

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

In the Matter of:)	
)	
AKA, Inc.)	
t/a Club AKA 555)	
)	
Application for Renewal of a)	Case No. 10-PRO-00182
Retailer's Class CN License)	License No. ABRA-084241
)	Order No. 2011-129
at premises)	
2046 West Virginia Avenue, N.E.)	
Washington, D.C. 20002)	
)	

AKA, Inc., t/a Club AKA 555 ("Applicant")

Don Padou, on behalf of A Group of Five or More Individuals

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

ORDER DENYING MOTION TO REINSTATE STANDING

The Application filed by AKA, Inc., t/a Club AKA 555, for renewal of its Retailer's Class CN License, having been protested, came before the Alcoholic Beverage Control Board ("Board") for a Roll Call Hearing on January 18, 2011, in accordance with D.C. Official Code § 25-601 (2001).

On January 18, 2011, pursuant to Title 23 of the District of Columbia Municipal Regulations ("23 DCMR") § 1602.3 (2004), the Board dismissed Adrian Gottshall, Erin Hurd, Willie Russell, and Tonia Brown, as protestants with the Group of Five or More Individuals, because they do not reside within reasonable proximity to the establishment. Specially, they live in Ward 1, 3, and 8 and the establishment is located in Ward 5.

On February 3, 2011, Don Padou, on behalf of A Group of Five or More Individuals, timely filed a Motion to Reinstate Standing indicating that all the protestants are residents of the District; there is no basis in statute or regulation for using a person's residential address in the District of Columbia as justification for finding a lack of common grounds; almost all of the members of the protest group are members of Bethesda Baptist

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Church located at 1808 Capitol Avenue, N.E. Washington, D.C., located in the same neighborhood as Club

AKA 555; most of the protestants arrived at the Administrative Review hearing in vans supplied by the church; and the common grounds asserted by the protestants is the negative effect that AKA 555 will have on the neighborhood where they worship.

As an initial matter, Don Padou, the designated representative asserts that “none of the four protestants received a letter informing them that they have been dismissed from the protest group.” The Board does not dispute this fact; instead, the Order dismissing the four individuals was sent to Don Padou, as their designated representative, which is permissible.

Under D.C. Official Code § 25-601, in relevant part, the following persons may protest the issuance or renewal of a license... (2) A group of no fewer than 5 residents or property owners of the District sharing common grounds for their protest; provided, that in a moratorium zone established under § 25-351 (or in existence as of May 3, 2001), a group of no fewer than 3 residents or property owner of the District sharing common grounds for their protest...

According to the Legislative History for Bill 13-449, the “Title 25, D.C. Code Enactment and Related Amendments Act of 2000,” *“sharing common grounds” is intended to mean District residents who belong to the same neighborhood association, PTA, community group, business association, or people who simply live on the same block.*” There is no indication that Adrian Gottshall, Erin Hurd, Willie Russell, and Tonia Brown meet any of these requirements. Therefore, they do not meet the standing requirements under D.C. Official Code § 25-601(2).

ORDER

For these reasons, the Board does hereby, this 16th day of February, 2011, **DENY** Don Padou’s, on behalf of A Group of Five or More Individuals, Motion to Reinstate Standing of Adrian Gottshall, Erin Hurd, Willie Russell, and Tonia Brown. Copies of this Order shall be sent to the Applicant and Don Padou, on behalf of A Group of Five or More Individuals.

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District of Columbia
Alcoholic Beverage Control Board



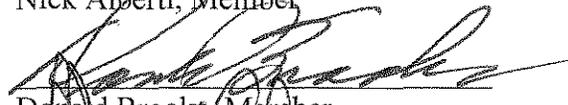
Charles Brodsky, Chairperson



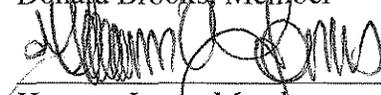
Mital M. Gandhi, Member



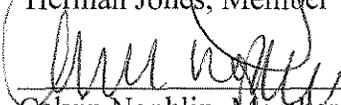
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member

Mike Silverstein, Member

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 the service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001.

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 the 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).