

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

In the Matter of:)		
)		
Mexican Café, Inc.)	License Number:	16488
t/a Margaritas Restaurant)	Order Number:	2013-278
)		
Holder of a)		
Retailer's Class CR License)		
at premises)		
2317 Wisconsin Avenue, N.W.)		
Washington, D.C. 20007)		
)		

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

ALSO PRESENT: Mexican Café, Inc., t/a Margaritas Restaurant, Licensee

MaryEva Candon, Esq., on behalf of the Licensee

Martha Jenkins, Esq, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DENYING LICENSEE'S MOTION FOR RECONSIDERATION

On December 22, 2008, Mexican Café, Inc., t/a Margaritas Restaurant, (Licensee) requested that its license be placed in safekeeping, because the restaurant was no longer in business, and because the owner needed time to negotiate the sale of the business in the "near future." ABRA Fact Finding File No. 16488, Application for Safekeeping. The Board has renewed the Licensee's request for safekeeping several times, and it has been in safekeeping for approximately four years. The Board held a fact-finding hearing regarding the status of the license on February 20, 2013. On May 8, 2013, we canceled the license, because "the Licensee ha[d] not presented any tangible evidence that she [was] any closer to completing the sale of the license than when she first submitted her application for safekeeping." In re Mexican Café, Inc., t/a Margaritas Restaurant, License Number 16488, Board Order No. 2013-170, 1-2 (D.C.A.B.C.B. May 8, 2013).

On May 20, 2013, the Licensee presented the Board with evidence that she was making efforts to complete the sale of the license. Accordingly, the Licensee submitted a

letter from Papadopoulos Properties, Inc., dated April 16, 2013, stating that they had identified an unnamed client that wished to purchase the license held by the Licensee. Letter from Charles Papadopoulos and George Petros, Papadopoulos Properties, Inc., to MaryEva Candon, Esq., The Candon Law Offices, 1 (April 16, 2013). On April 17, 2013, the Licensee expressed interest in entering negotiations over the sale of the license. Letter from MaryEva Candon, Esq., The Candon Law Offices, to Charles Papadopoulos and George Petros, Papadopoulos Properties, Inc., 1 (April 17, 2013).

Under District of Columbia (D.C.) Official Code § 25-791(b), “[t]he Board may extend the period of safekeeping beyond 60 days for reasonable cause, such as fire, flood, other natural disaster; rebuilding or reconstruction; or to complete the sale of the establishment. D.C. Code § 25-791(b) (West Supp. 2013). In addition, the Board is charged with reviewing the request “every 6 months to ensure that the licensee is making reasonable progress on returning to operation.” § 25-791(c).

We find that the evidence submitted by the Licensee is insufficient to merit restoring her License. When we review licenses in safekeeping for “reasonable progress,” the Board expects that the holders will make diligent efforts to restore their licenses to operation before their license comes up for review. Here, the review hearing for this license occurred on February 20, 2013; yet, the first written record of a possible sale with an unnamed buyer only occurred in April 2013, which is approximately two months after the review hearing. As a result, the Licensee’s after-the-fact submissions do not alter our original decision; especially, when the Licensee has had approximately four years to restore the license to operation. In re Mexican Café, Inc., t/a Margaritas Restaurant, Board Order No. 2013-170, 2 (D.C.A.B.C.B. May 8, 2013).

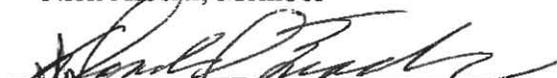
ORDER

Therefore, on this 12th day of June 2013, the Board hereby **DENIES** the Motion for Reconsideration submitted by Mexican Café, Inc., t/a Margaritas Restaurant.

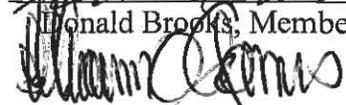
District of Columbia
Alcoholic Beverage Control Board



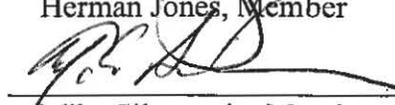
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

I dissent from the decision reached by the majority of the Board.



Ruthanne Miller, Chairperson

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).