

ISSUED JANUARY 18, 2001

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

JIN SOOK LEE and SUNG MAN LEE	)	AB-7578
dba Dong Dae Moon)	
2323-F West Olympic Boulevard	)	File: 41-347523
Los Angeles, CA 90006,	)	Reg: 99047359
Appellants/Applicants,)	
	)	Administrative Law Judge
v.	)	at the Dept. Hearing:
	)	Ronald M. Gruen
)	
DEPARTMENT OF ALCOHOLIC	)	Date and Place of the
BEVERAGE CONTROL,	)	Appeals Board Hearing:
Respondent.	)	November 3, 2000
	)	Los Angeles, CA

Jin Sook Lee and Sung Man Lee, doing business as Dong Dae Moon (applicants), appeal from a decision of the Department of Alcoholic Beverage Control¹ which sustained the protest of Bernard C. Parks, Chief of Police, City of Los Angeles, and denied their application for an on-sale beer and wine public eating place license, on the grounds that issuance of the license would result in undue concentration and would tend to aggravate an existing police problem.

Appearances on appeal include appellants Jin Sook Lee and Sung Man Lee, appearing through their representative, Bill Robinson, and the Department of

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

Alcoholic Beverage Control, appearing through its counsel, Michele Wong.

An administrative hearing was held on November 18, 1999. Testimony was presented by Leslie Downs, an investigator for the Department of Alcoholic Beverage Control; by Kathleen McCarthy, a Los Angeles police officer; and by Leo Esparza, a planning consultant retained by appellants to process their license application and conditional use permit.

Subsequent to the hearing, the Department issued its decision which determined that the protest should be sustained and the application denied. In so doing the Department sustained the grounds of the protest based upon undue concentration and the aggravation of a police problem, while rejecting the contention that issuance of the license would interfere with the quality of life of residents living nearby.

Appellants thereafter filed a timely notice of appeal. Written notice of the opportunity to file briefs in support of the appellants' position was given on June 13, 2000. Although the case was continued from the October calendar to the November calendar to permit the filing of a brief, the Board has since been advised that no brief would be filed.

We have reviewed the notice of appeal and have found insufficient assistance in that document which would aid in review. In that document, appellants assert that there is no basis for concluding that the issuance of a license to their small restaurant could contribute to or aggravate a police problem. They do not specify in what manner, if any, the decision is legally deficient.

The Appeals Board is not required to make an independent search of the record for error not pointed out by appellants. It was the duty of appellants to

show to the Appeals Board that the claimed error existed. Without such assistance by appellants, 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].)

The decision fully explores the factors which ultimately led to the Department's decision not to issue the license which had been sought. The principal protest, from the Los Angeles Police Department, stressed the restaurant's location in the heart of a gang area, with an incidence of crime three times higher than the norm. Since the grant or denial of a license is within the broad discretion of the Department, and since there exists a serious and well-founded concern that an additional license would contribute to or increase a police problem, it cannot be said that the Department abused its discretion in denying applicant's request for a license.

ORDER

The decision of the Department is affirmed.²

TED HUNT, CHAIRMAN
E. LYNN BROWN, 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.