

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

In the Matter of:

Bob-Kat, Inc.

t/a Minnesota Liquors

Application to Renew a Retailer's

Class "A" License at premises

2237 Minnesota Avenue, S.E.

Washington, D.C.

Applicant

Case No. 748-06/078P

License No. 222

Order No. 2008-103

BEFORE: Peter B. Feather, Chairperson
Judy A. Moy, Member
Albert G. Lauber, Member
Mital M. Gandhi, Member

ALSO PRESENT: Fred P. Moosally, III, Esquire, General Counsel
Alcoholic Beverage Regulation Administration

Jennifer L. Johnson, Esquire, Assistant Attorney General
Alcoholic Beverage Regulation Administration

David S. Chung, Esquire, on behalf of the Applicant

Anthony Muhammad, on behalf of Advisory Neighborhood
Commission 8A

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Application, filed by Bob-Kat, Inc., t/a Minnesota Liquors for renewal of its Class "A" Retailer's License at premises 2237 Minnesota Avenue, S.E., Washington, D.C., initially came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on July 5, 2006 that was continued to July 19, 2006. It was determined that a timely protest was filed pursuant to D.C. Official Code § 25-601 (2006 Supp.) by the Anacostia Coordinating Council ("ACC") represented by Phillip Pannell, and Advisory Neighborhood Commission ("ANC") 8A, represented by Commissioner Anthony Muhammad, Chairman (collectively, the Protestants). The filed protest issue, pursuant to D.C. Official Code § 25-602(a) (2001), is whether the renewal of the Applicant's license

would adversely affect the peace, order, and quiet of the neighborhood. Specifically, the Protestants are concerned about loitering, littering, and signage issues. On June 12, 2007, the Applicant and ACC entered into a Voluntary Agreement which was signed by both parties and submitted to the Board.

The case came before the Board for public protest hearings on August 1, 2007 and September 26, 2007. At the conclusion of the protest hearing, the Board took the matter under advisement. The Board, having considered the evidence, the testimony of the witnesses, the arguments of counsel, and the documents comprising the Board's official file, makes the following:

FINDINGS OF FACT

1. The Applicant's establishment is a liquor store located in a C-2-A zone at 2237 Minnesota Avenue, S.E., Washington, D.C. (ABRA License File No. 222; ABRA July 2007 Investigative Report at 2.) According to the zoning regulations, a C-2-A zone is defined to provide for low density development, including office, retail, and residential uses. (ABRA July 2007 Investigative Report at 2.) The Applicant's establishment is located in a one story brick building that is co-joined by Minnesota Market with a parking lot, set in a strip mall. (ABRA July 2007 Investigative Report at 2.) There is an alley that connects the establishment to Minnesota Liquors and a fence which has been cut through and pulled back so that patrons can enter the parking lot from the strip mall. (ABRA July 2007 Investigative Report at 3; Tr. 8/1/07 at 20-21.) The establishment is one of five tenants in the strip mall. (ABRA July 2007 Investigative Report at 2; Tr. 8/1/07 at 24.) Patrons of the establishment are allowed to select their own merchandise and present it to the cashier for purchase. (ABRA July 2007 Investigative Report at 3.) There is no bullet proof glass in the establishment and it is a self-service store. (Tr. 8/1/07 at 60.) The cashier is located at an open counter with two registers in the center of the establishment. (ABRA July 2007 Investigative Report at 3.) The establishment is bounded by "Q" Street to the South, and 23rd Street, S.E., to the East. Naylor Road and 22nd Street are located to the West of the establishment. (ABRA July 2007 Investigative Report at 2.) The Applicant has applied for the renewal of its Class "A" Retailer's License. (ABRA License File No. 222.) The ABRA July 2007 Investigative Report was admitted as the Board's Exhibit No. 1. (Tr. 8/1/07 at 74.)

2. There is one other ABC licensed establishment, J & D Market, located approximately one block away from the establishment. (ABRA July 2007 Investigative Report at 2.) Benjamin Orr Elementary School is located across the street from the establishment, and there are also four churches less than a mile away. (ABRA July 2007 Investigative Report at 2.) The current hours of operation for the Applicant's establishment are Monday through Thursday, 10:00 a.m. to 9:00 p.m.; and Friday and Saturday, 10:00 a.m. to 9:00 p.m. (ABRA License File No. 222; ABRA July 2007 Investigative Report at 2; Tr. 8/1/07 at 75.) Hours for sales of alcoholic beverages are Monday through Saturday, 10:00 a.m. to 9:00 p.m. (ABRA License File No. 222; ABRA July 2007 Investigative Report at 2; Tr. 8/1/07 at 75.)

3. ABRA Investigator Regina Hollis has been an ABRA investigator since May of 2007. (Tr. 8/1/07 at 15.) She testified that the protest issues that relate to peace, order, and quiet are quality of life issues such as the posting of excessive signage; and loitering which results in drinking, talking, and sleeping in the parking lot. (Tr. 8/1/07 at 16.)

4. Investigator Hollis and ABRA investigators visited the establishment on 22 separate occasions between July 2, 2007 and July 25, 2007. (ABRA July 2007 Investigative Report at 5; Tr. 8/1/07 at 17.) With regard to the issue of peace, order, and quiet, during a majority of the visits, there was no noise, loitering, or excessive signs posted advertising prices or illuminated signs after the establishment's hours of operation. (ABRA July 2007 Investigative Report at 5.) The establishment also appeared to be orderly and clean. (Tr. 8/1/07 at 20.) There were, however, several incidents documented by ABRA investigators during their visits. Specifically, there were several instances when people were observed drinking alcoholic beverages. (Tr. 8/1/07 at 17.)

5. On July 11, 2007, between the hours of 11:10 a.m. and 11:40 a.m., a man was observed drinking an alcoholic beverage while seated on a crate in the parking lot of the establishment. (ABRA July 2007 Investigative Report at 5; Tr. 8/1/07 at 17.) A can of beer, trash, and debris were also observed in the parking lot. (ABRA July 2007 Investigative Report at 5; Tr. 8/1/07 at 17.) On July 12, 2007, between 4:35 p.m. and 4:45 p.m., seven patrons were observed sitting on crates and consuming alcoholic beverages along the rear wall of the parking lot. (ABRA July 2007 Investigative Report at 6; Tr. 8/1/07 at 17.) On July 13, 2007, between 3:20 p.m. and 3:50 p.m., three men were observed drinking alcoholic beverages in the parking lot. (ABRA July 2007 Investigative Report at 6; Tr. 8/1/07 at 18.) On July 14, 2007, between 8:12 p.m. and 8:30 p.m., panhandlers were observed in front of the establishment for approximately fifteen minutes. (ABRA July 2007 Investigative Report at 6; Tr. 8/1/07 at 18.) Eight men were observed in the parking lot and three of them were carrying white cups. (ABRA July 2007 Investigative Report at 6; Tr. 8/1/07 at 18.) On July 16, 2007, between 3:28 p.m. and 3:45 p.m., a man and a woman were observed drinking outside of the establishment and the woman was observed urinating in the parking lot. (ABRA July 2007 Investigative Report at 6; Tr. 8/1/07 at 18.) On July 18, 2007, between 10:26 a.m. and 10:45 a.m., five people were observed loitering in the rear of the establishment and carrying brown paper bags. (ABRA July 2007 Investigative Report at 6; Tr. 8/1/07 at 19.) On July 23, 2007, between 10:45 a.m. and 11:20 a.m., six people were observed drinking and sleeping on the back wall of the parking lot. (ABRA July 2007 Investigative Report at 6; Tr. 8/1/07 at 19.) On July 25, 2007, between 7:55 p.m. and 8:20 p.m., two people were observed loitering in front of the establishment. (ABRA July 2007 Investigative Report at 6; Tr. 8/1/07 at 19.)

6. During the visits, Investigator Hollis did not observe Metropolitan Police Department ("MPD") officers issuing tickets for loitering or drinking in public. (ABRA July 2007 Investigative Report at 6; Tr. 8/1/07 at 19.) Between July 13, 2006 and July 16, 2007, there was one police radio run to the establishment for auto theft. (Tr. 8/1/07 at 19.) Investigator Hollis did not hear any gunshots or witness any violent criminal activity outside the establishment. (Tr. 8/1/07 at 57.) Investigator Hollis noted that given the

Applicant's age, 70, it would not be safe for him to ask loiterers who have been drinking to leave the parking lot. (Tr. 8/1/07 at 57-58.)

7. Investigator Hollis observed that the establishment has five video surveillance cameras which capture the lower area of the parking lot and the inside of the establishment. (ABRA July 2007 Investigative Report at 3; Tr. 8/1/07 at 20.)

8. During the July 23, 2007 visit, the Applicant, Hae Ryong Chung, told Investigator Hollis that when he speaks to people about loitering and drinking on the premises they threaten him. (Tr. 8/1/07 at 21.) He has called MPD for assistance and when they respond, the loiterers return after the police leave. (Tr. 8/1/07 at 22.) There are two to three "No Loitering" signs posted on the side of the establishment. (Tr. 8/1/07 at 68.) Mr. Chung cleans the parking lot daily and pays for private trash pick-up. (Tr. 8/1/07 at 22.) He cleans approximately three times daily and sometimes as needed to clean up the debris. (Tr. 8/1/07 at 54.) One of the pictures in the Investigative Report showed a can of Steel Reserve 211, which the establishment sells. (Tr. 8/1/07 at 104.) Investigator Hollis found a lot of alcoholic beverage containers, debris, and bottles when she inspected the area of the establishment. (Tr. 8/1/07 at 51.)

9. There are usually ten to twenty crates that are most likely from Minnesota Market in the parking lot. (Tr. 8/1/07 at 28.) The Applicant puts them in the trash, but the following day they are back in the parking lot. (Tr. 8/1/07 at 22, 28.) Minnesota Market orders dairy products that would be delivered in milk crates. (Tr. 8/1/07 at 35, 67.) According to Investigator Hollis, the Applicant is responsible, under his lease, for cleaning the entire parking lot. (ABRA July 2007 Investigative Report at 4; Tr. 8/1/07 at 23, 28.) She acknowledged that the lease may also be interpreted as requiring all tenants of the strip mall to maintain the parking lot; it may not be the sole responsibility of the Applicant. (Tr. 8/1/07 at 61-62.) There are two waste management bins in the parking lot, one for the establishment and one for Minnesota Market. (Tr. 8/1/07 at 20, 49.) There are also trash barrels in the rear that all of the tenants use. (Tr. 8/1/07 at 50.)

10. With regard to signage, on July 30, 2007, the signs posted at the establishment were not found to be in violation of Title 25 of D.C. Official Code Sections 763 and 765. (ABRA July 2007 Investigative Report at 5; Tr. 8/1/07 at 23, 28.) 25.) Once the establishment closed in the evenings there were no lights illuminated in the Applicant's windows. (Tr. 8/1/07 at 50.)

11. On June 25, 2007, Investigator Hollis conducted a regulatory inspection to address the operation of the establishment and its compliance with District laws, and found Mr. Chung on duty and no violations. (ABRA July 2007 Investigative Report at 7; Tr. 8/1/07 at 26.) The establishment does currently sell single sales of beer. (Tr. 8/1/07 at 41.) Investigator Hollis did note that some of the windows are painted white. (Tr. 8/1/07 at 40.)

12. Investigator Hollis did not receive any complaints from Benjamin Orr Elementary School which is located across the street from the establishment and only one church

reported a concern regarding loitering and public drinking. (Tr. 8/1/07 at 63.) School was in recess during the time of the visits and Investigator Hollis did not see any children going into the establishment. (Tr. 8/1/07 at 53, 68.) Because of the recess, there was no one from the school for her to speak to about the complaints made by the Protestants. (Tr. 8/1/07 at 68.)

13. With regard to parking, Investigator Hollis stated that there is a parking lot for patrons of Minnesota Liquors, Minnesota Market, and patrons of the rest of the strip mall. (ABRA July 2007 Investigative Report at 7; Tr. 8/1/07 at 24-26.) There is also one hour street parking available between the hours of 7:00 a.m. and 6:30 p.m. (ABRA July 2007 Investigative Report at 7; Tr. 8/1/07 at 25.) Signs in the parking lot also indicate that there is thirty minute parking for customer shopping. There are also two spaces in the lot reserved for Minnesota Liquor employees. (ABRA July 2007 Investigative Report at 7; Tr. 8/1/07 at 25-26.) There appear to be seven to eight spaces for Minnesota Liquors in total. (Tr. 8/1/07 at 49.)

14. Jennifer Chung is the Corporate Secretary for Bob-Kat, Inc. (Tr. 8/1/07 at 74.) She is also the daughter of the owner of the establishment, Mr. Chung. (Tr. 8/1/07 at 112.) She assists Mr. Chung and works as a cashier and lottery attendant. (Tr. 8/1/07 at 74.) On occasion she cleans both inside and outside of the establishment. (Tr. 8/1/07 at 74-75.) Ms. Chung works at the establishment at all times during its hours of operation. (Tr. 8/1/07 at 75.) The Board admitted into evidence pictures that depict the quality of the parking lot during normal business hours. (Tr. 8/1/07 at 75; Applicant's Exhibit 1.) It is Ms. Chung's understanding that the establishment is not solely responsible for cleaning the parking lot. (Tr. 8/1/07 at 76.) One of the photos in Applicant's Exhibit 1 shows crates in the parking lot. (Tr. 8/1/07 at 88.)

15. With regard to the relationship with the Benjamin Orr Elementary School, the establishment makes donations to the school every year and has received certificates of excellence from the school for its efforts to improve the school's programs and resources. (Tr. 8/1/07 at 80.) The establishment also maintains close ties with the churches in the area. (Tr. 8/1/07 at 81.)

16. With regard to peace, order, and quiet, Ms. Chung has asked loiterers to leave the parking lot but she does not feel safe doing so, and instead accompanies Mr. Chung when he directs loiterers to vacate the premises. (Tr. 8/1/07 at 81, 86.) On these occasions, Ms. Chung sees some loiterers who she recognizes as regular customers. (Tr. 8/1/07 at 118.) Mr. Chung is at the establishment at all times. (Tr. 8/1/07 at 85.) There are no other employees younger than Mr. Chung who can confront loiterers. (Tr. 8/1/07 at 85.) Ms. Chung is opposed to using clear plastic bags instead of the black plastic bags they currently use because there is a financial cost associated with ordering clear bags. (Tr. 8/1/07 at 127.) The establishment currently sells individual cups for twenty cents. (Tr. 8/1/07 at 130.)

17. Ms. Chung and Mr. Chung keep track of cars in the parking lot and make an effort to ask people to leave if they have been parked for long periods of time. (Tr. 8/1/07 at 94.)

They have also called MPD about loitering in the parking lot. (Tr. 8/1/07 at 95.) Since Investigator Hollis' visits, the establishment has maintained a log of calls made to MPD indicating whether they have responded to assist with problems in the parking lot. (Tr. 8/1/07 at 122.) They have only called non-emergency, 311, for assistance. (Tr. 8/1/07 at 124.) An MPD officer has come to the establishment in response to a call on one occasion. (Tr. 8/1/07 at 139.)

18. With regard to children entering the establishment, Ms. Chung indicated that signs are posted at the front entrance and the exit indicating that children are not permitted in the store during certain hours. (Tr. 8/1/07 at 100, 101.) Additionally, Mr. Chung is present at all times and directs underage children out of the store if they are not abiding by the posted sign. (Tr. 8/1/07 at 102.)

19. With regard to signage, there are liquor signs on top of the front door, one on the back of the store, and one on the side of the store. (Tr. 8/1/07 at 131.) Ms. Chung does not believe that the signs would be in violation of the voluntary agreement signed with ACC which prohibits alcohol signage on the exterior walls. (Tr. 8/1/07 at 131-133.) It is Ms. Chung's understanding that the voluntary agreement is referring to exterior signs referencing prices and not just advertising alcohol. (Tr. 8/1/07 at 146.) According to Ms. Chung, Mr. Chung does not have any control over the exterior walls or the exterior part of the building. (Tr. 8/1/07 at 147.)

20. Hae Chung is the licensee. (Tr. 9/26/07 at 71-72.) He testified that the voluntary agreement signed on 6/12/07 with the ACC is in full force and effect. (Tr. 9/26/07 at 12.) The establishment has been in compliance with the agreement. (Tr. 9/26/07 at 50.) In reference to Provision Number 9 of the voluntary agreement which calls for the licensee to prohibit loitering in front of the business and to post a "No Loitering" sign, Mr. Chung testified that there are still a few people who loiter. (Tr. 9/26/07 at 14.) A "No Loitering" sign has been posted on the parking lot side of the building. (Tr. 9/26/07 at 14, 50.) There is also a "One Hour Parking" sign posted. (Tr. 9/26/07 at 15.) The signs were posted by the landlord and according to Mr. Chung, are enforced by the landlord. (Tr. 9/26/07 at 15.) There is only one "No Loitering" sign, but he would be willing to put up a couple more signs if asked by the Board. (Tr. 9/26/07 at 59.) Mr. Chung interprets Provision Number 7 of the voluntary agreement with the ACC, prohibiting the licensee from advertising tobacco and alcohol, as referring to signs outside of the building. (Tr. 9/26/07 at 60-61.) There are two liquor signs on the exterior walls of the establishment which have been posted for many years. (Tr. 9/26/07 at 62.) When the voluntary agreement was signed, the Applicant believed the establishment in its existing condition would not violate the agreement, and that because tobacco and alcohol appear in quotes, the signs were not a problem. (Tr. 9/26/07 at 62.)

21. Mr. Chung has removed crates everyday for a month from the parking lot, but after removal more crates appear. (Tr. 9/26/07 at 21, 71.) He has met with the owner of the store that borders his establishment, but not the Public Service Area ("PSA") officer of the 6th District. (Tr. 9/26/07 at 21-22.) He has two surveillance cameras located outside

the store, which he believes are sufficient. There are also four cameras in the store, and five in the office. (Tr. 9/26/07 at 25.)

22. Mr. Chung has a good relationship with the Benjamin Orr Elementary School and every year at Christmas, the establishment gives money to the school for its use in purchasing computers and for field trips. (Tr. 9/26/07 at 26, 29; Applicant's Exhibits A and B.) Mr. Chung does not allow children under the age of eighteen in the store before 3:00 p.m. (Tr. 9/26/07 at 30, 50.) He has two signs posted on the front door and one on the wall in the entrance indicating that children under the age of 18 are not permitted in the store at certain times. (Tr. 9/26/07 at 30-31, 50; Applicant's Exhibit C.)

23. Mr. Chung makes a concerted effort to keep the parking lot clean. (Tr. 9/26/07 at 36.) He cleans it approximately three times a day. (Tr. 9/26/07 at 51.) Some of the trash in the parking lot is dumped by neighbors. (Tr. 9/26/07 at 51.) Mr. Chung has tried to remove the crates from the lot and none of the other business owners assist him. (Tr. 9/26/07 at 39.) He appears to be the only person cleaning the parking lot; he also cleans in front of the school and the church as well. (Tr. 9/26/07 at 56.) The establishment owns one of the trash bins in the parking lot. Two are owned by a Carry-Out, and one belongs to Minnesota Market. (Tr. 9/26/07 at 56-57.) Mr. Chung cleans the bins. (Tr. 9/26/07 at 56-57.) The parking lot is equally shared among the five stores and he is not able to single handedly fix the crate and loitering issue. (Tr. 9/26/07 at 39.) When he has asked loiterers to move, they become belligerent. (Tr. 9/26/07 at 40.) He is at the store six days a week during its hours of operation. (Tr. 9/26/07 at 40.) Mr. Chung has suffered property damage as a result of retaliation by loiterers upset that he has asked them to leave. (Tr. 9/26/07 at 40-41.) When Mr. Chung has called MPD on the non-emergency line, often times they do not respond. (Tr. 9/26/07 at 40-41.) When they have responded, the loiterers return after MPD leaves. (Tr. 9/26/07 at 41.) Mr. Chung did not previously keep a log of calls made to MPD until recently. (Tr. 9/26/07 at 53.) At any one time there may be four to six people loitering. (Tr. 9/26/07 at 41.) Some of the loiterers appear to reside in an abandoned house behind the fence of the parking lot. (Tr. 9/26/07 at 42.)

24. The establishment currently uses black plastic bags. (Tr. 9/26/07 at 52.) Some of the bags left as debris are from the establishment and some are from other establishments such as J&D Market and Martha's Market, ABRA licensees within one block of the establishment. (Tr. 9/26/07 at 52.) Sometimes when Mr. Chung arrives at the establishment there are loiterers already present with items that were not purchased from the establishment. (Tr. 9/26/07 at 52.) Some of the loiterers in the area do purchase alcohol from the establishment. (Tr. 9/26/07 at 63.) When Mr. Chung does not allow them in the establishment, they sometimes send in a delegate to make purchases. (Tr. 9/26/07 at 63.)

25. With regard to Mr. Chung's relationship to the churches within a block of the establishment, a letter of support from Reverend Dolores McLaughlin of the Second Street James Baptist Church was admitted into evidence. (Tr. 9/26/07 at 43, 46; Applicant's Exhibit E.) A letter from Grace Memorial Baptist Church, which was written by a corporate officer for the establishment and signed by Samuel Jones, Chairman of the

Deacon Board for Grace Memorial Baptist Church, was also admitted into evidence. (Tr. 9/26/07 at 47-48; Applicant's Exhibit F.)

26. Some of the windows in the establishment are covered for safety reasons. (Tr. 9/26/07 at 54.) Coverage keeps people on the outside from watching the customers and employees on the inside of the establishment. (Tr. 9/26/07 at 54.) Mr. Chung indicated that he has stopped selling go-cups at the direction of the ANC. (Tr. 9/26/07 at 55.) He has been in business at the current location for 20 years and has never had an ABRA violation. (Tr. 9/26/07 at 58.) With regard to the fence which has been cut and pulled open allowing patrons to enter the parking lot from the rest of the strip mall, the landlord has repaired it on two occasions but it was breached shortly after the repairs were made. (Tr. 9/26/07 at 65.)

27. Anthony Muhammad, Chairman of ANC 8A, testified that the establishment should be under stricter scrutiny as it is across the street from an elementary school and near five churches. (Tr. 9/26/07 at 74.) Most of the Class A and B licensed stores sell single sales in black plastic bags, so it is difficult to determine which store is the source of the bag. (Tr. 9/26/07 at 78.) If the ANC were to have a voluntary agreement with the establishment, the priorities for inclusion in the agreement would be: no advertising, and no loitering in the parking lot so that establishing a relationship with the PSA officer would be important. (Tr. 9/26/07 at 79-80.) Mr. Muhammad is concerned about the influence advertisements will have on children in the area. (Tr. 9/26/07 at 79-80.) He also testified that the establishment has been there so long that most people can blindly walk to the establishment. (Tr. 9/26/07 at 79.) Given that Mr. Chung knows where some of the loiterers live, as Mr. Chung testified, he could inform MPD of their whereabouts. (Tr. 9/26/07 at 79-80.)

CONCLUSIONS OF LAW

28. Pursuant to D.C. Official Code § 25-313(a) (2001), an Applicant must demonstrate to the Board's satisfaction that the establishment for which a liquor license is sought is appropriate for the neighborhood in which it is located. Having considered the evidence upon which this determination must be made and the findings of fact adduced at the protest hearing, the Board concludes that the Applicant has demonstrated that the renewal of its Retailer's Class "A" License, with the conditions imposed by the Board as listed below, would be appropriate for the area in which the establishment is located.

29. The Board recognizes that pursuant to D.C. Official Code § 1-309.10(d) and D.C. Official Code § 25-609, an ANC's properly adopted written recommendations are entitled to great weight from the Board. See Foggy Bottom Ass'n v. District of Columbia ABC Bd., 445 A.2d 643 (D.C. 1982). In this case, Anthony Muhammad, ANC 8A Chairperson, on behalf of ANC 8A, filed a timely protest letter on November 28, 2005, opposing the renewal of the Applicant's Class "A" Retailer's License. In its November 28, 2005 letter to the Board, ANC 8A explained that it is particularly concerned about the sale of singles and aggressive loitering by patrons in the public space immediately in

front of the business; excessive advertising; and the establishment's proximity to a nearby school. In a May 4, 2006 letter to the Board, ANC 8A also voiced opposition to the renewal due to the aesthetics of the establishment, which they said required improvement. Mr. Muhammad reiterated some of these concerns during his oral testimony before the Board. The Board notes that the written recommendations of ANC 8A are entitled to great weight.

30. Pursuant to D.C. Official Code § 25-313(b)(2) (2001) and 23 DCMR § 400.1(a) (2004), the Board must determine whether the renewal of the Applicant's Class "A" Retailer's License will have an adverse effect on the peace, order, and quiet of the neighborhood. The relevant issues of peace, order, and quiet in this case related to issues of loitering, littering, and excess signage. The testimony of Investigator Hollis revealed that during the majority of the visits by ABRA investigators, there were no problems with noise, loitering, excessive signs posted advertising prices, or illuminated signs after the establishment's hours of operation. She also found the establishment to be orderly and clean. In deciding whether or not to renew the Applicant's license the Board weighed concerns raised in Investigator Hollis' testimony which revealed a number of observations of public drinking, loitering near the premises and in the parking lot, and litter near the premises and in the parking lot. The Board took these problems into account in deciding to require the Applicant to place single containers in clear plastic bags instead of black plastic bags.

31. While the testimony of Investigator Hollis did indicate some issues with litter in the area, the testimony of Mr. Chung and Ms. Chung reflected that the Applicant has made a concerted effort to clean up litter in the area of the establishment. Specifically, both Mr. and Ms. Chung testified that Mr. Chung cleans the parking lot at least three times a day with no assistance from other business owners in the strip mall. His efforts were thoroughly described in testimony given by Investigator Hollis, Ms. Chung, and Mr. Chung. The Board finds his efforts as described to be reasonable even though litter, including milk crates, continue to appear shortly after he cleans. Some of the littered bags, as referenced by Investigator Hollis, appear to come from other establishments. The Board heard testimony regarding a fence which is torn and pulled open that allows for entry to the parking lot from other areas. The Board finds that repairing the fence may assist in preventing easy access to the parking lot for individuals who may litter. As such, the Board is asking the licensee to make a written request to the landlord to repair the fence. If the Applicant finds that the fence is not on the Landlord's property he may bring it to the Board's attention so that the issue can be revisited.

32. As to the issue of loitering the Board found the testimony of Ms. Chung and Mr. Chung to be persuasive that despite his efforts to effectively confront loiterers who have been drinking, his success has been limited in part due to his age, as well as Ms. Chung's safety concerns as it pertains to confronting loiterers. The Board believes problems with loitering would be assisted by Mr. Chung making contact and working with his PSA. Mr. Chung has not made contact with the PSA. Although he has called the police on occasion, having a working relationship with the PSA should greatly assist in improving the responsiveness of MPD to his calls and concerns. Mr. Chung testified that some of

the loiterers reside in a house behind the fence in the back of the establishment. As Mr. Muhammad testified, such pertinent information should be conveyed to the PSA representative to assist in identifying and addressing known loiterers. Thus, the Board is ordering the Applicant to maintain contact with the PSA. To further address the issue of loitering, the Board is requiring the Applicant to have clear plastic bags for the sale of single containers of beer, malt liquor, and ale to help lessen public drinking. The Board is also requiring that the Applicant keep an incident log to assist it in tracking how often calls are made to MPD when unlawful activities are observed. The Board finds that the posting of "No Loitering" signs is important in attempting to prevent loitering and is ordering the posting of two additional signs by the Applicant so that they are clearly visible and placed in separate distinct areas from the one that is currently posted. To reduce the likelihood of loitering, the Board is also asking the licensee to strictly comply with Title 25 which indicates that go-cups and back-up drinks are prohibited and cannot be sold or provided to customers. Finally, the Board is requiring the parking signs currently posted in the parking lot limiting the amount of time for parking to remain in place as a means of discouraging people from parking for long periods of time.

33. Both Ms. Chung and Mr. Chung have testified that the establishment has been in compliance with the voluntary agreement signed with ACC. The Board is approving the agreement as a condition of this Order, but notes that as to the issue of signage, it will be giving a "plain meaning" interpretation to provision number seven of the agreement. Ms. Chung testified that it was her understanding that they were only prohibited from posting signs pertaining to prices. The provision seems to be clear and does not call for opinions as to its meaning. It states that 'the Licensee will not advertise "tobacco and alcohol" in the exterior walls of the property used by the Licensee to conduct business.' The Applicant signed the voluntary agreement, and the Board finds that they are therefore prohibited from posting any signs regarding alcohol on the outside of their building. Thus, the signs posted on the exterior of the establishment must be removed.

34. The testimony of Mr. Muhammad raised a valid concern regarding the establishment's influence on children in the area, particularly those attending the elementary school across the street and the influence the establishment may have in encouraging them to drink alcohol. Under D.C. Official Code § 25-782(a), "the licensee under an off-premises retailer's license, class A, shall not permit a person under 18 years of age to enter the licensed establishment between the hours of 8 a.m. and 3 p.m. on any day in which the public schools of the District of Columbia are in session during the regular school year." Ms. Chung and Mr. Chung both indicated that they do not allow minors in the establishment during these hours and that school children are directed out of the store if they attempt to enter. The Board believes that ordering the Applicant to maintain its posted signs related to this prohibition will assist in keeping school children out of the establishment during school hours. The Board does however appreciate the supportive relationship Mr. Chung has established with the Benjamin Orr Elementary School and some of the churches in the neighborhood.

35. The Applicant's hours of operation and sales were not raised as an issue and the Board will allow them to remain the same for renewal.

36. Pursuant to D.C. Official Code § 25-313(b)(3) (2001) and 23 DCMR § 400.1(b) (2004), the Board must determine whether the renewal of the Applicant's Class "A" Retailer's License will have an adverse effect on residential parking needs and vehicular and pedestrian safety. The testimony of Investigator Hollis revealed that the establishment will not have an adverse effect on residential parking needs and vehicular and pedestrian safety. Specifically, Investigator Hollis testified that there is a parking lot for patrons of Minnesota Liquors, Minnesota Market, and patrons of the rest of the strip mall. There is also one hour street parking available between the hours of 7:00 a.m. and 6:30 p.m. Signs in the parking lot also indicate that there is thirty minute parking for customer shopping. There are also two spaces in the lot reserved for Minnesota Liquor employees.

37. The Board finds no evidence based upon the record as a whole, that the Applicant's establishment would have an adverse impact on real property values. This was not a protest issue raised by the Protestants.

ORDER

Therefore, it is hereby **ORDERED** on this 26th day of March 2008 that the Application for renewal of a Retailer's Class "A" License filed by Bob-Kat, Inc., t/a Minnesota Liquors, at 2237 Minnesota Avenue, S.E., Washington, D.C., be and the same is hereby **GRANTED**.

It is **FURTHER ORDERED** that the following conditions are hereby imposed on the Applicant and shall become a term and condition of the license:

1. The Board approves the conditions contained in Applicant's June 12, 2007 voluntary agreement with ACC representative Phillip Pannell (copy attached);
2. The Applicant shall use clear plastic bags when selling single containers of beer, malt liquor; or ale;
3. The Applicant shall sell alcoholic beverages Monday through Saturday, between the hours of 10:00 a.m. and 9:00 p.m.;
4. The Applicant shall call MPD when unlawful activity, such as drinking alcohol in public, is observed and maintain an incident log of such calls;
5. The Applicant shall meet and maintain regular contact with the PSA for the Sixth District for the purpose of addressing the issue of loitering;
6. The Applicant shall not post any alcohol signs on the exterior of the establishment. Signs advertising alcohol and signs providing prices for alcohol are prohibited;

7. The Applicant shall add two "No Loitering" signs to the exterior of the establishment where they are clearly visible and in separate distinct areas;


8. In accordance with D.C. law, the Applicant shall not sell or provide go-cups to customers;

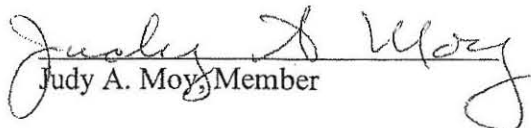
9. The Applicant shall request that the landlord repair or replace, and maintain the fence which is currently torn and pulled open;


10. The Applicant shall maintain its parking signs in the parking lot; and

11. Consistent with District law, the Applicant shall not permit any person under 18 years of age to enter the establishment between the hours of 8 a.m. and 3 p.m. on any day in which the public schools of the District are in session during the regular school year.

District of Columbia
Alcoholic Beverage Control Board


Peter B. Feather, Chairperson


Judy A. Moy, Member

Albert G. Lauber, Member

Mital M. Gandhi, 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, 941 North Capitol Street, N.E., Suite 7200, Washington, D.C. 20002.

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 (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).

FROM :

FAX NO. :

Dec. 30 1999 08:02PM P2

Cooperative Agreement
Between

GOVT OF THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE
REGULATION ADMINISTRATION

2007 JUN 12 P 3:51

Anacostia Coordinating Council (ACC)

L. Fletcher

DWS

And

Minnesota Liquors
(Licensee Trading as)

2237 Minnesota Ave, SE WDC 20020
(Address)

(Retailer's class & License Number)

WHEREAS, the licensee has applied to renew an Alcoholic Beverage Control
Retailer's Class B license for the business and location named above and

WHEREAS, the Licensee and the ACC have discussed

The concerns of the community and have reached an understanding relating
To the operation of the ABS licensed establishment as well as the level of
cooperation that shall exist between the Licensee and the community.

NOW, THEREFORE, the Licensee agree to the following:

1. The Licensee will comply with all the laws and regulations governing
The operation of a Retailer's Class A license by which this cooperative
Agreement applies, as applied for and approved by the District of
the Columbia in the name of the Licensee.
2. The sale of drug paraphernalia is illegal (see 48 D.C. Code section
1103—violation is subject to jail and/or fine for the first offence) as is
the sale of single or loose cigarettes. The Licensee will not sell
any drug paraphernalia or specified items that can assist in drug use.
 - a. Cigarette rolling paper; cocaine freebase kit
 - b. Pipes or any kind (metal, wooden, acrylic, glass, stone, plastic
or ceramic), spoons, marijuana bongs, roach clips, cigar screens
 - c. individual brillo (other brand names) pads scouring pads or steel wool
that are not contained in tagged manufactured packaging
 - d. Small plastic zip lock bags (less than 3/4" in size)
 - e. Single or loose cigarettes
 - f. Blunt papers, blunt wrappers and tobacco leaves
 - g. Single/individual razor blades that are not contained in tagged
manufactured packaging
 - h. ~~small bags of ice, "go cups"~~ (deleted)

RF
AR

i. paper or plastic individual cups

3. The Licensee will not sell alcoholic beverages before or after ABC Regulated hours.
4. The Licensee will keep the "immediate environs" as defined in the D.C. official code, Title 25 Section 24-726 Control of Litter. (a) the licensee under a retailer's license shall take reasonable measure to ensure that the immediate environs of the establishment including adjacent alleys, sidewalks, or other public property immediately adjacent to the establishment, or other property used by the licensee to conduct its business, are kept free of litter. (b) The licensee under a retailer's license shall comply with the Litter Control Expansion Amendment Act of 1987, effective October 9, 1987 (D.C. Law 7-38, 23 DCMR 720).
5. The Licensee will keep the inside of the store free of debris and trash.
6. The Licensee (establishments with parking lots only) will post "PARKING LIMITS" signs on their parking lot to deter unwanted guest from parking for long periods of time without patronizing the store.
7. The Licensee will not advertise "tobacco and alcohol" in the exterior walls of the property used by the Licensee to conduct business.
8. The Licensee will promptly (that's is within 30 days) remove or Paint over any graffiti written on the exterior walls of the property used by the Licensee to conduct business.
9. The Licensee will prohibit loitering in front of the business, will use reasonable efforts to enforce such a prohibition, and will post "NO LOITERING" signs in a prominent place on the exterior of its establishment.
10. The Licensee will post a warning sign that states it is illegal for anyone under the age of 18 to purchase tobacco products. The sign will include a surgeon general's warning. In addition, the sign will clearly state the maximum fine for a violation of this section and the sign will be visible to the public.
11. The Licensee will request that everyone that appears to be under the age of 18 to show proper identification when purchasing tobacco.
12. The Licensee will not sell or deliver alcoholic beverages to any person under the age of 21. In addition, the licensee will post a warning sign that states it is illegal for anyone to sell, serve, or distribute alcoholic beverages to anyone under the age of 21 and the sign will be visible to the public.
13. The Licensee will not knowingly sell alcoholic beverages to an intoxicated person.
14. The Licensee will take all reasonable precautions to avoid the sales of alcoholic beverages in any form to anyone accompanying a person who has been denied service, if it appears that an attempt is being made to buy alcohol for that person who has been denied.
15. The Licensee will install and properly maintain at least one surveillance camera inside of the property used by the Licensee to conduct business.

16. The Licensee will contact the Metropolitan Police Department and report any and all unlawful activity conducted inside or observed outside of the property used by the Licensee for business.
17. The Licensee agrees to work with the community to resolve problems that brought to the attention of the Licensee. Specifically the Licensee agrees to respond within fourteen (14) business days to any written complaint that is received from the ACC and further agrees to document its reasonable efforts to respond to such written complaint.
The ACC give their assurance that any complaints towards the Licensee will notify or inform the Korean American Business Association (KABA).
18. The Licensee agrees and assures that all of its employees will adhere to the provisions of this agreement, particularly with respect to the sale of alcoholic beverages in any form.
19. The Licensee agrees to have a copy of this Cooperative Agreement available upon request at the location of the business.
20. In the event any provision of this Agreement is deemed to be void, invalid or unenforceable that provision shall be served from the remainder of this agreement so as not to cause the invalidity or unenforceability of the remainder of this agreement. All remaining provisions of this agreement shall then continue in full force and effect. If any provision shall be deemed invalid due to scope or breadth permitted by law.
21. This agreement may be modified, superseded or void only upon the written and signed Agreement of the Parties. Further, the physical destruction or loss of This document shall not be construed as a modification or termination of the agreement contained herein.
22. Each party acknowledges that he/she has had an adequate opportunity to read and fully consider the terms of this Agreement. The terms and conditions of this entire Agreement are agreed and understood by the Licensee and the community of ACC.
23. The Licensee is assured that the provisions of this agreement will be offered to other Members of the Ward 8 Business Community (Gas stations, Delis, Vendors and Liquor Stores).
24. The Licensee acknowledges the provisions of this agreement will be fully enforced by the effective date.

The provisions of this Cooperative Agreement shall become part of the conditions of the ABC license and shall remain in force for the duration of renewal period of the license. Violation of this Cooperative Agreement by the Licensee or the Licensee's failure to implement measures called for in the Cooperative Agreement, shall be considered just cause for the ABC board to initiate a show cause hearing upon evidence that a licensee has violated a cooperative agreement. Upon a determination that the licensee has violated the cooperative agreement, the board shall penalize the Licensee according to the provisions set forth for violations of a license in Chapter 8 of the D.C. Official Code, Title 25.

Notwithstanding anything to the contrary herein, Licensee shall use reasonable efforts to control litter, keep the property clean, maintain signs and placards as required, and monitor activities around the property as more fully set forth in Section 4, 5, 6, 9, 11

and 16. ACC agree to provide written notice to Licensee and the opportunity to correct same prior to initiating a "show cause" hearing for such violations; provided however that no more than two notice shall be required in any twelve-month period and, provide further, that no notice shall be deemed necessary for subsequent willful violations.

Licensee's Name Bob-KAT INC.
Licensee's Signature David Chung Date 6/12/07
Licensee's Trade Name Minerol Liquors

Community Representatives

Anacostia Coordinating Council (ACC)

Name Philip E. Pennell
Signature Philip E. Pennell Date 6/12/07
ACC

Name _____
Signature _____ Date _____

ACC
Name _____
Signature _____ Date _____