

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

In the Matter of:)
)
Mt. Vernon Wine & Spirits, Inc.)
t/a Good Libations)
)
Holder of a) License No. 73036
Retailer's Class A License) Order No. 2012-409
)
)
at premises)
1201 5th Street, N.W.)
Washington, D.C. 20001)
)

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Mike Silverstein, Member

ALSO PRESENT: Mt. Vernon Wine & Spirits, Inc., t/a Good Libations, Applicant

Alexander N. Padro, Advisory Neighborhood Commission (ANC)
2C, Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

FINDING OF FACT, CONCLUSIONS OF LAW, AND ORDER

On May 1, 2012, Mt. Vernon Wine & Spirits, Inc., t/a Good Libations (Applicant), at premises 1201 5th Street, N.W., Washington, D.C., submitted an Application to Renew its Exception to the Ward 2 Moratorium on the Sale of Single Containers of Alcoholic Beverages (Application). Advisory Neighborhood Commission (ANC) 2C opposed the renewal of the exception in a letter, dated June 11, 2012, because ANC 2C opposes permanent exceptions to the moratorium.

The Alcoholic Beverage Control Board (Board) considered the request, the opposition thereto, and the Applicant's history and determined that a Fact Finding Hearing was necessary. Both the Applicant and ANC 2C came before the Board for a Fact Finding Hearing on August 15, 2012. Based on the presentation of the parties, we grant the exemption.

It became evident at the fact-finding hearing that ANC 2C's objection to the exception was based on a misunderstanding of the legal process—that support of the exemption would result in the exemption becoming permanent, and that the ANC would not be able to challenge the exemption in the future. *Tr.*, 8/15/12 at 3, 13. This is not the case. The ANC and others may always protest the Applicant's license at renewal and may ask that the exception to the moratorium be revoked at that time. The chair of ANC 2C unequivocally stated that the exemption was acceptable to the ANC for the three-year period until the license is up for renewal. *Tr.*, 8/15/12 at 5, 13.

The "Consolidated Mt. Pleasant, Ward 2, and Ward 6 Single Sales Moratorium Act of 2008" became effective on December 24, 2008, which established a moratorium on the sale of beer, malt liquor, and ale in the size of 70 ounces or less in Ward 2 and Ward 6. The law allows a licensee to apply for an exception to the moratorium's restriction. See D.C. Code §§ 25-345(c)(1) and 25-346 (West Supp. 2012).

In determining whether to grant an exception to the moratorium under § 25-345, the Board shall give great weight to the ANC where the licensee is located. D.C. Code § 25-346(c)(2)(A) (West Supp. 2012). In addition, the Board shall consider "[w]hether the exception will negatively impact the enforceability and effectiveness of the ban"; the licensee's history of violations in the past year; "[e]vidence of [the] licensee[s] participation in the community, such as attendance at ANC and Police Service Area community meetings"; and whether "[c]lear and convincing evidence [proves] that there have been no significant adverse community impacts, such as loitering, littering, or other anti-social behavior in the vicinity of the licensee establishment." § 25-346(c)(2)(B)-(E).

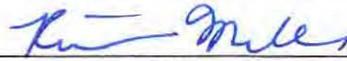
The record shows that the Applicant merits renewal of its exception to the moratorium. First, the Applicant has not committed any alcoholic beverage law violations in the past year. *Investigative History*, Good Libations (ABRA License No. 73063). Second, we find that renewing the Applicant's exception to the moratorium will not undermine the effectiveness and policy behind § 25-345. Third, the record shows that the Applicant has regularly attended ANC meetings since 2009 and discussed its business plans with the community. *Transcript (Tr.)*, August 15, 2012 at 11. Fourth, as noted by ANC 2C, granting the exemption to the Applicant has not resulted in an increase in loitering or public drinking. *Tr.*, 8/15/12 at 12. Finally, as revealed at the fact-finding hearing, ANC 2C, in fact, supports the exemption.

Under these circumstances, we find that the Applicant merits renewal of its exception to the moratorium.

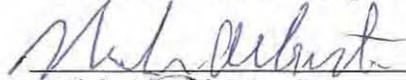
ORDER

Based on the foregoing findings of fact, conclusions of law, and the entire record herein, the Board on this 14th day of November 2012, hereby **APPROVES** the Application to Renew its Exception to the Ward 2 Moratorium on the Sale of Single Containers of Alcoholic Beverages. Copies of this Order shall be sent to the Applicant and ANC 2C.

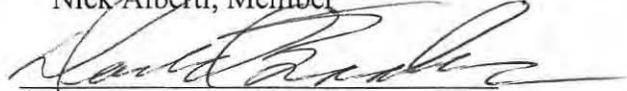
District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member



Donald Brooks, Member



Mike Silverstein, 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, Reeves Center, 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. 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) (2004).