

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:)	
)	
)	
DC Market, Inc.,)	Case No.: 23-PRO-00096
t/a DC Food Market)	License No.: ABRA-106962
)	Order No.: 2024-403
Application to Renew a)	
Retailer’s Class B License)	
)	
at premises)	
2200 16th Street, S.E.)	
Washington, D.C. 20020)	

BEFORE: Donovan Anderson, Chairperson
 James Short, Member
 Silas Grant, Jr., Member

ALSO PRESENT: DC Market, Inc., t/a DC Food Market, Applicant

Emmanuel N. Mpras, Counsel, on behalf of the Applicant

Patrick O’Keefe, Designated Representative, on behalf of a Group of Five
or More, Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

INTRODUCTION

The Alcoholic Beverage and Cannabis Board (Board) approves the Application to Renew a Retailer's Class B License filed by DC Market, Inc., t/a DC Food Market (hereinafter “Applicant” or “DC Market”) where the Applicant demonstrated that its proposed operations would not have a negative impact on any appropriateness factors at issue in this case.

Procedural Background

The Notice of Public Hearing advertising DC Food Market’s Application was posted on October 20, 2023, and informed the public that objections to the Application could be filed on or

before December 4, 2023. *ABCA Protest File No. 23-PRO-000096*, Notice of Public Hearing [*Notice of Public Hearing*]. The records of the Alcoholic Beverage and Cannabis Administration (“ABCA”) indicate that a Group of Five or More Residents or Property Owners (hereinafter “Group”) have filed a protest against the Application. *ABCA Protest File No. 23-PRO-000096*, Roll Call Hearing Results.

The parties came before the Board’s Agent for a Roll Call Hearing on December 26, 2023, where the above-mentioned objector was granted standing to protest the Application. On March 6, 2024, the parties came before the Board for a Protest Status Hearing. Finally, the Protest Hearing in this matter occurred on March 21, 2024.

Based on the issues raised by the Protestant, the Board may only grant the Application if the request will not have an adverse impact on the peace, order, and quiet; residential parking and vehicular and pedestrian safety; and real property values of the area located within 1,200 feet of the establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2024).

FINDINGS OF FACT

The following statements represent the Board’s findings of fact based on the evidentiary record. In reaching its determination, the Board considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board’s official file. The Board credits all testimony and evidence identified or cited below unless otherwise stated.

I. Background

1. DC Food Market has submitted an Application to Renew a Retailer's Class B License located at 2200 16th Street, S.E., Washington, D.C. 20020. *Notice of Public Hearing*.
2. ABCA Lead Investigator Felicia Dantzler conducted the investigation of the Application and prepared the Protest Report submitted to the Board. *ABCA Protest File No. 23-PRO-000096, Protest Report* (Mar. 2024) [*Protest Report*].
3. The proposed establishment is located in an R-3 zone. *Id.* at 4. Two other ABCA licensed establishments, a retailer class A liquor store, and a retailer class B grocery store, are within 1,200 feet of the proposed location. *Id.* at 3. There are no schools, recreation centers, public libraries, or day care centers located within 400 feet of the proposed location. *Id.*
4. The establishment’s proposed hours of operation and hours of alcoholic beverage sales are the same, 7:00 a.m.-12:00 a.m., Sunday through Saturday. *Id.* at 4. The establishment does not have any endorsements at this time. *Id.*
5. Lead Investigator Dantzler monitored the establishment on two separate occasions, March 11, 2024 from 7:00 p.m. to 7:45 p.m., and March 12, 2024 from 9:30 p.m. to 9:45 p.m. *Transcript (Tr.)*, Mar. 21, 2024. On both occasions, no ABCA violations were observed. *Id.* at 53. However, the establishment’s investigative history reveals some violations that were incurred in the last four

years. *Protest Report* at 5. On September 26, 2022, the establishment accepted an Offer in Compromise on two charges: (1) operating outside of its Board-approved hours, and (2) failing to post its license in a conspicuous place. *Id.* The establishment paid \$4,000 for charge I and received a mandatory warning for charge II. *Id.* On January 11, 2022, the establishment accepted an Offer in Compromise on three charges: (1) operating outside of its Board-approved hours; (2) failing to have an ABC manager on site; and (3) failing to follow the terms of its license. *Id.* The establishment paid \$2,000 for charge I, \$2,000 for charge II, and for charge III, the Board dismissed the charge. *Id.* No noise complaint against the establishment has been substantiated. *Id.*

6. DC Food Market is a medium-sized class B grocery store located in historic Anacostia, Ward 8. *Tr.* at 3-4. It sells grocery items such as snack foods, frozen foods, fresh groceries, alcoholic and non-alcoholic beverages. *Id.* at 17, 55-56. It has two levels. *Protest Report* at 3. The first level is the grocery store while the second level serves as a dwelling unit for some of its employees. *Id.* The establishment has multiple cameras installed that are connected to the Metropolitan Police Department's ("MPD") surveillance system. *Tr.* at 57. The area has a history of violent crimes and has been designated as one of MPD's hotspot areas. *Id.* at 34, 57. The establishment partnered with MPD to provide MPD with remote control and access to its cameras to surveil the neighborhood as well as investigate crimes. *Id.* at 57. DC Food Market has served as a grocery store in the neighborhood for over seven years. *Id.* at 100.

II. Ephrame Kassaye

7. Ephrame Kassaye is the owner of DC Market. *Id.* He has owned the store since 2017 and prior to that, he had owned a different convenience store in Ward 8 for approximately twelve years. *Id.* DC Market was formerly known as Parliament Market and it was notorious for participating in illicit drugs transactions as well as drive-by shootings. *Id.* at 101. Since Mr. Kassaye purchased the store, he has made significant changes inside and outside of the premises. *Id.* He has: (1) installed a ramp to make the store wheelchair accessible; (2) made beautification changes including commissioning a mural of Frederick Douglas on the wall facing 16th street; (3) installed lights in and around the store to ensure that the area is well lit; (4) placed signs in conspicuous places against loitering and noise; (5) installed a retainer wall to cover the trash receptacles, and (6) installed twenty security cameras for surveillance. *Id.* at 101-105. Mr. Kassaye works closely with MPD to address crime in the area. *Id.* at 102. He has provided MPD with login credentials to access and control his security cameras from any location when investigating a crime or monitoring the area. *Id.* MPD reports have indicated no criminal activity within 200, 500, or 1,000 feet of the establishment for the past three years. *Id.* at 105-106.

8. Furthermore, Mr. Kassaye has made efforts to address the trash and pests concerns in the area. *Id.* at 104. He has installed a retainer wall to block the trash receptacles from the public. *Id.* at 104-105. The retainer wall minimizes pests from accessing the trash bins as well as passers-by from littering the area. *Id.* at 104. He has a contract with a third-party trash company to pick up his trash three times a week and sweeps his surroundings almost daily to maintain cleanliness. *Id.* at 90, 107. He has also contracted with a third-party pest control company to provide pests extermination services on a quarterly basis. *Id.* at 104. He contends that many of the complaints from the Protestant are due to the character and makeup of the neighborhood which is beyond the

establishment's control. *Id.* at 113. He urges the Board to approve his class B ABCA application with no conditions. *Id.* at 18.

III. Alec Metz

9. Mr. Metz testified in favor of the application. *Tr.* at 23. He has resided in his current home, across the street from DC Market, for the last seven years. *Id.* at 24. He describes the establishment as a “friendly” neighborhood corner store that has had a positive impact in an area known for violent crimes. *Id.* at 25. The store often appears clean, well-managed, and the employees are professional. *Id.* at 24-25. The store has a strict policy against loitering and disorderly conduct and he has observed the store remove customers from its premises for violating these policies. *Id.* Mr. Metz visits the store a few times a week to purchase simple household items and so far, his experiences have been pleasant. *Id.* at 25. Mr. Metz believes that DC Market's presence has contributed to improving the image of the neighborhood thus, he supports the Board renewing its alcohol license. *Id.*

IV. Kesha Pendergrast

10. Ms. Pendergrast testified in favor of the application. *Id.* at 73. She resides directly beside DC Market and has resided in her current home for the last five years. *Id.* Since relocating to the neighborhood, she has had pleasant experiences with the establishment. *Id.* She visits the establishment frequently to purchase household items and so far, all her interactions have been friendly. *Id.* at 74. The establishment often appears clean, well kept, and she has not observed any loitering or disorderly conduct during any of her visits. *Id.* Although the neighborhood may have experienced some violent crimes or increased police presence, she does not attribute the events to any action of the establishment. *Id.* at 79. She believes the establishment has been a positive influence in the neighborhood in several ways including hiring individuals from the neighborhood to work at the establishment. *Id.* at 74. She does not believe the establishment's alcohol sales disrupt the peace, order, and quiet of the neighborhood, thus, she urges the Board to renew its license. *Id.* at 75-76.

V. Montinas Butler

11. Mr. Butler testified in favor of the application. *Id.* at 90. He resides directly across the street from the establishment and has been a resident in his current home for the last thirty years. *Id.* Like Ms. Pendergrast and Mr. Metz, Mr. Butler believes the establishment has largely impacted the neighborhood in a positive way. *Id.* at 98. Since the Applicant purchased the establishment, he has changed its reputation affiliated with illegal drug sales and crimes to a place clean from such activities. *Id.* He has observed the Applicant remove individuals loitering on its premises, maintain cleanliness in the surroundings, install a sophisticated camera system connected to MPD surveillance, place signs in a conspicuous manner informing patrons of the cameras, and provided gainful employment to some at-risk youth in the neighborhood. *Id.* at 93, 95. He also speaks highly of the Frederick Douglas' mural commissioned on the outside wall of the establishment and how it was “dramatically” improved the image of the neighborhood. *Id.* at 98. Mr. Butler believes that the neighborhood's challenges with crime speak more about the character of the area. *Id.* at

94. He does not attribute the challenges to DC Market or believe that their alcohol sales exacerbate the issues. *Id.* He supports the Board renewing DC Market’s alcohol license. *Id.* at 92-93.

VI. Patrick O’Keefe

12. Patrick O’Keefe is the designated representative on behalf of the Group filing the protest against DC Market. *Id.* at 13. He resides in a two-block radius from the establishment and has resided in his home for the last six years. *Id.* at 19. DC Market is located in a Residential 3 (R-3) zoning district which indicates that the neighborhood is predominantly residential. *Id.* at 51. The neighborhood is intended to serve single-family homes in “row dwellings, while including areas within which row dwellings are mingled with detached dwellings, semi-detached dwellings, and groups of three (3) or more row dwellings.” 11 DCMR § 300 (West Supp. 2024). Although the neighborhood is predominantly residential, Mr. O’Keefe believes it has experienced a lion’s share of violent crimes. *Tr.* at 21. He believes the increased presence of violent crimes including gun-related incidences has a correlation with DC Market’s alcohol sales. *Id.* He has observed “endless amount of alcohol bottles and cans” littered on the corridor where the establishment is located and there have been shootings on the same corridor often occurring after “alcohol-fueled days.” *Id.* Mr. O’Keefe believes that DC Market operating as a convenience store that sells food, medicines, and supplies has a benefit to the neighborhood; however, its alcohol sales increase the risk of violent occurrences in an already challenging neighborhood. *Id.* at 22.

VII. Laneice Moore

13. Ms. Moore is the current Advisory Neighborhood Commissioner (“ANC”) for Single Member District (“SMD”) 8A04 where DC Market is located. *Id.* at 29-30. She lives in a two-block radius from the establishment. *Id.* at 29. Although ANC 8A did not file a formal protest petition against the establishment, Ms. Moore appeared in her personal capacity to object to DC Market’s renewal application. *Id.* at 32. She testifies that the 2200 block has a high crime rate and 2200 16th Street, S.E., which is DC Market’s location, has been designated as an MPD hotspot. *Id.* at 34. There have been incidents of illegal drug sales on the block, physical altercations between residents, domestic violence disputes, as well as several occurrences of gun related incidences. *Id.* As of August 2023, a young man was shot and killed in front of DC Market’s address however, the crime did not emanate from nor was it traceable to DC Market. *Id.*, *ABCA Protest File No. 23-PRO-00096*, Applicant’s Document, Exhibit 1 (Mar. 2024). Ms. Moore believes that DC Market’s alcohol sales proliferate alcohol in a neighborhood already riddled with social ills. *Tr.* at 44. She has observed loitering, broken alcohol bottles, public disturbances, and rowdiness in close proximity to the establishment. *Id.* at 35. She has also observed parents delay dropping off their children at school in the mornings to purchase alcohol because of the store’s early operating hours that begin at 7:00 a.m. *Id.* She does not believe that alcohol sales in an area designated as an MPD hotspot improves the quality of life of its residents. *Id.* at 32, 37. Thus, she urges the Board to deny DC Market’s renewal application. *Id.* at 37.

VIII. Jamila White

14. Jamila White is the current ANC Commissioner for SMD 8A05 and the Chairperson for ANC 8A. *Id.* at 121. She resides approximately four blocks away from the establishment. *Id.* at

127. Like Ms. Moore, Ms. White testified in her personal capacity because ANC 8A did not file a formal protest petition. *Id.* at 121. Ms. White notes that 16th Street has three liquor stores in a three-block radius, about a liquor store per block. *Id.* at 123. 16th Street is known in the District to have the “largest open-air drug market.” *Id.* She believes the liquor stores including DC Market have attracted loitering, disorderly conduct, and several violent crimes into the neighborhood. *Id.* at 122. While the establishments may not be the “. . . root cause[s] of the substance use and the substance abuse . . .,” she believes they are “feeding” into the behavior with their alcohol sales. *Id.* at 123-124. She believes DC Market sells alcohol to individuals who already suffer from substance abuse including alcohol. *Id.* at 127-128. She has observed multiple overdoses on the 16th Street corridor where DC Market is located. *Id.* at 128. She has also observed an MPD officer stationed on the corner of 16th Street and W Street continuously, due to the repeated gun shots and stabbings in the area. *Id.* at 124. She does not believe increasing access to alcohol in a neighborhood facing challenges with substance abuse and violent crimes is beneficial therefore, she urges the Board to deny DC Market’s alcohol license application.

IX. Felicia Dantzler

15. Felicia Dantzler is a Lead Investigator for ABCA who was assigned to investigate DC Market after the protest petition was filed. *Id.* at 49. She has worked at ABCA for seventeen years. *Id.* at 48. Lead Investigator Dantzler visited the establishment on two occasions, on March 11, 2024 from 7:00 p.m. to 7:45 p.m., and on March 12, 2024 from 9:30 p.m. to 9:45 p.m. *Id.* at 52-53. On both occasions, she observed no ABCA violations. *Id.* at 53. She found the establishment to be well-managed with “very friendly” staff. *Id.* at 56. She observed the staff display personable interactions with the patrons that walked into the establishment. *Id.* The establishment’s immediate surroundings were “clean, organized, well-lit, and litter free.” *Protest Report* at 5. Lead Investigator Dantzler observed the twenty cameras installed inside and outside the establishment and noted that the cameras were connected to MPD’s surveillance system. *Tr.* at 57. She also reviewed the establishment’s quarterly reports of its alcohol purchases from wholesalers and observed its purchases were comparable to other medium-sized class B grocery stores. *Id.* at 60. In fact, there were no alcohol sales during any of her visits. *Id.* In concluding her investigation, she requested from the DC’s Office of Unified Communications (“OUC”) Calls for Service from January 1, 2023 through March 12, 2024 regarding DC Market’s address. *Protest Report* at 5. There were thirty-two MPD calls logged; however, none of them required ABCA’s attention. *Id.* The address listed on the OUC call log provided a point of reference for MPD to initiate an investigation but it did not necessarily indicate that a crime occurred at DC Market. *Tr.* at 69.

CONCLUSIONS OF LAW

16. The Board may approve an Application to Renew a Retailer's Class B License when the proposed establishment will not have an adverse impact on the neighborhood. D.C. Official Code §§ 25-104, 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2024). Specifically, the question in this matter is whether the establishment is “appropriate for the locality, section, or portion of the District where it is to be located.” D.C. Official Code § 25-313(a). The Board determines the “appropriateness standard” when it considers whether the establishment would have an adverse impact on the: (1) peace, order, and quiet; (2) residential parking and vehicular and pedestrian safety; and (3) real property values of the area located within 1,200 feet of the

establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2024).

I. The Burden of Proof Lies with the Applicant to Prove its Case Through Substantial Evidence.

17. The burden of proof in this matter is assigned to the Applicant. D.C. Official Code § 25-311(a). “. . . [T]he Applicant in meeting its burden may rely on the record as a whole, which includes information provided in the Protest Report and the Protestant’s case, and not just what the Applicant presents during its case-in-chief.” *In re The New 7307, t/a Premier Lounge*, Case No. 22-PRO-000222, Board Order No. 2022-701, ¶ 1 (D.C.A.B.C. B. Oct. 19, 2022) *citing Esgar Corp. v. Commissioner of Internal Revenue*, 744 F.3d 648, 655 (10th Cir. 2014); *see also Washington Metro. Area Transit Auth. v. Dist. of Columbia Dept. of Employment Services*, 992 A.2d 1276, 1283 (D.C. 2010) *citing Dale v. S & S Builders, LLC*, 188 P.3d 554, 561 (Wyo. 2008) (saying in determining whether a party met its burden during an administrative hearing the court will look at the “record as a whole”). The Board further notes that where there is an “absence of evidence on an essential point [this] supports denial rather than granting of an application.” *Conrad v. Dist. of Columbia Alcoholic Beverage Control Bd.*, 21-AA-748, 2023 WL 163964, at *5 (D.C. Jan. 12, 2023).

II. The Establishment is Appropriate for the Neighborhood.

18. Under the appropriateness test, “the applicant shall bear the burden of proving to the satisfaction of the Board that the establishment for which the license is sought is appropriate for the locality, section, or portion of the District where it is to be located” D.C. Official Code § 25-311(a). In determining appropriateness, the Board must consider whether the Applicant’s future operations will satisfy the reasonable expectations of residents to be free from disturbances and other nuisances—not just whether the Application complies with the minimum requirements of the law. D.C. Council, Bill 6-504, the “District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986,” Committee on Consumer and Regulatory Affairs, 38 (Nov. 12, 1986); *see Panutat, LLC v. D.C. Alcoholic Beverage Control Bd.*, 75 A.3d 269, 277 n. 12 (D.C. 2013) (“However, in mandating consideration of the effect on peace, order, and quiet, § 25-313(b)(2) does not limit the Board’s consideration to the types of noises described in § 25-725.”). As part of its analysis, the Board should evaluate each “unique” location “according to the particular circumstances involved” and attempt to determine the “prospective” effect of the establishment on the neighborhood. *Le Jimmy, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 433 A.2d 1090, 1093 (D.C. 1981). Furthermore, the analysis may also include the Applicant’s efforts to mitigate or alleviate operational concerns, the “character of the neighborhood,” the character of the establishment, and the license holder’s future plans. *Donnelly v. District of Columbia Alcoholic Beverage Control Board*, 452 A.2d 364, 369 (D.C. 1982) (saying that the Board could rely on testimony related to the licensee’s “past and future efforts” to control negative impacts of the operation); *Upper Georgia Ave. Planning Comm. v. Alcoholic Beverage Control Bd.*, 500 A.2d 987, 992 (D.C. 1985) (saying the Board may consider an applicant’s efforts to “alleviate” operational concerns); *Citizens Ass’n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 410 A.2d 197, 200 (D.C. 1979); *Gerber v. D.C. Alcoholic Beverage Control Bd.*, 499 A.2d 1193,

1196 (D.C. 1985); *Sophia's Inc. v. Alcoholic Beverage Control Bd.*, 268 A.2d 799, 800-801 (D.C. 1970).

a. The Applicant will not have a negative impact on peace, order, and quiet.

19. The Board is not convinced that DC Market will have a negative impact on the peace, order, and quiet of the neighborhood where it has not been established that the violent crimes, illicit drug activities, loitering, littering, rowdiness, and other appropriateness factors under consideration are attributable to the establishment's business practices.

20. "In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726." D.C. Official Code § 25-313(b)(2); *see also* D.C. Official Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider "noise, rowdiness, loitering, litter, and criminal activity." 23 DCMR § 400.1(a) (West Supp. 2024). In *Holiday Liquors*, it was determined that "the mere existence of a store in a high crime area or the mere commission of crime within or outside the store are not sufficient to render its presence inappropriate." *In re Holiday Family Liquor, Inc., t/a Holiday Liquors*, Case No. 21-PRO-00025, Board Order No. 2021-518, (D.C.A.B.C.B. Sept. 29, 2021). The Board further wrote that "a showing of inappropriateness should be based on evidence that neighborhood problems emanate from, are traceable to, or are otherwise exacerbated by the establishment and its patrons." *Id. citing LCP, Inc. v. Dist. of Columbia Alcoholic Beverage Control Bd.*, 499 A.2d 897, 903 n. 4 (D.C. 1985).

21. The Applicant satisfies the appropriateness test. The evidence is uncontroverted that the area surrounding DC Market suffers from a high rate of violent crimes and related activities. *Supra*, at ¶¶ 6-14. The evidence is also uncontroverted that this area has been designated as an MPD hotspot therefore, it attracts frequent police action. *Supra*, at ¶¶ 6, 13. A simple speculation that DC Market's alcohol sales may correlate with criminal activities, loitering, or rowdiness without sufficient proof does not make the establishment inappropriate in the neighborhood. *In re Holiday Family Liquor, Inc.*, Board Order No. 2021-618 at 10. Several witnesses provided testimonies that the inappropriate factors at issue were beyond the scope or control of the establishment. *Supra*, at ¶¶ 11-15. Several witnesses also provided testimonies that contradicted the Protestant's argument on the correlation. *Supra*, at ¶¶ at 9-11. For instance, Ms. White testified that the area is known as the "largest open-air drug market" in the District. *Supra*, at ¶ at 14. Mr. Butler, a thirty-year resident, testified about the loitering, rowdiness, and criminal activities the former store attracted to the area; however, he added that DC Market's presence has "dramatically" improved the image of the neighborhood which has been a "wonderful thing." *Supra*, at ¶ 11; *Tr.* at 98. The Protestant's evidence fails to establish "something traceable" to the establishment's operation such as observing DC Market: (1) participating or encouraging criminal activities on its premises; (2) selling alcohol to individuals who are inebriated or participating in shoot outs; (3) accommodating rowdy patrons, loitering, or littering on its premises; or (4) repeatedly engaging in behaviors that fail to report criminal offenses, or refusing to cooperate with MPD in an investigation. On the contrary, DC Market has signage against loitering and noise, removes individuals who are rowdy or loitering on its premises, and allows MPD officers remote access to its surveillance system when investigating a crime. *Supra*, at ¶¶ 7, 9, 11. Furthermore, MPD's

record for the last three years do not show any homicide or other criminal activities within 200, 500, or 1,000 feet of the establishment. *Supra*, at ¶ 7. As a result, the record does not support tying any current crime, loitering, or rowdiness problems faced by the community to the operations of the store.

22. Next, the Board is not convinced that DC Market’s business practices exacerbate or contribute to the trash and litter problem in the neighborhood. The Protestant has provided testimonies of observing trash, litters, and broken alcohol bottles on the 16th Street corridor where DC Market is located. *Supra*, at ¶¶ 13-15. The testimonies, however, do not demonstrate that the trash is emanating from DC Market or its patrons. As Ms. White testified, there are two other stores with alcohol licenses in a three-block radius from the DC Market. *Supra*, at ¶ 15. It is unclear if the other two stores or their patrons are the source of the trash problem on the corridor. Additionally, the Applicant has presented demonstrable evidence that it makes measurable efforts to keep its surroundings clean. First, it has staff that sweeps the front of the establishment on a daily basis. *Supra*, at ¶ 8. Next, it has built a retainer wall that covers the trash receptacles which curtails pest infestation and littering. *Supra*, at ¶ 8. Next, it has a contract with a third-party trash company to pick up its trash three times a week. *Supra*, at ¶ 8. Lastly, it has a contract with a pest control company to provide extermination services on a quarterly basis. *Supra*, at ¶ 8. With these, the Board is satisfied that the Applicant takes measurable efforts to keep its environment clean; therefore, it cannot reasonably conclude that it contributes or exacerbate the trash and litter problem in the neighborhood.

b. The Applicant will not have a negative impact on residential parking needs and vehicular and pedestrian safety.

23. “In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment upon residential parking needs and vehicular and pedestrian safety” D.C. Official Code § 25-313(b)(3); *see also* D.C. Official Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider the availability of both private and public parking, any parking arrangements made by the establishment, whether “[t]he flow of traffic . . . will be of such pattern and volume as to . . . increase the [reasonable] likelihood of vehicular [or pedestrian] accidents” 23 DCMR § 400.1(b), (c) (West Supp. 2023). In this case, the Protestant did not raise any claim on the record that the Applicant’s business is having a negative impact on residential parking needs and vehicular and pedestrian safety. In addition, no evidence was presented of the establishment’s patrons monopolizing residential parking or fostering dangerous traffic conditions. Thus, the Board finds in favor of the Applicant.

c. The Applicant will not have a negative impact on real property values.

24. In determining whether an establishment is appropriate, the Board must examine whether the establishment is having a negative effect on real property values. D.C. Official Code § 25-313(b)(1). The Board has noted in the past that the presence of blight may have a negative impact on property values. *In re Historic Restaurants, Inc., t/a Washington Firehouse Restaurant, Washington Smokehouse*, Case No. 13-PRO-0031, Board Order No. 2014-107, ¶ 48 (D.C.A.B.C.B. Apr. 2, 2014) *citing In re Rail Station Lounge, LLC, t/a Rail Station Lounge*, Case No. 10-PRO-00153, Board Order No. 2011-216, ¶ 62 (D.C.A.B.C.B. Jun. 15, 2011). In this case,

the Applicant has demonstrated that the establishment is “clean, organized, well-lit, and litter free.” *Supra*, at ¶ 16. The Applicant in working collaboratively with his neighbors, commissioned a mural of Frederick Douglas on the wall facing 16th Street which has “dramatically” improved the image of the neighborhood. *Supra*, at ¶ 12. The Protestant did not direct the Board to any factors that would lead to a negative impact on real-property values, such as prior building code violations and evidence of blight. Therefore, the Board finds in favor of the Applicant on this issue.

III. The Application Satisfies All Remaining Requirements Imposed by Title 25.

25. The Board is only required to produce findings of fact and conclusions of law related to those matters raised by the Protestants in their initial protest. *See Craig v. District of Columbia Alcoholic Beverage Control Bd.*, 721 A.2d 584, 590 (D.C. 1998) (“The Board's regulations require findings only on contested issues of fact.”); 23 DCMR § 1718.2 (West Supp. 2023). Accordingly, based on the Board’s review of the Application and the record, the Applicant has satisfied all remaining requirements imposed by Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations.

ORDER

Therefore, the Board, on this 22nd day of May 2024, hereby **APPROVES** the Application to Renew a Retailer's Class B License at premises 2200 16th Street, S.E., Washington, D.C. 20020 filed by DC Market Inc., t/a DC Food Market.

IT IS FURTHER ORDERED that the Board’s findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision. The omission of any testimony or evidence in the Board’s Order indicates that such testimony or evidence was contravened by the evidence or testimony credited by the Board, had no or minimal weight on the Board’s findings and conclusions, was irrelevant, was not credible, was not truthful, was repetitious, was too speculative, or was otherwise inappropriate for consideration.

The ABCA shall deliver a copy of this order to the Parties.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDocx.com
Donovan Anderson

Key: ac430b66c69d5f0e4b730069d1dccc8

Donovan Anderson, Chairperson

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James Short

Key: 547ae373f6209e6a6c8d1b332d2948ec

James Short, Member



Silas Grant, Jr., Member

Pursuant to D.C. Official Code § 25-433(d)(1) (applicable to alcohol matters) or 22-C DCMR § 9720 (applicable to medical cannabis matters), 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 and Cannabis Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section II 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 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 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) (2004).