

DISTRICT OF COLUMBIA COURT OF APPEALS

1900 M Restaurant Associations, Inc. v. District of Columbia
Alcoholic Beverage Control Board

56 A.3d 486 (D.C. 2012) · Decided November 29, 2012

SUMMARY

The District of Columbia Court of Appeals reversed an Alcoholic Beverage Control Board order imposing a \$9,000 fine and a nineteen-day license suspension on 1900 M Restaurant Associates, Inc. The court held that substantial evidence did not support findings that the restaurant allowed its premises to be used for an unlawful or disorderly purpose, failed to follow its security plan, or improperly interfered with an ABRA investigation. The court interpreted the relevant provisions of the District of Columbia alcoholic beverage control statute and required evidence of a continuous course of conduct for the violations at issue.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Washington, Chief Judge; Glickman; Reid; Washington
JURISDICTION	District of Columbia
DECIDED	November 29, 2012
DISPOSITION	reversed
PROCEDURAL POSTURE	Petition for review of an order of the District of Columbia Alcoholic Beverage Control Board imposing fines and suspending a nightclub liquor license for five alleged violations of District liquor laws and the establishment's security plan.
STANDARD OF REVIEW	The court reviews the ABC Board's factual findings for substantial evidence in the record as a whole and reviews the agency's legal conclusions de novo. The court gives considerable weight to an agency's construction of statutes and regulations it administers when the language is unclear, but the judiciary is the final authority on statutory construction.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	1900 M Restaurant Associates, Inc. v. District of Columbia Alcoholic Beverage Control Board

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QUESTIONS PRESENTED

1. Whether substantial evidence supported the Board's conclusion under D.C. Code § 25-823(2) that Rumors was allowed to be used for an unlawful or disorderly purpose.
2. Whether substantial evidence supported the Board's conclusion under D.C. Code § 25-823(6) that Rumors failed to follow its security plan.
3. Whether the failure to promptly respond to an ABRA investigator's request for security footage constituted a violation of D.C. Code § 25-823(5).

HOLDINGS

1. A finding under § 25-823(2) requires substantial evidence of a course of conduct, continued over time, reflecting the licensee's adoption of a pattern or regular method of operation that encouraged, caused, or contributed to the unlawful or disorderly conduct; the evidence must have a demonstrable connection to the establishment's operation. The two isolated and unrelated incidents relied upon by the Board were insufficient.
2. Section 25-823(6) requires evidence of a continuous course of conduct or pattern of deviations from the security plan. Three distinct and unrelated alleged violations did not establish such a pattern and could not support the Board's finding.
3. A licensee's failure to respond promptly, without more, does not constitute a failure or refusal to allow an investigator to examine business books and records under § 25-823(5), particularly where the requested footage no longer exists.

KEY QUOTATIONS

“the relevant inquiry for this court to consider in reviewing the ABC Board’s conclusion that a licensee allowed its establishment to be used for an unlawful or disorderly purpose is whether there is substantial evidence of a course of conduct, continued over time, that reflects the licensee’s adoption of a pattern or regular method of operation that encouraged, caused, or contributed to the unlawful or disorderly conduct at issue.” (493-494)

“Although we do not condone the manner in which petitioner responded to the investigator’s request, a lack of dispatch without evidence of more does not amount to a failure to allow an investigator to examine the books and records of the business in violation of D.C.Code § 25-823(5).” (496)

FACTUAL BACKGROUND

1900 M Restaurant Associates operated Rumors Restaurant under a nightclub Class C/N liquor license. The ABC Board relied on two incidents involving employee-customer violence, three alleged deviations from Rumors' security plan, and delays in responding to an investigator's request for security footage. The Board found five violations and imposed fines and a license suspension, but the appellate court determined that the evidence did not establish the required continuing course of conduct and did not support the investigation-related violation.

PROCEDURAL HISTORY

The ABC Board held hearings concerning eleven alleged violations arising from incidents at Rumors Restaurant in January, April, and August 2009. In a written order dated February 17, 2011, the Board found five violations, imposed \$9,000 in fines, and suspended the license for nineteen days, with seven days to be served and twelve stayed. The Board granted a stay pending appeal, and the District of Columbia Court of Appeals reversed the Board's order.

DISPOSITION

reversed

CASES CITED

- *Levelle, Inc. v. District of Columbia Alcoholic Beverage Control Board*, 924 A.2d 1030, 1035-37 (D.C. 2007)
- *Tiger Wyk Ltd. v. District of Columbia Alcoholic Beverage Control Board*, 825 A.2d 303, 307 (D.C. 2003)
- *Am-Chi Rest., Inc. v. Simonson*, 396 F.2d 686, 687-88 (D.C. Cir. 1968)
- *4934, Inc. v. Washington*, 375 A.2d 20, 22-23 (D.C. 1977)
- *M.A.P. v. Ryan*, 285 A.2d 310, 312 (D.C. 1971)

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