

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

In the Matter of:)	
)	
Green Island Heaven and Hell, Inc.)	Case Number: 10-PRO-00178
t/a Green Island Café/Heaven and Hell)	License Number: 074503
)	Order: 2011-147
Petition to Terminate a)	
Voluntary Agreement)	
)	
at premises)	
2327 18 th Street, N.W.)	
Washington, D.C. 20009)	

Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven and Hell (Petitioner)

Emanuel N. Mpras, Esq., on behalf of the Petitioner

Commissioner Wilson Reynolds, Advisory Neighborhood Commission (ANC) 1C,
Protestant

Denis James, on behalf of the Kalorama Citizens Association, Protestant

Carol Erting, on behalf of A Group of Five or More Individuals, Protestant

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 PETITIONER'S MOTION TO DISMISS

A Petition to Terminate a Voluntary Agreement (Petitioner) was filed by Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven and Hell (Petitioner), at premises 2327 18th Street, N.W., Washington, D.C. The Petition was protested by a Group of Five or More Individuals, represented by Carol Erting, the Kalorama Citizens Association, represented by Denis James, and Advisory Neighborhood Commission (ANC) 1C, represented by Commissioner Wilson Reynolds. The Application came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on January 3, 2011, and a Status Hearing on February 23, 2011, in accordance with D.C. Official Code § 25-601 (2001). The Protest Hearing is set for April 6, 2011, at 4:00 p.m. The Petitioner submitted a Motion to Dismiss the Protest on January 31, 2011. The Protestant did not file a response.

The Petitioner argues that the Board should dismiss the Protestants because they did not state an appropriate ground to protest the termination under D.C. Code § 25-446 (Supp. 2011). According to the Petitioner, Board Order No. 2010-533 states that protestants must protest a termination under both D.C. Code §§ 25-313 and 25-314.

The Board disagrees with the Petitioner. Under the regulations,

All protests shall be in writing, shall be received by the Board prior to the end of the protest period, and shall state, as grounds for the protest, 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) (emphasis added).

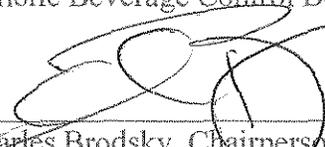
The plain language of § 1605.2 is clear that the Protestants may protest the termination of a voluntary agreement under §§ 25-313 or 25-314; not necessarily both statutes. Here, the Protestants are objecting to the Petition on the basis of peace, order, and quiet, which is sufficient to protest the Petition. The Petitioner's Motion to Dismiss simply quotes Board Order No. 2010-533 out of context.

For these reasons, the Board denies the Motion to Dismiss.

ORDER

The Board does hereby, this 23rd day of February 2011, **DENIES** the Motion to Dismiss submitted by Green Island Heaven and Hell, Inc., t/a Green Island Café/Heaven and Hell. Copies of this Order shall be delivered to the Petitioner, Carol Erting, the Kalorama Citizens Association, and ANC 1C.

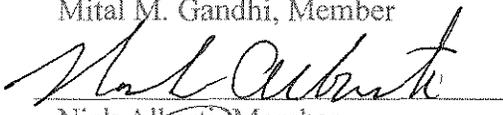
District of Columbia
Alcoholic Beverage Control Board



Charles Brodsky, Chairperson



Mital M. Gandhi, Member



Nick Alberti, Member



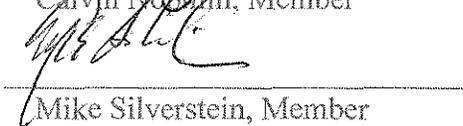
Donald Brooks, Member



Herman Jones, Member



Calvin Nordin, 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, 1250 U Street, N.W., 3rd Floor, 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).