

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

**In the Matter of:**

The Old Naval Hospital Foundation	)	Case Number:	11-PRO-00026
t/a The Old Naval Hospital Foundation	)	License Number:	086926
	)	Order Number:	2011-395
Application for a New	)		
Retailer's Class CX License	)		
	)		
at premises	)		
921 Pennsylvania Avenue, S.E.	)		
Washington, D.C. 20003	)		

**BEFORE:** Donald Brooks, Acting Interim Chairperson  
Herman Jones, Member  
Mike Silverstein, Member  
Calvin Nophlin, Member

**ALSO PRESENT:** The Old Naval Hospital Foundation, t/a The Old Naval Hospital Foundation, Applicant

Paul Pascal, Esq., on behalf of the Applicant

Pope Barrow, on behalf of A Group of Five or More Individuals, Protestants

Jill Lawrence, on behalf of A Group of Five or More Individuals, Protestants

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

**ORDER DENYING APPLICANT'S MOTION TO STAY, MOTION FOR CONTINUANCE, AND MOTION TO QUASH THE SUBMISSION OF AN EMAIL OBTAINED BY THE APPLICANT INTO EVIDENCE**

The Old Naval Hospital Foundation, t/a The Old Naval Hospital Foundation (Applicant), filed an Application for a new Retailer's Class CX License (Application) at premises 921 Pennsylvania Avenue, S.E., Washington, D.C. The Alcoholic Beverage Control Board (Board) notes that protests were filed by two Groups of Five or More Individuals, which were combined into a single Group of Five or More Individuals (Protestants) at the Roll Call Hearing on July 18, 2011. The Board dismissed Francis L. Young from the protest because she did not appear at the

Roll Call Hearing or indicate a designated representative, and for that reason, denied Ms. Young's request for reinstatement. See The Old Naval Hospital Foundation, t/a The Old Naval Hospital Foundation, Board Order No. 2011-388 (D.C.A.B.C.B. Sept. 14, 2011). The Protestants are represented by Middleton Pope Barrow and Jill Lawrence. The Status Hearing was held on August 10, 2011, and the Protest Hearing is scheduled for October 5, 2011.

The Protestants have submitted a Motion to Stay, Motion for Continuance, and Motion to Quash the Submission of an Email Obtained by the Applicant into Evidence (collectively the "Motions"). We deny the Motions.

First, the Protestants have requested a continuance, to which the Applicant objects. Under our statutes, "[a] hearing may be continued for good cause . . . To be granted, the motion shall, in the opinion of the Board, set forth good and sufficient cause for continuance or demonstrate that an extreme emergency exists. D.C. Code § 25-441 (2001). The Protestants have requested that as a matter of courtesy, because they allowed the Applicant to change the date of mediation, they should be permitted to change the date of the Protest Hearing. *Transcript (Tr.)*, August 10, 2011 at 11. The Protestants also noted that some of the members of their group have planned vacations that overlap with the date of the Protest Hearing. *Tr.*, 8/10/11 at 11. We find that the circumstances described by the Protestants do not constitute an extreme emergency under § 25-441. As such, the Board denies the Motion for Continuance.

Second, the Protestants request that the Board stay the proceedings because they allege that the Applicant violated a federal privacy law and request that the Board prevent an email authored by Mr. Barrow and obtained by the Applicant from being entered into evidence. The Protestants allege that the Applicant has violated federal privacy laws by intercepting an email communication without explaining to the Board how the Applicant illegally obtained the email.

We deny the Motion for the reasons stated by the Applicant in its reply. First, the Board lacks jurisdiction over federal privacy laws and will not stop the proceedings for matters that are the responsibility of other coordinate government agencies. Kopff v. District of Columbia Alcoholic Beverage Control Board, 413 A.2d 152, 154 (D.C. 1980). Second, at the time of this Motion, the Applicant has not attempted to submit the email into evidence and the Board has not been presented with the email in question. As such, the Board cannot quash the email before it has an opportunity to consider the email's relevance. See 23 DCMR § 1714.3 (2008).

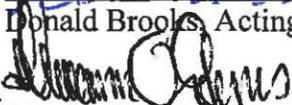
Therefore, for the foregoing reasons, we deny the Protestants' Motions.

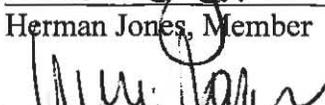
## ORDER

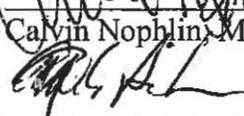
It is hereby **ORDERED**, on this 14th day of September 2011, that the Protestants' Motion to Stay, Motion for Continuance, and Motion to Quash the Submission of an Email Obtained by the Applicant into Evidence is **DENIED**. Copies of this Order shall be sent to the Applicant and the Protestants.

District of Columbia  
Alcoholic Beverage Control Board

  
Donald Brooks, Acting Interim Chairperson

  
Herman Jones, Member

  
Calvin Nophlin, Member

  
Mike Silverstein, Member

I recuse myself from this matter.

  
Nick Alberti, Interim Chairperson

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, Reeves Center, 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. 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) (2004).