

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

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In the Matter of:	)	
	)	
MAHK Meetings, LLC	)	Case No.: 20-PRO-00038
t/a TBD	)	License No.: ABRA-116881
	)	Order No.: 2020-993
Application to Transfer to a New Location a	)	
Retailer's Class CT License	)	
	)	
at premises	)	
1806 Vernon St., N.W.	)	
Washington, D.C. 20001	)	

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**BEFORE:** Donovan Anderson, Chairperson  
James Short, Member  
Bobby Cato, Member  
Rema Wahabzadah, Member  
Rafi Aliya Crockett, Member  
Jeni Hansen, Member  
Edward S. Grandis, Member

**ALSO PRESENT:** MAHK Meetings, LLC, t/a TBD, Applicant

Sidon Yohannes, Counsel, on behalf of the Applicant

Suzanne Farmer, Abutting Property Owner, Protestant

Piper Hendricks, Abutting Property Owner, Protestant

Denis James, President, Kalorama Citizens Association, Protestant

Amir Irani, Chairperson, Advisory Neighborhood Commission (ANC 1C),  
Protestant

Alan J. Roth, on behalf of a Group of Five or More Residents or Property  
Owners, Protestant

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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## ORDER DENYING PROTESTANT'S MOTION FOR RECONSIDERATION

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### BACKGROUND

MAHK Meetings, LLC, t/a TBD, (hereinafter "Applicant" or "MAHK") has filed an application to transfer an existing Retailer's Class CT License to 1806 Vernon Street, N.W. The Protestants filed a motion to dismiss the application, which was denied in Board Order No. 2020-663.<sup>1</sup>

### PRIOR PROCEEDINGS

In its motion to dismiss, the Protestants argued that

While the transfer of licenses from one location to another *within* the [Adams Morgan Moratorium Zone] is permitted, this Applicant seeks a location transfer for a license that (1) was not issued to a location within the AMMZ when it first came into existence, (2) was not actually used by any establishment in operation within the AMMZ at any time, (3) was not transferred to any licensee operating any other establishment within the AMMZ, (4) had been held in safekeeping by the Board for nearly four years before the address with which it previously had been associated serendipitously fell into the expanded area to which the Board broadened the AMMZ in late November 2018, and (5) had been held in safekeeping for more than five years when it was transferred to the Applicant.

*Mot. to Dismiss*, at 5-6; *see also Reply*, at 9-13. The Protestants further argued that because the prior license holder "had expressly chosen not to operate at 1723 Columbia Road, N.W., . . . the most logical and appropriate reading of the statute is that this license was actually 'located' where it was 'held'—at the Board's offices, but not in the AMMZ. *Id.* at *Mot. to Dismiss*, at 7. Therefore, based on this reasoning, the Protestants concluded that the application must be dismissed.

MAHK objected for several reasons. First, MAHK argued that while the license originally did not lie in the AMMZ, it now falls within the moratorium zone due to the new boundaries created by the currently enacted rules, which now include 1723 Columbia Road, N.W., where the license was located. *Opp.* at 3. Second, MAHK argued that the plain language of regulations permit MAHK's proposed transfer of the license from one part of the AMMZ to another. *Id.* at 4-5. Third, MAHK argued that there is no ambiguity, and applying the regulation as written conforms with the intent of the law and regulations. *Id.* at 5-6. Fourth, MAHK argued that the Protestant's arguments regarding safekeeping are contrary to precedent and inconsistent with the statute. *Id.* at 9.

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<sup>1</sup> The prior Order did not acknowledge that all of the Protestants joined in the motion. As a result, the Board recognizes that the present matter is joined by all of the Protestants.

The Alcoholic Beverage Control Board sided with MAHK because the Protestants' motion asked the Board to consider patently irrelevant matters. *In re MAHK Meetings, LLC, t/a TBD*, Case No. 20-PRO-00038, Board Order No. 2020-663, 3 (D.C.A.B.C.B. Nov. 4, 2020).

## MOTION FOR RECONSIDERATION

Following the Board's denial of the motion to dismiss, the Protestants filed a motion for reconsideration on November 13, 2020, which was opposed by MAHK.

### I. The inactive or safekeeping status of MAHK's license remains irrelevant.

The Protestants first argue that the Board should consider MAHK's license detached from its original address because another licensee operated at the licensed location while MAHK's license was in safekeeping, and because in its prior safekeeping applications the original owner indicated that the license had no location. *Id.* at 4. In the Protestant's view, the Board's current interpretation is unreasonable and absurd. *Id.* at 3-4. The Board disagrees.

The Protestant's argument is not compelling because the Protestants fail to recognize that the Board's reasoning in *Hopeful* is compelled by the text and structure of Title 25 of the D.C. Official Code. The *Hopeful* decision generally stands for the proposition that licenses issued to a specific address remains legally attached to that address regardless of the circumstances.<sup>2</sup> *Mot. for Recon.*, at 2-3; *In re Hopeful, Inc., t/a To Be Determined*, ABRA License No. 91955, Board Order No. 2018-395, 1 (D.C.A.B.C.B. Jun. 20, 2018) (emphasis added) [*Hopeful 2018*] adopted by Board Order No. 2019-107, 1 (D.C.A.B.C.B. Feb. 27, 2019) (adopting the position taken in Board Order No. 2018-395). The Protestant fails to note that in 2017 and 2018, when the Board articulated the reasoning described in *Hopeful*, the Board cited D.C. Official Code § 25-317(a). *Hopeful 2018*, Board Order No. 2018-395 at 1-2. Section 25-317(a) requires that the transfer of a license to a new location to undergo the same application process, notice procedures, and other requirements as the initial issuance of a license. D.C. Code § 25-317(a). This means that no license can detach from its original address until the license holder has applied and is approved for a transfer to a new location. Thus, because none of the external factors cited by the Protestants involve the filing or approval of an application to transfer the license to a new location, none of the reasons raised by the Protestants are relevant or otherwise require a departure from *Hopeful*.<sup>3</sup>

### II. The Protestants public policy rationale is not compelling.

The Protestants further ask the Board to find a relationship between the safekeeping or moratorium provisions and adopt their interpretation of the rules. *Mot. for Recon.*, at 5-6. Nevertheless, the Protestants have made no compelling argument that the Board has departed

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<sup>2</sup> This includes a situation where a license is placed in safekeeping and a different license is issued to the same address while the original license is held in safekeeping.

<sup>3</sup> The D.C. Court of Appeals also appears to have tacitly approved of the Board's reasoning regarding the legal location of licenses in *Hopeful*. *Hopeful, Inc. v. D.C. Alcoholic Beverage Control Board*, No. 19-AA-270, 7 ("Moreover, the current address on the license remains the 18th Street location, even though "the Licensee has no intent to rebuild or reconstruct" that property.") (emphasis added) (unpublished).

from the plain meaning of the relevant statutes and regulations, has interpreted the relevant statutes and regulations unreasonably, or provided any specific legislative or administrative rulemaking history that contradicts the Board's interpretation. Therefore, this argument is without merit.

**III. The Protestants lack standing to challenge prior safekeeping petitions filed by the MAHK's license holders.**

The Board further notes that the Protestants have no right to challenge any prior or current safekeeping applications filed by MAHK's present and prior license holders. An application for safekeeping does not require public or notice and comment and is not subject to protest, as in the case of an application for the issuance or renewal of a license. D.C. Code §§ 25-421(a), 25-601. Instead, the only parties to an application for safekeeping are the license holder and the Board. D.C. Code § 25-791. Therefore, the Protestants' safekeeping claim regarding the Board's prior approval of MAHK's safekeeping applications are solely a "generalized grievance" that the Board did not act in accordance of the law, which is insufficient to confer standing on the Protestants to challenge MAHK's past or current safekeeping status. *York Apartments Tenants Ass'n v. Dist. of Columbia Zoning Comm'n*, 856 A.2d 1079, 1084 (D.C. 2004) citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 575-76 (1992) ("... an injury amounting only to the alleged violation of a right to have the Government act in accordance with law was not judicially cognizable . . .").

Moreover, even if the Protestants had standing, there are no grounds for denying safekeeping in the past or present, or for otherwise voiding the license. As noted in § 25-791(a)(2), the safekeeping statute recognizes that a license may resume operations at the licensed premise or the license is transferred to a new location or owner." D.C. Code § 25-791(a)(2). MAHK can easily dispense with any claim that it has "abandoned" the license and is not making "reasonable progress on returning to operations" where the license has been recently transferred to a new owner and MAHK is presently seeking to transfer the license to a new location in accordance with the safekeeping statute. D.C. Code § 25-791(a)(2), (3), (c)(1). Moreover, the allegations that the Board erred in approving prior safekeeping applications related to MAHK are unfounded speculation, as the loss of a location is not *per se* abandonment under § 25-791(a)(2), and the Board has the discretion when granting approvals or extensions of safekeeping to credit a safekeeping application on its face that a license holder is making reasonable progress in returning to operation or transferring the license to a new owner or location.<sup>45</sup> Therefore, there is no reason to disturb the Board's prior safekeeping decisions related to MAHK.

**ORDER**

Therefore, the Alcoholic Beverage Control Board (Board), on this 2nd day of December 2020, hereby **DENIES** the motion for reconsideration. The ABRA shall deliver a copy of this order to the Parties.

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<sup>4</sup> See *In re Hopeful, Inc., t/a To Be Determined*, ABRA License No. 91955, Board Order No. 2018-592, 1 (D.C.A.B.C.B. Jun. 20, 2017) (saying the loss of location "further supports" denial of the safekeeping application).

District of Columbia  
Alcoholic Beverage Control Board

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Edward S. Grandis, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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 14<sup>th</sup> Street, N.W., Suite 400S, Washington, DC 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) (2004).