

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

**In the Matter of:** )  
 )  
FY, LLC, )  
t/a DC Express )  
 )  
Application for Single Sales )  
Exception to a Retailer's )  
Class B License )  
 )  
at premises )  
1504 East Capitol Street, N.E. )  
Washington, D.C. 20002 )  
 )

License No.: 78243  
Order No.: 2009-181

**BEFORE:** Peter B. Feather, Chairperson  
Mital M. Gandhi, Member  
Nick Alberti, Member  
Charles Brodsky, Member  
Donald Brooks, Member  
Herman Jones, Member

**ALSO PRESENT:** Abebe Bekele, Applicant

Martha Jenkins, Acting General Counsel  
Alcoholic Beverage Regulation Administration

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

On April 13, 2009, FY, LLC, t/a DC Express (Applicant) filed a request for an exception to the Single Sales Restriction, which was opposed by the Advisory Neighborhood Commission (ANC) where the Applicant's establishment is located. ANC 6A notified the Alcoholic Beverage Control Board (Board) of its opposition on May 21, 2009. The Board considered the request, the opposition thereto, and the Applicant's history and determined that a Fact Finding Hearing was necessary.

On June 24, 2009, the Board held a Fact Finding Hearing in this matter and the Applicant, by Mr. Abebe Bekele was the only party present. The Board, having considered the evidence, the testimony of the witness, and the documents comprising the Board's official file, makes the following:

## FINDINGS OF FACT

1. The Applicant is the holder of a Retailer's Class B License at the location of 1504 East Capitol Street, N.E., Washington, D.C., which is located within ANC 6A. *See Alcoholic Beverage Regulation Administration (ABRA) Fact Finding File*, License No. 78243.
2. ANC 6A noticed an opposition to this request by way of a letter to the Chairman of the Board stating that the Commission voted not to support an exemption to the "Consolidated Mt. Pleasant, Ward 2 and Ward 6 Single Sales Moratorium Act of 2008" for the Applicant. *See ABRA Fact Finding File*, License No. 78243, email transmission from Commissioner Joseph Fengler.
3. Mr. Abebe Bekele appeared before the Board for the Fact Finding Hearing as the owner of the establishment known as DC Express. *Transcript, June 24, 2009* (hereinafter "*Tr.*"), at 3. Mr. Bekele stated that he has been disadvantaged by his inability to sell single beer containers because there is another establishment in the area that is allowed to make such sales. *Tr.* at 6. His establishment does not have any prior violations. *Tr.* at 6; *see also ABRA Investigative History for DC Express*.
4. Mr. Bekele has support of people who live around his store, but does not have the support of the ANC. *Tr.* at 6-7. He provided a list of 116 signatures in support of his store being able to sell single beers. *Tr.* at 7, and supporting document submitted by Applicant, *Tr.* at 28-29.<sup>1</sup> A store located at 1620 A Street does sell single containers. *Tr.* at 10-12 (The Board takes notice of its records that the establishment at this address, trading as Eastern Thrifty Market, is located in ANC 6B, not ANC 6A where the Applicant's establishment is located). There are three other stores in close proximity to the Applicant that cannot sell single containers. *Tr.* at 14. Mr. Bekele has been told by his customers that they do not come to his store because he doesn't have single beer. *Tr.* at 16. Prior to the moratorium, the Applicant sold a lot of singles. *Tr.* at 16. The Applicant's cigarette sales have dropped since it is no longer allowed to sell singles. *Tr.* at 19. Mr. Bekele stated that the sale of other items has diminished as well. *Tr.* at 21-22.

## CONCLUSIONS OF LAW

5. The "Consolidated Mt. Pleasant, Ward 2, and Ward 6 Single Sales Moratorium Act of 2008" became effective on December 24, 2008, which established a moratorium on the sale of beer, malt liquor, and ale in the sized of 70 ounces or less. The law allows a licensee to apply for an exception to the moratorium's restriction. *See D.C. Code §§ 25-345 and 25-346*.
6. Although the Applicant made a proper request and has no history of violations, the Board must give great weight to the input of the ANC, which in this case, opposes the request. Moreover, there is no suggestion of favorable treatment among establishments

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<sup>1</sup> The Board notes that several of the signatures on this list are not within the same ANC as the establishment.

in the same ANC as the Applicant because none of them has been granted an exception to sell single containers. The Applicant's reference to another establishment, though Mr. Bekele did not provide the name of that establishment, is irrelevant to the Board's decision because according to the address, it is not within the same ANC district as the Applicant.

7. The Board notes that the Applicant stated that all of his sales have gone down; however, he did not provide the Board with documentation at the time of the Fact Finding Hearing. Thus, the Board does not have documentary evidence to consider at this time in rendering its opinion. Based on the testimony provided, the questions from the Board, and the Board's official file, which contains the opposition letter from ANC 6A, the Board denies the Application for an Exception to the Single Sales Restriction.

### ORDER

Based on the findings of fact and conclusions of law, it is, by the Board on this 29<sup>th</sup> day of July, 2009, hereby **ORDERED** that the Application of FY, LLC, t/a DC Express for an Exception to the Single Sales Restriction is **DENIED**.

District of Columbia  
Alcoholic Beverage Control Board


  
Peter B. Feather, Chairperson

Mital M. Gandhi, Member

  
Nick Alberti, Member

Charles Brodsky, Member

  
Donald Brooks, Member

  
Herman Jones, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, 941 North Capitol Street, N.E., Suite 7200, Washington, D.C. 20002.