

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

In the Matter of:)	
)	
Pasha International, Inc., t/a)	License No: 072743
Pizza No. 17; and)	Case No.: N/A
)	Order No: 2015-284
Bugra Kerthmen)	
)	
Respondents)	

TO: Pasha International, Inc., t/a Pizza No. 17
Rayam Yazdoni
1523 17th Street, N.W.
Washington, D.C. 20036

TO: Bugra Kerthmen

CEASE AND DESIST

INTRODUCTION

A review of the evidence and the records of the Alcoholic Beverage Regulation Administration (ABRA) show that Pasha International, Inc., t/a Pizza No. 17, (Pizza No. 17) located at premises 1523 17th Street, N.W., Washington, D.C., illegally transferred its Retailer's Class CR License to Bugra Kerthman (collectively the "Respondents") without the approval of the Alcoholic Beverage Control Board (Board) in violation of D.C. Official Code § 25-405(b). Furthermore, it has also been established that Mr. Kerthman is presently operating the establishment without the approval of the Board in violation of 23 DCMR § 703.

In light of these facts, the Board hereby orders the Respondents to surrender the alcohol license to the Board in compliance with D.C. Official Code § 25-791. The Board further orders the Respondents to cease selling, serving, or permitting the consumption of alcohol on the premises.

FINDINGS OF FACT

The Board bases its decision on the following facts:¹

1. On Thursday, April 9, 2015, ABRA Investigator Jason Peru entered Pizza No. 17 and identified himself as an investigator. *Case Report*, 15-CMP-00213, 1 (Apr. 9, 2015). When he requested to speak to a manager, a male employee indicated that no manager or owner was present. *Id.* The male employee contacted Bugra Kerthmen. *Id.* Mr. Kerthmen indicated that he purchased the business from Rayam Yazdoni, the old owner of the establishment. *Id.* at 1-2. Mr. Kerthmen contacted Mr. Yazdoni, and he spoke to Investigator Peru. *Id.* at 2. Mr. Yazdoni admitted that no transfer application related to the sale was ever submitted to the Board for approval. *Id.*²

CONCLUSIONS OF LAW

2. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual or licensee to immediately cease “. . . violating any provision of . . . [Title 25 when] the violation has caused, or may cause, immediate and irreparable harm to the public” D.C. Official Code § 25-829(a).

I. THE OPERATION OF PIZZA NO. 17 BY AN UNAPPROVED OPERATOR PRESENTS AN IMMEDIATE AND IRREPERABLE HARM TO THE PUBLIC.

3. The Board finds that the continued operation of Pizza No. 17 by an unapproved operator constitutes an immediate and irreparable harm to the public.

a. The Respondents failed to comply with § 25-405.

4. First, the Respondents unlawfully transferred ABRA License No. 072743 without the permission of the Board in violation of § 25-405.

5. Under § 25-405(b), “[a]n application to transfer a license to a new owner shall be filed by the transferee and approved by the Board before the consummation of the transfer.” D.C. Official Code § 25-405(a). Further, § 25-405(e) states, “[i]f the Board finds that the licensee is in violation of this title or regulations promulgated under this title, the Board shall deny the application for transfer.” D.C. Official Code § 25-405(e).

6. As admitted by Mr. Yazdoni, he consummated the transfer of the business to Mr. Kerthmen without the approval of the Board. *Supra*, at ¶ 1. As a result, these facts constitute a clear violation of § 25-405.

¹ The Board incorporates Case Report No. 15-CMP-00213, authored by ABRA Investigator Jason Peru, and all of the exhibits described in the report, by reference.

² The other violations found by Investigator Peru shall be addressed through the show cause process.

b. The Respondents have failed to obtain a temporary operating permit in accordance with § 703.

7. Second, the Respondents have not obtained a temporary operating permit, which would authorize Mr. Kerthmen, the purchaser, to operate the establishment while a transfer application was under review. 23 DCMR § 703 *et. seq.* (West Supp. 2015); *supra*, at ¶ 1. The failure of the parties to obtain this permit further supports the Board's conclusion to order the cessation of all alcohol-related activity at the establishment.

c. The continued operation of the establishment by an unapproved operator causes immediate and irreparable harm to the public.

8. The Board finds that the continued operation of the establishment by an unapproved operator causes irreparable harm to the public by allowing the establishment to maintain a continuing nuisance and threatens the safety and welfare of the public.

9. The operation of an establishment by an unapproved owner constitutes a nuisance as a matter of law. All violations of Title 25 are deemed nuisances pursuant to § 25-805. D.C. Official Code § 25-805; *see also Com. ex rel. Preate v. Danny's New Adam & Eve Bookstore*, 625 A.2d 119, 122 (1993) (It is well-settled that even a lawful business may be enjoined from operation if it is shown that, under the particular circumstance, its operation constitutes a public nuisance); *Camp v. Warrington*, 227 Ga. 674, 674, (1971) ("where it is made to appear with reasonable certainty that irreparable harm and damage will occur from the operation of an otherwise lawful business amounting to a continuing nuisance, equity will restrain the construction, maintenance or operation of such lawful business."). In this case, permitting Mr. Kerthman to continue to illegally operate Pizza No. 17 without approval would allow him to maintain and benefit from the operation of a continuing nuisance at the expense of the public.

10. Furthermore, the Board is convinced that Mr. Kerthman's circumvention of the licensing process threatens the health, safety, and welfare of the public. The misuse of alcohol encourages crime, disorder, and other antisocial behavior. The licensing process keeps those who cannot be trusted to superintend a licensed establishment, such as criminals and individuals with a history of repeated violations of the District's alcohol laws, from obtaining a license. Therefore, he cannot be permitted to continue operating the establishment until a proper transfer application is filed, properly vetted, and approved by the Board.

ORDER

Therefore, the Board on this 3rd day of June 2015, hereby orders Pasha International, Inc., t/a Pizza No. 17, and Bugra Kerthman to **CEASE AND DESIST** distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages at 1523 17th Street, N.W., Washington, D.C.

IT IS FURTHER ORDERED that Pizza No. 17 shall surrender its license to the Board for safekeeping pursuant to § 25-791. In the alternative, ABRA is simultaneously authorized to seize the license in order to place it in safekeeping.

IT IS FURTHER ORDERED that ABRA shall not release the license from safekeeping until the ownership issues identified in this Order are resolved by the issuance of a final order in a show cause action or other final order issued by the Board. If no show cause action is filed by the Office of the Attorney General within ninety days from the date of this Order, Pizza No. 17 may request a hearing before the Board to request removal of the license from safekeeping.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-115(c) and 23 DCMR § 1003.1, that ABRA shall no longer issue temporary licenses and one-day substantial change licenses for 1523 17th Street, N.W.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-801(e), that ABRA refer this matter to the Office of the Attorney General for the District of Columbia (OAG) for prosecution. The Board further requests that OAG seek the enforcement of this Order in the Superior Court of the District of Columbia under D.C. Official Code §§ 25-829(f) (cease and desist orders) and 25-805 (nuisance) should it be deemed necessary.³

Please be **ADVISED** that a copy of this Order is being forwarded to the Metropolitan Police Department to ensure compliance. If it is found that you are continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, you may be subject to both civil and criminal penalties.

ABRA shall serve notice by certified mail or personal delivery on the Respondents.

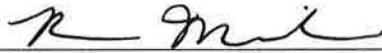
³ The nuisance provision states,

(a) Any building, ground, or premises where an alcoholic beverage is manufactured, sold, kept for sale, or permitted to be consumed in violation of this title shall be a nuisance.

(b) An action to enjoin any nuisance defined in subsection (a) of this section may be brought in the name of the District of Columbia by the Corporation Counsel in the Civil Branch of the Superior Court of the District of Columbia against any person conducting or maintaining such nuisance or knowingly permitting such nuisance to be conducted or maintained.

D.C. Official Code § 25-805.

District of Columbia
Alcoholic Beverage Control Board



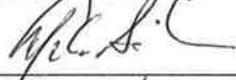
Ruthanne Miller, Chairperson

Nick Alberti, Member

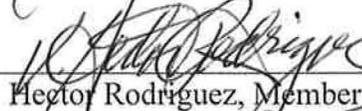


Donald Brooks, Member

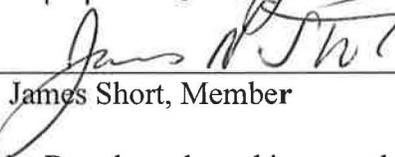
Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

You have the right to request a hearing before the Board conducted in accordance with subchapter I of Chapter 5 of Title 2. Pursuant to D.C. Official Code § 25-829(b)(1), you may submit a written request to the Board for a hearing within fifteen (15) days of service of this Order. Additionally, you also have the option of submitting a written request to the Board for an expedited hearing pursuant to D.C. Official Code § 25-829(c)(1) within ten (10) days of service of this Order. Please note that if you fail to request a hearing, this Order shall be deemed final. D.C. Official Code § 25-829(d).

If you request a hearing, you may appear personally at the hearing, and you and the establishment, may be represented by legal counsel. You have the right to produce witnesses and evidence on your behalf and to cross-examine witnesses. You may examine evidence produced, and have subpoenas issued on your behalf to require the production of witnesses and evidence.

All hearings are conducted in the English language. If you, any corporate officer, or any witnesses to be called are deaf, have a hearing impediment, or cannot readily understand or communicate the spoken English language, an application may be made to the Board for the appointment of a qualified interpreter.

Your failure to appear at the time and place set for the hearing, if requested, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter. Should you have any questions, contact ABRA Adjudication Specialist Danette Walker at 202-442-4418.

Finally, 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 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).