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THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of Woong Shik Shim & Young Ok Shim t/a Me & My Supermarket Renewal Application for a Retailer's License Class "B" – at premises 1111 H Street, N.E. Washington, D.C. Applicant	Case No: 11484-00043P

BEFORE: Roderic L. Woodson, Esquire, Chairperson
Vera Abbott, Member
Ellen Opper-Weiner, Esquire, Member
Audrey E. Thompson, Member
Judy Moy, Member
Charles Burger, Member
Laurie Collins, Member

ALSO PRESENT: Fred P. Moosally, Assistant Corporation Counsel
Legal Advisor to the Board

Paul L. Pascal, Esquire, on behalf of the Applicant
Soon E. Kim, interpreter for the Applicant

Thomas Taylor, Esquire, on behalf of the Protestants

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This application, filed by Woong Shik Shim & Young Ok Shim, t/a Me & My Supermarket ("Applicant"), to renew a Retailer's License Class "B" at premises 1111 H Street, N.E., Washington, D.C., initially came before the Alcoholic Beverage Control Board ("Board") for a roll call hearing on May 3, 2000. It was determined that a timely protest was filed pursuant to section 14(b) of the District of Columbia Alcoholic Beverage Control Act ("the Act"), approved January 24, 1934, 48 Stat. 327, D.C. Code § 25-115(b) (1996), by Earle Rands. The protest issue is whether the establishment adversely affects the peace, order, and quiet of the neighborhood.

The case came before the Board for public protest hearings on September 27, 2000 and October 4, 2000. The Board having considered the evidence, the testimony of the witnesses, and the documents comprising the Board's official file, makes the following:

FINDINGS OF FACT

1. The establishment is located at 1111 H Street, on the northeast corridor of H Street, N.E. (Investigator's Report at 2.) It is currently operating on the first floor of a one-story building with a single entrance on H Street, N.E. (Investigator's Report at 2.) The establishment is located in an area zoned C-3-A. (Investigator's Report at 2.) The C-3-A district is designed to provide facilities for shopping and business needs, housing and mixed uses for large segments of the city outside of the central core. (Investigator's Report at 2.) The establishment was issued a certificate of occupancy for retail grocery on November 29, 1989 for the first floor. (Investigator's Report at 2-3.) The establishment's approved hours of operation on file with the ABC Board are Sunday through Saturday 9 a.m. to 10 p.m. The Applicant's permitted hours to sell alcoholic beverages are 9 a.m. to 9 p.m. on Sunday through Saturday. (Tr. 9/27/00 at 9-10; Investigator's Report at 2.)

2. The establishment sells beer, wine, cigarettes, prepackaged foods, juices, sodas, and household products. (Tr. 9/27/00 at 53-54; Investigator's Report at 2.) Most of the establishment's customers are 40 years and older with not many young people patronizing the establishment. (Tr. 9/27/00 at 116.) With regard to other ABC establishments, Sun & Moon Grocery, which holds a Class "B" liquor license, is about three blocks from the establishment. (Tr. 9/27/00 at 68.) Additionally, Jumbo Liquors, which holds a Class "A" liquor license, is located across the street from the establishment at 1122 H Street. (Tr. 9/27/00 at 70, 93, 101, 107.) Jumbo Liquors opens and closes at approximately the same time as Me & My Supermarket. (Tr. 9/27/00 at 102.) Other commercial establishments located within the block include two barbershops, a thrift shop, a dollar store, and a check-cashing store on the corner. (Tr. 9/27/00 at 98-99.) Mimi's grocery store, which previously held a Class "B" ABC license, is about 25 feet away from Me & My Supermarket. (Tr. 9/27/00 at 69.)

3. There are no bus stops located near the establishment. (Tr. 9/27/00 at 22.) There are also no pay phones currently located outside of the establishment. (Tr. 9/27/00 at 52.) Previously, there had been a pay phone located in front of the establishment but it has been removed. (Tr. 9/27/00 at 44-45.) The establishment for the last two years has had a sign posted outside on the front of the store indicating, "no standing and/or drinking in front or around the store." (Tr. 9/27/00 at 62; Investigator's Report at 4.)

4. Alcoholic Beverage Control Investigator George Batista visited the establishment 9 times. (Tr. 9/27/00 at 7-9; Investigator's Report at 3.) Specifically, Investigator Batista visited the establishment Thursday, September 7, 2000, from 7 p.m. to 10 p.m.; Friday, September 8, 2000, from 8 p.m. to 10 p.m.; Saturday, September 9, 2000, from 8 p.m. to 10 p.m.; Monday, September 11, 2000 from 11 a.m. to 3 p.m.; Tuesday, September 12, 2000 from 11 a.m. to 3 p.m.; Wednesday, September 13, 2000, from 11 a.m. to 3 p.m.; Thursday, September 19, 2000 from 8 p.m. to 10 p.m.; and September 26, 2000, from 11 a.m. to 12:30 p.m. (Tr. 9/27/00 at 8-9; Investigator's Report at 3.) Additionally, Investigator Batista conducted a regulatory inspection

of the premises on Thursday, September 21, 2000 and found the establishment to be in compliance. (Investigator's Report at 2.)

5. With regard to peace, order, and quiet, Investigator Batista found no problems at the establishment involving noise, litter, loitering, rowdiness, or criminal activity during any of his nine visits. (Tr. 9/27/00 at 8, 25.) Specifically, Investigator Batista did not see any incidents of littering or loitering within a block and a half radius of the establishment. (Tr. 8/23/00 at 36, 40; Investigator's Report at 4-5.) Investigator Batista did not observe any overcrowding on the interior or exterior of the establishment. (Investigator's Report at 4.) Investigator Batista testified that a majority of the patrons of the establishment entered and exited the establishment in an orderly and peaceful manner. (Tr. 8/23/00 at 32.) Investigator Batista observed patrons exit the store with various types and sizes of plastic and brown bags. (Investigator's Report at 3.)

6. On September 12, 2000 Investigator Batista did observe senior citizens standing and conversing in a normal manner in front of a thrift store at 1107 H Street, N.E. but did not observe any heavy pedestrian traffic outside of the applicant's establishment. (Tr. 9/27/00 at 24-25.) Investigator Batista noticed that after 9 p.m., when the establishment stopped selling alcohol, the flow of pedestrian traffic in the area of the establishment decreased. (Investigator's Report at 3.)

7. Investigator Batista observed the owner of establishment sweeping one time in the morning right before the establishment was opening for business. (Tr. 9/27/00 at 25-26.) Specifically, the Applicant was observed by Investigator Batista sweeping in front of the establishment and the vacant lot located next door to the establishment. (Tr. 9/27/00 at 26.) Investigator Batista testified that Mr. Shim, the owner of the establishment, improved the area of the establishment by having a garden built near the vacant lot. (Tr. 9/27/00 at 26-27.)

8. With regard to parking and vehicular and pedestrian safety, Investigator Batista testified that a majority of the patrons entering the establishment were from the neighborhood and, as an example, he noted that he observed Mr. Shim having a conversation with a patron who knew Mr. Shim by the nickname of David. (Tr. 9/27/00 at 10-11.) Additionally, Investigator Batista did not observe any patrons double park illegally outside of the establishment and noted that metered parking is available on both sides of the street. (Tr. 9/27/00 at 23; Investigator's Report at 4.)

9. With regard to the establishment's record of compliance, Investigator Batista testified that in the Summer of 1999 based on a complaint he received from Mr. Rands, he conducted an undercover operation where he was able to purchase alcohol on two occasions prior to 9 a.m. (Tr. 9/27/00 at 12-13.) Investigator Batista testified that the establishment immediately conformed to its permitted hours of operation upon being provided notice to do so by the ABC Board. (Tr. 9/27/00 at 21.) Investigator Batista noted that during his nine recent visits to the establishment the Applicant was selling alcohol only during its permitted hours with the alcohol inside the establishment being secured by 9 p.m. (Tr. 9/27/00 at 9-10.) Investigator Batista testified that he had received reports regarding health violations at the establishment from a Mrs. Coleman who was employed with the Department of Health Environmental Health Inspection. (Tr. 9/27/00 at 15-20; Investigator's Report Attachment.) Investigator Batista testified that during his visits the establishment was well stocked and orderly and contained items such as meat, produce, household supplies, and other food and grocery items. (Tr. 9/27/00 at 11-12.)

10. Marvin Fields, Jr., who resides at 604 11th Street, N.E. is the Advisory Neighborhood Commissioner for the single member district that includes Me & My Supermarket. He is also the Secretary of ANC 6A. (Tr. 8/23/00 at 29-30, 43.) Mr. Fields has been an ANC Commissioner for four years and has lived in the neighborhood for six years. (Tr. 8/23/00 at 47.) He shops at the store occasionally, has found the store to sell a wide range of products, and finds the store to be a convenience to the neighborhood. (Tr. 8/23/00 at 30, 47.) With regard to improvements made by the establishment, Mr. Fields testified that the establishment has installed a garden, painted a fence, put up a no loitering sign, and done a lot of sweeping and rinsing of the sidewalks. (Tr. 8/23/00 at 30.) He has not observed any type of beer advertisement on the outside of the establishment. (Tr. 8/23/00 at 30-31.)

11. Mr. Fields testified that Mr. Shim appears to have a good relationship with his customers and annually contributes to the Father's Day celebration held in the community at Sherwood playground. (Tr. 8/23/00 at 31.) He testified that the area is generally clean and that he has not noticed any loitering around the establishment or any noise or loud music emanating from the establishment. (Tr. 8/23/00 at 31.) Mr. Fields has not observed any rowdy or criminal activity take place at the establishment. (Tr. 8/23/00 at 32.) He stated that the establishment has a positive impact on the neighborhood. (Tr. 8/23/00 at 32.)

12. Mr. Fields testified that he was present and participated at an ANC 6A special meeting held on August 4, 2000 where the Applicant's liquor license application was discussed. (Tr. 8/23/00 at 32-34; Applicant's Exhibit No. 3.) He identified the agenda for the August 4, 2000 special meeting, which included a discussion on the liquor license renewal of the Applicant. (Tr. 8/23/00 at 33-34; Applicant's Exhibit No. 3.) Mr. Fields identified a resolution supporting the Me & My Supermarket liquor license renewal application. (Tr. 8/23/00 at 34.)

13. Mr. Fields testified that ANC 6A sent out notice of the August 4, 2000 special meeting about ten days prior to the meeting date. (Tr. 8/23/00 at 37.) He stated that his secretary faxed a copy of the ANC agenda to the Voice of the Hill and that the meeting notice was published on the Voice of the Hill web site. (Tr. 9/27/00 at 37-39.) Mr. Fields stated that copies of upcoming ANC 6A meetings are also distributed in the community via flyers to various community groups. (Tr. 8/23/00 at 37, 39.) In this case, Mr. Fields testified that the ANC 6A August 4, 2000 special meeting agenda was distributed as a flyer. (Tr. 9/27/00 at 39.)

14. Mr. Fields testified that the August 4, 2000 agenda was set in July for the August meeting and that he produced the August 4, 2000 agenda days before it was to appear on the Voice of the Hill website. (Tr. 9/27/00 at 40.) He stated that notice of the meeting went out three days or more in advance. (Tr. 9/27/00 at 46.) Mr. Fields testified that about twenty people attended the August 4, 2000 meeting. (Tr. 9/27/00 at 47.) He believed that publication in Voice of the Hill was the best place to publish the meeting. (Tr. 9/27/00 at 48.) Mr. Fields saw the agenda on the Voice of the Hill website but was not sure when it actually went on the web site. (Tr. 9/27/00 at 40.) He testified that ANC 6A does not have a regularly scheduled meeting in August as it is in recess and that there had not been an ANC 6A meeting scheduled on August 3, 2000. (Tr. 9/27/00 at 49.) The ABC Board took judicial notice of the transcripts from the Sun and Moon Grocery public protest hearings which occurred on August 23, 2000 and September 13, 2000.

(Tr. 9/27/00 at 42.) At the August 23, 2000 and September 13, 2000 public protest hearings the Board heard testimony from ANC 6A Commissioner H.G. Amons, Donald Hales, Jane Silver, and Earle Rands about the ANC 6A meeting initially scheduled for August 3, 2000 and the ANC 6A special meeting which occurred on August 4, 2000. (Tr. 8/23/00 at 102-156; Tr. 9/27/00 at 16-42.) As a result of the Sun & Moon Grocery protest hearings, the Board found that an August 3, 2000 ANC 6A meeting had been scheduled by ANC 6A and placed on the ANC 6A website. The Board also found that proper notice of the August 4, 2000 ANC 6A special meeting had not been given by at least two of the required methods pursuant to D.C. Code § 1-262(c). As a result, the Board determined that ANC 6A's recommendation to the ABC Board supporting the Sun & Moon Grocery liquor license application was not entitled to great weight. (See Sun & Moon Grocery Board order dated April 11, 2001.)

15. Mr. Wong Shik Shim is the owner of Me & My Supermarket with his wife. (Tr. 9/27/00 at 50, 52.) He owns the building where the establishment is located and has owned the business for eleven years. (Tr. 9/27/00 at 51-52.) Mr. Shim has three part-time employees with two of the three employees living in the neighborhood. (Tr. 9/27/00 at 52.) He operates the establishment from 9 a.m. to 9:30 p.m. and stops selling alcohol at the establishment at 9 p.m. (Tr. 9/27/00 at 52.) Mr. Shim was not interested in operating past his current hours. (Tr. 9/27/00 at 68-69.)

16. The establishment is about 1500 square feet with shopping aisles that are 15 feet wide and 15 feet long. (Tr. 9/27/00 at 53.) Mr. Shim has two main rows of shelving with four shelves that make up approximately 150 feet of shelf space. (Tr. 9/27/00 at 53.) He testified that approximately 14 feet of that space is related to beer. (Tr. 9/27/00 at 53.) Mr. Shim testified that the residents of the neighborhood shop at his store to buy grocery items including meat and produce as well as beer and wine. (Tr. 9/27/00 at 53-54.) He buys his produce, meat, and other grocery items at Florida Avenue Market before he open the establishment at 9:00 a.m. (Tr. 9/27/00 at 54, 66-67.)

17. With regard to the establishment's compliance with ABC laws and regulations, Mr. Shim testified that he checks the identification of young people who shop in his establishment. (Tr. 9/27/00 at 54.) He acknowledged that the establishment had a problem several years ago with underage individuals purchasing alcohol at his establishment during a time when he was out of the country in Korea. (Tr. 9/27/00 at 54-55.) Mr. Shim also noted that the establishment currently does not have any outdoor advertising signs. (Tr. 9/27/00 at 53.) With regard to compliance with other District laws, Mr. Shim testified that he has improved those areas for which the Health Department cited him and that he passed a Health Department inspection on September 26, 2000. (Tr. 9/27/00 at 65-66.)

18. Mr. Shim testified that he does not play music in the establishment. (Tr. 9/27/00 at 55.) He testified that the establishment has three or four no loitering signs. (Tr. 9/27/00 at 53, 58.) Mr. Shim testified that presently individuals do not loiter in front of his establishment and that there is no criminal activity occurring inside of the establishment. (Tr. 9/27/00 at 55-56, 61.) He testified that when he does see someone loitering in front of his establishment he will ask them to move and that they usually will do so. (Tr. 9/27/00 at 55-56.) Mr. Shim testified that he painted and fixed the fence located next to the establishment and near a vacant lot and that he put in a garden consisting of flowers and plants to prevent individuals from loitering next to the fence.

(Tr. 9/27/00 at 57-58, 63-64.) He testified that this has kept individuals from loitering in this area. (Tr. 9/27/00 at 65.)

19. Mr. Shim testified that he has not had any problems with individuals drinking or littering in front of his establishment. (Tr. 9/27/00 at 62.) He testified that he picks up any litter he finds in front of the establishment and cleans up around the establishment every day. (Tr. 9/27/00 at 55, 62.) Mr. Shim stated that he has not had any problems with individuals attempting to purchase alcohol beyond the establishment's licensed hours. (Tr. 9/27/00 at 62.) He noted that he has not noticed any individuals outside of the establishment drinking or loitering before the establishment opens at 9 p.m. (Tr. 9/27/00 at 67.)

20. Mr. Shim has gone to neighborhood meetings, attended funerals of deceased patrons, and made donations of food and drink to the neighborhood for events such as the community's Father's Day party. (Tr. 9/27/00 at 60.) Mr. Shim believed that most of his neighborhood likes him and stated that customers have never come into the establishment asking him to make any changes. (Tr. 9/27/00 at 67.) Mr. Shim has never seen Mr. Rands, the Protestant, inside of his establishment. (Tr. 9/27/00 at 60.)

21. Lieutenant Diane Groomes, Metropolitan Police Department (MPD), was familiar with Me & My Supermarket. (Tr. 9/27/00 at 72.) Specifically, she came to the 5th District in October of 1996, and was assigned to Beat 153, which included the H Street corridor. (Tr. 9/27/00 at 73.) In 1997, Lieutenant Groomes was assigned to Patrol Service Area ("PSA") 510, which covered the whole H Street corridor. (Tr. 9/27/00 at 73, 115.) She served in this patrol capacity in PSA 510 until her recent promotion to Lieutenant, except for an eight-month break when she was assigned to homicide. (Tr. 9/2/00 at 73.) Lieutenant Groomes testified that she went past the establishment approximately five days a week over a three and a half-year period during her assignment to this area. (Tr. 9/27/00 at 73.) Her hours of duty were normally between 2 p.m. and midnight on Tuesday through Saturday. (Tr. 9/27/00 at 114.)

22. Lieutenant Groomes identified an aerial photo of the H Street corridor from approximately 13th Street N.E. to 9th Street N.E. that included the establishment, the thrift shop, and Mimi's convenience store. (Tr. 9/27/00 at 85-86.) With regard to the establishment's impact on peace, order, and quiet, she stated that the establishment does have a litter and loitering problem occurring near the front of the establishment. (Tr. 9/27/00 at 89.) With regard to litter, Lieutenant Groomes testified that there is a trash can down by Mimi's but that it is usually filled. (Tr. 9/27/00 at 84.) She testified that there is some trash on the ground outside of the establishment but that Mr. Shim does clean outside of the store and patrons do place trash in the brown box placed by Me & My Supermarket outside the front of the establishment. (Tr. 9/27/00 at 84.) Lieutenant Groomes noted that litter is placed and some urination occurs by individuals near the side of the brown box. (Tr. 9/27/00 at 84.)

23. With regard to loitering, Lieutenant Groomes has observed individuals loitering in front of the establishment, with some individuals buying alcohol from the establishment and coming back outside of the establishment and drinking in public. (Tr. 9/27/00 at 73.) She has also observed on a frequent basis individuals loitering around the thrift stop located next door. (Tr. 9/27/00 at 74.) With regard to drinking in public, Lieutenant Groomes has arrested a lot of

people for drinking in public outside the front or in the immediate area of the establishment. (Tr. 9/27/00 at 76.)

24. Lieutenant Groomes testified that there may be a range of 6 to 15 individuals standing in front of the establishment depending on the time of day and that there are regulars who hang out in front of the establishment. (Tr. 9/27/00 at 94, 99, 103-104, 110-111.) She stated that some of these individuals are homeless people who make up about 25% of the individuals loitering in the area of the establishment. (Tr. 9/27/00 at 100, 105, 110.) Lieutenant Groomes noted that several of these individuals who patronized Mimi's convenience store when it had a liquor license now go to Me & My Supermarket for items including alcohol. (Tr. 9/27/00 at 100.)

25. Lieutenant Groomes testified that more loitering occurs on the intersection of 11th Street and H Street than on the intersection of 8th Street and H Street, 9th Street and H Street, or 5th Street and H Street. (Tr. 9/27/00 at 111-112.) She testified that about three-fourths of the individuals loitering in the area of the establishment live within walking distance of the establishment. (Tr. 9/27/00 at 113-114.) Lieutenant Groomes stated that she does not see as many individuals loitering after the store is closed, especially after 10 p.m. (Tr. 9/27/00 at 110, 115.)

26. Lieutenant Groomes observed that when she would pull up when individuals were loitering in front of the establishment, Mr. Shim would come out of the establishment and ask the individuals who were loitering to move away from the area of the establishment. (Tr. 9/27/00 at 76-77, 83.) She stated that Mr. Shim should also move loiterers away from the store when MPD is not present. (Tr. 9/27/00 at 76-77, 83.) Lieutenant Groomes and MPD also have moved loiterers away from the establishment. (Tr. 9/27/00 at 83, 94.)

27. With regard to criminal activity, Lieutenant Groomes testified that the 1100 block has received a lot of calls for disorderly complaints. (Tr. 9/27/00 at 74.) She stated that there also have been some assaults and thefts in the area. (Tr. 9/27/00 at 74.) Lieutenant Groomes testified that a lot of the assaults involved regulars who loiter in front of the establishment. (Tr. 9/27/00 at 112.) With regard to Me & My Supermarket, Lieutenant Groomes testified that she has received some disorderly calls from citizens calling to complain about people hanging out in front of the establishment. (Tr. 9/27/00 at 74-75.) She stated that two individuals referred to as Cat and Synovia used to regularly lay and hang out in front of the establishment. (Tr. 9/27/00 at 75.)

28. Lieutenant Groomes testified that the run list from January 2000 through August 2000 for the 1100 block of H Street indicated 211 calls with 10 of the calls directly identified to 1111 H Street, N.E. (Tr. 9/27/00 at 83-84, 118.) Five of the ten calls for 1111 H Street, N.E. were disorderly calls; three were assaults from the store; one was for shoplifting; and one was a theft report. (Tr. 9/27/00 at 84.) Lieutenant Groomes testified that four of the five disorderly incidents occurred on the evening tour and that the theft incidents and the shoplifting incident did not occur on her watch. (Tr. 9/27/00 at 95-96.) She stated that 80 percent of the calls for the 1100 block of H Street are disorderly calls. (Tr. 9/27/00 at 118.) Lieutenant Groomes noted that most of the arrests occurring in the 1100 block of H Street occurred either in front of Me & My Supermarket or two doors down by Mimi's convenience store. (Tr. 9/27/00 at 128.) She

testified that in July 1999 30 arrests were made in the 1100 block of H Street and 19 in the 1300 block of H Street for drinking in public and possessing an open container. (Tr. 9/27/00 at 127.)

29. With regard to criminal activity, Lieutenant Groomes noted one incident in early August 2000, where MPD made a drug arrest of two males on 12th Street and H Street and then obtained information about who sold the two males the drugs. (Tr. 9/27/00 at 75, 115.) An individual driving a bike down H Street, N.E. was then identified who parked his bike, went inside Me & My Supermarket, and was then followed into the establishment by MPD. (Tr. 9/27/00 at 75, 115-116.) The male upon being spotted by MPD put the drugs in his mouth and grabbed a bottle of wine from the cooler. (Tr. 9/27/00 at 75, 115-116.) However, the male was immediately grabbed by MPD, the wine cooler was left on top of the establishment's counter, and the male was placed under arrest for drug possession outside the front of the establishment. (Tr. 9/27/00 at 76, 115-116.)

30. Lieutenant Groomes noted that the 1100 and 1200 block of H Street are pretty busy areas. (Tr. 9/27/00 at 92-93.) However, she stated that Me & My Supermarket specifically contributes to many of the loitering problems and other problems occurring in the block. (Tr. 9/27/00 at 93.) Lieutenant Groomes testified that alcohol is a major issue on the H Street corridor and that Me & My Supermarket is the only establishment that sells alcohol on its side of H Street. (Tr. 9/27/00 at 93.) She noted that people stand outside of the establishment not simply to socialize but to obtain alcohol, and stay outside of the establishment and drink alcohol. (Tr. 9/27/00 at 93.) Lieutenant Groomes noted that this has led to incidents outside of the establishment such as the three assaults. (Tr. 9/27/00 at 94.)

31. Lieutenant Groomes testified that she received a lot of complaints from citizens that the establishment was opening up too early or serving people after hours. (Tr. 9/27/00 at 77.) She stated that on one night when the establishment was closing at 9:30 p.m. a male went to the establishment's door and was met by an older gentleman who was closing the establishment. (Tr. 9/27/00 at 77.) Lieutenant Groomes stated that the older gentleman from the establishment was going to allow the male into the establishment until she told the older gentleman not to let the male into the establishment. (Tr. 9/27/00 at 78.) She stated that she has also received some complaints from citizens and MPD officers stating that they see a lot of people hanging out front of the establishment waiting for the doors to open. (Tr. 9/27/00 at 78.) However, Lieutenant Groomes had not seen anyone drinking alcohol before 9 a.m. at the establishment. (Tr. 9/27/00 at 78.) Lieutenant Groomes also identified pictures from around May of 2000 showing that the establishment at one time had neon signs advertising alcohol. (Tr. 9/27/00 at 80-81, 114.)

32. Lieutenant Groomes testified that since the Mimi's convenience store lost their liquor license the other ABC establishments have made improvements. (Tr. 9/27/00 at 76.) With regard to Me & My Supermarket, she noted that Mr. Shim had painted the little fence area next to him, planted some grass and bushes near the white fenced in area, put up a no loitering sign, and placed a box outside for trash. (Tr. 9/27/00 at 76, 80-81, 94-95.) Lieutenant Groomes testified that the conditions at the establishment have improved over the last several months. (Tr. 9/27/00 at 94-95.) She testified however that over the past year there is still a continuous problem with individuals loitering in front of the establishment and next door in front of the thrift shop. (Tr. 9/27/00 at 83, 98.)

33. Lieutenant Groomes testified that if the establishment's license were somehow restricted, such as prohibiting the establishment from selling singles, it would curtail some of the loitering by moving some of these individuals away from the front of the establishment. (Tr. 9/27/00 at 100-103.) Lieutenant Groomes testified that a lot of people in the area of the establishment are addicted to alcohol and that single beers which are available at the establishment are easier to obtain than other quantities of beer. (Tr. 9/27/00 at 105-106.) She testified that people go to the establishment primarily to buy alcohol rather than other grocery items. (Tr. 9/27/00 at 124-126.)

34. Lieutenant Groomes attended a Near Northeast meeting from 5:30 p.m. to 7 p.m. on August 3, 2000 at the J.O. Wilson School located at 7th Street and K Street. (Tr. 9/27/00 at 89-90.) She stated that ANC Commissioner Pernell and ANC Commissioner Wanda Harris also attended the meeting. (Tr. 9/27/00 at 90-91, 107.) Lieutenant Groomes testified that the ANC 6A monthly meeting usually occurs right after the Near Northeast meeting and noted that Ms. Silver, Ms. Vanessa Ruffin, and Roland Chavez came through the door as her Near Northeast meeting was letting out. (Tr. 9/27/00 at 90, 106.) She stated that ANC Commissioner Harris, the Acting ANC 6A Chairperson, informed the three individuals that it was summer session and that no ANC meeting would be occurring. (Tr. 9/27/00 at 91, 106, 117-118.) Lieutenant Groomes stated that Ms. Silver then asked Ms. Harris when the hearing about the liquor store would occur and that Ms. Harris again informed her that it was summer session and that there would be no meeting. (Tr. 9/27/00 at 92.)

35. ANC Commissioner Wanda Harris testified that she is the Acting Chairperson for ANC 6A. (Tr. 9/27/00 at 131.) She recalled running into Ms. Jane Silver and other citizens after the completion of the Near Northeast meeting she attended that occurred at the J.O. Wilson School on August 3, 2000. (Tr. 9/27/00 at 132.) Ms. Harris stated that Ms. Silver asked her if they were having a meeting and that she told Ms. Silver that the meeting was over. (Tr. 9/27/00 at 132-133.) She stated that Ms. Silver again asked whether a meeting would be occurring and that she told Ms. Silver that there would be a special meeting held on August 4, 2000. (Tr. 9/27/00 at 132.) Ms. Harris stated that she did not discuss with Ms. Silver what the special meeting would be about. (Tr. 9/27/00 at 133.)

36. Ms. Harris testified that she knew about the ANC 6A special meeting scheduled for August 4, 2000 about a week before it was held as the meeting date was changed to accommodate the schedule of the ANC Commissioner in charge of the single member district for the Frederick Douglas Museum, which was on the agenda. (Tr. 9/27/00 at 133-134, 140.) She later stated that the special meeting had not been scheduled in July of 2000. (Tr. 9/27/00 at 134.) Ms. Harris stated that scheduled on the agenda for the August 4, 2000 special meeting was the Frederick Douglas Museum and the ANC 6A quarterly report. She stated that Alcoholic Beverage Control Board questions were initially not supposed to be a part of the ANC 6A special meeting. (Tr. 9/27/00 at 135.) Ms. Harris stated that she was not aware that there would be a discussion on the Me & My Supermarket liquor license renewal application or other ABC license issues until the night of the August 4, 2000 special meeting. (Tr. 9/27/00 at 135-136.) She stated that at the August 4, 2000 special meeting the ANC voted to support the renewal of Me & My's liquor license application. (Tr. 9/27/00 at 136.) Ms. Harris identified a letter that she signed with regard to the special meeting held on August 4, 2000 in response to a unanimous vote that

occurred at the meeting with a quorum present in support of the Me & My liquor license renewal application. (Tr. 9/27/00 at 138-143; Applicant's No. 2.)

37. Ms. Harris testified that notice of the August 4, 2000 special meeting was never posted on the ANC 6A web page. (Tr. 9/27/00 at 137.) She identified the agenda for the ANC 6A special meeting, which was prepared by ANC Commissioner Fields. (Tr. 9/27/00 at 137-141.) Ms. Harris testified that she normally is responsible for preparing the agenda for ANC 6A meetings, which occurs usually a week before the scheduled meeting. (Tr. 9/27/00 at 142.) She was not sure when Mr. Fields prepared the August 4, 2000 agenda. (Tr. 9/27/00 at 142.)

38. Father Everett Pearson's parish is located at 920 11th Street on the corner of 11th Street and K Street. (Tr. 9/27/00 at 145.) He is familiar with and has been inside of Me & My Supermarket. (Tr. 9/27/00 at 146.) Father Pearson observed the establishment's product line to consist of beer and alcoholic beverages along the right side of the wall in refrigerated cases, potato chips, sodas, and lottery tickets. (Tr. 9/27/00 at 146.) Additionally, he noted that lottery tickets are available for sale at the front of the establishment on the left. (Tr. 9/27/00 at 146, 152.) Father Pearson testified that he has shopped inside of the establishment approximately 5-6 times and that during his visits he found patrons of the establishment to be purchasing primarily beer and lottery tickets. (Tr. 9/27/00 at 146, 150.) He visited the establishment as recently as about two weeks prior to the September 27, 2000 protest hearing. (Tr. 9/27/00 at 150.) Father Pearson has purchased beer from the establishment. (Tr. 9/27/00 at 150.)

39. Father Pearson has observed individuals loitering in front of Me & My Supermarket during his visits. (Tr. 9/27/00 at 146.) He noticed individuals hanging in front of the establishment as recently as the afternoon of Tuesday, September 26, 2000. (Tr. 9/27/00 at 147.) Father Pearson testified that he has noticed litter in front of Me & My Supermarket as well as the whole neighborhood. (Tr. 9/27/00 at 148.) He has also noticed the smell of urine in the area of the establishment. (Tr. 9/27/00 at 148.) Father Pearson noticed other food items in the store but not all the items displayed in photographs introduced by the Applicant. (Tr. 9/27/00 at 148-149; Applicant's Exhibit C.) Specifically, when he went to the establishment between 3 weeks and a month ago to select items to cook spaghetti he was unable to find any green peppers or limes at that time. (Tr. 9/27/00 at 149-150.)

40. Dr. William Ebbs testified that he resides at 722 12th Street, N.E. on the corner of 12th Street N.E and H Street, N.E. and has owned his home for about four and one half years. (Tr. 9/27/00 at 153-154, 159, 169.) He also owns the lot located next to his house. (Tr. 9/27/00 at 154.) Dr. Ebbs testified that he is familiar with the establishment, which is located around the corner from his home about two-thirds of the way down 11th Street, N.E., and has had direct contact with the owner of Me & My Supermarket. (Tr. 9/27/00 at 153, 159.)

41. Dr. Ebbs stated that Me & My Supermarket had a dumpster located right behind his house and that he was having a major problem with rats as a result of the dumpster being improperly controlled by the establishment. (Tr. 9/27/00 at 154, 158, 165-166.) Specifically, he stated that garbage thrown in the dumpster by the establishment was not being wrapped up and that the establishment used to fry a lot of fish and dump the fish in the dumpster without wrapping it up or closing the dumpster. (Tr. 9/27/00 at 154.) Dr. Ebbs testified that one day within the first six

months of purchasing his home he walked around the corner, and asked the owner to please wrap up his garbage and close his dumpster when he finishes. (Tr. 9/27/00 at 155, 170.) He stated that the owner responded to him with profanity. (Tr. 9/27/00 at 155.) Dr. Ebbs testified that he then walked out of the store, called the city about illegal dumping, and was told by the District Government that the store was fined several times. (Tr. 9/27/00 at 155, 161-162.) He stated that the owner then alleviated the problem with the dumpster which has been kept behind the store for approximately the last month. (Tr. 9/27/00 at 155, 160.) Dr. Ebbs no longer has a rat problem. (Tr. 9/27/00 at 165-166.) He stated that he no longer patronizes the establishment since his confrontation with the owner. (Tr. 9/27/00 at 157, 170.)

42. Dr. Ebbs testified that since he originally bought his house there has been a lot of activity in the alley behind his house. (Tr. 9/27/00 at 154-156.) Specifically, there were people walking, drinking, and doing drugs in the alley. (Tr. 9/27/00 at 154.) Dr. Ebbs believed that people in the alleyway were coming from H Street. (Tr. 9/27/00 at 156.) He testified that he has had problems with loitering and trash in front of his property and urination on the side of his house. (Tr. 9/27/00 at 156.) Dr. Ebbs attributed the trash he has constantly picked up in front of his house to Me & My Supermarket stating that on a daily basis each morning, Monday through Sunday, he finds four or five bottles of beer or wine wrapped in brown paper bags outside the front and the immediate area of his house. (Tr. 9/27/00 at 156-159.)

43. Dr. Ebbs stated that a lot of this activity in the alleyway comes from people who are walking around Me & My Supermarket. (Tr. 9/27/00 at 156.) He noted that when he used to patronize the establishment, he would see some of the same people hanging out in the alleyway buying alcohol from the establishment. (Tr. 9/27/00 at 157.) Dr. Ebbs stated that he is constantly trying to move loiterers away from the front of his house. (Tr. 9/27/00 at 157.) Specifically, when he comes home from work he will see people sitting in front of his house, people drinking or throwing trash in front of his house, or urinating in front of his house. (Tr. 9/27/00 at 157.) Dr. Ebbs noted that he can actually look outside of his window and observe individuals urinate on the side of his house. (Tr. 9/27/00 at 157.)

44. Dr. Ebbs attributed the brown bags to the establishment as he has seen patrons come out of the establishment with the same type of brown bags in their hands and that he has seen persons toss alcohol in similar bags in front of his house. (Tr. 9/27/00 at 161.) He testified that 80% of the individuals he observes littering on his property are there on a regular basis. (Tr. 9/27/00 at 163.) Dr. Ebbs testified that he has worked with MPD to address the problems of drug usage and sex occurring in the alleys, which has improved the situation a little bit. (Tr. 9/27/00 at 166-167.)

45. Jane Silver who resides at 719 11th Street, N.E. between G and H Street noted that she had testified in a previous proceeding regarding the Sun & Moon Grocery liquor license renewal protest hearing. (Tr. 9/27/00 at 171, 179.) She stated that on Thursday, August 3, 2000 she went to attend an ANC 6A meeting scheduled for 7 p.m. at the J.O. Wilson School. (Tr. 9/27/00 at 177-178, 185, 190.) Ms. Silver stated that on the agenda for the meeting was supposed to be a discussion of liquor licenses on H Street. (Tr. 9/27/00 at 185, 190.) She had been made aware of the August 3, 2000 meeting by an announcement given to her several weeks earlier and by an announcement provided to her by one of her neighbors, an ANC 6A announcement that was

printed from the ANC 6A website. (Tr. 9/27/00 at 190, 193-194.) Ms. Silver testified that the regularly scheduled ANC 6A meeting for August 3, 2000 was advertised on ANC 6A's website as late as August 2, 2000 which noted it would be held at J.O. Wilson School. (Tr. 9/27/00 at 186, 193.) She stated that one of her neighbors had also spoken to Mr. Fields the day of the meeting. (Tr. 9/27/00 at 194.)

46. Inside the J.O. Wilson School, a little before 7 p.m., Ms. Silver saw ANC Commissioner and Acting ANC 6A Chairperson Wanda Harris and asked her where the meeting was to occur. (Tr. 9/27/00 at 178, 191.) Ms. Harris asked her "what meeting" to which Ms. Silver stated that she responded "the meeting to discuss the liquor licenses on H Street, the ANC Meeting". Ms. Silver stated that Ms. Harris informed her that there was no meeting. (Tr. 9/27/00 at 178, 189, 192.) Ms. Silver stated that Ms. Harris told her that she knew that something funny was going on and that Ms. Harris was in the middle. (Tr. 9/27/00 at 192.) Ms. Silver testified that Ms. Harris never mentioned anything to her about another ANC 6A meeting scheduled for the next day. (Tr. 9/27/00 at 192.) Ms. Silver had not had any conversation with ANC Commissioner Marvin Fields about the August 4, 2000 special meeting. (Tr. 9/27/00 at 188.)

47. Ms. Silver testified that she is familiar with Me & My Supermarket. (Tr. 9/27/00 at 179.) She noted that she has a place to park her car in the back of her building that requires her to drive through the alley on 12th Street between G Street and H Street. (Tr. 9/27/00 at 180.) Ms. Silver stated that she sometimes has difficulty parking her car in her parking space because there are often brown beer bottles or broken beer bottles located in the alley. (Tr. 9/27/00 at 180-181.) Additionally, she testified that there may also be individuals drinking in the alley, people urinating against the wall, and other trash. (Tr. 9/27/00 at 181.) She stated that both her and her neighbor have called the police when they observe individuals loitering and drinking in public in the alley on 12th Street which she stated is a constant problem. (Tr. 9/27/00 at 181.)

48. Ms. Silver stated that once the fence was placed along her alleyway by Mr. Shim it has reduced the amount of people in the alley by reducing access to the alley from H Street, N.E., but that problems of people drinking, using drugs, and urinating still occur. (Tr. 9/27/00 at 181-182, 186.) She testified that there is a blue van that parks close to H Street and 11th Street with Maryland plates where alcoholic beverages purchased from Me & My Supermarket were being consumed inside of the van. (Tr. 9/27/00 at 182.) She noted that the owner of the van lives on G Street and is driving down the corner and parking and buying and drinking alcoholic beverages from Me & My Supermarket and then driving away. (Tr. 9/27/00 at 183.)

49. Ms. Silver testified that she has had the same problems with drinking occurring on Sundays. (Tr. 9/27/00 at 183-184.) Ms. Silver was not aware of any other place on the 1100 block or 1200 block of H Street that sells beer and wine on Sundays. (Tr. 9/27/00 at 184-185.) She stated that she has observed individuals lined up outside of Me & My Supermarket waiting for the establishment to open at 9 a.m. (Tr. 9/27/00 at 184.)

50. Frederick McAlister Nicholas went into Me & My Supermarket in March of 2000 to purchase cigarettes. (Tr. 9/27/00 at 197, 200.) He observed that ahead of him at the counter was a customer purchasing beer, wine, and lottery tickets. (Tr. 9/27/00 at 197, 200.) Mr. Nicholas stated that the establishment rang the customer up but that the customer did not give the

establishment any money or a credit card. (Tr. 9/27/00 at 197, 200.) Rather, the customer signed his name to the actual receipt ticket from the register and that the establishment informed the customer that they would see the customer at the end of the month. (Tr. 9/27/00 at 198.) Mr. Nicholas stated that at the register he observed at least 10 to 12 receipts with names that were affixed by tape and visible. (Tr. 9/27/00 at 198.) He reported this immediately to the ABC Board. (Tr. 9/27/00 at 198.) Mr. Nicholas could not determine the types of products purchased on the receipts. (Tr. 9/27/00 at 199.)

51. The Applicant admitted that the establishment had previously had a practice of allowing customers to sign receipts to purchase products to allow poor people to buy food who could not afford to pay until the end of the month. (Tr. 9/27/00 at 8.) The Applicant on occasion also permitted the purchase of alcoholic beverages to be done when the customer signed the register receipt. (Tr. 9/27/00 at 202-203; Tr. 10/4/00 at 6.) The Applicant upon the advice of their attorney no longer permits a running tab to be used to purchase alcoholic beverages. (Tr. 9/27/00 at 202-203; Tr. 10/4/00 at 7.)

CONCLUSIONS OF LAW

52. Pursuant to subsection 14(b)(1) of the Act, D.C. Code § 25-115(b)(1) (1996), an Applicant must demonstrate to the satisfaction of the Board that the establishment for which a liquor license is sought is appropriate for the neighborhood in which it is located. Having considered the evidence upon which this determination must be made and the findings of fact adduced at the hearings, the Board concludes that the Applicant has demonstrated that the renewal of the establishment's liquor license -- with the conditions imposed by the Board as listed below -- would be appropriate for the delineated area in which it is located.

53. With regard to peace, order, and quiet, the testimony of Lieutenant Groomes, Father Pearson, Dr. Ebbs, and Ms. Silver did reveal that significant loitering, criminal activity -- which included drinking in public and public urination -- and littering, has occurred in the front of the establishment, the 1100 block area of H Street N.E., and in the surrounding area of the establishment. Specifically, the testimony of Lieutenant Groomes, Ms. Silver, Dr. Ebbs, and Father Pearson revealed that individuals, including patrons of the establishment, are loitering outside of the establishment and drinking in public. The testimony of Investigator Batista and Dr. Ebbs revealed that the establishment does place alcohol in brown paper bags. The testimony of Dr. Ebbs and Lieutenant Groomes revealed that individuals are littering and urinating in the area of the establishment. Additionally, the testimony of Ms. Silver and Dr. Ebbs revealed that the problems with loitering, drinking in public, litter, and urination also occur on Sundays when Jumbo Liquors -- the nearest off-premises consumption ABC establishment, which is across the street at 1122 H Street, N.E. -- is closed. Furthermore, the testimony of Lieutenant Groomes revealed that alcohol has been a contributing factor in the three assaults occurring outside of the establishment.

54. The Board finds, however, based on the testimony of Investigator Batista, Lieutenant Groomes, Mr. Fields, and Mr. Shim that (1) the Applicant has been making an effort to pick-up trash on the outside of the establishment and to keep the inside of the establishment in an orderly manner; (2) the Applicant has made improvements to the area such as planting a garden near the

vacant lot located next to the establishment which has reduced the amount of loitering in this area; (3) while some criminal activity does exist in the 1100 block of H Street, N.E. the establishment itself is not a direct source of the criminal activity and has made some effort to move loiterers away from the establishment; (4) the Applicant has posted a no loitering sign and has removed all signs from outside of the establishment advertising specific alcoholic products; (5) the Applicant has made an effort to be a part of the community and has attended neighborhood meetings; and (6) the amount of loitering and littering occurring outside the establishment has been decreasing.

55. Additionally, the Board finds that requiring the Applicant to place purchases of only single containers of beer or malt liquor in sizes 40 ounces or less in either clear or translucent bags rather than brown paper bags will have the joint effect of deterring patrons of the establishment from drinking in public and making it easier for MPD to determine that alcohol is being consumed in public. Furthermore, the Board finds that requiring the Applicant to maintain a no loitering sign on the front of the establishment can only help to further limit the loitering that occurs in front of the establishment. Finally, the Board believes that requiring the Applicant to maintain a trash can outside in front of the establishment -- in a manner consistent with District law -- rather than continuing its current practice of using a brown box to deposit trash will help reduce the amount of trash on the ground outside the establishment. The Board notes that it has the authority to place these conditions on the Applicant's license pursuant to its authority in D.C. Code § 25-110(b). With these conditions, the Board finds that the renewal of the applicant's license will not have an adverse affect on peace, order, and quiet.

56. Pursuant to D.C. Code § 25-115(b)(1)(C), the Board finds, based on the testimony of Investigator Batista and the record as a whole, that the establishment does not have an adverse affect on residential parking or vehicular and pedestrian safety. The Protestants did not raise this as a protest issue and the Board finds based on the testimony of Investigator Batista -- specifically, that most of the establishment's patrons are from the neighborhood and that metered parking was available on both sides of the street -- that the establishment will not have an adverse affect on residential parking or vehicular or pedestrian safety.

57. Pursuant to D.C. Code § 25-115(b)(1)(A), the Board finds based on: (1) the record as a whole; and (2) the fact that the Protestants did not raise real property values as a protest issue, that the establishment does not have an adverse affect on real property values.

58. D.C. Code § 25-115(b)(1)(G) requires the Board to consider as a factor in making its decision the Applicant's record of compliance with ABC laws and regulations. The testimony of ABC Investigator Batista revealed that the establishment sold alcohol to Investigator Batista on two occasions during the Summer of 1999 prior to 9 a.m. This was a factor the Board considered in making its decision. The Board also took note that the establishment upon notice from the ABC Board began complying with its 9 a.m. to 9 p.m. permitted hours of alcohol service. Additionally, on all nine of Investigator Batista's visits, the establishment was in compliance with its permitted hours of alcohol service. Furthermore, a regulatory inspection conducted by ABC Investigator Batista revealed that the establishment is currently in compliance with ABC laws and regulations.

59. Mr. Nicholas observed and the Applicant admitted that on occasion the establishment had allowed patrons to run a monthly tab and purchase alcoholic beverages simply by signing the register receipt. The Applicant stopped this practice upon the advice of their attorney and no longer permits a running tab to be used to purchase alcoholic beverages. The Board did not find this practice to violate section 35 of the District of Columbia Alcoholic Beverage Control Act, approved January 24, 1934, 48 Stat. 327, D.C. Code § 25-133 (1996), which allowed the holder of an ABC retailer's license to sell beer and light wines on credit. The Board notes, however, that such a practice would now be illegal under D.C. Code § 25-734(a) of the Title 25, D.C. Code Enactment and Related Amendments Act of 2001, which took effect on May 3, 2001.

60. Pursuant to D.C. Code § 25-115(g)(1)(A), the Board finds the Applicant to be of good moral character, with no evidence of any criminal misconduct during the past renewal period. The Board makes this determination based upon an examination of its files and the lack of any contradictory evidence in the testimony of this proceeding.

61. With regard to the August 4, 2000 ANC 6A special meeting, the Board finds that the testimony presented by Mr. Fields, Ms. Harris, Lieutenant Groomes, and Ms. Silver strengthens the Board's April 11, 2001 finding in the Sun & Moon Grocery protest hearing that Ms. Silver and other members of the public were not given proper notice of the Friday, August 4, 2000 ANC 6A special meeting by at least two of the required methods pursuant to D.C. Code § 1-262(c). The Board adopts its findings and rationale from that decision in this case. In adopting its April 11, 2001 finding that proper notice was not provided for the August 4, 2001 meeting, the Board determined the following from the testimony presented in this case: (1) ANC 6A had a regularly scheduled ANC meeting set for Thursday, August 3, 2000 which was posted on the ANC 6A website up until August 2, 2000; (2) the August 4, 2000 special ANC 6A meeting was never posted on the ANC 6A website; (3) the Board found no credible evidence from ANC 6A to indicate that proper or timely notice of the Friday, August 4, 2000 ANC 6A special meeting had been given by at least two of the required methods pursuant to D.C. Code § 1-262(c). As a result, ANC 6A's resolution in favor of the establishment's renewal application for a Class "B" license is not entitled to great weight.

62. The Board finds that the Applicant's previously approved hours of operation on file with the ABC Board are Sunday through Saturday 9:00 a.m. to 10:00 p.m. and that the Applicant is only permitted to sell alcoholic beverages between the hours of 9:00 a.m. and 9:00 p.m.

ORDER

THEREFORE, it is hereby ORDERED on this 20th day of June 2001, that the renewal application of Woong Shik Shim & Young Ok Shim, t/a Me & My Supermarket, for a Class "B" Retailer's License, for premises located at 1111 H Street, N.E., Washington, D.C., be and is hereby GRANTED.

It is FURTHER ORDERED that the following conditions are hereby imposed on the Applicant and shall become a term of its license:

1. The Applicant shall not sell alcoholic beverages before 9 a.m. or after 9 p.m.; and

2. The Applicant shall place purchases of only single containers of beer or malt liquor in sizes 40 ounces or less in either clear or translucent bags; and

3. The Applicant shall post and maintain a no loitering sign on the front of the establishment; and

4. The Applicant shall place a trash can outside the establishment for its customers' use in a manner consistent with District law;

District of Columbia
Alcohol Beverage Control Board

Roderic L. Woodson, Esquire, Chairperson

Vera Abbott, Member

Ellen Opper-Weiner, Esquire, Member

Audrey E. Thompson, Member

Judy Moy, Member

Charles Burger, Member

Not Voting
Laurie Collins, Member

Pursuant to 23 DCMR § 1619.1 (June 1997), any party adversely affected may file with the Alcoholic Beverage Control Division, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, N.E., Room 7159, Washington, D.C. 20002, a Motion for Reconsideration of this decision within ten (10) days of service of this Order.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Code § 1-1510 (1999), 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a motion for reconsideration pursuant to 23 DCMR § 1619.1 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).