

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

In the Matter of:)	
Eun & Peter, Inc.)	License No.: 085918
t/a Uncle Lee's Seafood)	Case No.: 12-PRO-00038
)	Order No.: 2012-380
Application to Renew a)	
Retailer's Class A License)	
at premises)	
1102 Eastern Avenue, N.E.)	
Washington, D.C. 20019)	

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Eun & Peter, Inc., t/a Uncle Lee's Seafood, Applicant

Peter H. Jung, on behalf of the Applicant

Khaliq Elhillali, Chairperson, on behalf of Advisory Neighborhood
Commission (ANC) 7C

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DENYING ANC 7C'S MOTION TO DISMISS

This matter comes before the Alcoholic Beverage Control Board (Board) on the Application to Renew a Retailer's Class A License (Application) filed by Eun & Peter, Inc., t/a Uncle Lee's Seafood (Applicant). The Application was timely protested by ANC 7C, represented by Chairperson Khaliq Elhillali.

The Roll Call Hearing occurred on May 29, 2012. At the hearing, Mr. Jung appeared on behalf of the Applicant without written authorization in accordance with 23 DCMR § 1707.1. *Transcript (Tr.)*, May 29, 2012, at 15. Over the objection of ANC 7C, the Board's Agent granted the Applicant standing, which was conditioned on Mr. Jung providing proof of his status as the Applicant's designated representative. *Tr.*, 5/29/12 at 18.

We then dismissed the parties for failing to appear at the Status Hearing scheduled on July 18, 2012; however, we later reinstated both parties, because they provided good cause for their absence from the hearing. Eun & Peter, Inc., t/a Uncle Lee's Seafood, Case No. 12-PRO-00038, Board Order No. 2012-337, 1-2 (D.C.A.B.C.B. Aug. 15, 2012).

Having reinstated both parties, we must now address ANC 7C's Motion to Dismiss, which asks us to overrule our Agent's decision to grant conditional standing to the Applicant. Specifically, ANC 7C asks us to dismiss the Application, because the Applicant did not appear at the hearing nor designate a representative in writing. Letter from Khaliq Elihillali, Chair, ANC 7C, to Ruthanne Miller, Chairperson, Alcoholic Beverage Control Board, 1 (Jun. 20 2012).

We deny ANC 7C's Motion to Dismiss, because the Board's Agent has the discretion to grant conditional standing to a party that fails to appear at the Roll Call Hearing. Our regulations state that the "[f]ailure to appear . . . may result in denial of the license application." 23 DCMR § 160.1.6 (West Supp. 2012). Therefore, because dismissal is not mandatory, we agree with our Agent's decision to grant the Applicant conditional standing.

We further note that Mr. Jung subsequently filed a "Power of Attorney and Declaration of Representative Form" that satisfies § 1707.1. As a result, there is no question that he is authorized to appear on behalf of the Applicant.

ORDER

Therefore, based on the foregoing findings of fact and conclusions of law, the Board, on this 10th day of October 2012, **DENIES** the Motion to Dismiss submitted by ANC 7C. ABRA shall deliver copies of this Order to the Government and the Respondent.

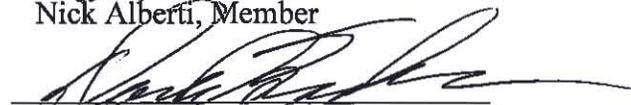
District of Columbia
Alcoholic Beverage Control Board



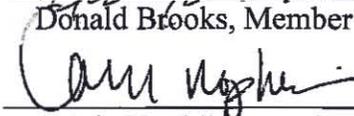
Ruthanne Miller, Member



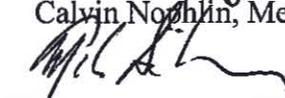
Nick Alberti, Member



Donald Brooks, Member



Calvin Nophlin, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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 (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).