

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

In the Matter of:)
)
NHV Corporation, Inc.)
t/a Haydee's Restaurant)
)
Petition to)
Terminate a Voluntary Agreement) License No.: 024663
for a Retailer's Class CR License) Order No.: 2011-483
)
at premises)
3102 Mount Pleasant Street, N.W.)
Washington, D.C. 20010)
_____)

NHV Corporation, Inc., t/a Haydee's Restaurant, Petitioner

Robert P. Waldeck, Esq., on behalf of the Petitioner

Claudia Schlosberg, on behalf of A Group of Mount Pleasant Residents (Hear Mt. Pleasant)

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

**ORDER TERMINATING VOLUNTARY AGREEMENT
BETWEEN NHV CORPORATION, INC., AND HEAR MT. PLEASANT**

The official records of the Alcoholic Beverage Control Board (Board) reflect that NHV Corporation, Inc., t/a Haydee's Restaurant (Petitioner), filed a Petition to Terminate a Voluntary Agreement (Petition), dated September 26, 2011. In a 5-0 vote, the Board unanimously voted to approve the Petition on November 16, 2011.

The Petitioner entered into a Voluntary Agreement, dated March 16, 2008, with A Group of Mount Pleasant Residents (Hear Mt. Pleasant). The Board incorporated the agreement into the Applicant's license via Board Order No. 2008-189. The Petitioner and Claudia Schlosberg, on behalf of Hear Mt. Pleasant, now seek to terminate the agreement under D.C. Official Code § 25-446(d)(4) (West Supp. 2011). *See ABRA Licensing File No. 024663.*

Section 446(d)(1) states that "Unless a shorter term is agreed upon by the parties, a voluntary agreement shall run for the term of a license, including renewal periods, unless it

is terminated or amended in writing by the parties and the termination or amendment is approved by the Board.” § 25-446(d)(1).

In a letter, dated September 30, 2011, the parties requested that the Board terminate the Voluntary Agreement entered into with Hear Mt. Pleasant. *See Letter from Claudia Schlosberg and Robert P. Waldeck, Esq., to ABRA Director Fred Moosally* (Sept. 30, 2011). In support of their Petition, the parties note that the establishment’s owners are “active members” of the community, have made many improvements to their property, and are responsive “to community needs and concerns.” *Id.*

We approve the Petition for the above mentioned reasons, and also based on our prior Order, which terminated the Mount Pleasant Neighborhood Alliance Voluntary Agreement (MPNA). As we stated previously, § 25-725 provides sufficient protection to the establishment’s residential neighbors, because § 25-725 provides a remedy for any residential neighbors that hear noise inside their homes. D.C. Code § 25-725; *NHV Corporation, Inc., t/a Haydee’s Restaurant*, Board Order No. 2011-132, ¶ 55 (D.C.A.B.C.B. Feb. 17, 2011). Furthermore, as we found in our prior Order, terminating the Hear Mt. Pleasant Voluntary Agreement will not impact residential parking and vehicular and pedestrian safety in Mt. Pleasant, because the Petition does not alter the establishment’s hours of operation. *Id.* Finally, as we previously noted, other ABC establishments, which are not subject to the same conditions imposed upon the Petitioner, have not had a detrimental impact on the peace, order, and quiet of the neighborhood. *Id.*

In addition, we find that provisions 16, 17, and 19 of the Hear Mt. Pleasant Voluntary Agreement are superfluous. Provision 16, which prohibits the establishment from selling alcohol to intoxicated patrons, is unnecessary, because D.C. Official Code § 25-781 already prohibits the sale of alcohol to intoxicated individuals. Provision 17, which requires that the establishment’s staff receive training, in accordance with the law, merely repeats the law and is superfluous. Finally, provision 19, which requires the establishment to keep the alley and the sidewalk near the establishment clean, is unnecessary, because D.C. Official Code § 25-726 already requires that establishments take “reasonable measures” to ensure that the area outside of the establishment, including nearby alleys and sidewalks, are free of litter.” D.C. Code § 25-726 (2001).

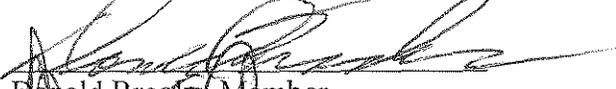
Therefore, based on the foregoing reasons, the Board terminates the Voluntary Agreement without conditions. *See* D.C. Code § 25-104(e) (“The Board, in issuing licenses, may require that certain conditions be met if it determines that the inclusion of the conditions will be in the best interest of the locality, section, or portion of the District where the licensed establishment is to be located.”).

ORDER

The Board does hereby, this 30th day of November 2011, **TERMINATE** the Hear Mt. Pleasant Voluntary Agreement. A copy of this Order shall be sent to the Petitioner and Claudia Schlosberg, on behalf of Hear Mt. Pleasant.

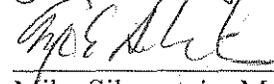
District of Columbia
Alcoholic Beverage Control Board


Nick Alberti, Interim Chairperson


Donald Brooks, Member


Herman Jones, Member


Calvin Nophlin, 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).