

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

In the Matter of:)		
)	Case No.:	15-PRO-00067
Suns Cinema, Inc.)	License No:	098888
t/a Suns Cinema)	Order No:	2015-421
)		
Application for a New)		
Retailer's Class CT License)		
)		
at premises)		
3107 Mt. Pleasant Street, N.W.)		
Washington, D.C. 20010)		

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

ALSO PRESENT: Suns Cinema, Inc., t/a Suns Cinema (Applicant)

Andrew Kline, Counsel, of the Veritas Law Firm, on behalf of the Applicant

Bryce Pardo, on behalf of a Group of Five or More Residents and Property Owners, (Pardo Group) Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**ORDER VACATING BOARD ORDER NO. 2015-381, GRANTING THE APPLICANT'S
MOTION FOR RECONSIDERATION, AND DENYING THE PROTESTANT'S
MOTION FOR REINSTATEMENT**

Suns Cinema, Inc., t/a Suns Cinema (Applicant) filed a timely motion for reconsideration objecting to the Alcoholic Beverage Control Board's (Board) reinstatement of the Pardo Group, which has not filed an opposition to the present motion before the Board. *Mot. for Recon.*, 1.

In Board Order No. 2015-381, the Board reinstated the protest of the Pardo Group based on the following reasoning:¹

The group indicates that it placed its protest letter in the mail on July 2, 2015, which was four days before the protest deadline of July 6, 2015. *Letter from Bryce Pardo, Designated Representative to Ruthanne Miller, Chairperson, ABC Board*, 1 (Jul. 17, 2015). According to ABRA's records, the protest letter was marked received on July 10, 2015. *Protest Letter*, 1 (see date stamp). In this case, because the Pardo Group made reasonable efforts to file a timely protest, which was untimely due to no fault of the group, and granting the motion would not be prejudicial to the Applicant, the Board grants the motion for reinstatement. For this reason, the Board also finds good cause to waive 23 DCMR § 1601.5 in the interest of justice and to prevent hardship to the Pardo Group pursuant to 23 DCMR § 1600.2.

In re Suns Cinema, Inc., t/a Suns Cinema, Board Order No. 2015-381, 2 (D.C.A.B.C.B. Aug. 5, 2015).

Nevertheless, as noted by Counsel for the Applicant, the Board's decision failed to consider the precedent set by the Board in *The American*. There, the Board held that protests must be filed within the protest period under D.C. Official Code § 25-602. *In re The Blagden Alley Entertainment, LLC, t/a The American*, Case No. 14-PRO-00019, Board Order No. 2014-238 (D.C.A.B.C.B. May 28, 2014). In this case, there is no question that the Pardo Group's protest petition was received after the protest deadline; therefore, there no grounds with which to revive the protest or ignore the requirements of D.C. Official Code § 25-602.

ORDER

Therefore, on this 16th day of September 2015, the Board hereby **GRANTS** the motion for reconsideration filed by the Applicant and **VACATES** Board Order No. 2015-381. The Board hereby **DISMISSES** the protest filed by the Pardo Group. ABRA shall deliver this order to the Pardo Group and the Applicant.

¹ Board Members Miller and Rodriguez voted dissented from the original decision approving the reinstatement of the Pardo Group. *Transcript*, July 29, 2015 at 16-18.

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, 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, Reeves Center, 2000 14th Street, N.W., 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, District of Columbia 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 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).