

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

AB-7964

File: 20-376476 Reg: 01052049

DEBRA A. BROOKS, ET AL., Appellants/Protestants

v.

AMARJIT SINGH BIRRING, INDERJIT SINGH BIRRING, RANJIT SINGH BIRRING,
and SUKHDIP KAUR BIRRING, dba Rio Vista Bait & Tackle
510 Highway 12, Rio Vista, CA 94571,
Respondents/Applicants

and

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Stewart A. Judson

Appeals Board Hearing: March 13, 2003
San Francisco, CA

ISSUED MAY 1, 2003

Debra A. Brooks, Nasrallah Issa Haddad, John Leuenberger, and Harry Ralston, Sr. (appellants/protestants), appeal from a decision of the Department of Alcoholic Beverage Control¹ which granted the application of Amarjit Singh Birring, Inderjit Singh Birring, Ranjit Singh Birring, and Sukhdip Kaur Birring, doing business as Rio Vista Bait & Tackle (respondents/applicants), for an off-sale beer and wine license.

Appearances on appeal include appellants/protestants Debra A. Brooks, Nasrallah Issa Haddad, John Leuenberger, and Harry Ralston, Sr.; respondents/applicants Amarjit Singh Birring, Inderjit Singh Birring, Ranjit Singh Birring, and Sukhdip Kaur Birring, appearing through their counsel, Donald J. Licker; and the Department of Alcoholic Beverage Control, appearing through its counsel, Dean R. Lueders.

¹The decision of the Department, dated April 25, 2002, is set forth in the appendix.

FACTS AND PROCEDURAL HISTORY

Applicants applied for the person-to-person and premises-to-premises transfer of an off-sale beer and wine license. Protests were filed and applicants filed a petition for conditional license. An administrative hearing was held on March 8, 2002, and oral and documentary evidence was presented concerning the application and the protests.

Subsequent to the hearing, the Department issued its decision which denied appellants' protests and dismissed the protest of another protestant who did not appear.

Protestants thereafter filed a timely notice of appeal. In their appeal, protestants raise the following issues: (1) The conditions on the license could not be properly examined at the hearing because the Department did not notify protestants of applicants' petition for conditional license before the hearing, and (2) the determination that public convenience or necessity would be served by issuance of the license did not take into consideration the rights of an existing off-sale licensee.

Written notice of the opportunity to file briefs in support of appellants' position was given on September 25, 2002. Appellants have not filed a brief. We have reviewed the notice of appeal and have found it lacks sufficient information for this Board to review appellants' contentions.

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

We have reviewed the record and find no obvious basis for questioning the Department's decision.

The Department's decision found that, although there was one more license than allowed in the census tract, issuance of the license would serve public convenience or necessity; normal operation of the premises, as conditioned, will not interfere with any of the schools in the vicinity, will not create or aggravate a police problem, and will not interfere with the quiet enjoyment of their property by nearby residents; and granting the license will not be contrary to public welfare and morals. The decision was based in large part on the investigator's report, which appears to be thorough and complete. None of the testimony presented rebutted the evidence in support of the findings and determinations.

The protestants said at the hearing that they had not seen the petition for conditional license before that time. They were then given time to review the conditions. After reviewing them, the protestants had no objection to having the petition for conditional license entered into evidence. They did not mention the conditions again at the hearing. Therefore, any objections to the conditions must be deemed to have been waived.

It appears from the record that the protests were initiated by a competing licensee. Appellants do not explain what rights of the existing licensee should have been taken into consideration in determining whether public convenience or necessity would be served by issuance of the license. This Board is not aware of any rights that an existing licensee might have in this regard or how they could have any effect on the determination of public convenience or necessity.

ORDER

The decision of the Department is affirmed.²

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

²This final order is filed in accordance with Business and Professions Code section 23088, and shall become effective 30 days following the date of the filing of this order as provided by section 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 section 23090 et seq.