

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

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In the Matter of:)		
))		
F & A, Inc.)	Case No.:	14-PRO-00089
t/a Anacostia Market)	License No.:	ABRA-086470
))	Order No.:	2015-021
Application for Renewal of a)		
Retailer's Class B License)		
))		
at premises)		
1303 Good Hope Road, S.E.)		
Washington, D.C. 20020)		
_____)		

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

ORDER DENYING MOTION FOR RECONSIDERATION

The Application filed by F & A, Inc. t/a Anacostia Market, for renewal of its Retailer's Class B License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on December 1, 2014, in accordance with the D.C. Official Code § 25-601 (2001).

On December 1, 2014, the Board dismissed the Application and the Protest of Advisory Neighborhood Commission (ANC) 8A, because the Applicant and ANC 8A failed to appear at the Roll Call Hearing. *See F&A Inc. t/a Anacostia Market*, Case No.: 14-PRO-00089, Board Order No. 2014-497 (D.C.A.B.C.B. December 3, 2014).

The Applicant and ANC 8A each filed a Request for Reinstatement on December 11, 2014 and December 13, 2014, respectively. On December 17, 2014, the Board denied both of the requests due to the failure of each party to demonstrate good cause for the absences at the Roll

Call Hearing as outlined in 23 DCMR § 1601.6. *See F&A Inc. t/a Anacostia Market*, Case No.: 14-PRO-00089, Board Order No. 2014-527 (D.C.A.B.C.B. December 17, 2014).

In response to Board Order No. 2014-527, the Applicant filed a Motion for Reconsideration on December 30, 2014. *ABRA Protest File 14-PRO-00089, Applicant's Motion for Reconsideration* dated December 30, 2014. In its motion, the Applicant emphasizes that while 23 DCMR § 1602.3 provides examples of good cause for failure to appear, it is not an exclusive list. *Id.* Further, the Applicant argues that service of the notice of the scheduled Administrative Review/Roll Call Hearing was not effected by ABRA. *Id.*

Discussion

The Board affirms its prior Order and denies the Applicant's Motion. The Applicant's Motion fails for two reasons. First and foremost, the Board re-emphasizes its arguments articulated in Board Order No. 2014-527 with regards to the Applicant's receipt of notice. *See F&A Inc. t/a Anacostia Market*, Case No.: 14-PRO-00089, Board Order No. 2014-527, 2 (D.C.A.B.C.B. December 17, 2014). Further the Board takes administrative notice of ABRA records which indicate that not only did the Applicant receive notice of the Roll Call Hearing date, the Roll Call Hearing date is also placed on the Notice of Public Notice which is on window display of the Applicant's establishment at 1303 Good Hope Road, SE. *F&A Inc. t/a Anacostia Market*, Case No.: 14-PRO-00089, Board Order No. 2014-527, 2 (D.C.A.B.C.B. December 17, 2014); *See also ABRA Protest File 14-PRO-00089*, Notice of Public Notice, 1 (dated October 3, 2014). Therefore, the Board does not give credit to the Applicant's argument that it did not receive notice and finds that the Applicant was duly served.

Lastly, the Board finds that the Applicant's current Motion for Reconsideration is moot. In Board Order No. 2014-527, the Board advised the Applicant that it must file another application to renew its license because its license effectively expired on September 30, 2014. *F&A Inc. t/a Anacostia Market*, Case No.: 14-PRO-00089, Board Order No. 2014-527, 2 (D.C.A.B.C.B. December 17, 2014). ABRA records indicate that on December 31, 2014, the Applicant took heed to this directive and filed a new Application for the Renewal of a Retailer's Class B license. *ABRA Licensing File 086470, Application for the Renewal of a Retailer's Class B License* (dated December 31, 2014). Thus, the Applicant currently has an active license application pending with ABRA, obviating the need to reinstate an earlier application.

For the foregoing reasons, the Applicant's Motion for Reconsideration is hereby denied.

ORDER

Therefore, based on the foregoing, the Board, on this 14th day of January 14, 2015, **DENIES** the Applicant's Motion for Reconsideration.

ABRA shall deliver copies of this Order to the Applicant and the Protestant.

District of Columbia
Alcoholic Beverage Control Board



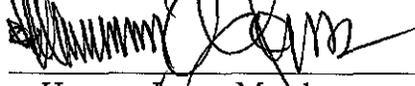
Ruthanne Miller, Chairperson



Nick Alberti, Member



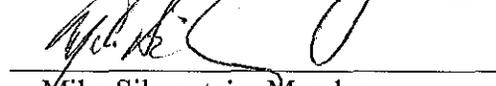
Donald Brooks, Member



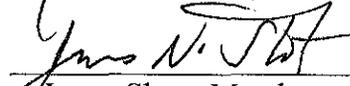
Herman Jones, Member



Hector Rodriguez, Member



Mike Silverstein, Member



James Short, Member

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, 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, 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).