

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

**In the Matter of:** )  
 )  
Good Essen-U Street, LLC )  
t/a Tico )  
 )  
Application for Substantial Change )  
(Change of Hours) )  
to a Retailer's Class CR License )  
 )  
at premises )  
1926 14<sup>th</sup> Street, N.W. )  
Washington, D.C. 20009 )  
 )

Case No. 15-PRO-00082  
License No. ABRA-093610  
Order No. 2015-407

Good Essen-U Street, LLC, t/a Tico (Applicant)

Joan Sterling, President, The Shaw-Dupont Citizens Alliance, Inc. (SDCA) (Protestant)

Noah Smith, Chairperson, Advisory Neighborhood Commission (ANC) 2B

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

**ORDER DENYING ANC 2B'S REQUEST FOR RECONSIDERATION**

The Application filed by Good Essen-U Street, LLC, t/a Tico, for a Substantial Change to change the hours to its Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on August 31, 2015, in accordance with D.C. Official Code § 25-601.

Prior to holding the Roll Call Hearing, Alcoholic Beverage Regulation Administration (ABRA) staff, pursuant to D.C. Official Code § 25-602, denied ANC 2B's protest because the protest was not timely filed. The protest petition deadline was August 17, 2015. ANC 2B's protest letter was received by ABRA on August 20, 2015.

On August 21, 2015, Chairperson Noah Smith, on behalf of ANC 2B, filed a Request for Reconsideration. Chairperson Smith stated that on August 12, 2015, ANC 2B

held a public meeting which was attended by the Applicant and various neighbors. The ANC 2B argues that the public meeting, which was held prior to the expiration of the protest deadline, constitutes valid notice to the public that the ANC timely voted to protest the application.

ABRA statutes provide that any person who objects to the approval of an application shall notify the Board in writing of his or her intention to object, and the grounds for the objection within the protest period. D.C. Official Code § 25-602(a).

Holding a public meeting in order to conduct a protest vote, no matter when the meeting is held, falls short of the requirements to object to an application. The Board finds that ANC 2B failed to comply with D.C. Official Code § 25-602(a) by not submitting a written protest letter to ABRA by August 17, 2015, the protest petition deadline.

The Board affirms its previous finding that the Protest filed by ANC 2B was untimely filed.

### **ORDER**

The Board does hereby, this 9th day of September, 2015, **DENY** the Request for Reconsideration filed by ANC 2B. Copies of this Order shall be sent to the Applicant, ANC 2B, and SDCA.

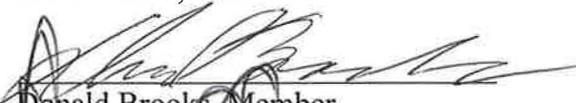
District of Columbia  
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



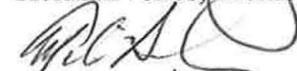
Nick Alberti, Member



Donald Brooks, Member



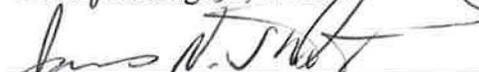
Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433, 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 14<sup>th</sup> Street, N.W., Suite 400S, Washington, DC 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) (2004).