

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

In the Matter of:)
)
S & B Market, LLC)
t/a MLK Mini Market)
)
Applicant for Substantial Change)
(Class Change))
to a Retailer's Class B License)
)
at premises)
3333 Martin Luther King Jr. Avenue, S.E.)
Washington, D.C. 20032)
_____)

Case No. 15-PRO-00117
License No. ABRA-095905
Order No. 2016-004

S & B Market, LLC, t/a MLK Mini Market (Applicant)

Mary Cuthbert, Chairperson, Advisory Neighborhood Commission (ANC) 8C (Protestant)

Irene Barnes, on behalf of A Group of Five or More Individuals

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Ruthanne Miller, Member
James Short, Member

**ORDER ON DISMISSAL OF PROTEST OF
A GROUP OF FIVE OR MORE INDIVIDUALS**

The Application filed by S & B Market, LLC, t/a MLK Mini Market, for a Substantial Change to change its Class from a Retailer's Class B License to a Retailer's Class A License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on December 14, 2015, in accordance with D.C. Official Code § 25-601 (2001).

On December 14, 2015, the Board dismissed the Protest of the Group of Five or More Individuals because its protest fails to comply with Title 25 of the District of Columbia Official Code and Title 23 of the District of Columbia Municipal Regulations (23 DCMR).

Specially, the protest fails to clearly state legally sufficient grounds against a substantial change application as required by § 25-313. Pursuant to the statute, the appropriate grounds to file a protest for an application for the approval of a substantial change in operation are: (1) the effect of the establishment on real property values; (2) the effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726; and (3) the effect of the establishment upon residential parking needs and vehicular and pedestrian safety.

Additionally, 23 DCMR § 1605.2 requires the Protestant to state “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.”

Instead, the Group of Five or More Individuals filed its protest based on the establishment’s location and proximity to schools. The establishment’s location and proximity to schools on an application for a substantial change in operation are not grounds under which a protest can be filed.

Even if the Group of Five or More Individuals had filed its protest under the appropriate grounds, the protest would still have been dismissed for lack of standing pursuant to 23 DCMR § 1602.3. Only one individual appeared at the Roll Call Hearing and the group did not designate a representative in writing.

The Individuals may file a Request for Reinstatement with the Board within ten (10) days from the date of this Order.

ORDER

The Board does hereby, this 6th day of January, 2016, **DISMISS** the Protest of the Group of Five or More Individuals. Copies of this Order shall be sent to the Applicant, ANC 8C, and Irene Barnes, on behalf of A Group of Five or More Individuals.

The Board advises the parties that the protest of ANC 8C remains and the Protest Status Hearing is set for January 20, 2016 at 9:30 a.m. and the Protest Hearing for February 24, 2016 at 4:30 p.m.

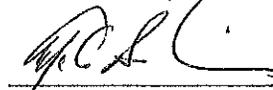
District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



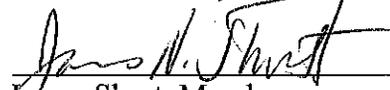
Nick Alberti, Member



Mike Silverstein, Member



Ruthanne Miller, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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, N.W., Suite 400S, Washington, DC 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) (2004).