THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:	)	
Mimi & D, LLC t/a Mood	)	License No.: 86037 Case No.: 12-251-00001 Order No.: 2012-085
Holder of a Retailer's Class CT License at premises 1318 9th Street, N.W. Washington, D.C. 20008	)	

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member
Jeannette Mobley, Member

ALSO PRESENT: Mimi & D, LLC, t/a Mood, Respondent

Abeba Beyene, Owner, on behalf of the Respondent

Kwamina Williford, Esq., Holland & Knight LLP, on behalf of the Respondent

Roderic Woodson, Esq., Holland & Knight LLP, on behalf of the Respondent

Mike Stern, Assistant Attorney General,
on behalf of the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DENYING THIRD PARTY COMPLAINANTS' MOTION FOR RECONSIDERATION

On January 3, 2012, the Alcoholic Beverage Control Board (Board) served a Notice of Summary Suspension (Notice), dated January 3, 2012, on Mimi & D, LLC, t/a Mood (Respondent), located at premises 1318 9th Street, N.W., Washington, D.C. Pursuant to the Notice, the Board ordered the suspension of the Respondent's license under D.C. Official Code §§ 25-826 and 25-827(a).

The suspension was based upon an investigation conducted by Alcoholic Beverage Regulation Administration (ABRA) Investigator Jabriel Shakoor in response to receiving an incident report from the Third District Metropolitan Police Department (MPD), labeled PD-251 CCN No. 11174030. Additionally, the Board's suspension of the Respondent's license was based upon the written request of the Chief of Police Cathy L. Lanier, dated December 30, 2011. The Chief of Police's letter included a determination that the establishment presented an imminent danger to the health and safety of residents and visitors to the District of Columbia.

On January 4, 2012, the Respondent requested a Summary Suspension Hearing under District of Columbia Official Code § 25-826(c), which occurred on January 13, 2012. At the hearing the District of Columbia was represented by the Office of Attorney General and the Respondent was represented by counsel. At the conclusion of the hearing, the Board voted 5-1 to place conditions on the Respondent's license under 23 DCMR § 1601.1. Mimi & D, LLC, t/a Mood, Board Order No. 2012-038, 2-3 (D.C.A.B.C.B. Jan. 18, 2012).

In various letters and emails submitted on January 17, 2012, January 22, 2012, and January 23, 2012, Orestes del Castillo, Cristina Amoruso, Martin Smith, Jonathan Froelich, and Rishi Hingoraney (collectively the "Complainants") objected to the Board's decision to lift the Respondent's summary suspension and requested that the Board reconsider its decision. The Applicant, through counsel, objected to the filing, because none of the previously mentioned individuals were parties to the original Summary Suspension Hearing, and thus lack standing to file a Motion for Reconsideration (Motion).

We agree with the Applicant, and dismiss the Motion for Reconsideration filed by the Complainants. As noted under the District of Columbia Official Code, the Motion for Reconsideration may only "*be filed by a party.*" D.C. Code § 25-433(d)(1) (West Supp. 2011) (emphasis added). The Complainants were not parties to the original case; therefore, they have no statutory right to file the present motion, and we must dismiss their Motion for that reason.

We further note that the Office of Attorney General prosecuted this case on behalf of the District of Columbia, contending that the establishment posed an "imminent danger to the health and safety of the public." § 25-826(a); *Notice of Summary Suspension.* Under these circumstances, the Complainants interest in preventing an imminent danger to their health and safety, the sole issue in this matter, was adequately represented by the District of Columbia. Thus, the Complainants have no grounds under which to intervene in this matter as well. See 23 DCMR 1701.4 (2008).

Although the Complainants have no basis in which to participate independently in the present proceedings, this does not mean they lack the ability to uphold their interests in peace, order, and quiet. First, the Complainants are entitled to contact ABRA and seek enforcement

actions against the establishment any time they witness a violation of the District of Columbia's alcoholic beverage control laws. Indeed, based on such complaints, the Board recently fined the Applicant $500.00 for failing to comply with the noise provisions of its Voluntary Agreement. Mimi & D, LLC, t/a Mood, Board Order No. 2012-050, 6 (D.C.A.B.C.B. Feb. 1, 2012). Second, at the time the Applicant seeks to renew its license, the Complainants may file a protest in accordance with District of Columbia Official Code §§ 25-601 and 25-602. As such, the Complaints have an abundance of means in which to safeguard their interests.

Therefore, we deny the Motion for Reconsideration.

ORDER

Based on the foregoing, the Board, on this 7th day of March 2012, dismisses the Motion for Reconsideration filed by the Complainants.

District of Columbia
Alcoholic Beverage Control Board

Ruthanne Miller, Chairperson

Nick Alberti, Member

Donald Brooks, Member

Herman Jones, Member

Calvin Nophlin, Member

Mike Silverstein, Member

Jeannette Mobley, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, N.W., 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, District of Columbia 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 (April 2004) 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).