

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

**AB-7759**

File: 41-367853 Reg: 00050082

MYRKA REGINA SANDERCOCK and THOMAS ANTHONY SANDERCOCK  
dba Laguna BBQ & Brew  
11560 Los Osos Valley Road, Ste 110, San Luis Obispo, CA 93405,  
Appellants/Licensees

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,  
Respondent

A stipulation and waiver was signed waiving appeal, etc.

Appeals Board Hearing: April 5, 2001  
Los Angeles, CA

**ISSUED JUNE 20, 2001**

Myrka Regina Sandercock and Thomas Anthony Sandercock, doing business as Laguna BBQ & Brew (appellants), appeal from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> which suspension their license for 10 days for allowing a person underage to function in an area primarily used for the sale and service of alcoholic beverages, being contrary to the universal and generic public welfare and morals provisions of the California Constitution, article XX, §22, arising from a violation of Business and Professions Code §25663, subdivision (a).

Appearances on appeal include appellants Myrka Regina Sandercock and Thomas Anthony Sandercock, and the Department of Alcoholic Beverage Control, appearing through its counsel, Jonathon E. Logan and Matthew G. Ainley.

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<sup>1</sup>The decision of the Department, dated December 21, 2000, is set forth in the appendix.

## FACTS AND PROCEDURAL HISTORY

Appellants' on-sale beer and wine public eating place license was issued on August 23, 2000. Thereafter, the Department instituted an accusation against appellants charging that an underage person was permitted in an area which was primarily used for the sales and service of alcoholic beverages.

The Department prepared an accusation against appellants concerning the allegations. One of appellants, on December 5, 2000, signed a stipulation and waiver form agreeing that discipline would be instituted for the violation, and waived all rights to a hearing, reconsideration, and appeal. Appellants requested a fine in lieu of service of the 10-day suspension. A decision in response to the signed stipulation and waiver form was sent to appellants on December 21, 2000.

On January 4, 2001, appellants, in a letter to the Department, stated they could not pay the fine, and requested the right to appeal. They contested the validity of the original violations.

The Department responded by letter dated January 12, 2001, calling attention to the signed stipulation and waiver form, accepted the withdrawal of the request to pay a fine, and advised appellants of the process of appeal.

An appeal was filed on January 29, 2001, and appellants were advised that matter was tentatively accepted for immediate review due to the signing of the stipulation and waiver form. Appellants were advised that any response should be only to the issue raised as to some undue influence exerted by the Department concerning the stipulation and waiver form. Such response should be on a factual basis with the document signed "under penalty of perjury."

The Appeals Board on February 7, 2001, notified appellants in writing, of the opportunity to file briefs in support of appellants' cause. However, no brief has been filed by appellants. 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 appellants. It is the duty of appellants to advise the Appeals Board that the claimed error exists. Without such assistance by appellant, 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. Game (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

Co-appellant Thomas Anthony Sandercock appeared before the Appeals Board at its hearing on the matter. His arguments were in the main directed to the unfairness of the Department's actions and the determination of the amount of the fine which caused appellants to not pay the fine. Almost no argument or information given by co-appellant was directed to the only issue before the Board, that being upon the question of why the stipulation and waiver form was originally signed and accepted as a viable resolution of the matter until appellants determined that the fine was more than they wished to pay. It would appear that appellants have been less than frank and open with the Board, except for the comment that appellants feel that the violation is not sufficient for all the fuss and bother the Department has expended. This is not an appealable basis.

ORDER

The appeal by appellants is dismissed.<sup>2</sup>

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

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<sup>2</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.