

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

MEENU CHANANA,	)	AB-7400
Appellant/Protestant,)	
	)	File: 21-340960
v.	)	Reg: 98045223
)	
JYOTI S. SINGH	)	Administrative Law Judge
dba Aldee Market	)	at the Dept. Hearing:
216 North Cherokee Lane	)	Jeevan S. Ahuja
Lodi, CA 95240,)	
Respondent/Applicant, and	)	Date and Place of the
	)	Appeals Board Hearing:
DEPARTMENT OF ALCOHOLIC	)	March 16, 2000
BEVERAGE CONTROL,	)	San Francisco, CA
Respondent.)	

Meenu Chanana (protestant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which overruled her protest against the transfer of a person-to-person/premises-to-premise off-sale general license to Jyoti S. Singh, doing business as Aldee Market (applicant).

Appearances on appeal include applicant Jyoti S. Singh, the Department of Alcoholic Beverage Control, appearing through its counsel, Robert Wieworka, and protestant Meenu Chanana.

FACTS AND PROCEDURAL HISTORY

¹The decision of the Department, dated April 23, 1999, is set forth in the appendix.

Applicant filed an application for the transfer of an off-sale general license to a premises in Lodi, California. Apparently, applicant is already licensed with an off-sale beer and wine license. Two protestants who filed protests against the transfer gave testimony at the administrative hearing which was held on January 26, 1999. Protestant Meenu Chanana owns and operates a premises which is next door to applicant's premises, which is presently licensed with an off-sale general license.

Subsequent to the hearing, the Department issued its decision which determined that the license as conditioned should be issued. Protestant Chanana thereafter filed a timely notice of appeal. In her appeal, protestant raises the issue that there is an undue concentration of licenses in the area and census tract.

DISCUSSION

While the record shows there is an undue concentration of licenses in the designated area, the Lodi City Council pursuant to statute, determined that the issuance of the license would be in accordance with public convenience or necessity. The Appeals Board may not interfere with that exercise of discretion given to the city council pursuant to law determination. (See Business and Professions Code §23958.4, subdivision (b)(1).)

Protestant has not filed a brief. The Appeals Board on December 8, 1999, notified protestant in writing, of the opportunity to file briefs in support of protestant's cause. We have reviewed the notice of appeal and have found insufficient assistance in that document which would aid in review. The Appeals

Board is not required to make an independent search of the record for error not pointed out by protestant. It is the duty of protestant to advise the Appeals Board that the claimed error exists. Without such assistance by protestant, the Appeals Board may deem the general contentions waived or abandoned. (Horowitz v. Noble (1978) 79 Cal.App.3d 120, 139 [144 Cal.Rptr. 710] and Sutter v. Gamel (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

We have reviewed the record and find substantial evidence which supports the decision of the Department.

ORDER

The decision of the Department is affirmed.²

TED HUNT, CHAIRMAN
RAY T. BLAIR, JR., MEMBER
E. LYNN BROWN, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

²This final order is filed in accordance with Business and Professions Code §23088, and shall become effective 30 days following the date of the filing of this order as provided by §23090.7 of said code.

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 §23090 et seq.