

**BEFORE THE ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD
OF THE STATE OF CALIFORNIA**

AB-10032

File: 42-667426; Reg: 25095896

HOP RIOT, LLC
dba Hop Riot
407 4th Street
Wheatland, California
Appellant/Applicant

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
Respondent

and

SUSAN ROBBINS, *et al.*
Respondents/Protestants

Administrative Law Judge at the Dept. Hearing: Hon. Alberto Roldan

Appeals Board Hearing: June 26, 2026
Sacramento, CA/Videoconference

ISSUED JULY 1, 2026

Appearances: Shaun Clearwater, in pro per for Appellant

Gregory Hayes for the Department

Susan Robbins, in pro per for Protestants

OPINION

I. INTRODUCTION

This appeal arises from a protest hearing concerning Hop Riot, LLC's (appellant/applicant) application for a Type 42 on-sale beer and wine public premises license in Wheatland, California. After a hearing, the Administrative Law

Judge (ALJ) recommended that the Department of Alcoholic Beverage Control (Department) issue the license for the interior portion of the premises but deny the request to extend license privileges to the adjacent outdoor patio. The Department adopted that recommendation in full.¹

Appellant appeals only the patio-related portion of the decision. The protestants, who reside directly behind the premises, oppose the appeal and ask that the Department's decision be affirmed.

For the reasons stated below, the Department's decision is affirmed.

II. FACTS AND PROCEDURAL HISTORY

Appellant applied for a Type 42 on-sale beer and wine public premises license for a location on Fourth Street in Wheatland, California. The application sought to license both the interior of the premises and an open-air rear patio. The patio sits directly behind the building and is separated from the neighboring residences on Third Street by a six-foot tall wooden fence.

Two verified protests were filed by Tom and Susan Robbins, who live immediately behind the premises, approximately 20 to 40 feet from the patio area. A third nearby resident, Ryan Broumas, who lives directly adjacent to the rear fence line, did not file a protest but later testified as a witness for the protestants.

The Department conducted an investigation through Licensing Representative Joshua Cinquini. As part of that investigation, the Department

¹ The Department's Decision is set forth in the Appendix.

confirmed zoning compliance, determined that no conditional-use permit was required, contacted Wheatland Police Department for input, and documented that the census tract was statutorily overconcentrated. The Department nevertheless determined that public convenience or necessity supported issuance because appellant would be the only Type 42 license in the tract. The Department developed a set of ten proposed conditions addressing noise, patio supervision, hours, litter control, and other operational issues. Based on the investigation, the Department recommended that the license issue subject to those conditions.

A protest hearing was held on December 9, 2025. Administrative Law Judge Alberto Roldan presided. The Department presented its investigative report and related diagrams and correspondence. The applicant, Shaun Clearwater, testified that he intended to operate an upscale beer and wine establishment and sought to use the patio for outdoor seating, food, and beverage service.

The protestants testified that the patio's close proximity to their homes would interfere with their quiet enjoyment, even with the proposed conditions. They described noise from prior operators, including conversations, laughter, and the sound of patio games such as cornhole. They testified that such noise carried into their backyards and, at times, into their homes. Mr. Broumas testified that from his bedroom he could hear conversations from the patio.

The protestants acknowledged they did not oppose issuance of the license for the interior of the premises and focused their objections solely on the patio.

After the hearing, the ALJ issued a Proposed Decision on December 22, 2025. The ALJ found that appellant had not met the burden of establishing that patio operations would not interfere with the quiet enjoyment of nearby residents. The ALJ recommended that the protests be sustained as to the patio and denied as to the interior, and that the application be approved only if the patio were removed from the licensed premises diagram.

On February 24, 2026, the Department adopted the Proposed Decision in full. Appellant filed a timely appeal, challenging only the patio-related portion of the decision. The protestants oppose the appeal and seek affirmance.

III. STANDARD OF REVIEW

The Board's scope of review is defined by Business and Professions Code section 23084² and is further informed by the California Constitution and relevant statutory and appellate authority. (Cal. Const., art. XX, § 22; Bus. & Prof. Code, §§ 23083, 23085.) In reviewing the Department's decision, the Board determines whether the Department proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in light of the whole record. (Bus. & Prof. Code, § 23084, subds. (b)–(d).)

² Unless stated otherwise, all further statutory references are to the Business and Professions Code.

Substantial evidence is evidence that a reasonable mind might accept as adequate to support a conclusion—evidence that is “reasonable in nature, credible, and of solid value.” (*County of San Diego v. Assessment Appeals Bd. No. 2* (1983) 148 Cal.App.3d 548, 555, quoting *Ofsevit v. Trustees of California State University and Colleges* (1978) 21 Cal.3d 763, 773, fn. 9; see also *Hosford v. State Personnel Bd.* (1977) 74 Cal.App.3d 302, 307.) The Board may not independently reweigh the evidence, reconsider witness credibility, or substitute its judgment for that of the Department. (*Kirby v. Alcoholic Beverage Control Appeals Bd.* (1970) 7 Cal.App.3d 126, 129; *Reimel v. Alcoholic Beverage Control Appeals Bd.* (1967) 255 Cal.App.2d 40, 43; *Harris v. Alcoholic Beverage Control Appeals Bd.* (1963) 212 Cal.App.2d 106, 113–114.)

All conflicts in the evidence must be resolved in favor of the Department's decision, and the Board must accept all reasonable inferences supporting that decision. (*Harris, supra*, at p. 113.) Even where error is shown, the Board may not reverse unless the appellant demonstrates that the error was prejudicial. (*Reimel v. House* (1969) 268 Cal.App.2d 780, 787.) Under the California Constitution, a decision may be set aside only if the error resulted in a miscarriage of justice. (Cal. Const., art. VI, § 13; see *Leal v. Gourley* (2002) 100 Cal.App.4th 963, 968.)

IV. ANALYSIS

A. Issue On Appeal

This appeal concerns only the portion of the Department's decision denying appellant's request to extend beer and wine privileges to the outdoor

rear patio. The Department approved the license for the interior of the premises, and no party challenges that determination. The sole question before the Board is whether substantial evidence supports the Department's conclusion that licensing the patio would interfere with the quiet enjoyment of nearby residents within the meaning of Rule 61.4.

B. Applicant's Burden Under Rule 61.4 and the Governing Statutory Framework

When a valid protest is filed, the applicant bears the burden of establishing good cause for issuance of the license. (*Coffin v. Alcoholic Beverage Control Appeals Bd.* (2006) 139 Cal.App.4th 471, 478.) Rule 61.4 provides that the Department must consider the effect of the proposed premises on the "quiet enjoyment of nearby residents," and it is the applicant who must demonstrate that the operation of the premises—including any outdoor service areas—will not interfere with that residential quiet enjoyment. (Cal. Code Regs., tit. 4, § 61.4.)

This burden exists within a broader statutory structure. Business and Professions Code section 23958 requires the Department to deny an application if issuance of the license "would tend to create a law enforcement problem" or "would result in or add to an undue concentration of licenses," unless the applicant establishes public convenience or necessity under section 23958.4. (§ 23958; § 23958.4, subd. (a).) These provisions reflect the Legislature's directive, expressed in section 23001, that the Alcoholic Beverage Control Act be liberally construed to protect the welfare, health, peace, and safety of the people of California.

In a protest matter involving residential impacts, Rule 61.4 operates alongside section 23958 as an additional, independent basis on which the Department may deny an application. Even where public convenience or necessity has been established—and even where the applicant proposes conditions intended to mitigate impacts—the applicant still must affirmatively show that the specific operation proposed, including outdoor areas, will not adversely affect the quiet enjoyment of nearby homes.

The protestants do not bear the burden of proving that “no set of conditions” could ever protect their interests. This Board has made clear that Rule 61.4 does not impose an impossibility standard on protestants. Rather, the applicant must produce evidence demonstrating that the proposed operation, as configured, will not interfere with residential quiet enjoyment. (*Coffin, supra*, 139 Cal.App.4th at p. 478.) If the applicant fails to meet that burden, the Department must resolve any resulting uncertainties in favor of protecting the nearby residences.

Here, the ALJ found that the applicant had not met this burden with respect to the patio. On appeal, the Board’s role is not to determine whether different or additional conditions might have been available, but instead to decide whether substantial evidence supports the Department’s conclusion that the applicant failed to show that patio operations would not interfere with the quiet enjoyment of nearby residents. (Bus. & Prof. Code, § 23084, subds. (b)–(d).)

Under that standard, the Department's findings must be upheld so long as they are supported by evidence that is reasonable, credible, and of solid value.

C. Substantial Evidence Supporting the ALJ's Findings

Substantial evidence supports the Department's determination that licensing the rear patio would interfere with the quiet enjoyment of nearby residents within the meaning of Rule 61.4. The ALJ found the protestants' testimony credible, consistent, and corroborated by the physical layout of the premises. Those findings are entitled to deference and must be upheld if supported by evidence that is reasonable, credible, and of solid value. (*County of San Diego v. Assessment Appeals Bd. No. 2* (1983) 148 Cal.App.3d 548, 555; *Harris v. Alcoholic Beverage Control Appeals Bd.* (1963) 212 Cal.App.2d 106, 113–114.)

The evidence showed that the open-air patio sits directly behind the licensed building and immediately adjacent to residences along Third Street. The homes belonging to the protestants and their neighbor stand approximately 20 to 40 feet from the patio, separated only by a six-foot tall wooden fence. The backyard of one residence abuts the northwest corner of the patio, and another residence shares the rear fence line with the patio. The ALJ found that none of the existing structures—wood fencing, chain-link fencing, or the unmodified concrete patio—provided meaningful sound-attenuating properties. These factual findings are supported by the record and are not disputed.

The testimony of the protestants and their neighboring witness provided additional substantial evidence of likely interference. They testified that even ordinary conversations, laughter, and social activity from patrons using the patio were carried into their yards and, at times, into the interior of their homes. They further described how intermittent activity, such as the sound of cornhole bags hitting boards and patrons calling out during gameplay, amplified in their backyards and persisted for extended periods. The ALJ credited this testimony, which was internally consistent and based on long-term familiarity with the property configuration.

The physical setting also supports the ALJ's conclusion. The patio is fully exposed to the residences and bordered by surfaces capable of reflecting sound, including the cinder-block rear wall of the premises and a metal-sided structure located behind one of the protestants' homes. The Department was not required to produce acoustic testing to rely on this evidence; residential proximity, structural configuration, and credible witness testimony constitute substantial evidence of noise impacts under Rule 61.4.

Finally, the applicant offered no sound-mitigation measures beyond the conditions already proposed by the Department. Although the Petition for Conditional License imposed limits on amplified sound and required the patio door to remain closed, the ALJ reasonably found that these conditions would not prevent noise from ordinary patron activity from carrying into the adjacent residences.

The ALJ also found that the repeated opening and closing of the patio door—necessary for both patrons and staff—would allow interior noise to escape. These findings, too, are supported by witness testimony and the record as a whole.

Taken together, the close physical proximity of the patio to residential property, the absence of sound-dampening features, the nature of expected patio activity, and the credible testimony of nearby residents constitute substantial evidence that licensing the patio would interfere with residential quiet enjoyment. Under the governing standard of review, the ALJ's findings must therefore be upheld.

D. ALJ's Discretion on Patio Denial

The ALJ acted within the Department's broad discretion in determining that the patio should not be licensed. Under the Alcoholic Beverage Control Act, the Department is charged with protecting the welfare, health, peace, and safety of the people of California, and its licensing decisions must be “liberally construed” to carry out those purposes. (Bus. & Prof. Code, § 23001.) When evaluating a protested application, the Department may deny a license if issuance would tend to create a law-enforcement problem or interfere with the quiet enjoyment of nearby residents, even where the applicant proposes conditions intended to mitigate potential impacts. (§ 23958; Cal. Code Regs., tit. 4, § 61.4.)

Here, the ALJ considered the Department's investigation, the proposed conditions, the testimony of the applicant, and the testimony of nearby residents. Although the Department initially recommended issuance with conditions, that

recommendation was not binding. The ALJ was required to make an independent assessment of the evidence presented at the hearing. After weighing the evidence, the ALJ reasonably concluded that patio operations would more likely than not interfere with the quiet enjoyment of nearby residents, given the patio's close proximity to residences, the absence of meaningful sound-attenuating features, and the nature of expected outdoor activity.

An ALJ is not obligated to craft additional or alternative conditions where the record supports the conclusion that conditions—even if carefully designed—would be insufficient to address the identified concerns. Nor is the ALJ required to adopt the applicant's preferred interpretation of the evidence. When substantial evidence supports a determination that licensing an outdoor patio would adversely affect nearby residents, denial of patio privileges is a permissible and reasonable exercise of the Department's discretion. (See *Harris v. Alcoholic Beverage Control Appeals Bd.* (1963) 212 Cal.App.2d 106, 113–114 [the Board may not substitute its judgment for that of the Department where the record contains substantial evidence supporting the Department's determination].)

Because the ALJ applied the correct legal standards, made credibility findings supported by the record, and reached a conclusion reasonably grounded in the evidence, the exercise of discretion in denying patio privileges must be upheld.

E. Appellant's Impossibility Argument

Appellant argues that the protestants failed to prove that “no set of conditions” could ever adequately address their quiet-enjoyment concerns, and therefore the patio should not have been categorically denied. This framing misstates both the applicable law and the applicant’s burden under Rule 61.4.

Rule 61.4 does not require protestants to demonstrate that interference with quiet enjoyment is unavoidable or that all conceivable conditions would fail. Nor does it obligate the Department or the ALJ to craft or test alternative conditions before denying an application. Instead, the applicant bears the burden of affirmatively showing that the proposed operation—including any outdoor service area—will not interfere with the quiet enjoyment of nearby residences. (*Coffin v. Alcoholic Beverage Control Appeals Bd.* (2006) 139 Cal.App.4th 471, 478.) Where the evidence demonstrates a likelihood of interference, the applicant has not met that burden.

This burden allocation is consistent with the statutory framework. Section 23958 requires the Department to deny a license where issuance “would tend to create a law enforcement problem” or where the applicant otherwise fails to show good cause for issuance. The statute does not require protestants to prove impossibility or to disprove hypothetical mitigation measures. Rather, if the applicant's evidence leaves reasonable doubt about whether the proposed operation will adversely affect residential quiet enjoyment, the Department may

deny the application. (See § 23001 [the ABC Act must be liberally construed to protect public welfare].)

Appellant's emphasis on whether the record "proves impossibility" therefore reflects an incorrect legal standard. The question before the ALJ was not whether every possible set of conditions could be devised, but whether the applicant carried the burden of demonstrating that the proposed patio operation—under the conditions offered—would not interfere with nearby residents. The ALJ found that the applicant had not met that burden. On appeal, the Board does not reweigh the evidence or substitute its judgment for that of the Department. (*Harris v. Alcoholic Beverage Control Appeals Bd.* (1963) 212 Cal.App.2d 106, 113–114.) The role of the Board is simply to determine whether the Department's findings are supported by substantial evidence, and here they are.

Accordingly, Appellant's "impossibility" argument provides no basis for reversing the Department's decision.

F. Factual Errors and Exhibit Citation

Appellant notes that the Proposed Decision refers to "Exhibits A-3 through A-5," even though the applicant submitted no exhibits at the hearing. The corresponding diagrams and maps in the record were Department Exhibits D-3 through D-5. The reference to "A-3 through A-5" was therefore a clerical error. However, this mislabeling does not undermine the ALJ's factual findings or provide a basis for reversal.

First, the underlying materials—the licensed-premises diagram (ABC-257), the supplemental neighborhood diagram (ABC-253), and the aerial map—were all properly admitted as Department Exhibits and were available to the ALJ when making findings. Appellant does not dispute the accuracy of those exhibits. The ALJ relied on them for basic physical facts such as the patio's location, its open-air configuration, and its proximity to nearby residences. Those physical facts were also described at length in testimony from both the Department's licensing representative and the protestants. Thus, the substance of the ALJ's findings does not depend on the exhibit numbering error.

Second, even assuming the clerical misidentification constituted error, the Board may not reverse unless the appellant demonstrates prejudice—that is, a reasonable probability of a more favorable outcome absent the error. (*Reimel v. House* (1969) 268 Cal.App.2d 780, 787; Cal. Const., art. VI, § 13.) Appellant has not made such a showing. The ALJ's conclusions regarding proximity, sound-reflection surfaces, and lack of sound-attenuating features are supported by the admitted diagrams, photographs, and testimony, regardless of whether those diagrams were labeled “A-3 through A-5” or “D-3 through D-5.”

Finally, nothing in the record indicates that the ALJ relied on any exhibit that was not actually admitted. The citation error therefore amounts to no more than a technical defect—one that does not affect the validity of the findings or the decision as a whole. Accordingly, the incorrect exhibit citation provides no basis for disturbing the Department's decision.

G. Distinguishing Precedents

Appellant relies on several Appeals Board decisions to argue that the Department should have approved the patio subject to additional or refined conditions. Those authorities do not compel a different outcome here. In each cited case, the factual setting, the nature of the premises, and the degree of residential proximity differed materially from the circumstances presented in this matter.

The decision in *Naples SF, LLC dba Naples on Union* (2019) 19-01-L is not inconsistent with the Department's action. In *Naples*, the Department approved interior service and a street-front outdoor area but denied alcohol service on a rear patio and elevated deck located closer to residential property. The Department concluded that noise emanating from those areas could not be adequately mitigated through conditions. The ALJ here reached the same type of conclusion: given the patio's configuration, the lack of sound-attenuating features, and the close proximity of nearby residences, patio service would interfere with quiet enjoyment even with the conditions proposed. Rather than conflicting with *Naples*, the ALJ's decision follows the same reasoning.

The remaining decisions cited by appellant—*Velasco and Velasco dba Casa Castillo* (2004) AB-8162, *Summit Energy Corp. California dba Arco AM/PM* (2001) AB-7585, and *POS Enterprises dba O'Mally Sports Pub* (2019) AB-9676—are distinguishable. Those cases involved either partially enclosed patios, off-sale premises, or commercial districts where residences were separated from the

licensed area by buildings, parking lots, or greater distances. None involved an open-air patio located 20 to 40 feet from backyard residential living space, separated only by a wooden fence. Because the Appeals Board evaluates each protested application on its own record, the presence of conditions in those cases does not establish that conditions must be adequate here.

Most importantly, these decisions do not alter appellant's burden under Rule 61.4. An applicant must show that the proposed operation will not interfere with the quiet enjoyment of nearby residences. Where, as here, substantial evidence supports the Department's finding that outdoor alcohol service would cause such interference, denial of patio privileges is a permissible and reasonable outcome notwithstanding the availability of conditions in other cases.

Accordingly, the precedents cited by appellant do not undermine the Department's determination and do not provide a basis for reversal.

V. CONCLUSION

The record contains substantial evidence supporting the Department's determination that licensing the rear patio would interfere with the quiet enjoyment of nearby residents. The ALJ applied the correct legal standards, made credibility findings supported by the testimony and physical layout of the premises, and reasonably concluded that the conditions proposed were insufficient to mitigate the identified impacts. Appellant has not demonstrated legal error, factual error resulting in prejudice, or any basis to disturb the

Department's exercise of discretion. Accordingly, the Department's decision must be affirmed.

ORDER

Pursuant to Business and Professions Code section 23085, the Department's decision is affirmed.³

MEGAN McGUINNESS, CHAIRPERSON
HON. FRANK C. DAMRELL JR. (Ret.),
MEMBER
SHARLYNE PALACIO, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

³ This final order is filed in accordance with Business and Professions Code section 23088, and it shall become effective 30 days following the date of the filing of this order as provided by section 23090.

Any party, before this final order becomes effective, may apply to the appropriate court of appeal, or the California Supreme Court, for a writ of review of this final order in accordance with Business and Professions Code section 23090 et seq. Service on the Board pursuant to California Rules of Court (Rule 8.25) should be directed to: 400 R Street, Ste. 320, Sacramento, CA 95811 and/or electronically to: abcboard@abcappeals.ca.gov.

APPENDIX

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE PROTEST OF:

SUSAN ROBBINS, ET AL

AGAINST THE ISSUANCE OF A LICENSE TO:

HOP RIOT, LLC
HOP RIOT
407 4TH STREET
WHEATLAND, CA 95692-9467

SACRAMENTO DISTRICT OFFICE

File: 42-667426

Reg: 25095896

CERTIFICATE OF DECISION

**ON-SALE BEER AND WINE PUBLIC PREMISES -
LICENSE**

Respondent(s)/Licensee(s)
Under the Alcoholic Beverage Control Act

It is hereby certified that, having reviewed the findings of fact, determination of issues, and recommendation in the attached proposed decision, the Department of Alcoholic Beverage Control adopted said proposed decision as its decision in the case on February 24, 2026. Pursuant to Government Code section 11519, this decision shall become effective 30 days after it is delivered or mailed.

Any party may petition for reconsideration of this decision. Pursuant to Government Code section 11521(a), the Department's power to order reconsideration expires 30 days after the delivery or mailing of this decision, or if an earlier effective date is stated above, upon such earlier effective date of the decision.

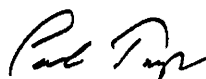
Any appeal of this decision must be made in accordance with Business and Professions Code sections 23080-23089. The appeal must be filed within 40 calendar days from the date of the decision, unless the decision states it is to be "effective immediately" in which case an appeal must be filed within 10 calendar days after the date of the decision. Mail your written appeal to the Alcoholic Beverage Control Appeals Board, 400 R St, Suite 320, Sacramento, CA 95811. For further information, and detailed instructions on filing an appeal with the Alcoholic Beverage Control Appeals Board, see: <https://abcab.ca.gov> or call the Alcoholic Beverage Control Appeals Board at (916) 445-4005.



https://abcab.ca.gov/abcab_resources/

Sacramento, California

Dated: February 24, 2026



Paul Tupy
Director

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Alcoholic Beverage Control
Office of Legal Services

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE PROTESTS OF:

Susan Robbins, et al.	}	File: 42-667426
	}	
AGAINST THE ISSUANCE OF AN ON-SALE BEER	}	Reg.: 25095896
AND WINE PUBLIC PREMISES LICENSE TO:	}	
	}	License Type: 42
	}	
Hop Riot, LLC	}	
dba: Hop Riot	}	Word Count: 15,671
407 4 th Street	}	
Wheatland, CA 95692-9467	}	Reporter:
	}	Fabian Schwin
	}	Kennedy Reporters
	}	
<u>Under the Alcoholic Beverage Control Act</u>	}	<u>PROPOSED DECISION</u>

Administrative Law Judge Alberto Roldan, Administrative Hearing Office, Department of Alcoholic Beverage Control, heard this matter, via videoconference, on December 9, 2025.

Trisha Pal and Gregory Hayes, Attorneys, represented the Department of Alcoholic Beverage Control (Department).

Shaun Clearwater, a corporate officer, represented Hop Riot, LLC (Applicant).

Verified Protestants Susan Robbins and Tom Robbins (Protestants) personally appeared and represented themselves. The verified Protestants were allowed to appear and participate in the hearing as parties pursuant to Government Code section 11500(b).

Oral evidence, documentary evidence, and evidence by oral stipulation on the record was received at the hearing. The matter was argued and submitted for decision on December 9, 2025.

ISSUES

The issues to be determined on the merits of the protests are whether issuance of the applied-for license would be contrary to public welfare or morals on the basis that:

The operation of Hop Riot, LLC dba: Hop Riot, at the applied-for premises located at 407 4th Street, Wheatland, CA 95692-9467 (Premises):

- (1) would interfere with the quiet enjoyment of nearby residents, including multiple residences within 100 feet of the Premises, by creating a public nuisance; specifically cited are concerns regarding patrons of the Premises engaging in loud and unruly behavior, and patrons littering;
- (2) issuance of the license will add to or cause an undue concentration of licenses in the census tract; and
- (3) the Premises impacts a consideration point; specifically cited is the Faith Baptist Church located at 414 Front Street, Wheatland, California 95692. (Exhibits D-1 and D-2)

FINDINGS OF FACT

1. The Premises seeks a type 42 on-sale, beer and wine public premises license for the location of 407 4th Street, Wheatland, CA 95692-9467 (Premises). The license being sought is a new, type 42 license. A type 42 license was held by a previous licensee from April 2019 through December 31, 2022, when that license was cancelled. The current applicant has no association with the previous license or licensee. (Exhibit D-2) The Applicant proposes to operate a type 42 establishment in a one-story building and on an open-air patio in the rear of the building. The Premises location is zoned commercial and it is on a major street in the city of Wheatland. The interior of the Premises building is 50 by 25 feet. The open-air patio is directly behind the Premises building and is 50 by 33 feet. The patio is concrete and is accessible from a door in the rear of the Premises. The Applicant testified credibly that the Wheatland Fire Marshal set interior capacity at 44 persons and the patio capacity at 44 additional persons. 3rd Street is the adjacent, parallel street. 3rd Street is residential with primarily single-family homes on both sides of that street. The homes on the east side of 3rd Street are separated from the commercial properties on 4th Street by a 6-foot-tall wooden slat fence. The two closest residences to the Premises are single family homes. These homes sit approximately 20 feet from this 6-foot-tall fence line with their respective back yards extending right up to the fence line. (Exhibits D-2 and D-5)

2. The Premises is a building and lot that have been vacant since December 2022. The Applicant intends to operate an upscale beer and wine establishment in the interior of the Premises. (Exhibit D-8) The Applicant is also seeking to exercise type 42 privileges on the outdoor patio that extends from the rear of the Premises building to the 6-foot-tall fence. (Exhibit D-3) The floor of the patio is a concrete slab. As you face the patio from the rear of the Premises building, the right-side wall is a corrugated metal building that extends to the fence line. The rear fence is made of wood slats. The left side enclosure is a chain link fence. On the other side of the chain link fence is a parking lot that extends from 4th Street to 3rd Street. There is no access to the patio

from the parking lot. The patio area can only be accessed from the interior of the Premises building. The Applicant intends to operate the patio as an open-air space where patrons can drink, eat, and interact with each other. (Exhibits D-4 and D-5)

3. There are no proposals from the Applicant for enclosing the patio. None of the existing hardscape or landscaping in the patio area is designed with significant sound deadening properties. The rear of the Premises, the corrugated wall, and the backs of the adjacent residences are flat surfaces that have the potential to trap and reflect sounds emanating from the open-air patio. (Exhibits A-3 through A-5)

4. The Premises is zoned commercial, according to the City of Wheatland. The business complies with local zoning requirements. A conditional use permit (CUP) was not required. (Exhibit D-2) While the Premises itself is zoned commercial, the location of the Premises is adjacent to a residential neighborhood along 3rd Street. The immediate area is dominated by businesses along both sides of 4th Street and residences along both sides of 3rd Street. (Exhibits D-2 through D-5)

5. Two protests were lodged with the Department in this matter. The two Protestants who appeared and gave testimony both reside in almost direct proximity to the Premises along 3rd Street. The back of their home is 40 feet from the Premises boundary. The southeast corner of their back yard is directly over the fence from the northwest corner of the patio. The Protestants also live within 100 feet of the parking lot that patrons and employees would utilize during the operation of the Premises. There are a total of four residences within 100 feet of the Premises. (Exhibits D-2 through D-5)

6. In accordance with the count formula contained in Business and Professions Code section 23958.4¹, three licensed businesses are permitted in Census Tract 408 where the Premises is located. Issuance of this license would add to the 8 licenses in this census tract. With the issuance of this license, this census tract would remain statutorily over concentrated with Department issued on-sale licenses.

7. Section 23958 states, "The department...shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4. Section 23958.4 provides that the Department may issue a license under certain circumstances. In this matter, the Department investigator did determine that public convenience or necessity (PCN) applied because this would be the only type 42 license in the census tract. In addition, Wheatland Chief of Police Brian Wittmer approved a PCN finding for the Premises when he submitted an ABC 245 form to the Department supporting the PCN determination. (Exhibit D-7) The Department investigator was required to determine if the issuance of the license would create a law enforcement problem. As part of that portion of the investigation, the Wheatland Police

¹ All statutory references are to the Business and Professions Code unless otherwise noted.

Department (WPD) was contacted for crime statistics. WPD was unable to provide statistical crime data but it did not object to the application. (Exhibit D-2)

8. At the time of the Department investigation, there was one consideration point within 600 feet of the Premises. Faith Baptist Church was 242 feet south of the Premises along Front Street. There were multiple streets and businesses separating this church from the Premises and they were not visible to each other. The church was contacted by letter regarding the application on March 13, 2025. No objection from this consideration point was received by the Department. In addition, credible evidence was received in testimony that the Faith Baptist Church moved from its previous location and is no longer a consideration point. (Exhibit D-2)

9. Because of the multiple residences within 100 feet of the Premises and the potential of the Premises to impact their quiet enjoyment, the Department's licensing representative determined that additional conditions would be appropriate on the license to limit noise and other nuisances resulting from the operation of the Premises. These conditions went beyond the steps proposed by the Applicant to control noise in its letter of non-interference. (Exhibit D-8) The Department added the following 10 conditions to the Petition for Conditional License (PCL);

1. There shall be no amplified music or other entertainment permitted in or on the patio at any time. For purposes of this condition, "amplified" shall mean the use of any electric, electronic, or other powered device that may be used or manipulated to control the volume of music or other entertainment.
2. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control as depicted on the most recently certified ABC-257 and ABC-253.
3. When the said patio/terrace/other area of the premises is being utilized for the sales, service, and consumption of alcoholic beverages, a premises employee shall be in attendance and maintain continuous supervision at all times of said area.
4. The use of any amplifying system or device is prohibited on the patio area, and the use of any such system or device inside the premises shall not be audible outside the premises.
5. Petitioner(s) shall actively monitor the area under their control in an effort to prevent the loitering of persons on any property adjacent to the licensed premises as depicted on the most recently certified ABC-253.
6. Entertainment provided shall not be audible beyond the area under the control of the licensee(s) as depicted on the most recently certified ABC-257 and ABC-253.
7. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee(s) as depicted on the most recently certified ABC-257 and ABC-253.
8. Said patio area shall be fully enclosed with a fixed barrier.
9. The back patio door(s) shall be kept closed at all times during the operation of the premises except in cases of and to permit deliveries. Said door(s) not to consist solely of a screen or ventilated security door.
10. Sales, service and consumption of alcoholic beverages shall be permitted only between the hours of 10:00 a.m. to 10:00 p.m. each day of the week. (Exhibit D-4)

10. On July 30, 2025, the Applicant executed the PCN accepting the above conditions. (Exhibit D-9) In the PCN, the Applicant acknowledged the intention to operate an outside patio, the need to protect the quiet enjoyment of nearby residents within 100 feet of the Premises, and that the issuance of an unrestricted license would be contrary to public welfare and morals. In recognition of the above, the Applicant agreed to the imposition of the additional conditions on the license.² (Exhibits D-2 and D-9)

11. Both Protestants in this matter testified. They also called their neighbor who lives directly behind the Premises as a sworn witness. All three testified to noise issues that arose when the previous licensee utilized the back patio. The noise emanating from the back patio from conversations, and people playing cornhole made enjoying their homes unpleasant. Laughter, yells and general conversations would carry into their yards, particularly during better weather and the summer months when there was a significant uptick in the use of the patio. All three credibly testified in support of their consistent position that the Premises, in particular, the operation of the patio directly across the fence from their residences, would interfere with their quiet enjoyment and that the mitigating steps in the PCL and the non-interference letter, even if complied with, were insufficient to prevent this from occurring. They testified credibly that the operation of the Premises with an open-air back patio would affect their quiet enjoyment given that up to 44 people could be on the back patio, drinking, eating and carrying on conversations within a few feet of their respective backyards. They testified credibly that the sound from patrons on the patio was an issue even when they were in their respective homes. The Protestants expressed concerns that they would be subject to the noise of patrons on the patio from 10:00 in the morning until 10 in the evening and that this is allowed and not a violation of the PCL. The concerns expressed by the Protestants and the witness they called were primarily directed at the operation of the patio.

CONCLUSIONS OF LAW

1. Article XX, section 22 of the California Constitution delegates the exclusive power to license the sale of alcoholic beverages in this state to the Department of Alcoholic Beverage Control.

2. Section 23958 requires that the Department conduct a thorough investigation to determine, among other things, if the Applicant and the Premises qualify for a license, if the provisions of the Alcoholic Beverage Control Act have been complied with, and if there are any matters connected with the application which may affect public welfare or morals. It provides, in part, that the Department shall deny an application for a license if the applicant or the Premises do not qualify for a license under the Act.

3. In a protest matter, the Applicant bears the burden of establishing that he or she is entitled to a liquor license from the start of the application process until the Department makes a final

² The Department, as required by law, investigated all issues arising from the application, not just those raised by the Protestants.

determination.³ The Protestants alleged that granting the license would interfere with the quiet enjoyment of their nearby residences by creating a public nuisance, cause an undue concentration of licenses in the census tract, and that the Premises would unlawfully impact a consideration point.

4. Section 23958.4 sets forth a two-prong test for determining whether an area has an over-concentration of licenses. The first prong relates to the number of reported crimes in the relevant reporting district, while the second relates to the number of licenses within the relevant census tract. An area is over-concentrated if either prong is met. The evidence did not establish high crime as an issue and there was no opposition from local law enforcement. Accordingly, the first prong of section 23958.4 is not at issue here. (Findings of Fact ¶¶ 1-8)

5. The second prong of section 23958.4 provides that, with respect to on-sale retail licenses, a census tract is over-concentrated if the ratio of on-sale retail licenses to population in the census tract in which the applied-for premises is located exceeds the ratio of on-sale retail licenses to population in the county in which the applied-for premises is located. At the time the application was filed, the Premises was located in census tract 408. Three licenses are permitted in this census tract, and eight currently exist. However, while the area in which the Premises is located has an over-concentration of licenses based on license count, it was established that the license under consideration would serve a PCN because it would be the only type 42 license in the census tract. The Wheatland chief of police also issued an independent PCN determination from the Department's. (Findings of Fact ¶¶ 1-8)

6. Alternately, and without regard to census tracts, an excess number of licenses in a given area can also be grounds for denying an application. Unlike the statutory definition of over-concentration, there is no set formula for determining what constitutes an excess number of licenses; rather, the overall impact of the license, should it issue, must be examined. The two over-concentration issues overlap to some degree and, although legally separate, are factually intertwined.

7. In the present case, there are eight on-sale licenses within the same census tract of the Premises. Given the nature of the high-density corridor the Premises is located on, the mere number of licenses, by itself, does not appear to be excessive. Moreover, the City of Wheatland and the WPD were without objection as to the issuance of the license. The Department's determination that the operation of the Premises would not impact the identified consideration point is supported by the evidence. Further, this consideration point is no longer a consideration with the relocation of the Faith Baptist Church outside of the 600-foot curtilage of the Premises. (Findings of Fact ¶¶ 1-8)

8. The Department licensing representative repeatedly visited the Premises and found no issues that would support the outright denial of the license sought. Conditions were set out in the letter of non-interference and the PCN in an attempt to address concerns about the impact of the

³ *Coffin v. Alcoholic Beverage Control Appeals Board* (2006) 139 Cal. App. 4th 471.

Premises on the quiet enjoyment of nearby residents. The Department's findings and development of conditions supported issuance of the conditional license in regard to the interior of the proposed Premises. However, the Applicant has not met its burden that the operation of the proposed patio will not interfere with the quiet enjoyment of the residences within 100 feet of the Premises, even with adherence to the strategies set out in the letter of non-interference and compliance with the PCN conditions. (Findings of Fact ¶¶ 1-11)

9. Even assuming full compliance with the letter of non-interference, the PCN and local laws, the operation of the proposed patio will more likely than not interfere with the quiet enjoyment of the multiple residences within 100 feet of the Premises. The presence of up to 44 patrons on the open-air patio will generate unacceptable noise levels even from conversations and the typical activities of bar patrons on an open patio. The conversations of patrons utilizing the open-air patio will most certainly carry into the backyards of the residences directly on the other side of the fence. In addition, while there is a requirement that the patio access door remain shut, every time patrons circulate from the interior to and from the patio, the nearby residents are going to be subjected to hearing noise emanate from the interior. (Findings of Fact ¶¶ 1-11)

10. The Applicant intends to offer amplified music in the interior as part of its operation. It will be lawful for the Applicant to do so if the PCL, as currently configured, goes into effect. There are no restrictions on amplification in the interior other than it not being audible while the back door is closed. Unfortunately, the inherent operation of the Premises will lead to this door repeatedly being opened. Presumably, the Applicant will act in good faith to comply with its legal requirements to control noise emanating from inside of the Premises. The Applicant has shown in its letter of non-interference that it has an appropriate plan to comply regarding the interior of the Premises. However, the design of the open-air patio and its close proximity to residences directly on the other side of the fence will make it impossible to control patio noise sufficiently to prevent interference with the quiet enjoyment of these residents in their homes. An open-air patio extending right up to the back yards of the Protestants and other residents is incompatible with the quiet enjoyment of the surrounding residences. The presence of large, flat walls in the area immediately around the patio will further trap and amplify noises emanating from the patio area. (Findings of Fact ¶¶ 1-11)

11. While the Protestants have voiced general opposition to the overall license being issued for the Premises, they have focused much of their concern on the impact of the proposed patio on their quiet enjoyment. The circumstances they are facing are substantially similar to those of the protestant in the Department's Precedential Decision in *Naples SF, LLC dba Naples of Union* (2019) 19-01-L. In that matter, the Director found that the issuance of the license was supported regarding the interior of the applied for location, but that issuance of the license was unsupported regarding an exterior patio. There was a further finding that the Applicant, even acting in good faith with its obligations under the PCL, was incapable of making the open-air patio function consistent with the quiet enjoyment of the surrounding residents. It is the finding of this court that substantially similar circumstances have been established in this matter and that the license should not issue with privileges extending to an exterior patio. (Findings of Fact ¶¶ 1-11)

Hop Riot, LLC
dba: Hop Riot
File 42-667426
Reg. 25095896
Page 8

12. Except as set forth in this decision, all other allegations in the protest and all other contentions of the parties lack merit.

ORDER

The protests in this matter are denied in part and sustained in part. They are denied regarding the interior of the Premises and sustained regarding the proposed patio included in the Licensed Premises Diagram received as Exhibit D-3 in this matter. The application of Hop Riot, LLC is denied unless, within 30 days following the decision in this matter becoming final, the Applicant files with the Department a new Licensed Premises Diagram (ABC-257) that excludes the rear patio area from the ABC-257. The Applicant is also to concurrently execute a new Petition for Conditional License consistent with this decision and Order.

The new Petition for Conditional License shall remove *whereas* language referencing the intent to exercise privileges on an exterior patio. The new Petition for Conditional License will strike conditions 1, 3, 4, 8, and 10 set out in the Petition for Conditional License executed on July 30, 2025, since those conditions are only applicable to the execution of privileges on an exterior patio.

Upon timely compliance with this order by the Applicant, the type 42, on-sale beer and wine public premises license shall issue to Hop Riot, LLC subject to the conditions set forth in the new Petition for Conditional License.

Dated: December 22, 2025



Alberto Roldan
Administrative Law Judge

☒ Adopt
☐ Non-Adopt: _____
By: _____ 
Date: _____ <u>02/24/2026</u>

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE PROTEST OF:

SUSAN ROBBINS, ET AL

AGAINST THE ISSUANCE OF A LICENSE TO:

HOP RIOT, LLC
HOP RIOT
407 4TH STREET
WHEATLAND, CA 95692-9467

ON-SALE BEER AND WINE PUBLIC PREMISES
- LICENSE

under the Alcoholic Beverage Control Act.

File: 42-667426

Reg: 25095896

DECLARATION OF SERVICE BY MAIL

The undersigned declares:

I am employed at the Department of Alcoholic Beverage Control. I am over 18 years of age and not a party to this action. My business address is 3927 Lennane Drive, Suite 100, Sacramento, California 95834. On February 24, 2026, I served, by CERTIFIED mail (unless otherwise indicated) a true copy of the following documents:

DECISION AND CERTIFICATE OF DECISION

on each of the following, by placing them in an envelope(s) or package(s) addressed as follows:

HOP RIOT, LLC
HOP RIOT
407 4TH STREET
WHEATLAND, CA 95692-9467

9589 0710 5270 2638 2156 24

HOP RIOT, LLC
P.O. BOX 22
WHEATLAND, CA 95692-0022

9589 0710 5270 2638 2156 31

TOM ROBBINS
404 3RD STREET
WHEATLAND, CA 95692

9589 0710 5270 2638 2156 48

SUSAN ROBBINS
404 3RD STREET
WHEATLAND, CA 95692

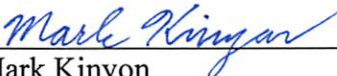
9589 0710 5270 2638 2156 55

MATTHEW GAUGHAN
CHIEF COUNSEL
3927 LENNANE DRIVE, SUITE 100
SACRAMENTO, CA 95834

TRISHA PAL
3927 LENNANE DRIVE, SUITE 100
SACRAMENTO, CA 95834

and placing said envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with this department's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, County of Sacramento, State of California, in an envelope with the postage fully prepaid. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 24, 2026 at Sacramento, California.


Mark Kinyon

☒ SACRAMENTO DISTRICT OFFICE (INTEROFFICE MAIL)
☐ DIVISION OFFICE (INTEROFFICE MAIL)

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL



December 30, 2025

To all parties:

Please find enclosed a copy of the proposed decision prepared by the Administrative Law Judge ("ALJ") in this matter. This is being provided to all parties pursuant to Government Code section 11517(c)(1), and the proposed decision is hereby filed as a public record.

PLEASE NOTE: This proposed decision has not been adopted by the Department. The Director has up to 100 days from the date it was received from the Administrative Hearing Office to act on the proposed decision. Such action may include, among other things, adoption or rejection of the proposed decision. (See Government Code section 11517(c)(2).)

There is no provision in the Government Code that specifically authorizes parties to submit written comments to the Director regarding the proposed decision. However, there is also no restriction in the law that prohibits parties from doing so, and it is not uncommon for parties to submit such comments, identifying asserted errors or flaws in the proposed decision.

The Director is limited to reviewing the proposed decision based upon the record developed at the hearing. As such, if you do choose to send comments, the Director can only consider them to the extent that they identify alleged error based on the law and/or on the evidence presented at hearing. In addition, **any comments should be sent to the Administrative Records Secretary and must be served on all parties** (which includes the attorney representing the Department at the hearing) and be **accompanied by a proof of service** establishing that this was done. Failure to do so will result in the comments being considered an *ex parte* communication, which is prohibited pursuant to Government Code sections 11430.10, *et seq.*, and the Director will not review such comments.

Although proposed decisions are typically acted on within 30 to 60 days following receipt, action may be taken earlier than this. As such, if you do decide you wish to submit comments, you should do so promptly. Action on proposed decisions will not be delayed awaiting receipt of comments.

Whether or not comments are submitted, parties have all rights to request reconsideration (Government Code section 11521), to appeal a decision to the ABC Appeals Board, or to pursue such other legal remedies as provided by law.

Sincerely,

A handwritten signature in blue ink that reads "Mark Kinyon". The signature is fluid and cursive.

Mark Kinyon

Administrative Records Secretary
Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, CA 95834

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE PROTEST OF: SUSAN ROBBINS, ET AL AGAINST THE ISSUANCE OF A LICENSE TO: HOP RIOT, LLC HOP RIOT 407 4 TH STREET WHEATLAND, CA 95692-9467 ON-SALE BEER AND WINE PUBLIC PREMISES - LICENSE under the Alcoholic Beverage Control Act.	File: 42-667426 Reg: 25095896 DECLARATION OF SERVICE BY MAIL
---	--

The undersigned declares:

I am employed at the Department of Alcoholic Beverage Control. I am over 18 years of age and not a party to this action. My business address is 3927 Lennane Drive, Suite 100, Sacramento, California 95834. On December 30, 2025, I served, by regular mail (unless otherwise indicated) a true copy of the following documents:

PROPOSED DECISION

on each of the following, by placing them in an envelope(s) or package(s) addressed as follows:

HOP RIOT, LLC
P.O. BOX 22
WHEATLAND, CA 95692-0022

SUSAN ROBBINS
404 3RD STREET
WHEATLAND, CA 95692

TOM ROBBINS
404 3RD STREET
WHEATLAND, CA 95692

MATTHEW GAUGHAN
CHIEF COUNSEL
3927 LENNANE DRIVE, SUITE 100
SACRAMENTO, CA 95834

TRISHA PAL
3927 LENNANE DRIVE, SUITE 100
SACRAMENTO, CA 95834

and placing said envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with this department's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, County of Sacramento, State of California, in an envelope with the postage fully prepaid. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 30, 2025 at Sacramento, California.


Mark Kinyon

☒ SACRAMENTO DISTRICT OFFICE (INTEROFFICE MAIL)
☐ DIVISION OFFICE (INTEROFFICE MAIL)

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE PROTEST OF:

Susan Robbins, et al.
Against The Issuance of a License To:

FILE: 42-667426
REG: 25095896

Hop Riot, LLC
Dbas: Hop Riot
407 4th Street
Wheatland, CA 95692-9467

**PROOF OF SERVICE BY MAIL
(CCP §§ 1013(A), 2015.5)**

On-Sale Beer and Wine Public Premises - License
Under the Alcoholic Beverage Control Act.

I, the undersigned, hereby certify as follows:

I am a citizen of the United States and employed in the County of Sacramento, California. I am over the age of eighteen (18) years and I am not a party to the above-captioned action. My business address is P.O. BOX 348210, Sacramento, CA 95834.

On November 4, 2025, I mailed from Sacramento:

**NOTICE OF HEARING BY VIDEO CONFERENCE ON PROTEST
DEPARTMENT'S REQUEST FOR DISCOVERY
COPIES OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6, AND 11507.7
VIDEO CONFERENCE HEARING NOTICE TO PARTIES**

Hop Riot, LLC
Dbas: Hop Riot
407 4th Street
Wheatland, CA 95692-9467

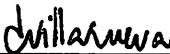
Susan Robbins
404 3rd Street
Wheatland, CA 95692

Hop Riot, LLC
PO Box 22
Wheatland, CA 95692-0022

Tom Robbins
404 3rd Street
Wheatland, CA 95692

{X} **BY MAIL** - I served the documents by enclosing them in an envelope and: placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Administrative Hearing Office
Diana Villanueva

☒ OLS (Inter-Departmental Mail)
☒ Sacramento District Office (Inter-Departmental Mail)



Paul Tupy
Director



Gavin Newsom
Governor

Department of Alcoholic Beverage Control
Administrative Hearing Office
P.O. BOX 348210
Sacramento, CA 95834-8210

December 30, 2025

In the Matter of the Protests Against:

Hop Riot, LLC
dba: Hop Riot
407 4th Street
Wheatland, CA 95692-9467

File: 42-667426
Reg: 25095896

Director, Department of Alcoholic Beverage Control,

Enclosed is the Proposed Decision resulting from the hearing before the Department of Alcoholic Beverage Control, Administrative Hearing Office in the above-entitled matter.

This Proposed Decision is submitted for your review and action.

Respectfully,

John W. Lewis

John W. Lewis
Chief Administrative Law Judge

RECEIVED
DEC 30 2025
Alcoholic Beverage Control
Administrative Records Office

**BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE PROTEST OF: SUSAN ROBBINS, ET AL AGAINST THE ISSUANCE OF A LICENSE TO: HOP RIOT, LLC HOP RIOT 407 4TH STREET WHEATLAND, CA 95692-9467 ON-SALE BEER AND WINE PUBLIC PREMISES - LICENSE under the Alcoholic Beverage Control Act.	File: 42-667426 Reg: 25095896 DECLARATION OF SERVICE BY MAIL
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The undersigned declares:

I am employed at the Department of Alcoholic Beverage Control. I am over 18 years of age and not a party to this action. My business address is 3927 Lennane Drive, Suite 100, Sacramento, California 95834. On January 13, 2026, I served, by regular mail (unless otherwise indicated) a true copy of the following documents:

PROPOSED DECISION - REMAIL

on each of the following, by placing them in an envelope(s) or package(s) addressed as follows:

HOP RIOT, LLC
HOP RIOT
407 4TH STREET
WHEATLAND, CA 95692-9467

and placing said envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with this department's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, County of Sacramento, State of California, in an envelope with the postage fully prepaid. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 13, 2026 at Sacramento, California.


Mark Kinyon

☒ SACRAMENTO DISTRICT OFFICE (INTEROFFICE MAIL)
☐ DIVISION OFFICE (INTEROFFICE MAIL)

STATE OF CALIFORNIA
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
3927 LENNANE DRIVE, SUITE 100
SACRAMENTO, CA 95834

RECEIVED
JAN 13 2026
Alcoholic Beverage Control
Administrative Records Office

HOP RIOT, LLC
P.O. BOX 22
WHEATLAND, CA 95692-0022

SACRAMENTO CA 95834

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2025

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RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

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ANK
95692-0022
95834>2917

BC: 95834291725 *1541101343-30H42

January 7, 2026

Re: File No. 42-667426
Type 42 On-Sale Beer and Wine License
Hop Riot, LLC — 407 4th Street
Wheatland, California

RECEIVED
JAN 13 2026
Alcoholic Beverage Control
Administrative Records Office

Dear Director,

I respectfully submit these comments for Director-level review of the Administrative Law Judge's proposed decision regarding the on-sale beer and wine license for Hop Riot, located at 407 4th Street in Wheatland, California.

I offer these comments with full respect for the administrative hearing process and the ALJ's role. My intent is not to re-litigate the hearing, but to provide clarifying context and factual accuracy where appropriate, and to request consideration of whether alternative, enforceable conditions could reasonably address the concerns identified in the proposed decision.

Clarifications to Findings of Fact

Adjacent Parking Lot Use

The Findings of Fact reference use of an adjacent parking lot by patrons and employees. For clarity, that parking lot is not owned, leased, or controlled by Hop Riot. It is owned by InAlliance and is posted with signage expressly prohibiting unauthorized parking. Hop Riot does not authorize or permit patron or employee parking in that lot, and any such use occurs in violation of posted restrictions rather than as part of the premises' operations. Management practices are intended to discourage off-site impacts and promote compliance with posted rules.

Patio Boundary and Corrugated Metal Reference (Finding of Fact Item 2)

Finding of Fact Item 2 describes the right-side wall of the patio enclosure as corrugated metal. For clarity, the right-side boundary of the patio enclosure is a wooden fence. Beyond that fence is approximately twenty-five feet of open gravel alley, and only then a separate building whose exterior includes both wood and corrugated metal. That building is not adjacent to, attached to, or contiguous with the licensed premises or patio enclosure. Exhibit D-3 does not depict this intervening space, which may explain the description; however, the physical separation materially affects proximity and sound transmission. Hop Riot does not control the building across the alley, and its noise-management practices are focused on the patio enclosure and premises under its control.

Surrounding Structures and “Large Flat Walls” (Finding of Fact Item 10)

Finding of Fact Item 10 references “large flat walls” surrounding the patio area. For clarity, the patio enclosure is not immediately surrounded by large or multi-story structures. Buildings in the immediate vicinity are single-story. One side of the patio is separated from other structures by an alley, another side abuts a parking lot, and the rear of the patio adjoins the Hop Riot building, which is constructed of cinder block. The remaining sides of the patio enclosure are wooden fencing. This configuration differs materially from the impression of large adjacent reflective walls and supports the conclusion that any potential impacts can be managed through reasonable, enforceable operating conditions.

Context Relevant to Conclusions of Law

Burden of Proof and Quiet Enjoyment (Conclusion of Law Item 8)

The Conclusions of Law note that the applicant bears the burden of demonstrating that the operation will not adversely affect the quiet enjoyment of nearby residences. I respectfully submit that the premises’ operating history and management practices provide meaningful evidence that this burden can be satisfied. Hop Riot has operated in compliance with noise related conditions, including restrictions on amplified sound, and there have been no substantiated noise violations associated with the premises. This record of compliance, together with the clarified physical layout and the availability of enforceable conditions, supports the conclusion that quiet enjoyment can be adequately protected without a categorical prohibition on patio alcohol service.

Objective Standards for Evaluating Quiet Enjoyment (Conclusion of Law Item 9)

Conclusion of Law Item 9 appears to assume that ordinary conversation or incidental human activity in the patio area would necessarily interfere with quiet enjoyment. In a mixed-use zoning context, quiet enjoyment is not defined as the absence of all audible activity, but rather by compliance with applicable, objective noise standards. Hop Riot is required to comply with the City of Wheatland’s noise ordinance, which provides an appropriate and enforceable benchmark for evaluating impacts. There is no evidence of violations of that ordinance associated with the premises. Aligning ABC conditions with established municipal standards provides a reasonable and objective framework that protects residents while allowing lawful, well-managed operations consistent with zoning expectations.

Existing Ambient Noise Conditions

Testimony during the administrative hearing addressed the presence of regular train activity in close proximity to both the licensed premises and nearby residences, including the sounding of train horns for extended durations that can be audible for several minutes at a time. This intermittent but significant noise is part of the existing ambient environment and provides relevant context for evaluating quiet enjoyment in this location. The City’s noise ordinance

accounts for such conditions by establishing objective standards applicable to all sources. Hop Riot's operations are subject to, and intended to remain compliant with, those same standards. Considering the full ambient noise environment supports the conclusion that reasonable, enforceable conditions are sufficient to protect nearby residents.

Consideration of Alternative Conclusions (Conclusion of Law Item 11)

Conclusion of Law Item 11 reflects a cumulative conclusion based on the considerations discussed above. With the benefit of the clarifications provided regarding the physical configuration of the patio and surrounding structures, the absence of substantiated noise violations, the applicability of objective municipal noise standards, and the availability of enforceable operating conditions, I respectfully submit that alternative conclusions are reasonable. These factors support the Director's discretion to allow limited or conditional patio alcohol service in a manner that protects nearby residents' quiet enjoyment while remaining consistent with mixed-use zoning and responsible management practices.

Request

Rather than a permanent prohibition on patio alcohol service, I respectfully request consideration of a conditional approval consistent with the approach set forth in the interim operating permit. Clearly defined, enforceable conditions tied to objective standards and compliance history provide an effective means of protecting nearby residents' quiet enjoyment while allowing lawful use of the premises. Such an approach ensures that any future evaluation is based on adherence to established rules and regulatory requirements, rather than subjective perceptions.

Thank you for your time and consideration. I appreciate the Director's discretion in reviewing this matter and am happy to provide any additional information if helpful.

Respectfully,

A handwritten signature in black ink, appearing to read "Shaun Clearwater". The signature is fluid and cursive, with the first name "Shaun" and last name "Clearwater" clearly distinguishable.

Shaun Clearwater
Owner / Operator, Hop Riot

PROOF OF SERVICE

I, Shaun Clearwater, declare as follows:

I am over the age of 18 and reside in Wheatland, California.

On January 7, 2026, I served the document entitled:

"Director Review Comments — File No. 42-667426 — Hop Riot, LLC"

on all parties of record in this matter by the following methods:

Electronic Service

On the same date, I transmitted a true and correct copy of the document via electronic mail to the parties of record at the email addresses previously used for notice of the administrative hearing in this matter.

Service by U.S. Mail

On the same date, I deposited true and correct copies of the document, enclosed in sealed envelopes with postage fully prepaid, in the United States mail, addressed as follows:

Administrative Records Secretary
Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, California 95834

Trisha Pal
Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, California 95834

Susan Robbins
404 3rd Street
Wheatland, California 95692

Matthew Gaughan
Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, California 95834

Tom Robbins
404 3rd Street
Wheatland, California 95692

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 7, 2026, at Wheatland, California.



Shaun Clearwater
Owner / Operator, Hop Riot

The Clearwaters
507 Wolf Ct
Wheatland, CA 95692

SACRAMENTO CA 957

7 JAN 2026 PM 5 L



RECEIVED

JAN 09 2026

Alcoholic Beverage Control
Office of Legal Services

Administrative Records Secretary
Department of Alcoholic Beverage Control
3927 Lennare Drive, Suite 100
Sacramento, CA 95834

95834-291725

