

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

AB-8580

File: 75-424785 Reg: 06061816

SANTA BARBARA BREWING CO., LLC dba Santa Barbara Brewing Co.
501 State Street, Santa Barbara, CA 93101,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Ronald M. Gruen

Appeals Board Hearing: August 2, 2007
Los Angeles, CA

ISSUED OCTOBER 19, 2007

Santa Barbara Brewing Co., LLC, doing business as Santa Barbara Brewing Co. (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which overruled a protest against its application for a premises to premises transfer of an on-sale brew pub license.

Appearances on appeal include applicant/appellant Santa Barbara Brewing Co., LLC, appearing through its counsel, Ralph B. Saltsman, Stephen W. Solomon, and R. Bruce Evans, and the Department of Alcoholic Beverage Control, appearing through its counsel, Kerry Winters.

FACTS AND PROCEDURAL HISTORY

Appellant/applicant operates under a type 75 on-sale brew pub license. Its

¹The decision of the Department, dated June 8, 2006, is set forth in the appendix.

application sought an expansion of the licensed privileges to an unlicensed portion of the premises. Its petition for conditional license set forth seven conditions intended to control noise, loitering, and littering in the area adjacent to the premises.

An administrative hearing was held on April 19, 2006, in response to a protest against the application. Oral and documentary evidence was received. Subsequent to the hearing, the Department issued its decision which determined that the protest should be overruled and the license should issue, subject to the conditions in the petition for conditional license, which were included in the decision itself.

The successful applicant, Santa Barbara Brewing Company LLC, thereafter filed a timely notice of appeal. In its appeal, it contends, and the Department does not dispute, that in the proposed decision, certain language was inadvertently omitted from one of the conditions to which appellant had agreed in its petition for conditional license.

DISCUSSION

Condition 1 of the petition for conditional license provided:

Sales, service, and consumption of alcoholic beverages shall be permitted only between the hours of 6:00 AM and 11:00 PM Sunday through Thursday and 6:00 AM to midnight Friday and Saturday in the area of expansion as depicted on the ABC-257 dated 3/14/05.

When administrative law judge (ALJ) Gruen incorporated this condition into his proposed decision, he inadvertently omitted the words "in the area of expansion," with the unintended consequence that the limitation on hours of operation applied to the entire licensed premises.

The omission was not discovered until after the time in which the Department could have reconsidered and corrected the decision. Hence, the appeal filed by the

party who otherwise prevailed at the administrative hearing.

The Department agrees that critical language was omitted and that the omission was inadvertent, and requests the Appeals Board to remand the case to the Department so that its decision may be corrected.

ORDER

Based upon the representations of the parties and our own review of the Department's decision, we are satisfied that the remand of this case to the Department to correct the error on the face of the decision is in the interest of justice, and we so order.²

TINA FRANK, ACTING CHAIRPERSON
SOPHIE C. WONG, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

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

Any party may, before this final decision becomes effective, apply to the appropriate district court of appeal, or the California Supreme Court, for a writ of review of this final decision in accordance with Business and Professions Code §23090 et seq.