

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

GERALD CARDINALE, et al.  
Appellants/Protestants

v.

FLEMING PRIME STEAKHOUSE 1, LLC dba Fleming's Prime Steakhouse  
1355 First street  
Coronado, CA 92118  
Applicant/Respondent

and

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,  
Respondent  
AB-7574

File: 47-347034 Reg: 99046564

Administrative Law Judge at the Dept. Hearing: John P. McCarthy

Appeals Board Hearing: December 12, 2000  
Los Angeles, CA

**ISSUED FEBRUARY 28, 2001**

Gerald Cardinale, et al., (protestants), appeal from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> which overruled their protests against the issuance of an on-sale general public eating place license to Fleming Prime Steakhouse 1, LLC, doing business as Fleming's Prime Steakhouse (applicant), provided applicant accept certain conditions to be affixed to its license.

Appearances on appeal include applicant Fleming Prime Steakhouse 1, LLC, appearing through its counsel, Ralph Barat Saltsman and Stephen Warren Solomon, the Department of Alcoholic Beverage Control, appearing through its counsel, Matthew

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<sup>1</sup>The decision of the Department, dated January 6, 2000, is set forth in the appendix.

G. Ainley, and appellant Gerald Cardinale, et al., appearing for all other protestants.

#### FACTS AND PROCEDURAL HISTORY

Applicant filed for the issuance of a license on November 4, 1998. Thereafter, protests were filed against the issuance of the license. An administrative hearing was held on October 19 and 20, 1999, and at such time oral and documentary evidence was received. Applicant on October 19, 1999, signed a Petition for Conditional License which contained 21 conditions to be imposed upon the license if issued. Subsequent to the hearing, the Department issued its decision which determined that the license would be issued if applicant accepted certain modifications to the conditions imposed.

Protestants filed a timely notice of appeal.

However, applicant subsequently withdrew its application for the license. The Department filed its motion to dismiss the appeal on the grounds that the appeal is now moot, as the application before the Department has been withdrawn.<sup>2</sup>

#### ORDER

The appeal is dismissed.<sup>3</sup>

TED HUNT, CHAIRMAN  
E. LYNN BROWN, MEMBER  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD

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<sup>2</sup>The motion of the Department along with the withdrawal of the application is set forth in the appendix.

<sup>3</sup>This 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.