

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

|                                      |                        |
|--------------------------------------|------------------------|
| _____ )                              |                        |
| In the Matter of: )                  |                        |
| Brookland, Inc., )                   | License No. 74752      |
| t/a Bobby Lew's )                    | Case No. 10-AUD-00001A |
| Holder of a Retailer's )             | Order No. 2010-494     |
| Class CR License )                   |                        |
| at premises )                        |                        |
| 2006 18 <sup>th</sup> Street, N.W. ) |                        |
| Washington, D.C. 20009 )             |                        |
| _____ )                              |                        |

**BEFORE:** Charles Brodksy, Chairperson  
Mital M. Gandhi, Member  
Nick Alberti, Member  
Charles Brodsky, Member  
Donald Brooks, Member  
Herman Jones, Member  
Calvin Nophlin, Member  
Mike Silverstein, Member

**ALSO PRESENT:** James Mayers II, Esquire, on behalf of the Respondent

Fernando Rivero, Assistant Attorney General, on behalf of the  
District of Columbia

Martha Jenkins, Acting General Counsel  
Alcoholic Beverage Regulation Administration

**ORDER DISMISSING NOTICE TO SHOW CAUSE**

Brookland, Inc., t/a Bobby Lew's (Respondent), holder of a Retailer's Class CR license, located at 2006 18<sup>th</sup> Street N.W., is the subject of a Notice of Status Hearing and Show Cause Hearing (Notice) dated August 18, 2010.

The Notice alleges in Charge I that the Respondent failed to meet the requirement that a holder of a CR license must at least have annual gross food sales of either \$2,000 per occupant or 45% of gross annual receipts, in violation of D.C. Official Code § 25-113(b)(3)(B)(i)(I) and (II) (2001) and 23 DCMR 2101. The Alcoholic Beverage Regulation Administration's (ABRA) administrative record supporting the Charge reflects that the quarterly reports filed by the Respondent for the four quarters of calendar year 2009, indicate gross annual food sales of \$784.00 per occupant and 23% of gross annual receipts. ABRA's administrative record also reflects a Certificate of Occupancy for 60 occupants.

On September 15, 2010, the Board approved a request by the Respondent to reduce its occupancy from 60 to 22 occupants based upon a new Certificate of Occupancy issued by the Department of Consumer and Regulatory Affairs. Additionally, the Board granted retroactive application of the new Certificate of Occupancy, persuaded by the argument that the Respondent's quarterly report submissions for food sales based upon a mathematical formula utilizing 22 occupants will demonstrate compliance with D.C. Official Code § 25-113(b)(3)(B)(i)(I) and (II) (2001) and 23 DCMR 2101.

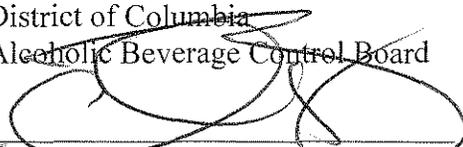
In light of the retroactive application of the Certificate of Occupancy of 22 occupants, the Board takes administrative notice of the Respondent's statutory and regulatory compliance to the food sales requirements for calendar year 2009, namely gross annual food sales of \$2,138.00 per occupant and 23% of gross annual food sales. Because the Board found the Respondent to be in compliance with the statutory and regulatory food sales requirements, the Government moved to dismiss Case No. 10-AUD-00001A.

**ORDER**

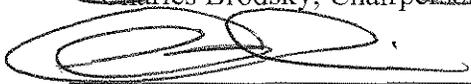
The Board does hereby, this 13th day of October, 2010, **DISMISS** the Notice of Status Hearing and Show Cause Hearing in Case No. 10-AUD-00001.

Copies of this Order shall be sent to the Government and to the Respondent.

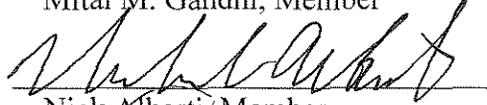
District of Columbia  
Alcoholic Beverage Control Board



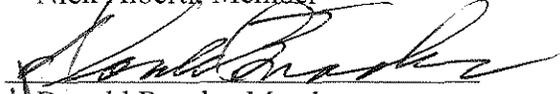
Charles Brodsky, Chairperson



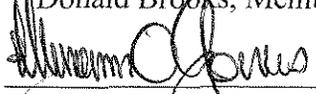
Mital M. Gandhi, Member



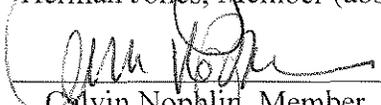
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member (abstaining)



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, 1250 U Street, N.W., Suite 300, Washington, D.C. 20009.