

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

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In the Matter of:	)	
	)	
Po Boy Jim 2, LLC	)	Case No.: 19-PRO-00064
t/a Po Boy Jim 2	)	License No: ABRA-105468
	)	Order No: 2019-544
	)	
Application to Renew a	)	
Retailer's Class CR License	)	
	)	
at premises	)	
1934 9th Street, N.W.	)	
Washington, D.C. 20001	)	

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**BEFORE:** Donovan Anderson, Chairperson  
Mike Silverstein, Member  
James Short, Member  
Bobby Cato, Member  
Rema Wahabzadah, Member

**ALSO PRESENT:** Po Boy Jim 2, LLC, t/a Po Boy Jim 2, Applicant

Dan Orlaskey, on behalf of a Group of Five or More Individuals and  
Abutting Property Owners Evan Schlom and Paul Alvaro Marin,  
Protestants

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**ORDER GRANTING IN PART AND DENYING IN PART REINSTATEMENT**

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In Board Order No. 2019-495, the Alcoholic Beverage Control Board dismissed the protest filed by Evan Schlom and Paul Alvaro (collectively, the "Petitioners") for failing to establish that their properties abutted the establishment operated by Po Boy Jim 2, LLC, t/a Po Boy Jim 2 (Applicant) in accordance with D.C. Official Code § 25-601(1). Subsequently, the Petitioners requested reinstatement on the grounds that their condominium units abut the Applicant's establishment. The Applicant has not filed a response.

Mr. Schlom owns condominium Unit 302 and Mr. Marin owns Unit 402 in their building. The building where the Petitioners reside shares a lot line with the building where the establishment is located. Based on pictures of the buildings, the Applicant's premise occupies a two story building, while the Petitioners' units are located on the third and fourth floors of a four story building.<sup>1</sup> The floor of Unit 302 appears to run along the roof of the Applicant's building, while Unit 402 is located completely above the Applicant's premises.

An abutting property owner is granted standing to protest the renewal of a liquor license under D.C. Official Code § 25-601(1). Under § 101.2, two properties are deemed to be abutting when their property lines touch. 23 DCMR § 101.2 (West Supp. 2019). In *Reverie*, the Board determined that "condominiums and apartments that do not share a wall or ceiling with the licensed establishment cannot constitute abutting properties." *In re Spero, LLC, t/a Reverie, Case No. 17-PRO-00088*, Board Order No. 2018-045, 2 (D.C.A.B.C.B. Jan. 31, 2018). The Board notes that this interpretation conforms with § 101.2 because the property lines of a condominium or apartment do not constitute the entire building. In light of this precedent, Mr. Schlom's Unit abuts the Applicant's establishment, while the other Unit does not.

## ORDER

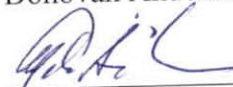
Therefore, the Board, on this 10th day of July, hereby **GRANTS IN PART AND DENIES IN PART** the motion for reinstatement and reconsideration by reinstating Mr. Schlom, the owner of Unit 302, but denies reinstatement to Mr. Marin, the owner of Unit 402. The Board advises the parties that nothing prevents the parties from calling dismissed parties as witnesses should this matter proceed to a hearing. The ABRA shall deliver a copy of this order to the parties.

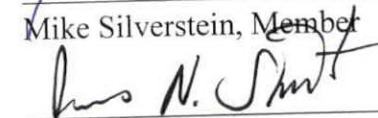
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<sup>1</sup> The Board takes judicial notice of maps and images of the two buildings, which were reviewed in order to determine the location of the condominiums at issue. *Board Exhibits Nos. 1-4* (on file with ABRA). The Board notes that the parties can request the photographs from ABRA and submit additional information on reconsideration, if they so choose.

District of Columbia  
Alcoholic Beverage Control Board

  
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Donovan Anderson, Chairperson

  
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Mike Silverstein, Member

  
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James Short, Member

  
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Bobby Cato, Member

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Rema Wahabzadah, 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, Reeves Center, 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. 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. 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) (2004).