/a)	
Pop's Seabar 1)	Case No.: 15-PRO-00012
)	License No.: ABRA-087585
)	Order No.: 2015-149
Application for Substantial Change)	
(Change of Hours))	
to a Retailer's Class CR License)	
)	
at premises)	
1817 Columbia Road, N.W.)	
Washington, D.C. 20009)	

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

**ORDER DENYING PROTESTANT'S MOTION FOR RECONSIDERATION OF
BOARD ORDER NO. 2015-117**

The Application filed by Ahmed Ouihman Enterprises, LLC t/a Pop's Seabar 1, for a Substantial Change to its Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on March 30, 2015, in accordance with the D.C. Official Code § 25-601 (2001). Both Parties received written notice of the Roll Call Hearing on or around March 4, 2015. *ABRA Protest File 15-PRO-00012, Official Roll Call Hearing Notice*, dated March 4, 2015.

On March 30, 2015, the Board dismissed the Protest of the Abutting Property Owner, The Bernice J. Drazin Trust (Trust), because the Abutting Property Owner failed to appear at the Roll Call Hearing, *Ahmed Ouihman Enterprises, LLC t/a Pop's Seabar 1*, Case No.: 15-PRO-

00012, Board Order No. 2015-117 (D.C.A.B.C.B. April 1, 2015). The Abutting Property Owner timely filed a Motion for Reconsideration on April 2, 2015.

In the Abutting Property Owner's Motion for Reconsideration, the Trust alleges that it did not receive notice of the Roll Call Hearing. *ABRA Protest File 15-PRO-00012, Abutting Property Owner's Motion for Reconsideration*, dated April 2, 2015. Further, the Abutting Property Owner argues that it failed to attend the Roll Call Hearing because it did not receive written notice. *Id.* Accordingly, the Abutting Property Owner requested that the Board reconsider the dismissal of its protest. *Id.*

In response, the Applicant timely filed an opposition to the Abutting Property Owner's Motion for Reconsideration. *ABRA Protest File 15-PRO-00012, Applicant's Response in Opposition to Abutting Property Owner's Motion for Reconsideration*. The Applicant argues that the Abutting Property Owner's Motion should be denied because the hearing date was clearly annotated on the placards notifying the public of the Application for a Substantial Change, notice was duly served. *Id.*

Discussion

The Board affirms its prior Order and denies the Abutting Property Owner's Motion. The Abutting Property Owner's Motion fails for two reasons. First, the Board does not find the Abutting Property Owner's argument that it did not receive written notice of the Roll Call Hearing to be credible. The Board takes administrative notice of ABRA records which indicate that not only did the Abutting Property Owner receive notice of the Roll Call Hearing date, the Roll Call Hearing date is also placed on the Notice of Public Hearing which is on window display of the Applicant's establishment at 1817 Columbia Road, N.W. *ABRA Protest File 15-PRO-00012, Notice of Public Hearing*, 1, dated January 30, 2015. Therefore, the Board finds that the Abutting Property Owner was duly served.

Next, 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.

Here, the Board did not err, as a matter of law, by using its discretion to determine that the circumstances described by the Abutting Property Owner did not constitute good cause as required in 23 DCMR § 1601.6. Therefore, the Board denies the Abutting Property Owner's Motion for Reconsideration of Board Order No. 2015-117.

ORDER

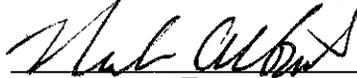
Therefore, based on the foregoing, the Board, on this 22nd day of April 2015, **DENIES** the Motion for Reconsideration filed by the Abutting Property Owner.

ABRA shall deliver copies of this Order to the Applicant and the Abutting Property Owner.

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member



Donald Brooks, Member

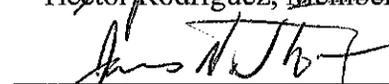


Herman Jones, Member

Mike Silverstein, Member



Hector Rodriguez, 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).