

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

In the Matter of:)		
)		
F & A, Inc.)	Case No.:	14-PRO-00089
t/a Anacostia Market)	License No.:	ABRA-086470
)	Order No.:	2014-527
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 APPLICANT AND PROTESTANT'S REQUESTS FOR
REINSTATEMENT**

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.

In his Request, the Applicant alleges that he failed to attend the Roll Call Hearing because he did not receive notification by phone or by mail. *ABRA Protest File 14-PRO-00089, Applicant's Request for Reinstatement* dated December 11, 2014.

In the ANC's Request, the ANC alleges that the ANC failed to appear due to the death of the late Honorable Marion Barry. *ABRA Protest File 14-PRO-00089, ANC 8A's Request for Reinstatement* dated December 13, 2014. Further, the ANC alleges that it did not have time to request a continuance of the Roll Call Hearing. *Id.* Accordingly, the ANC requested that the Board provide a new date for the Roll Call Hearing. *Id.*

Discussion

As outlined in 23 DCMR § 1602.3, the failure to appear in person or through a designated representative at the Roll Call Hearing may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown. 23 DCMR § 1602.3. Under 23 DCMR § 1601.7, the Board shall consider whether, in its discretion, the party has shown good cause for his or her failure to appear at Board hearings. 23 DCMR § 1601.7. Examples of good cause for failure to appear include, but are not limited to: sudden, severe illness or accident; death or sudden illness in the immediate family such as spouse, partner children, parents, siblings; incarceration; or severe inclement weather. 23 DCMR § 1601.6.

In this matter, the Board does not credit the Applicant's argument that he did not receive notification of the Roll Call Hearing. The Board's official records indicate that both Parties were served notice of the Roll Call Hearing on or about November 20, 2014. *See ABRA Protest File 14-PRO-00089, Roll Call Notice.* Furthermore, the date of the Roll Call Hearing is also listed on the Applicant's renewal placard affixed to his establishment. Lastly, the Applicant presents no reasons for his failure to appear other than not receiving notice. Thus, the Board does not find the Applicant has demonstrated good cause and accordingly denies the Applicant's Request for Reinstatement.

In the same way, the Board, in its discretion, does not find that the ANC's reason for failing to attend the Roll Call constitutes good cause. While the Board recognizes that emergencies arise, not having time to request a continuance does not meet the standard of showing good cause as defined in 23 DCMR § 1601.6. Therefore, the Board denies the ANC's Request for Reinstatement.

ORDER

Therefore, based on the foregoing, the Board, on this 17th day of December 2014, **DENIES** the Requests for Reinstatement filed by both Parties.

The Board **ADVISES** the Applicant that it must file another application to renew its Retailer Class B License because its current license effectively expired on September 30, 2014.

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

District of Columbia
Alcoholic Beverage Control Board

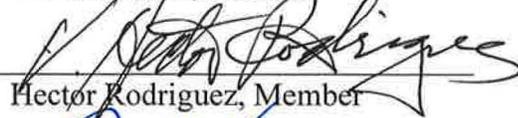


Ruthanne Miller, Chairperson

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).