

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

In the Matter of:)

Yoef, Inc. t/a)
Stanton Liquors)

Application for Renewal)
of Retailer's Class A License)

at premises)
1044 Bladensburg Road, N.E.)
Washington, D.C. 20002)

Case No.: 15-PRO-00038
License No.: ABRA-071601
Order No.: 2015-320

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

ALSO PRESENT: Risa Hirao, Esq. on behalf of Yoef, Inc. t/a Stanton Liquors

Kathy Henderson, Designated Representative, on behalf of Protestant
Group of Nine

Clarence F. Lee, Jr., Designated Representative, on behalf of Protestant
Group of Seven

Martha Jenkins, General Counsel, Alcoholic Beverage Regulation
Administration

**ORDER DENYING APPLICANT'S MOTION TO DISMISS PROTEST GROUP OF
NINE AND GRANTING APPLICANT'S MOTION TO DISMISS
PROTEST GROUP OF SEVEN**

INTRODUCTION

The Alcoholic Beverage Control Board (Board) denies the Applicant's Motion to Dismiss the Protest Group of Nine and approves the Applicant's Motion to Dismiss the Protest Group of Seven. The Board explains its reasoning for both decisions below.

Procedural Background

The Application filed by Yoef, Inc. t/a Stanton Liquors (Applicant), for the renewal of its Retailer's Class A License, having been protested, was scheduled for a Roll Call Hearing on May 26, 2015 before the Board, in accordance with the D.C. Official Code § 25-601 (2015). *ABRA Protest File 15-PRO-00038, Notice of Public Hearing*. The Applicant appeared along with counsel. *Transcript [Tr.] 5/26/15* at 10. The Protestant Group of Nine, represented by Kathy Henderson, appeared before the Board and was granted standing. *Tr.*, at 11. The Protestant Group of Seven, represented by Clarence F. Lee, Jr., appeared before the Board and was granted standing on the condition that a minimum of one additional individual from the group appear at the Protest Status Hearing in order to satisfy the requirement that no fewer than five appear. *Tr.*, at 21.

On June 16, 2015, the Applicant filed a Motion to Dismiss the Protestant Group of Nine on the grounds that Protestant Group of Nine failed to attend the mediation held on June 14, 2015. *ABRA Protest File 15-PRO-00038, Applicant's Motion to Dismiss Protestant Group of Nine*, dated June 16, 2015, 1. Further, the Applicant argued that absent a showing of good cause, the protest filed by the Protestant Group of Nine should be deemed withdrawn in accordance with the D.C. Official Code § 25-445(e) (2015). *Id.* The Protestant Group of Nine did not file a response or opposition to the Motion.

On June 24, 2015, the Applicant and the Protestant Group of Nine appeared before the Board for a Protest Status Hearing. The Protestant Group of Seven failed to appear. *ABRA Protest File 15-PRO-00038*. Both parties argued their respective cases regarding the Motion to Dismiss the Protestant Group of Nine. *Id.* During the Hearing, the Applicant reiterated its arguments as outlined in its Motion to Dismiss the Protestant Group of Nine. *Id.* In response to the arguments set forth by the Applicant, the Protestant Group of Nine proffered that it did not receive notice of the scheduled mediation date. *Id.* In addition, the Applicant moved the Board to dismiss the Protestant Group of Seven for the failure to appear at the Protest Status Hearing pursuant to 23 DCMR § 1603.

Discussion

The Board denies the Applicant's Motion to Dismiss Protestant Group of Nine Individuals. As set forth in D.C. Official Code § 25-445(e), if a protestant [is] unavailable to attend a settlement conference, the Board shall consider the protest withdrawn unless, in the judgment of the Board, the protestant shows good cause for refusing to be available. D.C. Official Code § 25-445(e). Kathy Henderson, on behalf of the Protestant Group of Nine, explained to the Board that she was experiencing computer difficulties and did not receive electronic notification of the date and time of mediation. The Board finds that the Protestant

Group of Nine has demonstrated good cause and requires that the Parties attend a rescheduled mediation prior to the Protest Hearing.

Secondly, the Board grants the Applicant's Motion to Dismiss Protestant Group of Seven Individuals. Under 23 DCMR § 1603.3, the failure to appear in person or through a designated representative may result in the...dismissal of a protest. 23 DCMR § 1603.3. In the instant case, the record shows that the Protestant Group of Seven was only granted conditional standing which required a minimum of one individual to appear at the Protest Status Hearing in order to maintain standing. *Tr.*, at 21. Due to the failure of the five individuals and the designated representative to appear at the Protest Status Hearing, the Protestant Group of Seven Individuals is hereby dismissed.

ORDER

Therefore, based on the foregoing, the Board, on this 24th day of June 2015, **DENIES** the Applicant's Motion to Dismiss Protestant Group of Nine Individuals and **GRANTS** Applicant's Motion to Dismiss Protestant Group of Seven Individuals.

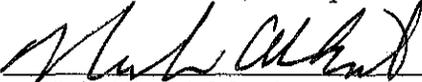
IT IS FURTHER ORDERED that the Applicant and Protestant Group of Nine Individuals appear before the Board's agent on July 8, 2015 at 11:00 a.m. for a mediation. The failure to appear at this mediation will result in the dismissal of the Application or the Protest as applicable.

IT IS FURTHER ORDERED that the Protest Hearing, scheduled for July 22, 2015 at 4:30 p.m., will take place as previously scheduled.

ABRA shall deliver copies of this Order to the Applicant, the Protestant Group of Seven and the Protestant Group of Nine.

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

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, 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, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). 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).