

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

In the Matter of:)

Darnell Perkins and Associates,)
LLC t/a Darnell's)

Application for Renewal of)
Retailer's Class CT License)

at premises)
944 Florida Avenue, N.W.)
Washington, D.C. 20002)

Case No. 15-PRO-00002
License No. ABRA-095113
Order No. 2015-115

Darnell Perkins and Associates, LLC t/a Darnell's (Applicant)

Karen Todd, Esq., on behalf of Darnell Perkins and Associates, LLC

James Turner, Chairperson, Advisory Neighborhood Commission (ANC) 1B (Protestant)

David Riley, on behalf of the Protestant Group of Five or More Individuals and Abutting
Property Owner (Protestants)

Josephine Poole, Abutting Property Owner

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

ORDER DENYING PROTESTANT'S REQUEST FOR REINSTATEMENT

The Application filed by Darnell Perkins and Associates, LLC t/a Darnell's, for renewal of its Retailer's Class CT License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on January 20, 2015 and a Protest Status Hearing on February 18, 2015, in accordance with D.C. Official Code § 25-601 (2001). The ANC, Abutting Property Owner David Riley and the Group of Five or More Individuals were all present at both Hearings.

On February 18, 2015, the Board dismissed the Protest of Abutting Property Owner Josephine Poole because the Protestant failed to appear at the Protest Status Hearing. *See Darnell Perkins and Associates t/a Darnell's*, Case No.: 15-PRO-00002, Board Order No. 2015-084 (D.C.A.B.C.B. March 11, 2015). The Protestant's attendance at the Protest Status Hearing is required under 23 DCMR § 1603.3.

On March 3, 2015, Abutting Property Owner Josephine Poole requested Reinstatement. *ABRA Protest File 15-PRO-00002, Abutting Property Owner Josephine Poole's Request for Reinstatement* dated March 3, 2015. In her request, Ms. Poole cited personal family matters as her reason for failing to appear at the Protest Status Hearing on February 18, 2015. *Id.*

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, in its discretion, does not find that Ms. Poole's reason for failing to attend the Protest Status Hearing constitutes good cause. Moreover, there are several other Parties in this matter, all who could have been designated as Ms. Poole's representative if an emergency had arisen. Further, if time constraints did not permit Ms. Poole the ability to contact one of the other Parties, she could have requested a continuance via electronic mail without having to submit a formal motion. For these reasons, the Board denies Ms. Poole's Request for Reinstatement.

ORDER

The Board does hereby, this 1st day of April, 2015, **DENIES** the Request for Reinstatement filed by Abutting Property Owner Josephine Poole.

The Board **ADVISES** the Parties that due to the withdrawal of the Protest of the ANC 1B and dismissal of the protest of the Group of Five or More Individuals pursuant to Board Order No. 2015-085, the remaining parties to this cause of action are the Applicant and Mr. Riley, Abutting Property Owner.

Copies of this Order shall be sent to the Applicant, ANC 1B, Protestant Group of Five or More Individuals, Abutting Property Owners David Riley and Josephine Poole.

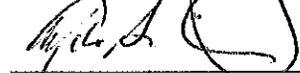
District of Columbia
Alcoholic Beverage Control Board

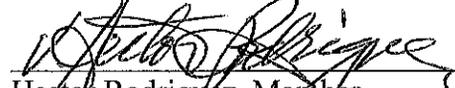

Ruthanne Miller, Chairperson

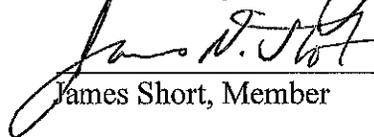

Nick Alberti, Member


Donald Brooks, Member


Herman Jones, Member


Mike Silverstein, Member


Hector Rodriguez, 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).