

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

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<b>In the Matter of:</b>	)	
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Bon Appetit Management Company,	)	Case No. 10-PRO-00070
t/a Bon Appetit Management Company	)	License No. 71077
	)	Order No. 2010-470
Application for a Renewal of a	)	
Retailer's Class DR License	)	
	)	
at premises	)	
4400 Massachusetts Avenue, N.W.	)	
Washington, D.C. 20016	)	
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Bon Appetit Management Company, t/a Bon Appetit Management Company, Applicant

Stu Ross, Chairperson, on behalf of Advisory Neighborhood Commission (ANC) 3D, Protestant

Thomas M. Smith, Commissioner, on behalf of ANC 3D, Protestant

**BEFORE:** Nick Alberti, Acting Chairperson  
Mital Gandhi, Member  
Donald Brooks, Member  
Herman Jones, Member  
Calvin Nophlin, Member  
Mike Silverstein, Member

**ORDER GRANTING MOTION TO DISMISS**

The Application filed by Bon Appetit Management Company, t/a Bon Appetit Management Company (Applicant), for a Renewal of a Retailer's Class DR License, having been protested by ANC 3D (Protestant), represented by Chairperson Stu Ross and Commissioner Thomas Smith, came before the Alcoholic Beverage Regulation Administration (ABRA) for a Roll Call Hearing on June 28, 2010, and a Status Hearing on September 8, 2010, in accordance with D.C. Official Code § 25-601 (2001).

The Applicant, by letter dated September 7, 2010, asked the Board to dismiss the Protestant's objection to the Application because the Protestant's claim falls outside the possible grounds outlined in Title 25 of the District of Columbia Official Code and Title 23 of the District of Columbia Municipal Regulations.

Section 1605.2 requires the Protestant to state "why the matter being objected to is inappropriate under one (1) or more of the appropriateness standards set out in D.C. Official Code §§ 25-313 and 25-314 and § 400 of this title." 23 DCMR 1605.2 (2008). As determined by statute, the appropriate grounds to file a protest are: (1) effect on peace,

order, and quiet; (2) effect “on real property values;” (3) effect on “residential parking needs and vehicular and pedestrian safety;” (4) proximity and effect on “schools, recreation centers, day care centers, and public libraries;” (5) ability to attract school-age children before, during, and after school; or (6) creation of an “overconcentration of licensed establishments.” D.C. Code § 25-313 (2004); D.C. Code § 25-314 (2007), 23 DCMR § 400 (2008).

In its letter to the Board, dated June 11, 2010, the Protestant stated why it was objecting to the Application. According to the Protestant, “Bon Appetit [was]. . . operating without the appropriate license and therefore. . . [was]. . . not in compliance with current ABRA regulations. . . “ *See ABRA Protest File 10-PRO-00070, June 11, 2010 Letter from ANC 3D Chairperson Stu Ross to Danielle Balmelle, Program Manager.*

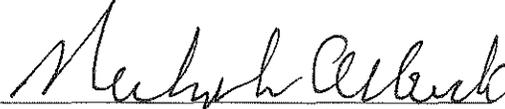
The Board agrees with the Applicant that the grounds outlined by the Protestant in its June 11, 2010 letter do not comport with the appropriate grounds for a protest outlined in § 25-313, § 25-314, or 23 DCMR § 400.

As such, the Board dismisses the Protest for failing to state a claim upon which relief may be granted.

#### **ORDER**

The Board does hereby, this 15th day of September 2010 **DISMISS** the Protest filed by ANC 3D, represented by Chairperson Stu Ross and Commissioner Thomas Smith. Copies of this Order shall be sent to the Applicant and to the Protestant.

District of Columbia  
Alcoholic Beverage Control Board



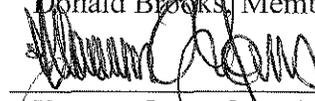
Nick Alberti, Acting Chairperson

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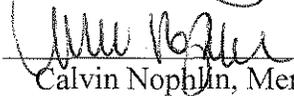
Mital M. Gandhi, Member



Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member

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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., Third Floor, Washington, DC 20009.