

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

In the Matter of:)	
)	
Young Hwa Corporation)	License Number: ABRA-079255
t/a Pennsylvania Avenue Market)	Case Number: 11-PRO-00083
)	Order Number: 2012-151
Application to Renew a)	
Retailer's Class B License)	
)	
at premises)	
1501 Pennsylvania Avenue, S.E.)	
Washington, D.C. 20003)	
)	

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

ALSO PRESENT: T. Carlton Richardson

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DENYING PETITIONER'S MOTION FOR LEAVE TO INTERVENE

Young Hwa Corporation, t/a Pennsylvania Avenue Market, (Applicant) submitted an Application to Renew its Retailer's Class B License (Application) at premises 1501 Pennsylvania Avenue, S.E., Washington, D.C. The Application was protested by Advisory Neighborhood Commission (ANC) 6B and T. Carlton Richardson.

The Board dismissed Mr. Richardson from the protest on January 11, 2012, because he is not an abutting property owner under District of Columbia Official Code § 25-601(1), and thus, lacked standing to protest the Application. In re Young Hwa Corporation, t/a Pennsylvania Avenue Market, Board Order No. 2012-007, 1-3 (D.C.A.B.C.B. Jan 11, 2012). Mr. Richardson then filed a Motion for Reconsideration that requested that we reinstate his protest, which the Board denied. In re Young Hwa Corporation, t/a Pennsylvania Avenue Market, Board Order No. 2012-084 (D.C.A.B.C.B. Mar. 7, 2012).

Mr. Richardson now comes before the Board, requesting leave to intervene in the Board's consideration of the Voluntary Agreement submitted by the licensee and ANC 6B. Under our regulations, "The Board may, in its discretion, permit interested persons other than parties, as defined in this chapter, to intervene in a proceeding for such general or limited purpose as the Board may specify." 23 DCMR § 1701.4 (West Supp. 2012).

Mr. Richardson has also requested that the Board grant him leave to act as a witness under § 1701.6. Section 1701.6 states,

At any proceeding before the Board on an application for issuance or renewal of a license, or transfer of a license to a new person or location, the Board shall hear as witnesses all persons residing within and without the neighborhood who desire to be heard; provided that such testimony is not irrelevant or duly repetitious.

23 DCMR 1701.6 (West Supp. 2012).

We deny Mr. Richardson's requests because there was and is no ongoing proceeding in which to intervene pursuant to 23 DCMR § 1701.4 or act as a witness pursuant to § 1701.6.

On April 4, 2012, the Board considered and approved the Voluntary Agreement entered into by the Applicant and ANC 6B. In re Young Hwa Corporation, t/a Pennsylvania Avenue Market, Board Order No. 2012-116 (D.C.A.B.C.B. Apr. 4, 2012). The Board's determination of whether the Voluntary Agreement was valid required no factual testimony nor hearing, and therefore was not a proceeding under § 1701.6. Further, the Voluntary Agreement was between the Applicant and ANC 6B. Neither § 1701.4 nor § 1701.6 provides that any other interested person may intervene or testify as a witness in the Board's consideration of a voluntary agreement between two parties. See also D.C. Code § 25-446(c) (West Supp. 2012). The Board has approved the Voluntary Agreement, ANC 6B withdrew from the protest, and no further proceedings will be held in this matter.

In light of the above, we see no reason to hold oral arguments on Mr. Richardson's requests, and deny the motion.

ORDER

Based on the foregoing, the Board, on this 8th day of May 2012, hereby **DENIES** the Petitioner's Motion to Intervene filed by Mr. Richardson.

The Alcoholic Beverage Regulation Administration shall deliver copies of this Order to the Applicant, ANC 6B, and Mr. Richardson.

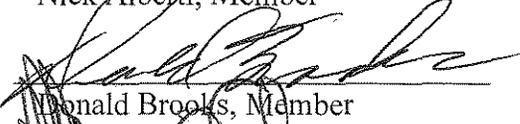
District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



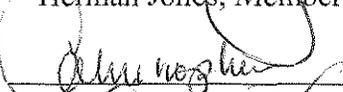
Nick Alberti, Member



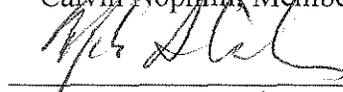
Donald Brooks, Member



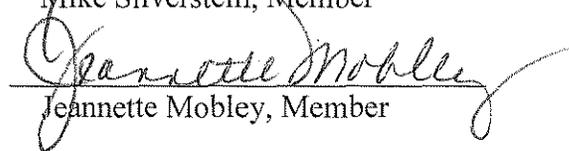
Herman Jones, Member



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).