

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

In the Matter of:)		
)		
Kelemewa, Inc.)	Case No.:	19-PRO-00122
t/a Pure Nightclub & Lounge)	License No.:	ABRA-024613
)	Order No.:	2020-057
Application to Renew a)		
Retailer's Class CN License)		
)		
at premises)		
1326 U Street, N.W.)		
Washington, D.C. 20009)		

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member
Rafi Aliya Crockett, Member

ALSO PRESENT: Kelemewa, Inc., t/a Pure Nightclub & Lounge, Applicant

Sidon Yohannes and Andrew Kline, Counsels on behalf of the Applicant

James Turner, Chair, Danny Delaney, Secretary, Dan Winston,
Commissioner, on behalf of Advisory Neighborhood Commission (ANC)
1B, Protestants

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DISMISSING PROTESTANT FOR FAILING TO APPEAR AT MEDIATION

The Alcoholic Beverage Control Board (Board) *sua sponte* dismisses the protest filed by ANC 1B against the Renewal Application filed by Kelemewa, Inc., t/a Pure Nightclub & Lounge (hereinafter "Applicant" or "Pure") for failing to appear at the scheduled mediation pursuant to D.C. Official Code § 25-445.

The Board received Pure's motion to dismiss on January 10, 2020. *Applicant's Motion to Dismiss*, at 1. As part of the motion, Pure indicated that ANC 1B failed to appear at the scheduled mediation on December 19, 2019, which is confirmed by ABRA's records. *Id.* at 2-3.

Furthermore, ABRA's records show that the Board's Agent obtained the agreement of the parties in setting the date and time of mediation. *Transcript*, December 2, 2019 at 3-4 ("Mr. Winston: Yes, 1:30 works"). Finally, there is no indication in ABRA's records that ANC 1B sought to continue the mediation or explain its absence from the mediation.

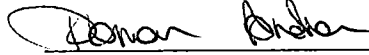
According to § 25-445(a), "A mediation among the parties shall be held to discuss and resolve, if possible, the objections raised by the protestants." D.C. Code § 25-445(a). "Mediation, which may be arranged at a roll call hearing or any other time, shall be set on a mutually convenient date before the scheduled protest status hearing or the protest hearing." D.C. Code § 25-445(b). Under § 25-445(d), "No party shall unreasonably refuse to make himself or herself available to attend a mediation." D.C. Code § 25-445(d). Finally, under § 25-445(e), "If a party refuses to make himself or herself available to attend mediation, the Board shall consider the application withdrawn, unless the party can show good cause for refusing to be available." D.C. Code § 25-445(e).

In this case, ANC 1B failed to appear at the scheduled mediation despite being on notice of the meeting and agreeing to the scheduled date and time. This action is sufficient to constitute an unreasonable refusal to make oneself available to attend mediation in accordance with § 25-445(d). As noted in § 25-445(e), the Board deeming the matter withdrawn is an appropriate and reasonable remedy for such an action.

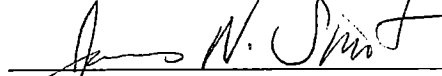
ORDER

Therefore, the Board, on this 29th day of January 2020, hereby deems the protest filed by ANC 1B withdrawn and **DISMISSES** the protest pursuant to D.C. Official Code § 25-445. The motion to dismiss filed by Pure is deemed **MOOT**. The ABRA shall deliver a copy of this order to the Parties.

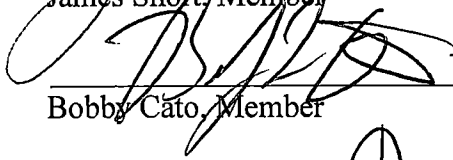
District of Columbia
Alcoholic Beverage Control Board



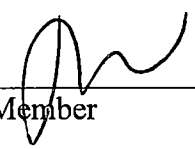
Donovan Anderson, Chairperson



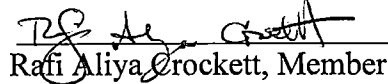
James Short, Member



Bobby Cato, Member



Rema Wahabzadah, Member



Rafi Aliya Crockett, 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).