

**THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of: )  
)  
)

Good Essen-U Street )  
t/a Tico. )

Case No.: 15-PRO-00082  
License No: 093610  
Order No: 2016-011

Application for a Substantial Change to a )  
Retailer's Class CR License )  
)

at premises )  
1926 14th Street, N.W. )  
Washington, D.C. 20009 )  
)

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
James Short, Member

**ALSO PRESENT:** Good Essen-U Street, t/a Tico, Applicant

Andrew Kline, Counsel, of the Veritas Law Firm, on behalf of the  
Applicant

Elwyn Ferris, Shaw-Dupont Citizens Alliance, Protestants

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER**

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**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) approves the Application for a Substantial Change to a Retailer's Class CR License filed by Good Essen-U Street, t/a Tico, (hereinafter "Applicant" or "Tico") for the purpose of changing its hours of operation to 7:00 a.m. to 2:00 a.m. and changing its hours of sale, service, and consumption of alcoholic beverages to 8:00 a.m. to 2:00 a.m. The Board finds that Tico has established that the proposed change will

not have an adverse impact on the community, and that the Shaw-Dupont Citizens Alliance's (SDCA) claims to the contrary are unfounded, unsubstantiated, and without merit.

### ***Procedural Background***

The Notice of Public Hearing advertising Tico's Application was posted on July 3, 2015, and informed the public that objections to the Application could be filed on or before August 17, 2015. *ABRA Protest File No. 15-PRO-00082*, Notice of Public Hearing [*Notice of Public Hearing*]. The Alcoholic Beverage Regulation Administration (ABRA) received a protest letter from the SDCA. *ABRA Protest File No. 15-PRO-00082*, Roll Call Hearing Results.

The parties came before the Board's Agent for a Roll Call Hearing on August 31, 2015, where the SDCA was granted standing to protest the Application. On September 30, 2015, the parties came before the Board for a Protest Status Hearing. Finally, the Protest Hearing in this matter occurred on October 28, 2015.

The Board recognizes that an ANC's properly adopted written recommendations are entitled to great weight from the Board. See *Foggy Bottom Ass'n v. District of Columbia Alcoholic Beverage Control Bd.*, 445 A.2d 643, 646 (D.C. 1982); D.C. Official Code §§ 1-309.10(d); 25-609 (West Supp. 2015). Accordingly, the Board "must elaborate, with precision, its response to the ANC[s] issues and concerns." *Foggy Bottom Ass'n*, 445 A.2d at 646. In this case, ANC 2B attempted to file a protest on the basis of peace, order, and quiet without indicating any specific concerns, but the protest was not accepted because it was late filed. *Letter from ANC 2B to Ruthanne Miller, Chairperson, Alcoholic Beverage Control Board*, 1-2 (Aug. 18, 2015); *Letter from Imani Moreland, Adjudication Specialist, ABRA, to ANC 2B* (Aug 20, 2015). The Board notes that it addresses the issue of peace, order, and quiet in the Conclusions of Law section of this Order.

Based on the issues raised by the Protestants, the Board may only grant the Application if the Board finds that the request will not have an adverse impact on the peace, order, and quiet and residential parking needs and vehicular and pedestrian safety located within 1,200 feet of the establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2015).

### **FINDINGS OF FACT**

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file, makes the following findings:

#### **I. Background**

1. Tico has submitted an Application for a Substantial Change to a Retailer's Class CR License at 1926 14th Street, N.W., Washington, D.C. *Notice of Public Hearing*. Tico seeks to operate between 7:00 a.m. to 2:00 a.m. and have hours of sale, service, and consumption of alcoholic beverages lasting from 8:00 a.m. to 2:00 a.m. seven days per week. *Id.*

2. ABRA Investigator Abyie Ghenene investigated the Application and prepared the Protest Report submitted to the Board. *ABRA Protest File No. 15-PRO-00082, Protest Report* (Oct. 2015) [*Protest Report*].

3. The proposed establishment is located in a C-3-A zone. *Protest Report*, at 2. Sixty-one licensed establishments are located within 1,200 feet of the proposed location. *Id.* at 3-4. Tico does not have outdoor seating privileges. *Id.* at 6-7. Tico has also not applied for an entertainment endorsement; thus, Tico may not charge a cover charge, provide facilities for dancing, or offer live entertainment. *Id.*; D.C. Official Code §§ 25-101(21A); 25-113a(b).

4. Tico currently operates between 7:00 a.m. to 12:00 a.m., Sunday through Thursday, and 7:00 a.m. to 2:00 a.m. on Friday and Saturday. *Protest Report*, at 7. The establishment has hours of alcoholic beverage sales, service, and consumption between 8:00 a.m. and 12:00 a.m., Sunday through Thursday, and 8:00 a.m. to 2:00 a.m. on Friday and Saturday. *Id.*

5. Tico's investigative history shows no noise complaints against the establishment. *Protest Report*, at 8. In 2015, Tico paid a \$250 fine for failing to have a licensed manager at the establishment on August 6, 2015. *Id.* at 9.

6. Tico is located in a "residential mixed-use building." *Transcript (Tr.)*, October 28, 2015 at 22. The inside of the establishment contains a "main dining room, a small bar area, and the kitchen." *Id.* The establishment's bar only has ten to twelve seats. *Id.* at 28. Moreover, the majority of establishment's interior space is dedicated to food and tables, and does not have a dance floor. *Id.* at 24, 28. Investigator Ghenene observed during his visit that the establishment operates as a full-service restaurant and has an "open kitchen." *Id.* at 27-28. He further observed that the establishment's interior is not noisy and that people can hear each other talk without raising their voices. *Id.*

7. Outside the establishment, he observed that there is limited parking on 14th Street, N.W.; however, he noticed that the majority of the establishment's patrons walked to the establishment. *Id.* Indeed, there is heavy pedestrian activity and traffic outside Tico. *Id.* at 24, 37-38. Further, because the area is busy, ambient noise levels in the street are very loud; nevertheless, Tico does not contribute to the noise. *Id.* at 24.

## **II. Steve Uhr**

8. Steve Uhr serves as the Regional Director of Operations for the entity that owns Tico and another establishment, called the Rigsby. *Id.* at 39. He works for Michael Sclow, an "award-winning chef" that owns the business. *Id.* Mr. Uhr has worked for the business for two years and participated in opening Tico as a general manager. *Id.* at 40-41. Before his current position, Mr. Uhr had thirteen years of experience working for establishments that focused on food service. *Id.* at 42-43.

9. Tico sits in the Louis building, which is a residential building. *Id.* at 51. In addition, the Harper, another residential building, is located across the street. *Id.* Tico has an occupancy of 195 people. *Id.* at 69.

10. Tico currently focuses on serving food with an American and Latin influence, including “small plates, ceviches, tacos [and other] entrees.” *Id.* at 48. The establishment has a menu with forty-five items, including twenty-five small plates. *Id.* at 49. Food sales make up 62 percent of the establishment’s gross annual receipts when compared to alcohol sales. *Id.* at 56. The establishment was also nominated for consideration for the “Best New Restaurant” award by the Restaurant Association. *Id.* at 60-61.

11. Mr. Uhr indicated that Tico was built with soundproofing to ensure that people could have a conversation inside the restaurant even when music is playing. *Id.* at 44, 47. At great expense, Tico hired a company called Decoustics to install sound absorption material. *Id.* at 44. Specifically, the establishment has an acoustical and tin ceiling with sound absorption material installed above the ceiling. *Id.* at 44, 47.

12. Mr. Uhr discussed the parking situation at the establishment. *Id.* at 52-53. Tico currently offers customers valet parking Wednesday through Saturday. *Id.* at 52-53. The valet parks cars in the bank parking lot behind the Louis. *Id.* Furthermore, parking is available in the nearby Reeves Center in the evening. *Id.* at 53. Mr. Uhr has also observed that the majority of the establishment’s patrons arrive by foot or by taxi. *Id.* at 54.

13. Tico’s direct competitors in the neighborhood, such as El Centro, Masa 14, and Kapnos, currently have later operating hours than Tico. *Id.* at 56-57, 90.

### **III. Zoning Regulations**

14. The Board takes official notice that Tico is located in an Uptown Arts-Mixed Use (ARTS) Overlay District. *Id.* at 93. According to § 1900.2, the purpose of the ARTS Overlay District is to (1) “Encourage . . . development [and] a mixture of building uses . . . as generally required by the Comprehensive Plan”; (2) “Require uses that encourage pedestrian activity . . .”; (3) “Provide for an increased presence . . . of the arts and related cultural . . . uses”; (4) “Expand the area’s housing supply . . .”; (5) “Expand . . . and encourage development of residential and commercial buildings”; (6) “Strengthen the design character and identify of the area by means of physical design standards”; (7) Encourage adaptive reuse of older buildings”; and (8) “Foster eighteen (18) hour activity and increased public safety.” 11 DCMR § 1900.2(a)-(h) (West Supp. 2015).

### **IV. Joan Sterling**

15. Joan Sterling indicated that on one occasion there was a lot of pedestrian traffic after midnight in the neighborhood. *Tr.*, 10/28/14 at 100.

## CONCLUSIONS OF LAW

16. The Board may approve an Application for a Substantial Change to a Retailer's Class CR License when the proposed change will not have an adverse impact on the neighborhood. D.C. Official Code §§ 25-104, 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2015). Specifically, the question in this matter is whether the Application will have a negative impact on the peace, order, and quiet and residential parking and vehicular and pedestrian safety of the area located within 1,200 feet of the establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2015).

### I. THE ESTABLISHMENT IS APPROPRIATE FOR THE NEIGHBORHOOD.

17. The Board finds that the proposed change is appropriate. Under the appropriateness test, “. . . the applicant shall bear the burden of proving to the satisfaction of the Board that the establishment for which the license is sought is appropriate for the locality, section, or portion of the District where it is to be located . . .” D.C. Official Code § 25-311(a). The Board shall only rely on “reliable” and “probative evidence” and base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2015).

18. The appropriateness test has never been limited to mere compliance with the law. *See Panutat, LLC v. D.C. Alcoholic Beverage Control Bd.*, 75 A.3d 269, 277 n. 12 (D.C. 2013) (“However, in mandating consideration of the effect on peace, order, and quiet, § 25-313(b)(2) does not limit the Board's consideration to the types of noises described in § 25-725.”). It has been said, that each location where an establishment is located is “unique,” which requires the Board to evaluate each establishment “. . . according to the particular circumstances involved.” *Le Jimmy, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 433 A.2d 1090, 1093 (D.C. 1981). Under this test, the Board must consider the “prospective” effect of the establishment on the neighborhood.” *Id.* Among other considerations, this may include the Applicant’s efforts to mitigate or alleviate operational concerns, the “character of the neighborhood,” the character of the establishment, and the license holder’s future plans. *Donnelly v. District of Columbia Alcoholic Beverage Control Board*, 452 A.2d 364, 369 (D.C. 1982) (saying that the Board could rely on testimony related to the licensee’s “past and future efforts” to control negative impacts of the operation); *Upper Georgia Ave. Planning Comm. v. Alcoholic Beverage Control Bd.*, 500 A.2d 987, 992 (D.C. 1985) (saying the Board may consider an applicant’s efforts to “alleviate” operational concerns); *Citizens Ass'n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 410 A.2d 197, 200 (D.C. 1979); *Gerber v. D.C. Alcoholic Beverage Control Bd.*, 499 A.2d 1193, 1196 (D.C. 1985); *Sophia's Inc. v. Alcoholic Beverage Control Bd.*, 268 A.2d 799, 800-801 (D.C. 1970). Thus, the appropriateness test seeks to determine whether the applicant’s future operations will satisfy the reasonable expectations of residents to be free from disturbances and other nuisances. D.C. Council, Bill 6-504, the “District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986,” Committee on Consumer and Regulatory Affairs, 38 (Nov. 12, 1986).

**a. Tico's request for later hours will not result in an adverse impact on peace, order, and quiet.**

19. Tico's request for additional hours will not have an adverse impact on peace, order, and quiet. "In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726." D.C. Official Code § 25-313(b)(2); *see also* D.C. Official Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider ". . . noise, rowdiness, loitering, litter, and criminal activity." 23 DCMR § 400.1(a) (West Supp. 2015).

20. In *Pal*, a small restaurant sought a Retailer's Class C Restaurant license near Tico's current location. *In re Pal the Mediterranean Spot, LLC, t/a Pal the Mediterranean Spot*, Case No. 13-PRO-00101, Board Order No. 2014-038, ¶ 1 (D.C.A.B.C.B. Jan. 22, 2014). The owners did not seek an entertainment endorsement and it was determined that a large portion of the establishment was dedicated to "food preparation and display areas." *Id.* at ¶ 29. Under these circumstances, the Board found that the establishment would not likely "turn into a source of disorder and antisocial behavior" based on its character as a "restaurant that focuses on the sale of food." *Id.*

21. It is undisputed that Tico operates as a high class restaurant that focuses on food service similar to the establishment in *Pal*. *Supra*, at ¶ 10. Tico has a high food to alcohol sales ratio that shows that the sale of alcohol is incidental to the sale of food. *Id.* Tico is not at risk of morphing into a nightclub because the establishment does not hold an entertainment endorsement, has no facilities for dancing, and the layout of the premises is conducive to food service. *Supra*, at ¶¶ 3, 6. Moreover, Tico does not have a history of serious or repeat violations. *Supra*, at ¶ 5. Under these circumstances, as was the case in *Pal*, it is highly unlikely that Tico will become a source of disorder in the neighborhood;

22. The SDCA also failed to rebut Tico's prima facie case of appropriateness by demonstrating that its operations were having a negative impact on the community. While the U Street neighborhood attracts large crowds, the SDCA failed to show that the mere presence of crowds causes a negative impact on the community or that the neighborhood cannot handle additional people. *Supra*, at ¶¶ 6, 15. Indeed, no one from the residential buildings located above or across the street from Tico—the properties most impacted by the change—provided testimony in opposition to the change or indicated that living near Tico is challenging or burdensome. *Supra*, at ¶ 9. Therefore, the SDCA's argument that the establishment will have a negative impact on peace, order, and quiet is entirely speculative, unfounded, and without merit.

**b. Tico's request for later hours will not have an adverse impact on residential parking or vehicular and pedestrian safety.**

23. The Board further finds that Tico's request for later hours will not have an adverse impact on residential parking or vehicular and pedestrian safety. "In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment upon residential parking needs and vehicular and pedestrian safety . . . ." D.C. Official Code §

25-313(b)(3); *see also* D.C. Official Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider the availability of both private and public parking, any parking arrangements made by the establishment, whether “[t]he flow of traffic . . . will be of such pattern and volume as to . . . increase the [reasonable] likelihood of vehicular [or pedestrian] accidents . . .” 23 DCMR § 400.1(b), (c) (West Supp. 2015). Here, Tico provides valet parking in the nearby parking lot and parking is available in the nearby Reeves Center. *Supra*, at ¶ 12. Further, the SDCA has not disputed the contention that the majority of the establishment’s patrons walk to the establishment; therefore, the SDCA’s argument that the establishment will have a negative impact on parking or traffic safety is without merit. *Id.*

24. Under these circumstances, the Board finds Tico’s request appropriate, because it will not have a negative impact on peace, order, and quiet, residential parking, or vehicular and pedestrian safety.

## **II. THE SDCA CANNOT PROTEST A SUBSTANTIAL CHANGE ON THE BASIS OF OVERCONCENTRATION**

25. In its initial protest letter, the SDCA raised the issue of overconcentration. *Letter from Joan Sterling, President, SDCA, to the Alcoholic Beverage Control Board* (Aug. 10, 2015). Under § 25-314, issues, such as overconcentration, may only be raised in the case of the issuance of a new license or the transfer of a license to a new location. D.C. Official Code § 25-314(a), (a)(4). Because Tico has only applied for a substantial change, this issue is not relevant to the present protest.

## **III. THE APPLICATION DOES NOT CONFLICT WITH THE SETTLEMENT AGREEMENT**

26. The Board emphasizes that it disagrees with the SDCA’s position that Tico’s Settlement Agreement blocks a change of hours. *Tr.*, 10/28/15 at 10, 119.

27. The Board interprets the Settlement Agreement as if it were a contract. *North Lincoln Park Neighborhood Ass’n v. District of Columbia Alcoholic Beverage Control Bd.*, 727 A.2d 872, 875 (D.C. 1999); *Letter from Peter J. Nickles, Attorney General, Office of the Attorney General of the District of Columbia, to Fred Moosally, General Counsel, Alcoholic Beverage Regulation Administration*, 3-4 (Dec. 18, 2008). Accordingly, the Settlement Agreement should be interpreted “within its four corners and generally . . . enforce[d] . . . as written” because it is “the best objective manifestation of the parties’ intent.” *Prince Const. Co., Inc. v. District of Columbia Contract Appeals Bd.*, 892 A.2d 380, 385 (D.C. 2006); *1010 Potomac Associates v. Grocery Manufacturers of Am., Inc.*, 485 A.2d 199, 205 (D.C. 1984).

28. In this case, Tico’s Settlement Agreement indicates the establishment’s hours, but then states that “Nothing in this Agreement shall prevent the Applicant from applying for, and the Board considering, an application for *later hours* of operation, sales and service upon the Applicant’s submission of a Change of Hours Application.” *In re Good-Essen-U Street, LLC, t/a Tico*, Case No. 14-PRO-00016, Board Order No. 2014-133, Settlement Agreement, § 3 (May 1, 2014) (emphasis added). On its face, the Settlement Agreement permits Tico to apply for later

hours; as a result, the present Application fully comports with the Settlement Agreement between the SDCA and Tico. *Tr.*, 10/28/15 at 119.

#### **IV. THE APPLICATION SATISFIES ALL REMAINING REQUIREMENTS IMPOSED BY TITLE 25.**

29. Finally, the Board is only required to produce findings of fact and conclusions of law related to those matters raised by the Protestants in their initial protest. *See Craig v. District of Columbia Alcoholic Beverage Control Bd.*, 721 A.2d 584, 590 (D.C. 1998) (“The Board's regulations require findings only on contested issues of fact.”); 23 DCMR § 1718.2 (West Supp. 2015). Accordingly, based on the Board’s review of the Application and the record, the Applicant has satisfied all remaining requirements imposed by Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations.

#### **ORDER**

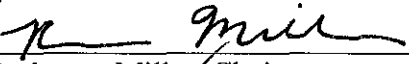
Therefore, the Board, on this 13th day of January 2015, hereby **APPROVES** the Application for a Substantial Change to a Retailer's Class CR License at premises 1926 14th Street, N.W. filed by Good Essen-U Street, t/a Tico.

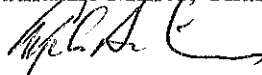
**IT IS FURTHER ORDERED** that the Board’s findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

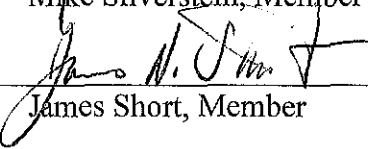
The ABRA shall deliver a copy of this order to the Applicant and the SDCA



District of Columbia  
Alcoholic Beverage Control Board

  
Ruthanne Miller, Chairperson

  
Mike Silverstein, Member

  
James Short, Member

I dissent from the majority's decision to approve a substantial change allowing the Applicant (Tico) to expand its hours of operation and hours of sales and service of alcoholic beverages (here after referred to as the "hours of operation"). Specifically, I dissent from the Board's conclusion that the substantial change application does not conflict with the Settlement Agreement between the Applicant (Tico) and the Shaw-DuPont Citizens Alliance, Inc. (SDCA)

The Settlement Agreement between Tico and SDCA explicitly enumerates, in Item 3 of the agreement, the times during which Tico may operate and the times during which Tico may sell and serve alcoholic beverages. The Settlement Agreement was entered into less than two (2) year ago, about the time the Applicant's initial license was approved. Any change to the hours of operation enumerated in the Settlement Agreement is, in effect, an amendment to the original Settlement Agreement. The substantial change application to expand those hours operation was opposed by SDCA . In this case the Board's approval of a substantial change to the hours operation constitutes an amendment to the Settlement Agreement without the consent of both parties, a decision that is in conflict with Title 25-446.

Title 25-446(d) governs the term of Settlement Agreements and the opportunity for the parties to amend a Settlement Agreement. This statute states the following:


- (1) Unless a shorter term is agreed upon by the parties, a settlement agreement shall run for the term of a license, including renewal periods, unless it is terminated or amended in writing by the parties and the termination or amendment is approved by the Board
- (2) The Board may accept an application to amend or terminate a settlement agreement by fewer than all parties in the following circumstances:
  - (A) During the license's renewal period; and
  - (B) After 4 years from the date of the Board's decision initially approving the settlement agreement.

D.C. Official Code § 25-446(d)(1)-(d)(2). It is quite clear from the language of Title 25-446 that, outside of the renewal period, a Settlement Agreement can be amended only by the written consent of all parties to the agreement.

In paragraph 27 of the Order the notes that Item 3 of the Settlement Agreement states that "Nothing in this Agreement shall prevent the Applicant from applying for, and the Board

considering, an application for later hours of operation, sales and service upon the Applicant's submission of a Change of Hours Application". The Board incorrectly interprets this language to imply that the parties have agreed that the Board may amend the Settlement Agreement upon a unilateral request by Tico, without consent of the SDCA. Notwithstanding the language noted by the Board, it is abundantly clear from the mere fact the parties explicitly listed the hours in their contract (the Settlement Agreement) that there was a meeting of the minds regarding the hours Tico would be permitted to operate. The language of the Settlement Agreement noted by the Board is ambiguous, but the plain meaning of the language in Item 3 says that Tico is permitted to apply for a substantial change for later hours of operation, a privilege that cannot be denied of anyone. Past decisions of the Board have established that a settlement agreement cannot restrict a licensee's privilege to make any type of application, however it has also been established that the Board's authority to approve an application, which constitutes an amendment to a settlement agreement, is governed by the restriction set forth in 25-446. It is incorrect to interpret the language noted by the Board in paragraph 27 to say that 25-446 does not bind the Board in this case. Therefore, the Board in this instance must deny any application for later hours of operation without the express consent of all parties to the Settlement Agreement.

It should be noted that this Order does not permit Tico to operate, or sell and serve alcoholic beverages during extended holiday hours as specified by 25-723(c). Even under the Boards incorrect interpretation of the Settlement Agreement, it is clear the agreement limits the hours of operation to those licensed by the Board. There is no language in the agreement that could be construed as permission to allow Tico to operate during the extended holiday hours described in 25-723(c).

  
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Nick Alberti, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719..1 stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. *See* D.C. App. Rule 15(b) (2004).