

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

_____)	
In the Matter of:)	
)	
Seaton Motor Company, LLC)	
t/a Red Hen)	
)	Case No. 13-PRO-00086
Application for Renewal of a)	License No. ABRA-090832
Retailer's Class CR License)	Order No. 2013-560
)	
at premises)	
1822 1st Street, N.W.)	
Washington, D.C. 20001)	
_____)	

Seaton Motor Company, LLC, t/a Red Hen (Applicant)

Bertha Holliday, on behalf of A Group of Five or More Individuals (Approximately Fourteen Individuals)

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

ORDER DENYING PROTESTANT'S MOTION FOR RECONSIDERATION

The Application filed by Seaton Motor Company, LLC, t/a Red Hen, for renewal of its Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on June 17, 2013, a Protest Status Hearing on August 7, 2013, and a Protest Hearing on September 19, 2013, in accordance with D.C. Official Code § 25-601 (2001).

On September 19, 2013, the Board dismissed the Protest of the Group of Five or More Individuals, because only Dr. Holliday was present at the Protest Hearing after being advised on numerous occasions by ABRA staff to produce at least four more individuals at the hearings in order to be granted standing as A Group of Five or More Individuals. *See* Board Order No. 2013-415. On September 30, 2013, Dr. Holliday, on behalf of the Group of Five or More Individuals, submitted a Request for Reinstatement, which the Board denied on October 23, 2013 in In re Seaton Motor Company, LLC t/a Red Hen, Case Number 13-PRO-00086, Board Order Number 2013-491 (D.C.A.B.C.B. Oct. 23, 2013).

Subsequent to our Order on October 23, 2013, the Group of Five or More Individuals (Protestants) submitted a request for reconsideration. The Protestants state that they were unaware that they could request a continuance; however, Title 25 of the District of Columbia (D.C.) Official Code clearly informs participants in the protest process that they have such a right.¹

Under § 25-433,

(a) A hearing may be continued for good cause. A written motion for a continuance shall be filed with the Board at least 6 days before the scheduled hearing date and served upon all parties at least 6 calendar days before the hearing. To be granted, the motion shall, in the opinion of the Board, set forth good and sufficient cause for continuance or demonstrate that an extreme emergency exists.

(b) A continuance shall not waive the requirements of this chapter governing the time in which to file objections, petitions, or other pleadings.

(c) The Board may, on motion of any party or on its own motion, continue a hearing to permit an ANC to vote on a material issue in the hearing or upon a determination that the interests of justice will be served by the granting of the continuance to any party.

(d) The Board may waive the provisions of this section if all parties agree to a continuance.

D.C. Code § 25-441 (West Supp. 2013).

Further, § 1705 of Title 23 of the D.C. Municipal Regulations provides further information:

1705.1 A hearing scheduled before the Board shall not be delayed by motion for a continuance unless the motion is received in writing by the Board and the other parties six (6) calendar days before the scheduled hearing date and is served upon all parties on or before the sixth (6th) calendar day before the hearing. To be granted, the motion shall, in the opinion of the Board, set forth good and sufficient cause for the continuance.

1705.2 Conflicting engagements of counsel shall not be considered good and sufficient cause for continuance unless set forth in a motion filed promptly after notice of the hearing has been given.

1705.3 The granting of a continuance by the Board shall not be considered a waiver of requirements of this chapter, governing the time in which to file objections, petitions, or other pleadings.

23 DCMR §§ 1705.1 – 1705.3 (West Supp. 2013).

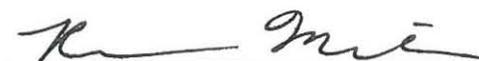
As a result, the Board finds that the protestants had sufficient written guidance that they could file for a continuance if they so desired.

¹ The Board also notes that ABRA makes Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations available on the agency's website.

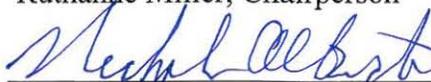
ORDER

The Board does hereby, this 20th day of October, 2013, **DENY** the Motion for Reconsideration filed by the Protestants. Copies of this Order shall be sent to the Applicant and Dr. Holliday, on behalf of the Group of Five or More Individuals.

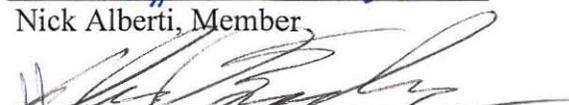
District of Columbia
Alcoholic Beverage Control Board



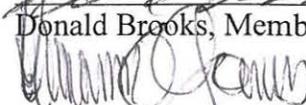
Ruthanne Miller, Chairperson



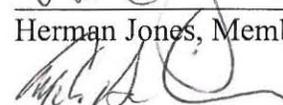
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

Pursuant to D.C. Official Code § 25-433, any Party adversely affected by this Order may file a Motion for Reconsideration within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 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).